

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
******* MINUTES *******
REGULAR MEETING – MONDAY DECEMBER 14, 2020 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, December 14, 2020, at 7:00 pm at the Orion Township Community Center, 1335 Joslyn Road, Lake Orion, Michigan 48360

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

ZBA MEMBERS PRESENT:

Dan Durham, Chairman
Don Walker, PC Rep to ZBA
Mike Flood, BOT Rep to ZBA
Tony Cook, Board Member
Lucy Koscierzynski, Vice-Chairperson

ZBA MEMBER ABSENT:

None

CONSULTANT PRESENT:

David Goodloe, Building Official

OTHERS PRESENT:

Mark Rossi	Douglas DeGhetto
Brian Liekweg	Gillermo Francis
Kristine Pawlowski	

1. OPEN MEETING

Vice-Chairperson Koscierzynski called the meeting to order at 7:00 pm.

2. ROLL CALL

As noted

3. MINUTES

A. 11-09-2020, ZBA Regular Meeting Minutes

Moved by Board Member Walker, seconded by Trustee Flood, to approve the minutes as presented.

Motion Carried

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2020-37, Mark Rossi, 2650 Wareing, 09-20-376-002

Vice-Chairperson Koscierzynski read the petitioner’s request as follows:

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

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

- 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road.

- 2) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
- 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.

Mr. Mark Rossi, the applicant, was present via the GoToMeeting program.

Mr. Rossi stated that he has lived in his home with his wife and kids since 1987. He said when he moved here Waldon Road was still gravel on the other side of Joslyn Rd., and there were no street lights. He noted that the only thing on Waldon Rd. down where Great Lakes is now was a McDonald's and a gas station on the other side. He said things have changed a lot and at warp speed in the last five years, especially the last year and a half. He noted they are now in a situation where their quality of life is not just impacted, it has really been destroyed. He added that he spoke to Chris Barnett not long ago and gave him a copy of a letter that he wrote, and that the Board Members had it in their packet as well. He said he outlined all of their issues and felt it was extreme. He said anyone that has lived in this area a long time, is familiar with what Baldwin Rd. was and what it was now. He said anyone that lives along it can tell you, you can't even hold a conversation in your backyard. He said it has gotten worse with the roundabout.

Mr. Rossi stated that the variance request is not asking for anything except for an extra two feet on the fence that they have already been approved for by the Keating Home Owners' Association (KHA). He noted that the Board Members had a copy of that approval as well. He said they also approved them for a 4-ft. fence, and also for a 6-ft. fence if they were to approve the variance. He noted that they were not asking to put it anywhere other than where their property line is and that was delineated by the remains of a split rail fence.

Mr. Rossi said that when he went in and handed the letter to Chris Barnett and they talked for about 10 minutes, he was very supportive of what they were trying to do. He brought them down and introduced them to both Lynn Harrison, Planning & Zoning Coordinator and Tammy Girling, Planning & Zoning Director. He stated that he has been working with Lynn Harrison on getting this together.

Mr. Rossi said that one of the reasons he went first was because he was had the longest tenure. He said the other co-applicants are more impacted by kids, except for when his grandkids come over. He said that this request is in no way detrimental as he read it, to anything that the County would like to do. It is not detrimental to any public health, safety, welfare, or other properties or improvements in the Township. He stated in fact, it actually could make it better, not necessarily those five people, but he had a feeling, they are going to have a lot of people requesting it. He said that there are some houses in their sub that they want a fence up for, where they are very detrimental to the appearance of their Township and people driving on Baldwin and Waldon Roads. He thought that it would be very good for them, and also it will not be bad for the rest of the community. He said that the 6-ft. variance is needed to mitigate the continued exponential growth, noise, visibility, security, and quality of life problems in their backyards, due to the explosion of traffic on Baldwin Rd., further impacted by the recent roundabout that was installed that obviously, they don't have any control over that, they just get the reaction of the increased traffic noise, security, visibility, that is happening. He said on the noise side, it is constant trucks, loud music, motorcycles, and then the last couple of years, ambulances that go down their road 5 to 10 times a day because it is the main cut-through for where they park when they are waiting for calls. He said regarding the visibility, they now have cars and trucks visible from their decks constantly, both stopped and moving, because of the roundabouts and the impact of traffic that will stop down at Clarkston and Baldwin Rd. and they can see them and constantly do look at what they are doing all the time. He added that in the last several years, a walking/bike path that has been

added, there are always people looking in at them, their dog goes crazy, even now, still after having it that way for a while.

Mr. Rossi noted that the third item is security. With all of the increased traffic on both the road and the path, they are compromised by all of those with bad intent. He noted that Kristin's house because of the Baldwin Rd., and the access in and out of the area that house was broken into, several years ago.

Mr. Rossi said that their quality of life, all of the above reasons affect their quality of life, simply enjoying their back yard, without people staring at them, interruptions their conversations, they have to stop constantly. Grandkids playing, they have to watch what is happening. Their dog in the backyard, they put up a fabric type fence to keep their dog, and kids in. When they didn't have it there, there was constantly, the kids and dogs wanting to get through that to be on the other side. The traffic pattern there now doesn't lend itself to that.

Mr. Rossi asked if any of the Board Members would like to live that way? He didn't think so. He said that the growth was beyond the control, but helping them deal with it was not, that is in all of their control the Board Member and them if they agree with them. He felt it was more than reasonable, they were not asking for any financial help to deal with this, even though they didn't choose these Baldwin Rd. changes, especially the last year. He wanted approval to make it livable again and asked them to grant them this variance.

Vice-Chairperson Koscierynski said that the Keatington Home Owners' Association letter stated that they are accepting the proposal with the exceptions, as noted, that the height is restricted to 48 inches per Township ordinance approved at 6-ft. if Township approves the variance. The letter was from Alex Jablonowski dated November 5, 2020, Keating Home Owners' Association Chairperson.

Vice-Chairperson Koscierynski said she had a conversation with Lynn Harrison, Planning & Zoning Coordinator because she was concerned about the variances. She understood why they need the fences but was concerned that eventually, that whole side was going to want a fence. She said Mrs. Harrison explained to her, that has nothing to do with what was going on there, and they must make these decisions case by case. She wondered how this was going to pan out over then next year. She said she drove down their street a few times because she wanted to get a feel for the traffic and the noise that goes on around there. She understood home is home and they need to protect it.

Chairman Durham said when he went through his information, it appeared to him that they were believing their conditions were much worse, now that the road has been repaired or rebuilt than they were before. He went down through their area and looked at the overheads from the County and the safety path hasn't moved, the width of the road hasn't moved. He said driving that road constantly, he was not sure that it takes as much traffic as it did before they starting fooling with it.

Mr. Rossi said that the road width hasn't changed in years since they put the turning lane in on Baldwin where it turns into Eaton Gate right behind his house. He said the issue is not the width of the road it is the volume of traffic. They can no longer make a left-hand turn, unless they wait for a long time, almost at all times of the day. Combine that with what has happened with the roundabouts, and the traffic backs up all the way to the curve often between 5:00 and 6:30 p.m. because of the number of people waiting to get through the Baldwin, Clarkston light. Their concern with their quality of life is huge. If they say that their traffic hasn't been increased, you will hear from each one of them, that is simply not true. He said it is to the point where it is backed up many times a day, and the noise level of the trucks coming through that roundabout, is huge. He said for him, he is not raising kids now, but they do like to enjoy a glass of wine in the back yard, and that is very tough to do now. He said that their quality of life has been impacted for a long time, and their security has, as well. It is much busier there than it ever has been. Before they bought their house, he parked out back on Baldwin Rd. to see what the traffic patterns were and the only time there was any traffic is when the GM plant let out for shifts. I was

cognizant of the fact of what might happen as far as some growth, but he was not ready for Baldwin Rd. with all the growth, and all the changes along that stretch with the building of the mall's etcetera. It is been exponential growth in the last 15 to 20 years. Traffic has increased hugely back there in the last several years.

Chairman Durham said that he passes through there normally not at peak time, and freely admitted that. He said that he spent the afternoon going through traffic reports and studies from the County. He stated that he is not saying he is not being truthful, but the County traffic reports, don't show it, they show it coming but they don't show it yet.

Chairman Durham added that he is not a fan of the compound look that you get when you get several 6-ft. fences in a row. He asked if there were any particular type of fence that they were thinking of? Mr. Rossi said it is not what they are thinking of it is what they are allowed by Keatington Homeowners' Association. They have to have a shadow box fence because there is one already approved in their subdivision, so it will be a uniform look. It is not going to be something that is going to be changing from household to household. Mr. Rossi said he was a very honest, honorable man. He was not telling them things just to get this through. He said in the last two years, with what's happening, it is not variable to hold a barbecue in his backyard, and to talk to people. He said he wished they could have done was have them come and sit in the backyard so they could experience what it is like. Or be sitting there, 5-10 times a day when they have the ambulances going back and forth down their property lines on Baldwin. He felt that it was something that has gotten worse and thought that it would continue as they use it as an artery to get to where they are going. That is why it is important that they have a fence for silence because it baffles the noise, and it makes it hit it and go up, so at least the impact would be less than what they have to experience every day, 5-10 times minimum a day.

Board Member Walker said that he moved here in 1988. He stated that they all wish that they could go back to when they moved here. He said what happens with growth is that they get more people, they need more facilities, more roads, and unfortunately, they get tons more traffic. He didn't doubt that they have more traffic on Baldwin than they did in 1987. He said he lives very close to M24, and when he moved in it was a two-lane highway and thought it was wonderful, now he hates it, but he has to deal with it. He asked how far he lived from the northernmost roundabout? Mr. Rossi said that the northernmost roundabout is at Baldwin and Walden Rd. which is the first main street south of his house. When they cross through the roundabout and go approximately 200-ft. and then turn on Walmsley Circle to go to his house. He said he agreed with what he said about growth, that is part of their reality, and they are never going to get away from them. Part of change and growth is dealing with the circumstances that are put in front of them to help them have a decent quality of life. This request is to mitigate the noise that accompanies that growth in a very minimal way that is not obtrusive at all, and that is to try and shelter his and their neighbor's property from that so they can enjoy their house and have a decent quality of life.

Board Member Walker said about a month or two months ago he saw an article in a magazine about countries in Europe that don't allow fences. He said that fences are a big deal around here. The Township has a Master Plan that they are going to develop for next year and one of those items on the agenda for the Master Plan is to deal with this fencing question because some people love fences, and some people hate fences. As Board Members, they are concerned about everybody in the Township. They try to make decisions based on what they think is best for everybody. They are not paid officials they are not elected officials they are "you folks". He added that he has been on the Board, off and on, for 15-20 years, every person he had ever been with on the Board cares, nobody has got an ax to grind, nobody is in the pocket of the Township, or in the pocket of the petitioners. They try to recognize the trust they place and act accordingly. He said in the article in Scotland, Ireland, and England, they don't allow fences, they have hedges. He said when he saw it, it was like a vision to him about their fencing problem because these hedges are thick, animals don't get through it, the sound doesn't come through it. He thought it might solve these kinds of problems, either now or in the future. Mr. Rossi

said that will solve it, possibly: when he is long gone and dead. But that won't help them for the next 10 or so years. He said the fence is behind the tree line so the visibility of it is not going to be obtrusive at all because it will be behind a lot of the vegetation that is there on their property. So, what it is really meant for is a barrier for them to mitigate that noise and visual sight problems, so they are not creating something that is going to be an eyesore out there, they are creating something that hopefully will allow them to block it out without it being very visible from that side because if they drive by that area, they would see that there are trees and all kinds of various vegetation. They all left it there to try and help, but it doesn't help that much, especially in the fall and winter. He challenged the article on how well it was going to stop sound in their backyards, but it possibly could help the visibility a little bit. He stated that they need relief now, because of what is happening here. They were trying to get understanding and empathy on how they were looking at this if they were to put themselves in their position.

Trustee Flood said he was born and raised here in the Township. He asked if they would be replacing the existing split rail fence, that was originally put in there when the subdivision was developed back in the 1960s? Mr. Rossi said that the fence has disintegrated but it was still laying there. Trustee Flood asked if that was where they were going to put it? Mr. Rossi replied yes, right on the lot line, right where that fence is. Trustee Flood said that his concern was he didn't want to get any closer to the safety path. His first concern, when he first saw this, was that it was going to be a stockade fence running, east and west, through every house there. After he went through the packet, he saw that the setback is for the side yard, so they can connect the fences at Baldwin Rd. and not have a 20-ft. gap there.

Mr. Rossi said that split rail when it was all done back when this was developed in the 1960s that was the only thing between the road and the house. Now that all the trees have grown up, obviously, that is set back closer to their properties now. That is why he was saying it is essentially hidden, they don't want to take any trees out of there. They want to be able to keep those as a barrier and also visually a barrier to those on the road as well. He felt bad for younger families with kids because it is difficult to play with their kids in the backyard. It is difficult to keep their pets in there. Anytime anyone goes past on the bike path, or the cars with any noise at all, both kids and animals go crazy there. He said they had a neighbor that almost lost their kid, their kid went through the fence, and the police were almost called because of it how easy it is to get through there and the inability of stopping them from then going on the road if they don't grab them. This has become a very busy thoroughfare, that Baldwin Road exchange there.

Trustee Flood asked if he went further south along Wareing all the way down to Walmsley Circle and canvas those neighbors too? Mr. Rossi replied no; what they did was because they had a group of people right at the entranceway into Eaton Gate, that gave them a few houses so that it didn't look like patchwork. They were thinking about how the appearance of this would be, the five of them are doing it for their own interest, and if others have an interest, they can do it. Trustee Flood said that the reason he brought that up was that he could see that if this was approved, that they may want to continue that all the way down, that is their option, they can come before the Board. Mr. Rossi said that he spoke with a gentleman that is down on Walmsley and Baldwin and he doesn't have an interest because he has far too much area to cover with one. Mr. Rossi said that they are estimating the cost to be anywhere from \$3,500 to \$6,500 to get the fences in there. Trustee Flood appreciated that they went to the Homeowners' Association. That is one thing he looks for is that they follow the proper procedures. He noted if it was a shadow box, which is double on each side, good on both sides and they don't have to worry about the facing. Mr. Rossi replied right; he thought it would also help with the noise better. Trustee Flood said he noticed that if they go over to Joslyn Rd. and Scripps on the Lake, next to Canterbury Village you will see where they have a stockade fence all along there. What he didn't like about it was they kept the bad side out towards the road and they replaced that fence a couple of years ago. He added that this being an older established subdivision, he thought that if that was being built today, they would probably want something like that to block off Baldwin Rd. Mr. Rossi agreed; he said if they look at the Keatington sub the ones that are compromised the most is their stretch because if

you look on Waldon they are farther offset into the neighborhood. He thought that there was 20 yards minimum between the walking path on Waldon and Joslyn to the street, where they have nowhere near that. He just wants to have a decent quality of life in ways to help mitigate the problems that come with that progress and thought it was reasonable.

Chairman Durham asked if there were anyone from the public that wanted to speak? Building Official Goodloe replied that there was nothing.

Board Member Cook said that he walked along Baldwin Rd. coming into the sub and he came in off of Waldon Rd. and he did see some kids playing in the neighborhood. He said that the walk was noisy. He noted that the one thing he did notice while he was walking was the lack of evergreen trees. There were a lot of deciduous trees but nobody has any evergreens. That goes back to what Board Member Walker said in terms of hedges. When they talk about plant material being there, one of the reasons that they don't get any noise baffling currently is because of the height, and then also the fact they have deciduous trees that lose their leaves this time of the year. He knew that they said those first five houses, and other than one person, one of the houses, they all are asking for pretty much the same thing in terms of variances. He questioned why they stopped? He wanted to know why, just the first five, because it, kind of takes care of that end of the sub. You have one gentleman who doesn't want to do it, but yet you have other folks all the way down to Waldon that they have not canvassed. Mr. Mark Rossi replied regarding the deciduous versus conifers. His neighbor on Eaton Gate, and Baldwin they just moved in there, Kristine. Her house, his house, DeGhetto's house, the house next to him and the next house down, about 10 years, he personally put 19, Blue Spruces, back there and his neighbor did the same. They had a wall of Blue Spruce from Eaton Gate down four houses. Kristine, his next-door neighbor, the people she just bought from, they also added, when they moved in two years ago, another 19 arborvitae in the back of their yard. The problem is, in our area of Michigan, conifers are dying like crazy. He said he has lost three in the front yard and he is about to lose his largest white pine. They are all dying back and that is another problem that he has in the back of his yard, is the 19 Blue Spruces he planted many have died, but they all have needle die off, and they can see right through them. His neighbors are the same way. They have tried the conifer route it is not supported here because of the changing environment for those trees. He added as far as canvassing his neighbors, by them hanging together, doing yard work and things like that, what they do is what they do, if they want to do it, they can. They know that also, they only have 5 spots in each one of these meetings, so even if they did go to see them and every request is on its own merit, what would that have done for anyone? Probably hurt them, to be quite honest from what he was hearing. The five of them did it because they were all like-minded on it and they see each other. What will happen in the future, down the road, he didn't know. Board Member Cook said that is one of the things that they have to be concerned about as a Zoning Board of Appeals. Granted, it would have been nice if they would have done that in terms of canvassing the neighbors, but he did go to the homeowner's association. Is there someone in that association that could handle that canvassing? Mr. Rossi thought it would be the other way around. He questioned canvas them to see if they wanted to join into this? Board Member Cook replied, correct. Mr. Rossi replied that had nothing to do with them. Board Member Cook questioned if there was someone that they could talk to, whether it is you or one of the other people here tonight, that might be able to say to their HOA President, could they can get someone to go talk to these guys? Mr. Rossi said to what end? Board Member Cook said to see about joining in this to get this fence up. Mr. Rossi asked to what end? Board Member Cook said uniformity. Mr. Rossi replied that this is all driven by individual homeowners. Everyone has to do everything on their own. Board Member Cook said the fence has to be the same, correct? Mr. Rossi said that they can put in a four-foot fence without any approvals from them right now. Board Member Cook said he knew that it had to be a shadow box fence, also, right? Mr. Rossi said it had to be a shadow box. If others have an interest in pursuing this, that is up to them. That is not to him, he didn't want to go out and try and canvas. Board Member Cook said what he is saying is that he realized that it is not his responsibility, which is why he asked if he had canvased, those folks. He added that they do have an organization, the homeowners' association that it is their responsibility. Mr. Rossi replied that he didn't think they

viewed it that way. He thought that they would view it as if someone wants to apply for a fence to the Homeowner's Association. These are not paid positions at the Homeowner's Association they are there responding to requests by the homeowners. Board Member Cook said he wanted to be clear that whether their Homeowner's Association approved it or not, their approval or denial has no bearing on what they do here as a (ZBA) Zoning Board of Appeals. He added that this is an opportunity where you say it is not your concern, but it is our concern as a Board of the Township because it is a visual impact upon that particular area. He added that if they are all going to go out and they are going to have this bid, then again, you're potentially going to get a better price if you are going in as a group, as opposed to individually. Mr. Rossi replied that this has been an ordeal to even get this far. He knew that he viewed it differently. He said to try to mount something where they have themselves going out and canvassing everyone that is on the border of their street, and it wouldn't just be Baldwin Rd. at that point. Then they are talking Baldwin, Waldon, and Joslyn. They are addressing it for their immediate area, because, in their research, they saw that each applicant is on its own standing. That is why they proceeded through this and filed for this. What they are trying to do is solve this problem for their families and them, and their property. Their thought process was that it would be beneficial if they had five houses that would do this together. He stated that he was right, they are going to try and get an economy of scale of trying, if approved, to try and get this fence put in. If they don't get economies of scale, he will do it himself. What they don't want to do is put in four-ft. high fences that would bounce a little bit of stuff, but not the visual side of it, and not much more of the sound. They want to have this done. One of the people that are on Walmsley Circle and Baldwin owns two lots, 200-ft. that he would have to fence, and he is not going to do it. He didn't know what will happen on that end. If they were to do 4-ft. fences, there would be gaps. He didn't think that is what any of them would want. He thought that five of them could get a contiguous line, it seemed reasonable to him for those of them that have tried to pursue how they could help eliminate these problems.

Chairman Durham stated that arborvitaes come in all heights. He has a wall of 15-ft. down his driveway and he can't even walk through them. He didn't know the cost wise what that would be, compared to what they are looking at. He thought they would be happy if they went that way. Mr. Rossi said the cost side on the arborvitaes would be prohibited for them. He said that the 19 arborvitaes that Kristine put in, are dead. They have been there for a year and a half. So that is not what they would like to do.

Board Member Cook said that he made a point of saying that you would have to canvass the entire neighborhood. He stated that he started his question by asking if he had spoken to the neighbor's going down to Waldon, those that face Baldwin down to Waldon, south of his home. The face he is concerned about is the Baldwin side of Keatington's neighborhood. He thought that a discussion could be had with their Homeowner's Association, to talk to those neighbors. Mr. Rossi said they had no interest in doing that. He has been there for 30-years, they have talked about fences in the past, and they simply respond, they don't proactively try to do anything. He said the cool part about this fence for them is that it is set back between the outside maples, chestnuts, and walnut trees that are there, and also the other vegetation that is growing, so it would not be very visible from the street on their houses. He can right now go in and put 4-ft. fences in, what they are really talking about is trying to get a 2-ft. variance that allows them to take care of the problem. Board Member Cook stated that he had said their neighbors have no interest. You have been there for 30-years, Baldwin Rd. improvements were recently made within the last 24 months. Mr. Brian Liekweg thought that he was saying that the HOA Board doesn't have an interest in doing the fencing canvassing. Mr. Rossi replied yes. Mr. Douglas DeGhetto stated that even if they canvas all the neighbors, and they all said yes, they would like to have this fence unless it was a tax on their house, there is no way to guarantee that someone would back out and then there would be a gap there. They have five people that are all on board for doing it and to have it done properly and it will look good. There is no way they could if they came in with somebody else, said yes, they want to do it, there is no way to guarantee that they are actually going to do it when it comes down to putting out the money. Board Member Cook said that there was a secondary piece of it that he had a concern about, which they started this discussion with is having multiple people come back at different times to do something that they all might be able to do at one

time as a neighborhood. Mr. Rossi said they are talking about a lot of new homeowner in there, the costs may be prohibitive to them. He understood what he was saying, he just didn't know how applicable it is to the five of them trying to get this done. What if they put these in and they've put a 4-ft. fence in, or you have a 6-ft. in a 4-ft. in, and then another 6-ft. This way, they have some continuity that hopefully will be a plan if they do decide to let others do this, that would be the intent of this. Board Member Cook said it is to ask them or to canvas them at this point. Again, what does that hurt? Mr. Rossi said it hurts time and being able to do it in this very tough time. They have five now. When they have applied for this, some of the things that he was told was that precedence doesn't matter, everything is on its own merit case by case, the decision is made for each addressee. That is what he was told and why they proceeded, as they have done. So, they are trying to get this done for their own quality of life because it is compromised right now. He understood what he was saying, but he didn't have the means to do that. He said the HOA wouldn't do it, they don't care, they are responding to the resident's requests from the Keatington Homeowners not to do something in mass, that is not what they do. Vice-Chairperson Koscierzynski commented about all of the canvassing. She said that nobody has mentioned that they are in the middle of a pandemic, so knocking on people's doors is not an option right now.

Chairman Durham asked in the event that they are successful tonight, when do they plan on beginning construction? Mr. Rossi said they hadn't talked that far, but thought it would be in the spring. He didn't think that they would get reasonable people to come out, do to this as things are freezing up.

Mr. Douglas DeGhetto said he has been in Lake Orion since 1993, and he will second all the things that Mr. Rossi has said as far as the noise increased as the traffic has. When they moved there, there was not a safety path. He added that people walking down the safety path have a habit of just looking in their house from the safety path. He didn't know if it was human nature but thought it was disturbing when you are sitting in your living room, and people are staring at you. They had a kid walk straight out onto Baldwin Rd., which was a police incident that happened there. The noise is very irritating, you can't sit in your living room with the sliding door open and have a conversation. If you are going to listen to TV, it has got to be at some extreme volume. He said it has definitely gotten louder over the years, and thought this fence would really help, and didn't think it would look bad having five in a row, he thought it would look nice. He added that in the future, it may be more people want to do it, maybe they require that they have five more in a row, or some continuity, to have a nice, solid continuing line joining theirs or starting from the other end coming this way. He said their fence would be from the corner downwards, and felt it would look nice, and it would help their quality of life.

Moved by Vice-Chairperson Koscierzynski, seconded by Trustee Flood, in the matter of ZBA case #AB-2020-37, Mark Rossi, 2650 Wareing, 09-20-376-002, I move that the petitioner's request for 3 variances from Zoning Ordinance #78 – Zoned R-2: Article XXVII, Section 27.02 (A)(4) & Article XXVII, Section 27.05 (H)(2): **1)** a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road; **2)** a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north; **3)** a 10-ft. yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south, that the petitioner be **granted** conditioned upon the setback variances from the side property line to the north and south of the said property is for a 6-ft. fence that went along Baldwin Rd. only as the petitioner did demonstrate that the following standards for the variances have been met in this case in that they set forth fact which show that: the petitioner does show a Practical Difficulty due to unique circumstances of the property: is the noise on Baldwin Rd., safety issues, and the quality of life; 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: there is not any other way other than the trees and the arborvitaes and trees are not reliable, they could die at any time, and it is needed for them to be able to enjoy their home; 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 facts: there are no fences in that neighborhood at all, there is no other way for

them to do this; the granting of the variance or modification will not be materially detrimental to the public's 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 fact: there is a lot of noise coming from Baldwin Rd. and it is not safe for kids or animals; 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: because the adjacent properties, five in a row want this fence; it will not unreasonably increase the congestion in public streets: it is not applicable here; it will not increase the danger of fire or endanger the public safety: the Fire Marshal didn't have any problem with this; it will not unreasonably diminish or impair established property values within the surrounding area.

Amended by Vice-Chairperson Kosciuszynski, re-supported by Trustee Flood, to include that the intent of granting these variances is to strictly put that fence along Baldwin Rd, not in-between the property of the houses.

Roll call vote was as follows: Walker, no; Flood, yes; Cook, no; Durham, yes; Kosciuszynski, yes.
Motion Carried 3-2

B. AB-2020-36, Kristine Pawlowski, 2636 Wareing, 09-20-376-001

Acting Chairman Durham read the petitioner's as follows:

The petitioner is requesting 4 variances from Zoning Ordinance #78 – Zone R-2

Article XXVII, Section 27.03 (G)

- 1) A 30-ft. variance from the 30-ft. corner clearance requirement to erect a 6-ft. privacy fence within the corner clearance triangular area of the property (northwest corner).

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

- 2) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Eaton Gate.
- 3) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road.
- 4) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.

Chairman Durham stated that your number one variance is requesting a 30-ft. variance that does state that it cuts into the clear corner, triangular area of the property. Will that affect the sightline on any street? Ms. Kristine Pawlowski stated that she believed that Eaton Gate is a boulevard and because it is a boulevard it doesn't affect sight at that corner. Mr. Rossi said that Eaton Gate has ingress and egress on two different sides of the boulevard. There is no visual affected because the part they are talking about is the ingress turning into the sub, so there is no sightline that is affected by anything turning in. There is no way that there is anything that is restricted by a car entering their sub and those that are leaving are on the north of the boulevard and as they leave, they don't see that area at all.

Trustee Flood said maybe they might need to get an answer from Building Official Goodloe. If that section is granted this fence is going to stop along Baldwin, it is not going to go east down Eaton Gate is that correct? Building Official Goodloe said it depended on how the motion was made. The last motion specifically addressed that issue. Mr. Rossi said if they look at Kristine's property, on the property that borders Eaton Gate, where that offset is where the triangle comes, there is a 6-ft. fence

that is there, that would meet up with that. It is at least 20-ft. further down from Baldwin. That fence was approved by the Township back in 1987. There is no publication in the records on it because he has the Building Inspectors name. At that time, he came out and gave them a verbal OK, and then gave the verbal OK to KHA Commission to allow her to do it. They just replaced that about three years before Kristine moved in, and got approval to do it. The Township doesn't have records on it. Trustee Flood asked if that was Dale Anderson? Mr. Rossi replied yes it was. That caused a big problem for a while in the sub, for those people that wanted it as well, but because of the KHA restrictions, they were not allowed to. Because of that security issue he mentioned before, his house has been broken into he was allowed to do that. So, what Kristen would like to do now is to connect with that.

Chairman Durham said that they were all probably trying to decide what is different about this one than the last one. He added that it didn't appear that there was that much. Trustee Flood said for him it was that corner at Eaton Gate and Baldwin. Mr. Rossi said they were all cookie cutters except for that corner.

Trustee Flood wanted to clarify again on that corner. If that fence was to end at Baldwin Rd. right now, and not connect to the other fence, would there be a gap in between there? Mr. Rossi replied yeah, there would be a gap between the fence that would be put on, Baldwin and her side fence unless they allow her to go across and connect them. Trustee Flood noted that would be the difference in the motion. Mr. Rossi said that is the only difference. Trustee Flood said there are two ways to do it.

Mr. Rossi asked if you vote on Kristine's, do they have to vote for the entirety of it? Chairman Durham replied that the applicant can decide to amend the request to a lesser degree. They can entertain a smaller variance request they cannot go bigger. Mr. Rossi said he would hate to see hers get shut down because of a side fence, which is a difference between hers and mine. Mr. Rossi told Kristine that she might what to pursue asking the Board if there is a way that she should just stop at the line where the fence would go back to the property line and leave it there and not connect? Is that what the problem would be? Chairman Durham said the applicant has the option of going forward with what she requested or going forward with something lesser, or it would have to be until January, withdrawing her request. Just taking it back and giving it some more thought and bring it back at a later time. Ms. Pawlowski replied that she would like to connect to it somehow. She said she has children and pets, so it would help her to have that connected whether it's connected at like a 90-degree angle or at an angle of some sort but would like to have it connected.

Chairman Durham asked if Building Official Goodloe was concerned with sightline issues with the first request that she made here, the 30-ft. variance from the corner clearance requirement? Building Official Goodloe replied that he had no concerns with that whatsoever. He didn't think it would be a safety issue at all.

Moved by Vice-Chairperson Koscierzynski, seconded by Trustee Flood, that in the matter of ZBA case #AB-2020-36, Kristin Pawlowski, 2636 Wareing, 09-20-376-001, I move that the petitioner's request for: 4 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.03(G); **1**) a 30-ft. variance from the required 30-ft. corner clearance requirement to erect a 6-ft. privacy fence within the corner clearance triangular area of the property (northwest corner); Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) **2**) a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0 -ft. from the property line along Eaton Gate; **3**) a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road; **4**) a 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0 -ft. from the side property line to the south be **granted** conditioned upon the setback variance, is from the side property lines to the north and south of said property for a 6-ft. fence that runs along Baldwin Rd. only; the petitioner did demonstrate that the following standards for variances have been met in this case which shows that in this case, the petitioner does show the following Practical Difficulty: the back of the house is facing Baldwin Rd. along a very busy street, and she has kids and pets; the following

are exceptional and extraordinary circumstances or conditions that are applicable to the property involved that do not apply generally to other properties in the same district or zone as indicated that do not apply generally to other properties in the same district or zone: the houses do not have any fences along that street; 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 facts: they need it for safety, so their kids and dogs can't run onto Baldwin Rd.; the granting of the variance will not be materially detrimental to the public welfare or materially injurious to the property or to improvements in such district or zone in which the property is located based on the following findings: there is very little space between the back of the house and Baldwin Rd. and the safety path; based on the following findings of facts, the granting of this variance would not: impair an adequate supply of light and air to adjacent properties; would not unreasonably increase the congestion in public streets; it would not increase the danger of fire or endanger the public safety: they have letters from the Fire Department saying this is OK; it will not unreasonably diminish or impair established property values within the surrounding area.

Discussion on the Motion:

Building Official Goodloe noted that the motion does not allow that side fence to be connected. He asked if Vice-Chairperson Koscierynski would allow them to connect to the existing piece?

Trustee Flood asked how much of a gap would be there? Mr. Rossi guessed that the gap would be somewhere around 20-25-ft.

Vice-Chairperson Koscierynski said she wanted to leave the motion as stated.

Mr. Rossi said when this was being worked on, he worked on it with Planning & Zoning Coordinator Harrison and her intent on this was to include everything that was possible for Kristine that was the triangulation trying to connect to that other fence on Eaton Gate. That is why she wanted to have a variance that would allow the triangulation that they have to bypass, to connect to that fence.

Building Official Goodloe said to Vice-Chairperson Koscierynski that she can withdraw the motion and they can ask for another one if you would like.

Board Member Cook stated that if they look at the way it is submitted to them, number two on the submission would cover exactly that, the fence along Eaton Gate.

Vice-Chairperson Koscierynski said she was going to leave the motion the way it is.

Trustee Flood questioned variance number two and being allowed to do that.

Chairman Durham asked Building Official Goodloe and apologized for being redundant, that is what he asked him earlier about if he saw a safety issue, correct? Building Official Goodloe replied yes. Chairman Durham said his answer was you did not. Building Official Goodloe replied he did not.

Roll call vote was as follows: Walker, no; Flood, yes; Koscierynski, yes; Cook, no; Durham, yes.
Motion Carried 3-2

C. AB-2020-38, Douglas DeGhetto, 2668 Wareing, 09-20-376-003

Chairman Durham read the petitioner's as follows:

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

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

- 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road.
- 2) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
- 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.

Mr. Douglas DeGhetto stated that he wanted to put a six-foot fence where the existing old split rail fence is at. Chairman Durham said it will just be along Baldwin Rd. Mr. DeGhetto replied yes.

Board Member Cook asked if he was the third house on the chain? Mr. DeGhetto replied correct. Board Member Cook asked if Mr. Rossi was the second? Mr. DeGhetto replied correct. Board Member Cook stated that Kristine was the first.

Moved by Commissioner Flood, seconded by Vice-Chairperson Koscierzynski, in the matter of ZBA case #AB-2020-38, Douglas DeGhetto, 2668 Wareing, 09-20-376-003, I move that the petitioner's request for 3 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) **1)** a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road; **2)** A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north **3)** a 10-ft. side yard setback variance from the required 10-ft to erect a 6-ft. privacy fence 0-ft. from the side property line to the south be **granted** conditioned upon the setback variances from the side property lines to the north and south of the said property is for the 6-ft. fence that runs along Baldwin Rd. only as the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which shows the following Practical Difficulty: it is in the Baldwin Rd. expansion and the amount of traffic; and the connection of all the safety paths from Brown Rd. up to Indianwood roundabout; this is not due to the property owners doing, it is a unique situation with Baldwin Rd. being redone; 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: this is an older established subdivision and the applicants have tried putting in evergreens and have not been successful; they are replacing the existing split-rail fence that was originally put on the property when the subdivision was developed; 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 findings of fact: this is a similar case to other zoning properties that have faced the same difficulties with privacy along their yards; 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: the Keatington Home Owners Association has no problem with this fence being put in if the Township Zoning Board of Appeals approves it; further, based on the following findings of facts, the granting of this variance would not: impair an adequate supply of light and air to adjacent properties: it will not unreasonably increase the congestion in public streets; it will not increase the danger of fire or endanger the public safety: the Fire Marshal is on record of not having any concerns with this; it would not unreasonably diminish or impair established property values within the surrounding area.

Roll call vote was as follows: Durham, yes; Koscierzynski, yes; Cook, no; Walker, no; Flood, yes.
Motion Carried 3-2

D. AB-2020-39, Brian Liekweg, 2674 Wareing, 09-20-376-004

Chairman Durham read the petitioner's as follows:

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

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

- 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road.
- 2) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
- 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.

Mr. Brian Liekweg stated that there was no difference in variances from Mr. DeGhetto or Mr. Rossi's property as well, he is the 4th house in the chain. He stated that he has two small children and one on the way, and will have 3 kids under the age of 4. He has one that doesn't like to listen, the 3-year-old. He said that the road is very busy and if they take their eye off them for a second, they are gone.

Chairman Durham asked if they will be building the fence only along Baldwin Rd.? Mr. Liekweg replied yes.

Moved by Vice-Chairperson Koscierzynski, seconded by Trustee Flood, in the matter of ZBA case #AB-2020-39, Brian Liekweg, 2674 Wareing, 09-20-376-004, I move that the petitioner's request for 3 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) **1)** a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road; **2)** A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north **3)** a 10-ft. side yard setback variance from the required 10-ft to erect a 6-ft. privacy fence 0-ft. from the side property line to the south 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: be granted conditioned upon the setback variances from the side property lines to the north and south of said property is for the 6-ft. fence that runs along Baldwin Rd. only as the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show: the petitioner does show the following Practical Difficulty: the unique circumstances of this property is that the back faces Baldwin Rd. there isn't a lot of space between the yard and where Baldwin and the safety path is; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally apply to other properties in the same district or zone: the properties in there have no fences, and due to the construction of all the roundabouts and safety paths in the area, and they have two kids and one on the way that he has to keep safe; the variance is necessary for the preservation and enjoyment of a substantial property rights possessed by other property in the same zone or vicinity base on the following facts: he has children that he has to keep safe, there is a small space in his yard between the end of the house and Baldwin Rd.; 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; it will not impair an adequate supply of light and air to adjacent properties; it will not unreasonably increase the congestion in public streets; it will not increase the danger of fire or endanger the public safety: the Fire Marshal doesn't have a problem with this; it will not unreasonably diminish or impair established

property values within the surrounding area; it will not, in any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township. The Homeowner Association does not have a problem with the fence.

Roll call vote was as follows: Cook, no; Flood, yes; Koscierzynski, yes; Walker, no; Durham, yes.
Motion Carried 3-2

E. AB-2020-40, Nick Beadles, 2680 Wareing, 09-20-376-005

Chairman Durham read the petitioner's as follows:

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

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

- 1) A 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road.
- 2) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north.
- 3) A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the south.

Chairman Durham asked how his situation was different from the others?

Mr. Nick Beadles stated he has a child and one on way. His concern is for safety. He used to live on a main road, and is the least tenured KHA member, he has lived there for a year and a half. He lived on the main road and hated it with a passion, with the road noise, etc. It was in the front of his home not the back at his home in Waterford. He will be there for a very long time and this is needed for him and his family for them to relax in the back yard, the health and well being as well as the safety of his kids. He added that it is a very busy road. The worst-case scenario is that someone snatches up his kid, he would never be able to live with himself. Jumping a 4-ft. fence or any kind of fence, or no fence at all is really his concern.

Chairman Durham stated that he could have voted no if it had been anything but a shadow-box fence.

Moved by Trustee Flood, seconded by Vice-Chairperson Koscierzynski, in the matter of ZBA case #AB-2020-40, Nick Beadles, 2680 Wareing, 09-20-376-005, I move that the petitioner's request for 3 variances from Zoning Ordinance #78 – Zoned R-2, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2) **1)** a 35-ft. front yard setback variance from the required 35-ft. to erect a 6-ft. privacy fence 0-ft. from the property line along Baldwin Road; **2)** A 10-ft. side yard setback variance from the required 10-ft. to erect a 6-ft. privacy fence 0-ft. from the side property line to the north **3)** a 10-ft. side yard setback variance from the required 10-ft to erect a 6-ft. privacy fence 0-ft. from the side property line to the south be **granted** conditioned upon the setback variances from the side property lines to the north and south for said property for the 6-ft. fence that runs along Baldwin Rd. only, the intent and purpose is to not run the fence going east and west on the property line. The intended purpose is to connect all the fences along the variances that have been so far granted tonight of the five variances; the petitioner does show the following Practical Difficulty: with the Baldwin Rd. expansion which runs right along behind their property, and their backyard is considered a front yard, and the safety path which also runs that connection; his unique circumstance is having small children and to provide safe and comfort for the privacy to his yard where his children play; 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: this is an older established subdivision

and they are replacing an existing split-rail fence; 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 findings of fact: the privacy fence will allow for the reduction of noise and the security of his children on his property; 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: the intent is to have this along Baldwin Rd. only and not to go east and west, the Home Owners Association has approved their request pending approval of the Township Zoning Board of Appeals, and also the installation of a 6-ft. shadow box fence; further, based on the following findings of facts, the granting of this variance would not: impair an adequate supply of light and air to adjacent properties; it will not unreasonably increase the congestion in public streets; it will not increase the danger of fire or endanger the public safety: the Fire Marshal has no concerns with this request, or unreasonably diminish or impair established property values within the surrounding area.

Roll call vote was as follows: Koscierzynski, yes; Cook, no; Walker, no; Flood, yes; Durham, yes.
Motion Carried 3-2

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

Memo from Planning & Zoning Coordinator Harrison dated December 2, 2020, Dates which cases can be postponed to.

Email from Peter Smith dated November 13, 2020.

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

Chairman Durham apologized for being late to the meeting due to wi-fi problems. He has never seen a meeting like this having 5 cases right next to each other before. He thought this was the worst possible time for virtual to come back because it helps him to see faces.

Vice-Chairperson Koscierzynski congratulated Trustee Flood on another 4-years. She wished everyone a Merry Christmas and a Happy New Year.

Mr. Rossi asked what happens now, do they get something in the mail with approval? Chairman Durham suggested that he call Building Official Goodloe and ask for the next steps. Mr. Rossi thanked the Board.

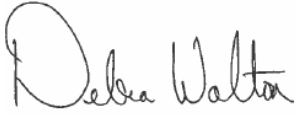
Mr. Francis the 6th house on Wareing asked how he could get a variance? Chairman Durham replied that he should contact the Building Official.

Trustee Flood thanked Vice-Chairperson Koscierzynski for the kind words. He said he has been on the BOT for over 10-years. He thought it was an unusual night and thought it was commendable that the neighbors came together to work out a problem that they had. He commented regarding Ordinance #99, and only having one permit left on Judah Rd., Dans Excavating, that is coming down the road as a closeout. The problem is now, the state wants to take all the control of the gravel pits in the state. He wished everyone a Merry Christmas and a Happy New Year.

10. ADJOURNMENT

Moved by Vice-Chairperson Kosciuszynski, seconded by Chairman Durham to adjourn the meeting at 8:58 pm.

Respectfully submitted,



Debra Walton
Planning & Zoning Coordinator
Charter Township of Orion

January 25, 2021

Zoning Board of Appeals Approval