The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, October 26, 2020, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

*Please note this meeting was also done virtually via a “Go to Meeting” #914-793-997*

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Don Walker, PC Rep to ZBA
Lucy Kosciertynski, Vice-Chairman
Mike Flood, BOT Rep to ZBA
Tony Cook, Board Member

ZBA MEMBER ABSENT:
None

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Thomas Denton
Peter Smith
Tim Fogg
Mario Gena
Gary Thompson (via GoToMeeting)

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

2. ROLL CALL
As noted

3. MINUTES

A. 09-28-2020, ZBA Regular Meeting Amended Minutes
Moved by Vice-Chairman Kosciertynski, seconded by Board Member Cook, to approve the minutes as amended. Motion Carried

B. 10-12-2020, ZBA Regular Meeting Minutes
Moved by Vice-Chairman Kosciertynski, seconded by Chairman Durham, to approve the minutes as presented.

4. AGENDA REVIEW AND APPROVAL
There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2020-29, Thomas Denton, 322 N. Baldwin Rd., 09-06-100-052
Chairman Durham read the petitioner’s request as follows:

The petitioner is requesting 1 variance from Zoning Ordinance #78 – Zoned SF
Article XXVII, Section 27.02 – Lot size over 2.5 acres  
1.) A 280-sq. ft. variance above the allowed 1,900-sq. ft. Maximum Floor Area of all Accessory Buildings, to build a 1,350-sq. ft. pole barn in addition to an 830-sq. ft. attached garage.

Chairman Durham asked if the applicant was present?

Mr. Tom Denton 322 N. Baldwin Rd. the applicant presented.

Mr. Denton stated that he has been living in his home with his wife in two kids for about 8-years. He added that they also own the adjacent lot of 4-acres and so there is a 3-acre parcel and a 4-acre parcel for a total of 7-acres. Over the years they have amassed enough equipment that it has become unsightly trying to keep it under tarps underneath the deck. They would like to expand and have a barn to hold a trailer, a compact tractor, a woodchipper, a splitter, and all the equipment it takes to maintain the property.

Chairman Durham stated that he had been back and forth in front of that driveway for years and he never knew that house was there. He noted that if he was successful tonight with the addition that they want to make it would not be obstructing any sightline. Mr. Denton agreed that it would not interfere with anyone’s sightlines.

Board Member Cook said that even after they were on the property it would be hard to see the pole barn for the first 25-50-ft. He noted that the layout of it and the stakes gave him a little bit of a problem but eventually he figured it out. He said overall he didn’t have any questions or issues with it.

Chairman Durham asked if the shed that they speak of removing is that the metal shed? Mr. Denton replied no, the metal shed is actually on the 4-acre lot in front, but wanted to remove that shed as well. The shed that is mentioned was the shed that came with the house when they purchased it, the little red one.

Vice-Chairman Koscierzynski stated that she was reading the Practical Difficulty and it said it had been created by nature and the way the lots are platted. She thought that the Practical Difficulty was that he needed a safe place to put all the equipment to maintain the property. She asked what items they had? Mr. Denton replied, a compact tractor and the implements to go with that tractor to keep them out of the elements, lawn tractor, woodchipper, splitter, and a travel trailer. Right now, the travel trailer is parked out on an asphalt pad, in the summer. Vice-Chairman Koscierzynski asked how much property he had total? Mr. Denton replied just about 7-acres.

Trustee Flood asked if the shed was coming down? Mr. Denton replied yes. Trustee Flood noted that the shed was not included in the calculation, so part of the motion would be if the motion is to be made, to remove the shed after the pole barn is built. Mr. Denton said he would happily remove the shed.

Trustee Flood added that the Fire Marshal has no concerns.

Board Member Walker asked of all his equipment, was there any work involved with this? Mr. Denton replied no. Board Member Walker asked if all the equipment was for just maintaining his property? Mr. Denton replied yes. Board Member Walker asked if he had 3-acres on his property and an additional 4-acres attached was his also? Mr. Denton replied yes.

Board Member Walker said they are back to this again where their ordinances say “XXX” and then they have someone here that has seven-acres and it doesn’t seem to fit.

Chairman Durham asked if anyone from the public wanted to speak.
Ms. Kate Fogg 4405 Rose Ct. said that if they were heading north on Baldwin right after they pass Libby Lane. She was confused about how it worked, that is the house that sits back, that is the applicant’s driveway. They are on the next street Rose Ct. and there are a series of houses that line up there perpendicular. She wanted to understand how it was going to be situated. When they look out their door wall out into their back yard, they see his driveway coming across. She did know where the shed was and was sorry that she couldn’t get on and see how it was laid out for the houses, not just theirs, but also the houses past theirs because that is where the petitioner resides. The petitioner showed Ms. Fogg a diagram where the pole barn would go. Chairman Durham noted that by the look of where the stakes were at, the lot tails off some down there, and where they are going to build it, it appears to be a bit lower than the level of the house and so that should make it tend to disappear even more from their vantage point.

Mr. Tim Fogg 4405 Rose Ct. said that a lot of stuff has happened. When they moved in it was a designated wetland and then 5-years later here comes all the gravel trucks and built the mound that his house is on and then formed this pond behind their house from the driveway. Chairman Durham understood why they would want to know what was happening.

Board Member Cook asked if the shed was on the 4-acre or the 3-acre parcel? Mr. Denton replied that there are two sheds, the shed that will be in the motion to be removed is on the 3-acre property but did plan on taking down the 4-acre shed too, as it had equipment in it that he would be moving into the barn.

Vice-Chairman Kosciertzynski asked if he was taking down both sheds? Mr. Denton replied yes.

Chairman Durham said for clarity that the red shed will be coming down if he was successful. Mr. Denton replied correct, it has to come down. Chairman Durham questioned if the other one will come down after the pole barn is built and he has space to put his stuff? Mr. Denton replied yes.

Moved by Vice-Chairman Kosciertzynski, seconded by Trustee Flood, that in the matter of ZBA case #AB-2020-29, Thomas Denton, 322 N. Baldwin Rd., 09-06-100-052, the petitioner is requesting 1 variance from Zoning Ordinance #78 – Zoned SF, Article XXVII, Section 27.02 – Lot size over 2.5 acres: 1) a 280-sq. ft. variance above the allowed 1,900-sq. ft. Maximum Floor Area of all Accessory Buildings, to build a 1,350-sq. ft. pole barn in addition to an 830-sq. ft. attached garage be granted because the petitioner have demonstrated that the following standards for variances have been met in this case in that they set forth facts which show that in this case: the petitioner does show the following Practical Difficulty: the compact tractor, lawn tractor, travel trailers, and other tools that are needed to keep up with a seven-acre property; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone: the property is on seven-acres, the way the house is situated, and where the new pole barn is going is not an issue, and the shed that is on the property will come down, the red shed will come down after the pole barn is built; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following of facts: the property has a lot of trees, and the property owners have a lot of work, when she was there she noticed that there was a lot to do, and the pole barn is necessary for them to house their equipment, also the Fire Marshal does not have a problem with this; the granting of the variance or modification will not be materially injurious to the property or to improvements in such zone or district in which the property is located based on the following findings of facts: this property is on seven-acres, there is a lot of trees, the Fire Marshal doesn’t have a problem with the shed; the shed is not going to be an eyesore to any of the neighbors; the granting of this variance would not: impair an adequate supply of light and air to adjacent property due to: a seven-acre property parcel; unreasonably increase the congestion in public streets due to: not applicable in this situation, the house is way off of Baldwin Rd.; increase the danger of fire or endanger the public safety; unreasonably diminish or impair.
established property values within the surrounding areas; or in any other respect, impair the public health, safety comfort, morals, or welfare of the inhabitants of the Township.

Discussion on the Motion:

Trustee Flood wanted to clarify that the shed is to be removed and that the size of that shed is 8-ft. x 8-ft.

Building Official Goodloe noted that the property in question is not seven-acres but three-acres, he owns the additional four-acres.

Vice-Chairman Kosciertzynski amended her motion, Trustee Flood re-supported the motion to include that the granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to other properties the pole barn is going on three-acres the other four-acres is not in question with regards to this variance.

Roll call vote was as follows: Durham, yes; Kosciertzynski, yes; Cook, yes; Walker, yes; Flood, yes. Motion Carried

B. AB-2020-30, Phillips Sign/G’s Pizza, 2775 S. Lapeer, 09-23-402-024
Acting Chairman Durham read the petitioner’s as follows:

The petitioner is requesting 1 variance from Sign Ordinance #153

Section 7, Non-Residential Wall & Ground Signs – Zoned GB

1) A variance to allow 1 additional wall sign for a total of 2 wall signs totaling 66.99-sq. ft.

Mr. Greg Morgan with Philips Sign Company the applicant presented.

Mr. Morgan stated that they are looking to replace an existing sign that is over the main entrance, it is 10-sq. ft.  It would be a second sign on the building but it is a directional sign, directing the people from the parking lot into the main entrance of the building, not the entrance that is on the backside of the building. So, they would have to come around to the front where the main entrance is and is why it is a directional sign more than it is an advertising sign. He added that the property is set back quite a ways and it is also in a depression off of Lapeer Rd. and said that there is no way that sign was going to be seen by any traffic that is on Lapeer Rd., it is strictly for the people in the parking lot indicating where the main entrance to G’s Pizza is.

Chairman Durham asked if the sign they are talking about replacing is the sign that looks like handwriting? Mr. Morgan replied that it was an existing old neon tubing sign. They want to take that down, it is not functional anymore, it will be lit with LED’s and is just a replacement sign over the door.

Board Member Walker asked if they put the sign in that they are taking down, was up there before he purchased the property? Mr. Morgan replied yes it was an existing sign. Board Member Walker said he was confused because it says that they want two signs but they already have two signs and they are taking one of those two signs down and putting up a new sign in its place. Mr. Morgan said that they will be replacing the existing sign that doesn’t work anymore that was on the building with a new sign.

Chairman Durham said that it will be an LED lite sign. The ordinance has been massaged to the point that they don’t have to worry about light intensity.
Board Member Cook noted that Mr. Morgan had said it was a directional sign, but stated that it read established in 1983. He asked how is that a directional sign?

Mr. Mario Genia, G’s Pizzeria replied that it would replace the existing burnt-out sign and it would assist customers into coming to a more lite, more welcoming entrance as opposed to a burnt-out sign. He added that it was two-fold, it cleans the building up and gives it more of a welcoming feeling when people come in and come up to the front of the building.

Board Member Cook asked from the standpoint of the sign, and he understood that the one sign doesn’t work but it says restaurant entrance? Mr. Genia replied that he thought the sign said Restaurant and Bar. Board Member Cook said they have the southern entrance and the western entrance, he questioned what the preferred method of ingress was? Mr. Genia said that they didn’t have a preferred entrance but he thought that if they lightened one up it would kind of be preferred. He preferred that entrance being the main entrance just because when people are coming in, they are not just wandering around through the restaurant, they come right up to the hostess stand, which will be right there, when they walk in.

Board Member Cook said that the current sign could not be seen from M24, he did the drive back and forth just to see, they have a monument sign, but looking at the building the way the sign is going to be placed, it will identify the name of the restaurant more quickly. So, they don’t have to figure out if that monument sign belonged to the Red Roof or does it belong to another building behind there. He thought it would be an advertisement but thought it would be a positive advertisement because it will show what the company is.

Chairman Durham asked if anyone from the public wanted to speak on this matter? There was not.

Moved by Board Member Cook, seconded by Trustee Flood, that in the matter of ZBA case #AB-2020-30, Phillips Sign/G’s Pizza, 2775 S. Lapeer, 09-23-402-024, the petitioner’s request for one variance from Sign Ordinance #153, Section 7 Non-Residential Wall & Ground Signs – Zoned GB: 1) a variance to allow 1 additional wall sign for a total of 2 wall signs totaling 66.99-sq. ft. be granted because the petitioner did demonstrated the following standards for variances have been met in this case in that they set forth fact which show that in this case the petitioner does show the following Practical Difficulty: due to the property sitting in a depression, and that the additional wall sign would allow folks to identify what the building is more readily as they go by on M24 or Greenshield; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district: it is in a depression and it is basically the traffic speed is posted at 50MPH but probably goes closer to 65MPH down Lapeer Rd.; the variance is necessary for the preservation and enjoyment of a substantial property rights possessed by other property in the same zone or vicinity based on the following findings of facts: he did notice that there are currently two signs there and that seems to be normal within that area, the property next door to him, the Red Roof Inn does have two signs; 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 findings of fact: that the current sign that is above the door today will be removed and replaced with the new one that was listed in the package so it will keep it at two signs on the building; further, based on the following findings of facts, the granting of this variance would not; impair an adequate supply of light or air to adjacent properties; it would not unreasonably increase the congestion on the public streets; it will not increase the danger of fire or endanger the public safety; it will not unreasonably diminish or impair established property values within the surrounding area; or, in any respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township: because it is actually going to make it a little bit safer because now people will know what the building is from that eastern side.
Roll call vote was as follows: Walker, yes; Koscielczynski, yes; Flood, yes; Cook, yes; Durham, yes. Motion Carried 5-0

C. AB-2020-31, Future Design/Powers/Leasing Company, 3700 Giddings 09-27-301-052
Chairman Durham read the petitioner’s as follows:

The petitioner is requesting 2 variances from Sign Ordinance #153

Section 7, Non-Residential Wall & Ground Signs – Zoned LI

1) A variance to allow 1 additional ground sign for a total of 2 ground signs.

2) A 28.79-sq. ft. variance above the approved existing ground sign of 498-sq. ft. to allow two ground signs that total 526.79-sq. ft.

Mr. Jerry Sitarski with Future Designs & Sales, & Mr. Gary Thompson with Powers Distributing, the petitioners were present via GoToMeeting.

Chairman Durham said he was out there early before any markers were up. He asked if the sign was going to go on the island in the middle of the front driveway? Mr. Sitarski replied yes. Chairman Durham asked if they were counting on those big long trucks to be able to cut in and out of there without creasing the sign? Mr. Sitarski replied yes.

Board Member Walker asked why they needed the sign? Mr. Sitarski replied that they didn’t have any addresses on Giddings Rd., so when they are traveling north and south on Giddings Rd., they don’t see any of the addresses. He said they had three addresses that they would propose putting on the sign, one for Powers, Powers Distributing, and Powers Leasing.

Vice-Chairman Koscielczynski said that the sign off of Giddings they can hardly see, it is just a wooden sign. She asked if the sign was going in front of their building? Mr. Sitarski yes.

Vice-Chairman Koscielczynski asked if the big bottle sign that was put up in 2016 was still there? Mr. Sitarski yes. Mr. Thompson said that the bottle was related to a different company. He added that the problem that they run into is that Powers Leasing in Orion the sign has addresses 3710 & 3720, Powers Distributing has address 3700. The new sign that goes up will have 3700, 3710, & 3720 and numbers on the sign and it will be lit up so that deliveries and their folks can find them relatively easy.

Trustee Flood noted that the sign was needed to put the three separate addresses and the three separate facilities in that one building. Mr. Thompson said that there were two buildings there, the two separate numbers are in separate buildings.

Chairman Durham said that he understood that it would help them because he remembers back when they brought the beer bottle in, he remembered asking them questions then how that beer bottle was going to help them. As it turned out they have expanded their operation some, or it didn’t do quite everything they wanted. He did see why they wanted the sign to help give people some direction.

Board Member Cook said he knew they had a solar array at the rear of the property. He asked if this sign be solar operated? Mr. Thompson said the 16,000-sq. ft. of solar panels that they have there, replaces their use of electricity in general. This particular sign will have a photovoltaic eye and is ground lite so the people at night can see the three addresses. From that perspective since the 16,000-sq. ft. of solar panels help them not use the grid whatever they use on this particular ground lighting on
this sign so people can see the addresses will be somewhat offset but they are not powered by the solar panels directly.

Board Member Cook said that there is a wooden sign there now, and asked what is the plan for that sign? Mr. Thompson said the wooden sign was up before COVID-19 started for hiring. They can remove the wooden sign, it was to let people know that they were trying to hire folks and trying to get full employment. Very much like the Federal Express sign down the road.

Board Member Cook asked if the new sign allowed them to put “now hiring” on the new sign? Mr. Thompson replied that yes, they can, in-fact with the sign-making product that they have they can make a coroplast or outdoor vinyl sign that they can attach to the top that just says now hiring, and will be more beneficial to them.

Board Member Walker asked if the wooden sign was their official sign? Mr. Thompson replied no, he would be removing the wooden sign tomorrow.

Vice-Chairman Kosciierzynski said she didn’t see a problem with the sign. She said she knew there was a sign ordinance but the building is situated and if they drive by at a certain time, and they have those gates there they can hardly see anything. That sign on Giddings they need because there is a site issue because of the way the building is situated and the gates.

Board Member Cook said his question about the wooden sign was more for clarity in terms of once this permanent monument sign is in place and was it going to stay.

Moved by Board Member Walker, seconded by Vice-Chairman Kosciierzynski, in the matter of ZBA case #AB-2020-31, Powers Leasing Company, 3700 Giddings, 09-27-301-052, the petitioner request for 2 variances from Sign Ordinance #153, Section 7 – Non-Residential Wall & Ground Signs – Zoned LI; 1) a variance to allow 1 additional ground sign for a total of 2 ground signs; 2) A 28.79-sq. ft variance above the approved existing ground sign for 498-sq. ft. to allow two ground signs that total 526.79-sq. ft. be granted because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set facts that show in this case: there is a Practical Difficulty: the location of Powers is setback by itself except for the FedEx folks and there is lots of room back there, even though it is zoned LI it is a very distant LI with lots of opening back there, and it is due to the unique characteristics of the property and not related to general condition in the area of that property; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone: there is very little things to compare it to, the petitioner has indicated that they would be willing to take down the wooden sign, the hiring sign as part of their agreeing to their request here today; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same zone or area: further, there would be no impairment of light or air supplied to adjacent property; no unreasonable increase in congestion; no danger of fire or endangering the public safety: The Fire Marshal indicated that he has no problem with this

**Roll call vote was as follows:** Flood, yes; Walker, yes; Cook, yes; Kosciierzynski, yes; Durham, yes. 
**Motion Carried 5-0**

**D. AB-2020-32, Peter Smith, 500 N. Conklin, 09-01-277-004**
Chairman Durham read the petitioner’s as follows:

The petitioner is requesting 3 variances from Zoning Ordinance #78 – Zoned R-3

Article XXVII, Section 27.01 (C)(1)(a):
1) A 20-ft. lot width variance from the required minimum 50-ft. lot width

Article VI, Section 6.04 Zoned R-3

2) A 6-ft. side yard setback variance from the required 10-ft. to rebuild a house 4-ft. from the side property line (north)

3) A 5.33-ft. side yard setback variance from the required 10-ft. to rebuild a house 4.67ft. from the side property line (south)

Mr. Peter Smith 500 N. Conklin Rd. the applicant presented.

Mr. Smith said that his son Joshua was with him as well as part of the project that they are building.

Mr. Smith said that they bought the place a couple of years ago anticipating getting it back into shape and getting it back up to code. It had 8 tons of garbage that they moved out and after they moved the garbage they began to tear-off the drywall and look at the floors. The floors were awful, downstairs there was carpet over wood that was on top of dirt, there was no slab. They ran into a situation that was unheard of. This was from 1915 or 1920s when the house was built. The more they got into it the more they realized things were looking bad and thought that a simple rebuild would be what they would be doing. They initially were told by the City Official that the front wall to the west was bowing and so they built a temporary wood wall to support the house on the west side to re-block the whole front and ended up as they got into that they saw more and more going on. They indicated that they would be able to build on the same footprint which they were glad for that they could salvage at least what was there. They suggested it have 42" through the frost line and would need to be underpinned in which they dug down and then they suggested that they move it in 6" to get a full strength of the dig to underpin the foundation to the east. They did that and in the process of that, they became aware of the need for a variance at that point. They were surprised by that but they wanted to comply so they are in the process and they realized that three issues were going on because of the differences at this point from when the house was built back in the 1920s. He noted that less than 25% of their property is covered by a structure it is 10.4% that is built upon. Also, the position of their house, the footprint, is 30.3" from the street of Conklin, which meets code, so they were not asking for any variance there in terms of their west build. The three variances for which they are requesting, the first one 20-ft. lot width variance from the required minimum of 50-ft. lot width, they have a 30-ft. lot width. When they purchased it and saw it on the map, they thought it was exceptionally long, it goes all the way down to the Bunny Run Lake, but it very narrow. Their front door would be facing the west which is Conklin St. rather than the sides. They wanted to be sensitive to the neighbors on both sides and have had multiple conversations, always positive with them. He asked if the Board got a letter from the neighbor to the south, by Joe Constantino? His parcel is double in length than most of the lots, it is 220-ft. at the longest point. Their desire is to build in the same footprint and be very sensitive to the neighbors on both sides, north and south, where there is a concern because of the need for the variance. Any kind of shed would be on the backside of the house where there is lots of room over 150-ft. on that side. That is the first issue the minimum requirement of 50-ft. width they don’t meet because of the nature of the lot as they purchased it. The second two are related and they are similar. The 6-ft. side yard setback variance from the required 10-ft. to rebuild the house 4-ft. from the side property to the north. He said the Practical Difficulty to meet the current 10-ft. requirements since their lot is exceptionally narrow it is 30-ft., they can’t change that, the only thing that they could do is buy from the neighbors, he has inquired, and they are not interested in selling. The neighbors to the north, their front door faces Conklin not towards their house. If the ZBA grants this rebuild on the existing footings as they are proposing they would want to build like a living hedge of arborvitaes on that side where there is less than the required 10-ft. He noted that the house was 12-ft. away from where their property line is and so they are not building right on line. The third variance a 5.33-ft. side yard setback variance from the required 10-ft. to rebuild a house 4.67-ft. from the side property to the south. This is because of the 10-ft. requirement and their lot is only 30-ft. in width. To meet the 10-ft. requirement on both sides of their property would mean that they would only have a maximum of 10.6-ft. width of their house. They tried
to sell the lot and no one was interested in buying an empty lot. Their commitment is to do what is best for the community. The neighbor on the south is 30-ft. away from their property line where his house is standing. So, there is not a near sense that there are a driveway and a yard between his house and their house. He read a letter from his neighbor: To Whom It May Concern: I just wanted to express his support for Peter Smith and the project that he has taken on at 500 N. Conklin. He is a man of excellent character and great intention. He has discussed with him the proposed dimensions and plans for the new house that he is building on the lot. He likes what he is intending to do and is looking forward to the new build that will be next to us.

Mr. Smith added that he hoped that if these variances are granted, they would be able to build on the original footings. They have underpinned them so they meet code 42” frost line concern and being sensitive to the neighbors with the whole process as they move along. He has a close friend that is a contractor and they would like to have everything up to code and to work with them in the process.

Chairman Durham asked if the first variance would have to be a separate motion and pass before the other two could be granted? Because it is a substandard size, would they have to agree to a substandard size first because if they don’t agree to the substandard size the other two really don’t matter? Building Official Goodloe replied no.

Building Official Goodloe said that he has worked with Mr. Smith and the original house was dilapidated. He didn’t know about the setbacks and told the applicant that they could build on the existing footprint per what the ordinance allows. Once they got past the demo permit and got the building permit is when this situation arose with the setbacks.

Chairman Durham asked if he had a foundation with blocks coming up. Mr. Smith replied yes.

Chairman Durham said that he had been working with Building Official Goodloe until it became apparent that they needed some movement. Mr. Smith said at that point they waited in terms of the variances.

Trustee Flood said that these lake lots and a lot of people have combined parcels together, and if they look at the sketch, they have 35 widths on Conklin and then they get down to the lake and it angles out to 67-ft. He added that this was quite common on some of these old lots that were platted long ago. His understanding was they are staying on the same footprint and they want to go up, which is quite common when they get restricted on that. He noted that the Fire Marshal had no concern on the side yard setbacks. He thought it would be a great improvement over there. And the neighbor that lives next door that the applicant has read the letter already Mr. Constantino at 490 N. Conklin. He said that he had no problem with it.

Commissioner Walker asked when the applicant purchased the property? Mr. Smith replied 1 ½ years ago. Commissioner Walker asked what his intent was when he bought it? Mr. Smith replied that they thought they could fix it up and make it livable without destroying the framing, but the more they began to opening up they realized it was a whole different animal. They were not going to flip it they were going to keep it a while and see. Two of his boys just got married in the last 2 years and they were hoping to keep it in the family for a while. Commissioner Walker asked if Mr. Smith had intended to move into the house. Mr. Smith said not personally no. Commissioner Walker question if the proposal house was going to be built right on the same footprint as the original house? Mr. Smith replied that it was 6” shorter on the east side just because of wanting to make stronger footings but basically yes. Commissioner Walker said these variances they are asking for had to be asked for 1925 if such a thing existed back then. They are giving variances but they are not giving variances, because had he just rebuilt that house, he would not need these variances. Building Official Goodloe said that he doubted that those zoning ordinances were in place back then.
Board Member Walker asked if they were going to put a second story on? Mr. Smith replied yes. Board Member Walker questioned if the second story will be the same dimensions as the first story? Mr. Smith replied yes, according to the plans, which they submitted. Mr. Smith added outback which is the open area goes all the way to Bunny Run Lake, they have anticipated just to have a little bit of a deck and an overhang on a porch, nothing would go to the sides or front.

Board Member Cook noted that Mr. Smith said that the front is going to come off Conklin, but when he was looking at the property, he assumed there would be a pad there for a vehicle, he took the drive on Gay Ct. down until the paved road ended. Their property starts where the gravel ends. From the standpoint of the house and most times with lakefront property, the back is the front. He was wondering in this particular case and the way he is seeing being built, why they have opted to say that the Conklin side would be the front versus the lakeside. Mr. Smith said, in reality, the backside is used more but the way it was initially the front door was facing Conklin when people would drive by. That is part of the dilemma is where people would park and wanted to be sensitive to that because the smallest is the front 30’ wide so they don’t want to put cement in the front because it would just narrow the space. There will be a walkout on the bottom floor. He said that they were open to suggestions and if there was something that would impinge upon something that would look nice for the neighborhood, they are open to change it. Board Member Cook said it was just a question from the standpoint of it seemed like it was a safer way to get into the house. Mr. Smith said it is a dirt road, it is muddy and there are holes.

Board Member Cook said his concern was the Fire Marshal and the space between the existing house particularly the one as they are facing it, to the left. Board Member Cook asked if they made the neighbor an offer. Mr. Smith said that they have been trying to work with them, there are some difficulties in the family he thought he was in intensive care, and are just trying to work with them. Mr. Smith noted that his father was a Fire Captain in Lake City for 25 years and so there was a sensitivity to that fire concern. They will not plan to have a chimney on either side, just so there is more space.

Board Member Cook noted that they are here only because of the second story, and to make sure they follow the rules or the guidelines of the Township today. Building Official Goodloe said yes, that is why they were there. He thought that they were going to rebuild the same house and that is allowed per the ordinance. When he saw on the drawings the second story that is when he said they have to make sure they are covered on all bases and not building a nonconforming house and may not be able to get a loan from the bank because it was nonconforming. Once he added that second story than that brought in a lot of other factors.

Moved by Board Member Cook, seconded by Vice-Chairman Kosciierzynski, that in the matter of ZBA case #AB-2020-32, Peter Smith, 500 N. Conklin, 09-01-277-004, I move that the petitioners request for 3 variances from Zoning Ordinance #78 – Zoned R-3, Article XXVII, Section 27.01 (C)(1)(a): 1) a 20-ft. lot width variance from the required minimum 50-ft. lot width; Article VI, Section 6.04 Zoned R-3: 2) a 6-ft. side yard setback variance from the required 10-ft. to rebuild a house 4-ft. from the side property line (north); 3) a 5.33-ft. side yard setback variance from the required 10-ft. to rebuild a house 4.67-ft. from the side property line (south) be **granted** because the petitioner did demonstrate that the following standards of variances have been met in this case in that set forth facts which show that in this case: the petitioner does show that the following Practical Difficulty due to the unique characteristics of the property: being that when it was platted it was platted on a narrow basis and at the front of the property the width is 30-ft. and it does taper down to a little over 60-ft. in the rear of the property, as far as other properties in the area that is the general condition of the lots in that area; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district: they are using the original footprint less 6”, and so he is here before us because the requirement of asking for a second story but it still be within the same footprint of the same property; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity base on the following
fact: he is in the process of replacing the home that was not livable and he is going to definitely improve that with replacing that home that is livable and will meet today's standards; 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 upon the fact: he is going to build a home to today's standards, he has also gone in and did the underpinnings according to the codes of today, when this property was originally built, these zoning ordinances that they are working with did not exist nor did the construction standards that they currently have; the property will not impair adequate light or air to adjacent properties; it doesn't unreasonably increase the congestion in public: due to the fact that he will be parking both in the front and the rear of the property; it does not increase the danger of fire or endanger the public safety: they have support of the Fire Marshal; it does not unreasonably diminish or impair established property values within the surrounding area; in any other aspect it doesn't impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township: what he is going to put in place of that is going to meet today's standards.

**Roll call vote was as follows:** Durham, yes; Walker, yes; Kosciierzynski, yes; Flood, yes; Cook, yes.

**Motion Carried 5-0**

**6. PUBLIC COMMENTS**

None

**7. COMMUNICATIONS**

Memo from Planning & Zoning Coordinator Harrison dated October 20, 2020, Dates which cases can be postponed to.

Memo from Planning & Zoning Coordinator Harrison dated October 19, 2020, regarding the 2021 ZBA meeting calendar. Chairman Durham said that they would like us to look it over and they can act on it at the next meeting. Trustee Flood said he thought the December 27, 2021 date should be removed. He added that if they knew it now maybe they could take care of it for the next meeting. Chairman Durham asked if everyone felt comfortable moving on this? They all did.

Moved by Trustee Flood, seconded by Vice-Chairman Kosciierzynski, to approve the 2021 ZBA dates to be forwarded on to the Township Board, and also remove the December 27, 2021 meeting.

**Roll call vote was as follows:** Flood, yes; Walker, yes; Cook, yes; Kosciierzynski, yes; Durham, yes.

**Motion Carried 5-0**

Memo from Planning & Zoning Coordinator Harrison dated October 26, 2020, regarding canceling the November 23, 2020 meeting due to lack of agenda items.

Moved by Vice-Chairman Kosciierzynski, seconded by Chairman Durham, to cancel November 23, 2020, Zoning Board of Appeal meeting due to a lack of agenda items. **Motion carried.**

**8. COMMITTEE REPORTS**

None

**9. MEMBERS’ COMMENTS**

Board Member Walker said to get out and vote.

**10. ADJOURNMENT**

Moved by Board Member Cook, seconded by Chairman Durham to adjourn the meeting at 8:15 pm.
Respectfully submitted,

Debra Walton
Planning & Zoning Coordinator
Charter Township of Orion

November 9, 2020

Zoning Board of Appeals Approval