CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, November 14, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, November 14, 2022, at 7:00 pm at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
Dan Durham, Chairman
Mike Flood, BOT Rep to ZBA
Don Walker, PC Rep to ZBA
Diane Dunaskiss, Board member
Tony Cook, Vice-Chairman

ZBA MEMBERS ABSENT:

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Steve Oja
Herb Owens
Mark Stec
Nicole Oja
Deena Nguyen
CCutt Gabrien
Joe Carrier
Andy Pham

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

2. ROLL CALL

3. MINUTES
A. 10-24-22, ZBA Regular Meeting Minutes

Board member Dunaskiss moved, seconded by Trustee Flood, to approve the 10-24-2022 minutes as presented.

Vote was as follows: Cook, yes; Dunaskiss, yes; Walker, yes; Flood, yes; Durham, yes. Motion carried 5-0.

4. AGENDA REVIEW AND APPROVAL.
Trustee Flood moved, seconded by Board member Walker, to approve the agenda as presented.

Motion carried 5-0

5. ZBA BUSINESS

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned R-3
Article VI, Section 6.04

1. A 9-ft. side yard setback variance from the required 10-ft. for a carport to be 1-ft. from the property line (west).

Mr. Herbert Owens introduced himself and summarized the variance request for a side yard variance for 20’ X 20’ carport along the side of the house.

Chairman Durham confirmed that the carport would have a roof only.

Trustee Flood commented that this is an open air carport. He visited the property and noticed that the property drops off considerably and currently there is no garage on the property.

Mr. Owens stated that he will be the person that constructs it.

Board member Dunaskiss asked if they had had conversations with the adjoining property owners.

Ms. Nguyen stated that she only spoke to one neighbor who was fine with the request; this is Susan and Jack Stone.

Chairman Durham asked how the petitioner gets out of the driveway safety.

Ms. Nguyen commented on how she exits her driveway.

Trustee Flood read the letter from Susan and Jack Stone, neighbors two doors down from Ms. Nguyen and dated received October 31, 2022 which stated that they are not opposed to the variance request.

Board member Dunaskiss moved, seconded by Trustee Flood, that in the matter of ZBA case #AB-2022-44, Deena Nguyen, 184 W. Clarkston Rd., 09-11-455-004 that the petitioner’s request for 1 variance from Zoning Ordinance #78 – Zoned R-3, Article VI, Section 6.04 for a 9-ft. side yard setback variance from the required 10-ft. for a carport to be 1-ft. from the property line (west) be granted per plans date stamped received September 29, 2022, because the petitioner did demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did demonstrate a practical difficulty: the property has a very steep incline behind the house and there is no way to construct a garage where the driveway and parking area is and an open-air carport seems like a reasonable solution for the parking of cars.

2. The petitioner did demonstrate unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone including the incline and the fact that the property is on a very busy road and that care needs to be taken when parking cars and when pulling out of the driveway.

3. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following facts: other homes in the area have garages.

4. Granting the variance or modification will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located.

5. Granting this variance would not impair an adequate supply of light or air to adjacent properties, and it would not unusually increase congestion on public streets. There is also not going to be an increase of fire - the Fire Marshal provided an email dated October 26, 2022 that he has no concerns regarding the case at this time. It is not going to reasonably diminish or impair established property
values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

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

B. AB-2022-45, Steven Oja, Vacant Parcel, #09-03-278-026, South of 576 Cushing St.

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking to extend the expiration date for the approved AB-2021-56 ZBA case variances.

Mr. Steve Oja and Ms. Nicole Oja introduced themselves to the Board. Mr. Steve Oja stated that he would like to extend the variance granted in October of 2021 because they are not ready to start building yet since their children attend South Lyon schools and they wish to let their three boys graduate from South Lyon schools. They are about four years out before they are ready to start building. The Township advised him to extend the variance before it expires.

Board member Dunaskiss stated that this property is located on the street where she lives but she has no interest in the property.

Board members agreed to allow Board member Dunaskiss to participate in this case.

Chairman Durham asked if the variances are expired.

Mr. Oja stated that the expiration date was October 12, 2022 but when he called the Planning & Zoning Department, they advised him to send in the money for the permit before it expires and he will get on the next meeting agenda.

Chairperson Durham asked if Mr. Oja wanted to extend this four years out.

Mr. Oja agreed.

Chairperson Durham asked about the time frame of the extension.

Building Official Goodloe replied that they are working on administrative approval of variance extensions.

Chairman Durham stated that the Board in the past has extended for a year out but the Board has never extended out four years. There may be some rule changes possibly within a year so if the applicant feels it is in his best interest to change the request for the length of the postponement that would be up to the applicant.

Mr. Oja stated that if he gets the one year extension, then he can come back in a year to see if anything has changed. He confirmed that he is asking for a year extension.

Trustee Flood stated that Ordinance #78 is being updated currently and he provided details of the proposed amendments.

Mr. Oja commented that if he can get a one year extension, then perhaps within the one year, the ordinance will change. He reiterated the reason for the delay of construction.

Chairman Durham stated that he appreciates the petitioner’s honesty about his timeline.

Trustee Flood stated that the petitioner did make his application with the Planning and Zoning Department on October 4, 2022 so it was before the expiration.
Chairman Durham asked if the petitioner was asking for the same variances.

Mr. Oja replied yes.

Chairman Durham asked for public comment.

No public comment was heard.

Trustee Flood moved, seconded by Board member Walker, that in the matter of ZBA case AB-2022-45, Steven Oja, Vacant Parcel, #09-03-278-026, South of 576 Cushing St. application date stamped October 4, 2022, the petitioner is seeking to extend the expiration date for the approved AB-2021-56 ZBA case variances to extend his request for a one-year extension which will expire on October 11, 2023.

Vote was as follows: Cook, no; Dunaskiss, yes; Walker, yes; Walker, yes; Durham, yes; Flood, yes. Motion passes 4-1.


Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – Zoned R-3

Article VI, Section 6.04
1. A 12.7-ft. front yard setback variance from the required 30-ft. for an attached, side-entry, garage to be 17.3-ft. from the front property line.
2. A 17.4-ft. side yard setback variance from the required 30-ft. for an attached, side-entry, garage to be 12.6-ft. from the side property line (north).

Mr. Joel Carrier introduced himself to the Board and summarized the variance request for a garage with additional living space.

Chairman Durham asked about the storage of the additional items like boats, etc.

Mr. Carrier replied that the pontoon boat is in storage and he is hoping that he can store it along the garage in the future. He is planning on storing the jet ski in the garage or in front of the house. The little boat is not being kept. He confirmed that the garage that he is building is for his two cars.

Vice-chairman Cook asked if the fence was on the property line.

Mr. Carrier stated that the front of the new garage will be at the same distance as the existing garage.

Chairman Durham asked if the fence was on the property line.

Mr. Carrier replied that the fence was on the property line. The back fence line corner is in the neighbor's driveway.

Vice-chairman Cook asked if the fence was being removed.

Mr. Carrier replied that the fence would be the back wall of the addition.

Vice-chairman Cook asked how they would get to the back yard.

Mr. Carrier answered that he would put a gate in the fence to access the back yard and he explained.

Trustee Flood stated that the front of the new garage will be at the same distance as the existing garage.

Mr. Carrier stated that this was the original plan, but since the property is at an angle, he couldn’t increase the current setback, so the addition has to sit back a foot and a half. He is not going any further forward.
Trustee Flood stated that the current home is nonconforming for front yard setback because it is 17.3 feet from the front property line. He confirmed the variance requests that are being asked for.

Mr. Carrier confirmed the variance requests for side setbacks.

Trustee Flood reiterated that the house is nonconforming, and the applicant is not increasing the nonconformity.

Mr. Carrier concurred.

Chairman Durham asked if there was any public comment.

No public comment was heard in this case.

Trustee Flood stated that the petitioner meets all other setbacks except the ones that he is seeking variances for.

Vice-chairman Cook moved, seconded by Trustee Flood, that in the matter of ZBA case AB-2022-46, Joel Carrier, 1143 S. Long Lake Blvd., 09-01-264-011 that the petitioner’s request for 2 variances from Zoning Ordinance #78 – Zoned R-3, Article VI, Section 6.04 including: 1. A 12.7-ft. front yard setback variance from the required 30-ft. for an attached, side-entry, garage to be 17.3-ft. from the front property line, 2. A 17.4-ft. side yard setback variance from the required 30-ft. for an attached, side-entry, garage to be 12.6-ft. from the side property line (north) be granted because the petitioner did demonstrate the following standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did demonstrate the following practical difficulty: they complied with not making the structures more nonconforming by adjusting the position of the proposed addition. In terms of meeting the allowances for the size of the lot, the petitioner has made adjustments and resubmitted his plans.

2. The following are unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: this is a property with lake front area, many of these homes were originally cottages so by today's standards, they are falling into the “noncompliance arena”.

3. The variances are necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity based on the following facts: there are several homes in the area that have garages so the petitioner is trying to do that while staying compliant with the current zoning rules and laws.

4. Granting the variances or modifications will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located.

5. Granting these variances would not impair an adequate supply of light or air to adjacent properties, it would not unusually increase congestion on public streets, in fact it will improve upon it because they are going to have additional parking space. There is also not going to be an increase of fire, it is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township. The variances granted are for plans date stamped received on October 10, 2022.

Roll call vote: Walker, yes; Flood, yes; Dunaskiss, yes; Cook, yes; Durham, yes. Motion passes 5-0.
D. **AB-2022-47, Mark Stec, 3084 Judah Rd., 09-32-126-024**

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned R-1

Article VI, Section 6.04
1. A 20-ft. front yard setback variance from the required 40-ft. for a home addition to be 20-ft. from the front property line.

Mr. Mark Stec introduced himself and summarized the variance request.

Chairman Durham asked how many square feet is the current home.

Mr. Stec replied 1,500 square feet. This addition would give them 48 square feet more.

Trustee Flood commented that all of the homes in that area have the same setback and provided some historical details. He stated that there are 2.5 acres there.

Mr. Stec replied yes, it is long and narrow with a large dip in the back. He explained some grade issues that exist on the property which this addition will help with and he explained.

Chairman Durham read a letter into the record from four of Mr. Stec's neighbors supporting the variance request. The Fire Marshall also provided a review indicating that he has no issue with what is proposed.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Board member Walker moved, seconded by Trustee Flood, that in the matter of ZBA case AB-2022-47, Mark Stec, 3084 Judah Rd., 09-32-126-024 for the petitioner’s request for 1 variance from Zoning Ordinance #78 – Zoned R-1, Article VI, Section 6.04 for a 20-ft. front yard setback variance from the required 40-ft. for a home addition to be 20-ft. from the front property line be granted for plans date stamped received October 12, 2022, because the petitioner did demonstrate the follow standards for variances have been met in this case and that they set forth facts that show:

1. The petitioner did demonstrate the following practical difficulty: due to the unique characteristics of the property including the narrow, very long lot with the home placed at the very front of the property. The request is not related to any general conditions of the property but specifically to the placement of the petitioner’s home.

2. The following are unique or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in this same district or zone: this is a nonconforming structure because the house was built in 1940 before the current Zoning Ordinance. The petitioner is not intending to increase the “nonconformity”, he is adding 6 to 8 square feet onto one corner of the house to make a bedroom a little bit bigger.

3. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by others in the same zone or vicinity.

4. Granting of the variances or modifications will not be materially detrimental to public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located.

5. Granting the variance would not impair an adequate supply of light or air to adjacent properties and it would not unusually increase congestion on public streets. There is also not going to be an
increase of fire. Granting of this variance will not reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Roll call vote: Dunaskiss, yes; Cook, yes; Walker, yes; Flood, yes; Durham, yes. Motion passes 5-0.

E. 2023 ZBA Meeting Dates

Chairman Durham reviewed the memo provided to the Board members from the Zoning Department regarding the meeting dates in 2023.

Board members discussed the proposed 2023 dates.

Trustee Flood moved, seconded by Board member Dunaskiss to approve the 2023 Zoning Board of Appeals meeting dates as presented and to forward the Resolution to the Board of Trustees for adoption.

Motion carried 5-0

6. PUBLIC COMMENTS

Mr. Scott Gabriel commented on the attendance at the Zoning Board of Appeals and his recent involvement in hurricane relief.

7. COMMUNICATIONS

Chairman Durham reviewed a memo provided to the Board members from the Zoning Department regarding the upcoming review of criteria for motions.

8. COMMITTEE REPORTS

9. MEMBER COMMENTS

Trustee Flood wished the Board a Happy Thanksgiving and he commented on the upcoming deer hunting season.

Board member Walker commented on the hard work done by the employees for the recent election.

10. ADJOURNMENT

Moved by Chairman Durham, seconded by Board member Walker, to adjourn the meeting at 7:55 pm.

Motion carried 5-0

Respectfully submitted,

Erin A. Mattice
Recording Secretary