CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS  
***** MINUTES *****  
REGULAR MEETING – MONDAY, December 13, 2021 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, December 13, 2021, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360.

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

ZBA MEMBERS ABSENT:

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:  
Kevin Daugherty  
Bill Salmitz  
Anton Rozhanskiy  
Shane Richardson  
Brian Gill  
Ron Rader  
Rich Miller

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

2. ROLL CALL  
As noted

3. MINUTES  
A. 11-22-2021, ZBA Regular Meeting Amended Minutes

Moved by Board member Dunaskiss, seconded by Board member Walker, to approve the minutes as presented.  
Motion carried.

4. AGENDA REVIEW AND APPROVAL.

Moved by Board member Dunaskiss, seconded by Trustee Flood, to approve the agenda as presented.  
Motion carried.

5. ZBA BUSINESS  
A. AB-2021-63, Lifted Industrial Partners, 4611 Liberty Drive, 09-34-300-018

Chairman Durham read the petitioners request as follows:

The petitioner is seeking 1 variance from Zoning Ordinance #78 – Zoned IP
Article XVIII, Section 18.04
1. A 22.5-ft. rear yard setback variance from the required 50-ft. for a structure (CO2 tank and shroud) to be 27.5-ft. from the rear property line.

Mr. Ron Rader, representative for Lifted Industrial Partners, provided an electronic presentation to the Board summarizing and explaining the variance request.

Chairman Durham asked if the carbon dioxide tanks are like the ones that the neighbor of the property to the north has.

Mr. Rader stated that they are identical. He continued with the electronic presentation. The CO2 tank would sit on a 14 foot by 14 foot concrete pad.

Chairman Durham asked Mr. Rader what is the worst thing that would happen if there was a release of the tank.

Mr. Rader replied that the tank would discharge CO2. He stated that the dumpster is being used as a strategic blocker from a screening standpoint and also a safety standpoint. He stated that this area could house a generator in the future and all falls within the drive aisle.

Board member Walker asked about the denial from the Planning Commission.

Mr. Rader stated that the reason the site plan request was denied is that it had to go before the Zoning Board of Appeals.

Board member Walker asked why it has to be where it is proposed.

Mr. Rader answered based in the Ordinance; this was the area that had the least impact on the overall site. They wanted to make sure it wasn’t a visual hindrance to people traveling along Giddings Road as well as for the neighbors. They felt that this was the best location overall.

Chairman Durham asked for public comment.

No public comment was heard.

Moved by Board member Dunaskiss, seconded by Board member Walker, that in the matter of ZBA Case AB-2021-63, Lifted Industrial Partners, 4611 Liberty Drive, 09-34-300-018 to grant 1 variance from Zoning Ordinance #78 – Zoned IP, Article XVIII, Section 18.04: a 22.5-ft. rear yard setback variance from the required 50-ft. for a structure (CO2 tank and shroud) to be 27.5-ft. from the rear property line be granted because the petitioner did demonstrate that the following standards for variances have been met in this case and that they set forth facts in this case that show in this case:

1. The petitioner does show the practical difficulty. This placement was not shown on the original plans but was determined to be necessary.

2. There 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.

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.

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

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

B. AB-2021-64. Kevin Dougherty (Storage Sense wall sign), 100 Premier Dr., 09-35-452-001

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 1 variance from Sign Ordinance #153, Non-Residential Wall Signs – Zoned IP
1. A variance to allow 1 additional wall sign in addition to the 1 allowed for a total of 2 wall signs totaling 94.92-sq. ft.

Mr. Dougherty introduced himself to the Board and summarized the variance request. They are asking to replace the existing signage due to a new business and business owner. The property sits at the bottom of a hill and with the angle located at this location; it is difficult for drivers to locate the business and can’t see it until the last moment. They believe giving drivers plenty of advanced warning that the building is coming up warrants the second sign in this case. It would not create a hardship for neighbors or existing businesses seeing as how it already exists and they are not installing a larger sign; actually the sign will be slightly smaller.

Chairman Durham asked if the new sign would wrap around the corner.

Mr. Dougherty replied no.

Trustee Flood stated that he was wondering how they got the second sign in 2004, but the minutes were in the Board packets. If successful, would it be conditional on not having a sign out front.

Mr. Dougherty agreed. There will be no ground sign at this location, only two wall signs.

Chairman Durham asked for public comment.

No public comment was heard.

Moved by Board member Walker, seconded by Board member Dunaskiss, that in the matter of ZBA Case AB-2021-64. Kevin Dougherty (Storage Sense wall sign), 100 Premier Dr., 09-35-452-001 to grant the petitioner’s request for 1 variance from Sign Ordinance #153, Non-Residential Wall Signs – Zoned IP: a variance to allow 1 additional wall sign in addition to the 1 allowed for a total of 2 wall signs totaling 94.92-sq. ft. be granted because the petitioner did demonstrate that the following standards for variances have been met in this case and that they set forth facts in this case that show in this case:

1. The petitioner does show practical difficulty in this case, in the past, the Planning Commission did authorize the previous owner of the property to have this sign.

2. The petitioner has indicated that he is not seeking now, nor will he ever seek a ground sign.
Roll call vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.

C. AB-2021-66, Phillips Sign & Lighting (Oxford Bank Ground Sign), 1115 S. Lapeer Rd., 09-14-226-004

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 1 variance from Sign Ordinance #153, Non-Residential Ground Signs – Zoned OP
1.  A 20-ft. road right-of-way setback variance from the required 20-ft. for a ground sign to be 0-ft. from the Road Right-of-Way.

And seeking 1 variance from Zoning Ordinance #78 – Zoned OP

2.  A 30-ft. front yard setback from the required 30-ft. for a ground sign to be 0-ft. from the front property line.

Mr. Ed Phillips introduced himself to the Board and summarized the variance request. He provided a handout to all of the Board members. They have a practical difficulty in that if the sign were to be placed as per ordinance, the sign would be located 18 foot into the parking lot. They are going to be removing an existing sign and replacing it with a new monument sign, 30 square foot and 8 feet high which would be in line with the neighbors height and size. The sign will enhance the visual appearance of the business and easily identifying it.

Chairman Durham asked if they plan to remove the existing sign.

Mr. Phillips replied yes.

Vice-chairman Cook asked how tall the existing ground sign is.

Mr. Phillips replied at least 20 feet.

Vice-chairman Cook confirmed that they would be installing a monument sign 8 feet tall. The current configuration works very well but to go shorter is positive.

Mr. Phillips stated that they would prefer to modernize the current sign.

Chairman Durham asked if they were told by the township that this was a nonconforming sign.

Mr. Phillips replied yes.

Chairman Durham stated that they preference is to remove the nonconformity.

Mr. Philips suggested that they table this item and bring back a plan to modernize the current sign.

Vice-chairman Cook stated that since modernizing the current sign would mean it would still be nonconforming, it is a moot point.

Trustee Flood stated that it is important that the line of sight isn't affected. He visited the sight and noticed that there is a 25 foot clear vision triangle offered in the application and he agrees with that. He asked if they were considering an electronic message sign.

Board member Walker asked if the petitioner would be willing to modernize what is there now.
Mr. Phillips stated that the sign that is there now is no way adaptable to the current sign ordinance. The ordinance says 30 square feet and 8 feet tall.

Board member Walker stated that he understands it is currently nonconforming but they would not be making it worse.

Building Official Goodloe asked if the petitioner had spoken with Tammy or Lynn.

Mr. Phillips replied yes. He was told that if they alter the existing sign in any way it would be an issue. He stated that an 8 foot sign is not really going to be affective on this large piece of property so if they could use the existing sign, they would come back with a new plan to do that.

Board member Dunaskiss asked about the structural integrity of the existing sign.

Mr. Phillips described the structure of the existing sign and how they would re-use the posts. But it would be over in height and square footage according to ordinance.

Chairman Durham stated that in all communities that he works in, the language is the same, you cannot change a nonconformity.

Mr. Phillips suggested that they table this tonight and they bring back a proposal for a sign re-using the posts that are existing.

Chairman Durham stated that the application would have to go through planning and zoning.

Mr. Phillips concurred.

Building Official Goodloe stated that it will have to be re-advertised.

Mr. Phillips stated that he understood.

Chairman Durham stated that his belief is that if they want a good looking sign in the ground quickly, they should proceed with this application.

Petitioner suggested that they proceed with this request and have approval for this ground sign to use if the other alternative doesn’t work out.

Chairman Durham reiterated that any new request would have to go through the planning and zoning department.

Vice-chairman Cook stated that the Board could vote on the proposal before them this evening but the other request to alter the nonconforming sign they cannot vote on or offer comment on.

Moved by Vice-chairman Cook moved, seconded by Trustee Flood, that in the matter of AB-2021-66, Phillips Sign & Lighting (Oxford Bank Ground Sign), 1115 S. Lapeer Rd., 09-14-226-004 to grant 1 variance from Sign Ordinance #153, Non-Residential Ground Signs – Zoned OP for a 20-ft. road right-of-way setback variance from the required 20-ft. for a ground sign to be 0-ft. from the Road Right-of-Way and also the petitioner’s request for 1 variance from Zoning Ordinance #78 – Zoned OP for a 30-ft. front yard setback from the required 30-ft. for a ground sign to be 0-ft. from the front property line be granted because the petitioner did demonstrate the follow standards for variance have been met in this case and that they set forth facts that show:

1. The petitioner did show the practical difficulty of the existing sign was erected in the 1970’s and needs to be modernized.
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 current sign is nonconforming and what they are doing in order to modernize with things that are going on in the area, they are willing to not only update their sign but bring the signage into conformance with today’s standards.

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 fact that there are new businesses coming in all around them and they want to make sure that they have direction for people seeking out their services.

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 the improvements in such zone or district in which the property is located. Sight distances have been taken into account and it will be a sign that will meet today’s ordinance standards.

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

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

Trustee Flood thanked the petitioner for collecting donations for the Oxford community.

D. AB-2021-65, Shane Richardson, Vacant Parcel located directly behind 2701 Judah Road

Chairman Durham read the petitioner's request as follows:

The petitioner is seeking 2 variances from Zoning Ordinance #78 – R-1, Article VI, Section 6.04
1. A 37-ft. front yard setback variance from the required 40-ft. to build a home 3-ft. from a private road (north).
2. A 39-ft. front yard Setback variance from the required 40-ft. to build a home 1-ft, from a private road (west).

Mr. Shane Richardson introduced himself and provided his background in the community and summarized the variances requested. He referred to the survey included in the board packet. The reason he is asking for the variance is due to the slope of the property and the proposed configuration of a walkout basement on the new home, he will be pushed down the hill where it is low and wet.

Chairman Durham asked where the private drive is.

Mr. Richardson confirmed that it is the gravel path going up the hill. This is the private road easement. It is 37 feet from the north where he wants to start the house, but it is 3 feet from the private road easement where the T is. The reason they put the T in was for the Fire Department and the Fire Marshall confirmed his approval of the proposal.

Chairman Durham asked if the Fire Department is allowed to take the apparatus off road.

Vice-chairman Cook replied that it is determined on a case by case basis.

Mr. Richardson stated that if it is an issue, he can put in a concrete drive.
Chairman Durham asked if Mr. Richardson knew the neighboring property owners.

Mr. Richardson replied yes, he met them and that is who he bought the property from. The neighbors did not have an issue with the proposal.

Chairman Durham asked if the neighbor is content to look at a house out their back window.

Mr. Richardson replied yes. He confirmed how the property was configured after a split from the neighboring lot.

Trustee Flood stated that he is landlocked to the north.

Mr. Richardson replied yes.

Board member Walker asked about the gravel road.

Mr. Richardson replied that it is an easement and considered a private road.

Chairman Durham asked whose easement it is.

Mr. Richardson replied that he guesses the city. He understood that they put it there for fire department access.

Trustee Flood stated that the Fire Marshall has no concerns.

Chairman Durham asked if there was any public comment.

No public comment was heard.

Moved by Board member Walker, seconded by Chairman Durham, that in the matter of ZBA case AB-2021-65, Shane Richardson, Vacant Parcel located directly behind 2701 Judah Road to approve the petitioner’s request for 2 variances from Zoning Ordinance #78 – R-1, Article VI, Section 6.04: A 37-ft. front yard setback variance from the required 40-ft. to build a home 3-ft. from a private road (north) and a 39-ft. front yard Setback variance from the required 40-ft. to build a home 1-ft, from a private road (west) because the petitioner did demonstrate that the following standards for variances have been met in this case and set forth facts that in this case:

1. The petitioner did show the practical difficulty due to the unique characteristics of this property and are not related to general conditions in this area. He indicated that the owner of the easement was the owner of the property that he purchased the property from and he is fully aware of the petitioner's intention to build a home there.

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 petitioner has already manufactured his own road to access the property which is not due to the general conditions of the property in the area.

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.

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 the improvements in such zone or district in which the property is located.

Roll call vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.
E. Case AB-2021-67, Anton Rozhanskiy, 592 Cushing St., 09-03-278-006

Chairman Durham read the petitioner’s request as follows:

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

1. A 23-ft. front yard setback variance from the required 30-ft. to build a home with an attached garage 7-ft. from the front property line.
2. A 2-ft. side yard setback variance from the required 6-ft. to build a home with an attached garage - ft. from the side property line (south).
3. A 12.36% lot coverage variance above the allowed 25% for a total lot coverage of 37.36%.

Board member Dunaskiss informed the board that this property is on the same street as her residence. She does not know the owner and doesn’t have any thoughts regarding the application.

Board members confirmed that Board member Dunaskiss need not recuse herself from this case.

Mr. Anton Rozhanskiy introduced himself to the Board and summarized the variance request.

Chairman Durham asked if the current home was being removed and asked if Mr. Rozhanskiy had been before the Board before.

Mr. Rozhanskiy confirmed that the current home is being removed and he has been before the Board, but it was not for this property.

Vice-chairman Cook asked about the item on the plan.

Mr. Rozhanskiy confirmed that it is the air conditioning condenser.

Board member Dunaskiss asked if the neighbor to the south is aware of what the proposed view would be.

Mr. Rozhanskiy replied that he has not spoken to them but doesn’t think it will be an issue. There is a parking spot currently in this area.

Chairman Durham commented that the neighbor to the north has a garage that sits further in-board to the one currently on the subject property. He asked when the new one goes up, where will the footprint be.

Mr. Rozhanskiy explained where the proposed garage would be as compared to the neighbor’s garage.

Chairman Durham commented that he was concerned with the sightline for the neighbor backing out of the driveway and this proposal might make it more difficult.

Mr. Rozhanskiy replied possibly; it is a tough spot to be in but the whole goal is to put all of the vehicles inside. He could shrink it to what is there currently but it still wouldn’t meet the requirements.

Trustee Flood stated that it is tough along the lake properties.

Mr. Rozhanskiy stated that the square footage of the proposed home would be 2730 square feet. He confirmed that he has not spoken to the neighbors. He has had the property for three months. The current house has quite a few issues.

Building Official Goodloe stated that his biggest concern is the water and drainage. There has to be a plan for drainage from the gutters.
Chairman Durham asked if there was public comment.

Mr. Rozhanskiy’s neighbor to the north appeared. She stated that her concern is how close the house is going to be to her property.

Trustee Flood stated that the side setback to the north is 6 feet and it would not affect her to the north. This is not the side asking for the variance.

Building Official Goodloe stated that because of the proximity, it would be a fire rated wall on that side.

Trustee Flood reiterated that the Fire Chief has no concerns.

Chairman Durham asked the neighbor how it was getting out of her garage.

The neighbor confirmed that there were no sight line issues.

Vice-chairman Cook confirmed that the garage only would be 4 feet from the side.

Mr. Rozhanskiy confirmed yes.

Moved by Trustee Flood, seconded by Vice-chairman Cook, that in the matter of ZBA case AB-2021-67, Anton Rozhanskiy, 592 Cushing St., 09-03-278-006 to approve the petitioner’s request for 3 variances from Zoning Ordinance #78 – Zoned R-3, Article VI, Section 6.04, Zoned R-3 including: a 23-ft. front yard setback variance from the required 30-ft. to build a home with an attached garage 7-ft. from the front property line, a 2-ft. side yard setback variance from the required 6-ft. to build a home with an attached garage -ft. from the side property line (south) and a 12.36% lot coverage variance above the allowed 25% for a total lot coverage of 37.36% because the petitioner did demonstrate that the following standards for variance have been met in this case and have set forth facts that show that in this case:

1. The petitioner does show the following practical difficulties: due to the unique characteristics of the property and it is related to the unique characteristics of the properties in the area being 40 – 50 foot wide lake lots.

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 existing structure will be torn down and the proposed is a new structure. A condition of this approval is that the existing structure must be torn down.

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 criteria as afore mentioned.

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 the improvements in such zone or district in which the property is located based on the following finding of these narrow lake lots. The construction will be in conformance to all Building Codes.

5. The granting this variance will not impair an adequate supply of light or air to the adjacent property, it would not unusually increase congestion on the public streets. There is also not going to be an increase of fire, or endanger of the public safety, and is not going to reasonably diminish or impair established property values within the surrounding area, or in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township. The Fire Marshall has indicated that he has no concerns regarding this proposal. The building of a new house will add to the property values.
Chairman Durham stated that if the Building Official has an issue with the proposed drainage on the site, he asked that the petitioner keep an open mind.

Mr. Rozhanskiy replied yes.

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

6. **PUBLIC COMMENTS**

7. **COMMUNICATIONS**

A. Date Certain Memo

8. **COMMITTEE REPORTS**

   None

9. **MEMBERS’ COMMENTS**

   Chairman Durham thanked the Board and wished them happy holidays.

   Board member Dunaskiss thanked the Board for welcoming her.

   Trustee Flood wished the Board a Merry Christmas and Happy New Year. He recognized the community of Oxford and stated that their thoughts and prayers are with this neighboring community.

10. **ADJOURNMENT**

    Moved by Trustee Flood, seconded by Chairman Durham to adjourn the meeting at 8:12 pm.

    Respectfully submitted,

    Erin A. Mattice
    Recording Secretary