CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, October 25, 2021 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, October 25, 2021, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Don Walker, PC Rep to ZBA
Tony Cook, Vice-Chairman
Diane Dunaskiss, Board member
Tony Kerby, Alternate
JoAnn VanTassel, Alternate

ZBA MEMBERS ABSENT:
Mike Flood, BOT Rep to ZBA

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Adele & Mark Muench
Chris Adamski
Sydney Zeney
Mat Dunaskiss
Larry Fostoc
Mike Riddle
Bob Frank

1. OPEN MEETING
Chairman Durham called the meeting to order at 7:00 pm.

2. ROLL CALL
As noted

3. MINUTES
A. 10-11-2021, ZBA Regular Meeting Amended Minutes

Moved by Vice-chairman Cook, [support of the motion was not given], to approve the minutes as amended: page 4, 6th paragraph, change “He” to “Mr. Riddle” where appropriate; change lot numbers to all numbers instead of written out to maintain consistency; page 8, change “petitioner could withdraw” to “petitioner could postpone”; page 8, motion for item B, amend “Board member moved” to name actual Board member that moved the motion.

Motion carried.

4. AGENDA REVIEW AND APPROVAL

Moved by Board member Kerby, seconded by Vice-chairman Cook to approve the agenda as amended; Case #AB-2021-52 was withdrawn at the petitioner’s request, for Case AB-2021-53, Board member Dunaskiss will be recused and replaced by JoAnn Van Tassel, Alternate, will fill in for her; for Case AB-2021-57, Chairman Durham will be recused making Vice-Chairman Cook the Chairman for this case and JoAnn Van Tassel the alternate member for this case.

Motion carried.
5. **ZBA BUSINESS**

**A. AB-2021-52, Daryl & Amy Mulonas, 732 Lawson, 09-09-276-023**
*(postponed from 9/13/2021) meeting*

Case was withdrawn at the petitioner’s request.

The petitioners are seeking 2 variances from Zoning Ordinance #78 – Zoned R-3

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

1. A 20-ft. front yard variance from the required 30-ft. for a 6-ft. privacy fence to be 10-ft. from the front property line.
2. A 10-ft. side yard setback variance from the required 10-ft. for a 6-ft. privacy fence to be 0-ft. from the side property line (north).

**B. AB-2021-53, Mark & Adele Muench/Matt Dunaskiss/Mike Riddle, Parcel #09-03-278-028**
*(vacant parcel 3 parcels south of 576 Cushing)*

Board member Dunaskiss recused herself.

Chairman Durham read the petitioner’s request as follows:

Article VI, Section 6.04, Zoned R-3

1. A 14-ft front yard setback variance from the required 30-ft. to build a house with a deck 16-ft. from the front property line (lake side).
2. A 15-ft. rear yard setback variance from the required 35-ft. to build a house 20-ft. from the rear property line (road side).
3. A 2-ft. side yard setback variance from the required 7-ft. to build a house 5-ft. from the side property line (north).
4. A 2-ft. side yard setback variance from the required 7-ft. to build a house 5-ft. from the side property line (south).
5. A 16.32% lot coverage variance above the allowed 25% for a total lot coverage of 41.32%.

Article XXVII, Section 27.17(B)

6. A 9-ft wetland setback variance from the required 25-ft. to build a house with a deck 16-ft. from a wetland.

Mr. Mike Riddle introduced himself to the Board. He is here to introduce Lot 3 and he has been working with the owners to develop a house plan. He stated that he has changed the blueprint from what the property owners wanted taking off one of the rear decks and reduced the setback request. He provided an electronic presentation showing the elevation of the proposed home and he explained that plan. He explained the constraints based on the size and shape of the lot, proximity to the bay and the grade issues of the lot.

Mark and Adele Muench, property owners, introduced themselves to the Board. Mr. Muench provided an explanation of the proposed new house build. He explained the changes that they have made in the proposed plan based on trying to conform to the ordinances as much as possible and through working with Township staff.

Chairman Durham suggested that the house is reduced so the 2 foot side yard setbacks are not needed.

Mr. Riddle stated that they tried to reduce it and originally, the request was more. He stated that it is a ranch home and does not believe any of the rooms are oversized.

Mr. Muench commented that the garage is under 400 square feet.
Mr. Riddle added that they tried but they were building a ranch with nice elevations. Mr. Muench stated that the setback on the south side is a driveway leading back to an island home so there would be nothing built there and there would not be an impact. He stated that many of the homes in the area are existing with 5 foot side setbacks. There are only three points on the north side that come to the 5 foot distance; a lot of the other area down the side of the proposed house is further than five feet.

Vice-chairman Cook asked about the house design.

Mr. Muench replied that it is a walkout ranch with a first floor master.

Mrs. Muench provided details about the design.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Board member Kerby commented that the Fire Department has no concerns with the request.

Board member Van Tassel commented on the proposed house drawing. She asked about the stairway shown on the plan as going up and where does it go to.

Mr. Riddle stated that the stairs go up to a deck and gardening area on the top of the house which is an outside area.

Chairman Durham asked why they need two staircases.

Mr. Riddle stated that one would go from the deck up and one would go from the deck below.

Board member Kerby asked about the spiral staircase.

Mr. Riddle confirmed that the staircase that goes below is a spiral staircase which doesn't require the run. This was an attempt to work within the guidelines and keep the home similar to others on the street.

Board member Kerby asked how far it is from the deck out to the edge of the staircase.

Mr. Riddle replied about eleven feet. This was as tight as they could keep it without going out further.

Mr. Muench commented on alternatives that they had looked at for the proposed plan.

Mr. Riddle stated that they could move the stairs back. Another option would be to move the stairs towards the dining room side. They could pick up 2.5 to 3.5 feet by relocating the stairs. He pointed out the options using the electronic projection.

Building Official Goodloe stated that all decks are required at 10 feet and structures are 25 feet. He stated that it really only needs a 3 foot variance from a wetland instead of 9 feet in order to get the requested footprint. A deck doesn’t require the 25 feet, only 10 feet.

Board member Kerby stated that he wasn’t certain on the setback for the deck.

Building Official Goodloe stated that the variance requested for the structure is 3 foot.

Board member Kerby stated that #6 should read a 3 foot variance from wetland.

Building Official Goodloe concurred.
Mr. Riddle stated that they wrote up the request based on what they had done on the prior lots and working with the engineer and Township staff. They wrote it up thinking that it is 25 feet.
Board member Kerby stated that the last plan had a deck on the lake side.

Mr. Riddle agreed and added that it did not have stairs.

Chairman Durham commented on the petitioner’s demeanor and flexibility. He added that it is a lot of house for a small space but he comes from a different time. The home will fit in with neighboring properties and he has not seen anything come to light that causes him concern.

Mr. Riddle stated that originally they were trying to get 2000 square feet on the first floor and it is now 1884 square feet which is identical to the house next to Lot #1.

Vice-chairman Cook asked to see the second floor elevation again. He asked if there was a fireplace.

Mr. Riddle answered yes.

Vice-chairman Cook asked if this was an open fireplace.

Mr. Riddle stated that there is not a fireplace on the deck.

Chairman Durham asked who did the plan.

Mr. Muench replied the architect out of South Lyon, Michigan.

Chairman Durham commented that they have sealed plans and a representative that seems to be caught off guard from time to time during questioning. He asked if they know the same thing.

Mr. Riddle stated that they have been working with this and went through a lot of ideas to create a home that they would like. They are working with the architect and once they know the footprint, they can finalize the plan. There are still moving parts so if they have to make changes, they can.

Vice-chairman Cook stated that part of his hesitation is they are presenting a one bedroom house to the Board.

Mr. Riddle stated that there are two more bedrooms because of the finished walkout.

Vice-chairman Cook stated that the Board was not provided all of the information.

Mr. Riddle stated that he thought they submitted more than normal. Normally, it is just a foundation plan and a site plan. They provided details regarding the design of the house. The proposed house has one bedroom on the first floor and two on the lower level.

Vice-chairman Cook stated that he has hesitation because of the surprise that comes up on the potential owner’s face.

Mr. Muench stated that they thought what was required was the basement.

Building Official Goodloe confirmed that it has to be a walkout site because of the grade.

Mr. Riddle replied yes. It is a walkout and he confirmed using the displayed plans.

Building Official Goodloe asked if the petitioner had a water drainage plan.

Mr. Riddle described the water drainage plan.
Board member Van Tassel asked how many exits there are from the lower level.

Mr. Riddle replied at least two door walls and they are within 10-12 feet of each other.

Board member Van Tassel commented that she was concerned about exits in case of fire.

Mr. Riddle confirmed that the lower level is glass and since there are bedrooms, ingress and egress would be required.

Vice-chairman Cook moved, and Board member Kerby supported, in the matter of ZBA AB-2021-53, Mark & Adele Muench/Matt Dunaskiss/Mike Riddle, Parcel #09-03-278-028 (vacant parcel 3 parcels south of 576 Cushing) that the petitioner’s request for six variances from Zoning Ordinance #78 Article VI, Section 6.04, Zoned R-3: a 14-ft front yard setback variance from the required 30-ft. to build a house with a deck 16-ft. from the front property line (lake side); a 15-ft. rear yard setback variance from the required 35-ft. to build a house 20-ft. from the rear property line (road side); a 2-ft. side yard setback variance from the required 7-ft. to build a house 5-ft. from the side property line (north); a 2-ft. side yard setback variance from the required 7-ft. to build a house 5-ft. from the side property line (south); a 16.32% lot coverage variance above the allowed 25% for a total lot coverage of 41.32% and from Article XXVII, Section 27.17(B), a 3-ft wetland setback variance from the required 25-ft. to build a house with a deck 16-ft. from a wetland be granted because the petitioner did demonstrate the following standards for variances have been met in that set forth facts that show in this case:

1. The petitioner does show the following practical difficulties; this piece of property is uniquely shaped. The petitioner has worked to come more in conformance with the prior homes that were presented for Lot 1 and Lot 2.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: it is a corner house because there is a driveway that leads out to an island so the one side yard setback while not large, is the 2 feet on the south side of the home. The other unique factors of the home are the slope and the grading on the lake side of the property.

3. The variance is also necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following findings of fact: the unique topography of this piece of land.

4. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such zone or district in which the property is located based on the following: while the plans are not finalized, the variances that will be granted will allow the petitioner to fit in and not be drastically different from the other homes in the area. The petitioner has also offered in reference to the Building Official’s questions about water runoff that the water runoff plan will be proper.

5. Based on the following findings of fact, granting this variance would not impair an adequate supply of light and air to adjacent properties, it would not unusually increase congestion on the public streets due to the fact that the home is going to be in line with the others. There is also not going to be an increase of fire or endanger public safety, as the Fire Marshall has reviewed the submitted item. The variance will not reasonably diminish or impair established property values within the surrounding area, or in any other respect, impact public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote was as follows: Durham, yes; Cook, yes; Kerby, yes; Van Tassel, yes; Walker, yes. Motion passes 5-0.

C. AB-2021-57, James Garris, 215 N. Conklin Road, 09-01-403-014
Vice-Chairman Cook read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78
Article VI, Section 6.02(N)(3), Zoned R-3
1. A 27-ft. front yard setback variance from the required 40-ft. to install an inground pool 13-ft. from the front property line along De Goff Ct.
2. A 21.5-ft. front yard setback variance from the required 40-ft. to install an inground pool 18.5-ft. from the front property line along Orion Ter.

No petitioner appeared for this case.

**Board member Dunaskiss moved, and Board member Kerby supported, to relocate this item to the end of the agenda, after item E.**

D. **AB-2021-58, Christopher Adamski, 1781 Hopefield, 09-33-253-007**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-1
Article XXVII, Section 27.02(A)(8) – Lot Size 1 to 2.5 Acres
1. A 200-sq. ft. variance above the allowed 1,000-sq. ft. maximum floor area of all detached accessory buildings to build a 1,200-sq. ft. pole barn.
2. A 686-sq. ft. variance above the allowed 1,500-sq. ft. maximum floor area of all accessory buildings to build a 1,200-sq. ft. pole barn in addition to an existing 986-sq. ft. attached garage.

Mr. Christopher Adamski introduced himself to the Board and summarized the variance request.

Chairman Durham stated that the lot drops off in the back and he asked the petitioner if he expects any water problems.

Mr. Adamski stated that his builder recommended this location especially since he would like to eventually run power to the structure. He ordered plans through Menards and will work with his neighbor who is his builder for the structure.

Board member Kerby asked about the practical difficulty that is not self-created.

Mr. Adamski replied that he inherited tools and right now all of the lawn equipment is stored outside and he would like to protect his equipment by storing it inside.

Board member Kerby commented that he understood but having too much stuff is not a practical difficulty. He asked why the petitioner couldn't build a 30 X 30 building which is consistent with the neighbors.

Mr. Adamski replied that the neighbor across from him has a 30 X 40 building and this neighbor recommended that he goes for the larger structure.

Chairman Durham stated that the Board doesn't know what the ordinance rules were at the time that other accessory buildings were built in the neighborhood. They can only apply the ordinances that are in effect now.

Board member Walker asked how big the existing garage is.

Mr. Adamski replied 960 square feet.

Board member Walker asked Building Official Goodloe what the petitioner is entitled to under the ordinance.
Building Official Goodloe replied 1200 square foot for single, 1500 square feet for total square footage allowed.

Board member Kerby confirmed that the existing garage on the property is 986 square feet.

Board members Walker asked if the petitioner was able to reduce the size of the pole barn.

Mr. Adamski replied that he would be willing to go 30 X 30 square feet.

Building Official Goodloe replied that the petitioner could have 514 square feet and be within the ordinance guidelines.

Chairman Durham explained the options to the petitioner.

Building Official Goodloe stated that this was part of the discussion at the Joint Meeting, this size parcel. At a future date, this might be allowed.

Board member Dunaskiss asked if there was a difference between attached and detached accessory buildings.

Building Official Goodloe stated that if it is attached by any means to the home then it is attached.

Board member Dunaskiss asked in terms of the amount of accessory square footage allowed, is there a difference between attached and detached.

Building Official Goodloe replied no; detached they allow for 1000 square feet that is why the variance request is written as it is. An attached garage is considered an accessory building.

Board member Kerby stated that the petitioner is looking for a 686 square foot variance and if he dropped to the 30 X 30, the petitioner would be asking for a 386 square foot and if he went to a 20 X 30, the petitioner would be asking for an 86 square foot variance.

Building Official Goodloe concurred.

Board member Kerby confirmed the options for the petitioner.

Mr. Adamski confirmed that he would like to ask for a 30 X 30 square foot accessory building.

Board member Kerby confirmed that he would be asking for a 386 square foot accessory variance request.

Building Official Goodloe confirmed the new variance request amounts.

Board member Kerby moved, and Board member Walker supported, in AB-2021-58, Christopher Adamski, 1781 Hopefield, 09-33-253-007 to grant 1 variance from Zoning Ordinance #78 – Zoned R-1, Article XXVII, Section 27.02(A)(8) – Lot Size 1 to 2.5 Acres including a 386-sq. ft. variance above the allowed 1,500-sq. ft. maximum floor area of all detached accessory buildings to build a 900-sq. ft. pole barn in addition to the existence of a 986 square foot attached garage be granted because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case:

1. The petitioner does show the following practical difficulty; the characteristic of the lot is large enough to support a building of this size and is within consistency of his neighbors in the area.

2. The following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: the
lot size is larger than average in the area and therefore, the building is consistent with the neighbors.

Roll call vote was as follows: Durham, yes; Dunaskiss, yes; Cook, yes; Kerby, yes; Walker, yes. Motion passes 5-0.

E. **AB-2021-59, Signs and More (ground sign for Silver Bell Village – located on the south side of E. Silverbell Road, east of Bald Mountain Road)**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Sign Ordinance #153 - Zoned Residential Residential Zoned Areas – Ground Signs
1. A 20-ft. road right-of-way setback variance from the required 20-ft. for a ground sign to be located in the road right-of-way (in the entrance island on Village Drive).

Ms. Sydney Janae, Signs in More, introduced herself to the Board and summarized the variance request. The new sign will be located in the same location as the existing sign. The existing sign was hit by a car and destroyed and this is an optimum viewing location and she explained. They have contacted Oakland County for approval and although it is technically on County property, they need permission from the Board to move forward.

Board member Dunaskiss asked about moving the sign back.

Ms. Janae explained that there were electric and other utilities in the way.

Chairman Durham asked if there was any public comment.

Board member Walker moved, and Board member Dunaskiss supported, in case AB-2021-59, Signs and More (ground sign for Silver Bell Village – located on the south side of E. Silverbell Road, east of Bald Mountain Road) to grant the petitioner’s request for 1 variance from Sign Ordinance #153 - Zoned Residential Zoned Areas – Ground Signs, 20-ft. road right-of-way setback variance from the required 20-ft. for a ground sign to be located in the road right-of-way (in the entrance island on Village Drive) because the petitioner did demonstrate the following standards for variances have been met in this case:

1. The petitioner does show the following practical difficulty; the previous existing sign was taken out by a vehicle and this is a replacement sign. The positioning of this sign is important because of the placement of the electrical conduit and other items behind the sign.

Roll call vote was as follows: Durham, yes; Dunaskiss, yes; Cook, yes; Kerby, yes; Walker, yes. Motion passes 5-0.

C. **AB-2021-57, James Garris, 215 N. Conklin Road, 09-01-403-014**

Chairman Durham recused himself.

Board member Van Tassel stated that it has been her experience that if a petitioner does not show up, he is contacted the next day by staff and given an opportunity to come to another meeting. If he does not show up to the next scheduled meeting, then the case if dismissed.

Board member Kerby asked if the Board chooses the date.

Building Official Goodloe stated that they have to postpone to a date certain.

Board members discussed the postponing the case.
Board member Kerby moved, and Vice-Chairman Cook supported, in the matter of ZBA Case AB-2021-57, James Garris, 215 N. Conklin Road, 09-01-403-014 that the petitioner’s request for 2 variances from Article VI, Section 6.02(N)(3), Zoned R-3 including a 27-ft. front yard setback variance from the required 40-ft. to install an inground pool 13-ft. from the front property line along De Goff Ct. and a 21.5-ft. front yard setback variance from the required 40-ft. to install an inground pool 18.5-ft. from the front property line along Orion Ter. Be postponed to November 22, 2021.

Roll call vote was as follows: Dunaskiss, yes; Cook, yes; Kerby, yes; Walker, yes; Van Tassel, yes. Motion passes 5-0.

6. **PUBLIC COMMENTS**

Ms. Van Tassel stated that it has been her experience that when a Board member needs to recuse themselves, the action is for that member to ask to be recused and then for there to be a motion outlining that member being recused from that agenda item and she explained. She suggested that they have staff ask the Township Attorney to render an opinion.

Chairman Durham explained why he wanted to be recused from the case during this meeting.

Ms. Van Tassel stated that the Zoning Ordinance that the Board is working with was adopted in 1984. She provided her history with the Township. She suggested that the Board members talk to the Planning Commission because the number of toys that neighbors have has increased including equipment, etc. She suggested that since this is in style, maybe they need to give consideration for greater square footage accessory building.

7. **COMMUNICATIONS**

A. Date Certain Memo

8. **COMMITTEE REPORTS**

None

9. **MEMBERS’ COMMENTS**

10. **ADJOURNMENT**

Moved by Board member Dunaskiss, seconded by Chairman Durham to adjourn the meeting at 8:26 pm.

Respectfully submitted,

Erin A. Mattice
Recording Secretary