CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
***** MINUTES *****
REGULAR MEETING – MONDAY, January 10, 2022 – 7:00 PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, January 10, 2022, at 7:00 pm at the Orion Township Community Center, 2323 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:
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:
None

CONSULTANT PRESENT:
David Goodloe, Building Official

OTHERS PRESENT:
Joe Latozas
Linda Anglebrandt
Dawn Wallin
Barb Schalk

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

2. ROLL CALL

3. ELECTION OF OFFICERS

Trustee Flood moved, seconded by Vice-Chairperson Cook, to nominate Dan Durham for Chairperson for the Zoning Board of Appeals for the calendar year 2022, close the nominations and a unanimous ballot be cast.

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

Trustee Flood moved, seconded by Board member Dunaskiss, to nominate Tony Cook to serve as Vice-Chairperson for the Zoning Board of Appeals for the calendar year 2022, close the nominations and a unanimous ballot be cast.

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

Trustee Flood moved, seconded by Board member Walker, to nominate Diane Dunaskiss to serve as Secretary for the Zoning Board of Appeals for calendar year 2022, close the nominations and a unanimous ballot be cast.

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

4. MINUTES
A. 12-13-2021, ZBA Regular Meeting Amended Minutes

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

5. AGENDA REVIEW AND APPROVAL.

6. ZBA BUSINESS

A. AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning
(postponed from 11/22/2021 Meeting)

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 3 variances from Zoning Ordinance #78

Article VI, Section 6.04, Zoned R-2
1. A 9.73-ft front yard setback variance from the required 35-ft. to build a house 25.27-ft. from the front property line.
2. A 12.85-ft. rear yard setback variance from the required 35-ft. to build a house 22.15-ft. from the rear property line. Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size up to ½ acres
3. A 1,146-sq. ft. variance from the allowed 1,150-sq. ft. total maximum floor area of all accessory buildings to construct a 1,484-sq. ft. attached garage and an 812-sq. ft. attached accessory building for a total of 2,296-sq. ft. total maximum floor area of all accessory buildings.

Mr. Joe Latozas introduced himself as representing the applicant, Mr. and Mrs. Petersen.

Chairman Durham summarized the Board’s request for this case at the last meeting appearance, including the request from the Township Attorney as to his opinion on the specifics of this case. It is his opinion that the Board has no standing in this case. The deed restrictions will be what will be required for the applicant to follow. The applicant voluntarily reduced some of the size restrictions that he was originally looking for.

Board members agreed with Chairman Durham.

Mr. Latozas asked if the setbacks in the deed restrictions are the setbacks that they can observe moving forward.

Chairman Durham answered yes.

Trustee Flood summarized the memo on the subject provided to the Board members which confirmed the setbacks that were established.

Chairman Durham stated that there are no variances needed and the setbacks can be administratively approved for the revised plans date stamped November 17, 2021. Those plans show a 25.27 foot front yard setback and a 22.15 foot rear yard setback and a reduction to the attached accessory structures to be within the Township’s zoning ordinance specifications.

Mr. Latozas agreed. He rescinded his request for a variance.
Trustee Flood asked for verification that the accessory buildings have been reduced so that it is in compliance with the ordinance.

Petitioner replied yes.

Trustee Flood moved, seconded by Board member Walker, that in the matter of ZBA Case AB-2021-55, Tim Petersen, Vacant Parcel, #09-20-256-012, East of 2585 Browning, that per the Township Attorney's opinion there is no variances needed and the setbacks can be administratively approved for the revised plans date stamped November 17, 2021. Those plans show a 25.27 foot front yard setback, a 22.1 foot rear yard setback and a reduction to the attached accessory structures to be within the Township's zoning ordinance #78 specifications.

Chairman Durham asked for public comment.

Barb Schalk stated that she does not believe the rulings that were just approved by the legal for deed restrictions impact request #3. Number 1 and number 2 were definitely included, but no set of plans have been approved for step #3 for the garage reduction. The original plans were rescinded and any further plans have not been submitted.

Chairman Durham stated that the applicant must abide by the ordinance.

Ms. Schalk asked if nothing was approved for accessory buildings.

Chairman Durham stated that there is no change.

Ms. Schalk stated that none of them are aware of the petitioner not changing the accessory buildings to be the 2296 square feet of accessory building.

Chairman Durham answered that it was scaled back and the petitioner will be required to stay within ordinance requirements.

Ms. Dawn Wallen stated that the KHA Board did not approve the first plan, nor the second plan. The petitioner has no approval for any plans. She assumes that the Board is just granting the front and rear setbacks.

Chairman Durham stated that there is nothing required by the Board; the deed restrictions that go with the property will have to be adhered to.

Ms. Wallen stated that the front and rear yard setbacks and no more than 1150 square feet and a three tall garage.

Chairman Durham stated that he does not have the Township’s requirements in front of him and this will be adhered to.

Ms. Wallen asked if the petitioner will have to go back to the Homeowner’s association with drawings.

Chairman Durham stated that the Board does not get involved with HOA rules. No variances are required to be granted by this Board in this case.

Roll call vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.
B.  **AB-2022-01, Linda C. Anglebrandt, 2957 Walmsley Circle, 09-20-380-011**

Chairman Durham read the petitioner’s request as follows:

The petitioner is seeking 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 Waldon Rd.
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 east.
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 west.

Ms. Linda Anglebrandt introduced herself and summarized the variance request. The fence is needed for privacy to protect their home from walkers, bike riders, trash blowing across their yard and protection from noise. She stated that the traffic for the strip mall across the street creates a lot of noise.

Chairman Durham asked if the rear dimension of the property was affected by the construction of the roundabout.

Ms. Anglebrandt replied no.

Board member Dunaskiss asked what structures were existing on the side where the fence is proposed.

Ms. Anglebrandt answered that there was a lot of vegetation but the homeowner’s association hired someone to come along and clear the brush and it was all removed. There is currently a split rail fence there that is falling apart.

Board member Dunaskiss asked if they had considered a shorter fence because a variance would not be needed.

Ms. Anglebrandt replied that they would still have the walkers looking inside their home.

Mr. Anglebrandt described how the headlights shine into his home from the strip mall.

Board member Dunaskiss asked if they would consider replacing vegetation that would act as a sound barrier.

Ms. Anglebrandt replied that they have done that and it was not successful.

Mr. Anglebrandt commented on the trees that he has planted and why they have not succeeded in this area.

Trustee Flood asked Building Official Goodloe what is to prevent a person on building a berm and placing the fence on top of that.

Building Official Goodloe replied that it might cause drainage issues for another neighboring property but yes, this is something that can be done. The berm would have to be on the subject property though.

Board member Walker asked how long the petitioners have been in this home.

Petitioners replied since 1984 and they have experienced a lot of bad changes to the property. Board member Walker stated that the request is for a fence around the sides too.
Ms. Anglebrandt replied that they only want a fence across the back. It was explained that they had to have the variance requested because of the neighbor.

Building Official Goodloe stated that the fence would be within the 10 foot side setback.

Board member Walker stated that they can put up a 6 foot fence and put it on the property line.

Ms. Anglebrandt replied that they were told that they couldn’t.

Mr. Anglebrandt replied that they cannot put it on the property line because of the trees.

Building Official Goodloe stated that if it is within 10 foot of their property, it does not require a variance.

Trustee Flood confirmed that it is a front yard setback that is being requested.

Mr. Anglebrandt commented on the fences all along Baldwin Road.

Building Official Goodloe stated that the HOA didn’t originally allow fencing but is allowing it now because of the construction along Baldwin Road.

Ms. Anglebrandt stated that she first got the approval of the HOA before appearing before the ZBA tonight.

Chairman Durham asked if the petitioner likes the look of the fencing along Baldwin Road.

Ms. Anglebrandt answered that it doesn’t bother them at all. She added that this fence should have been done when the strip mall was constructed.

Vice-chairman Cook asked how far the fence had to be in from the property line.

Mr. Anglebrandt replied 3-4 feet and he commented on a Comcast cable line that runs along the backyard too. It would be inside the existing trees too.

Ms. Anglebrandt stated that behind the split rail fence there is an easement.

Trustee Flood stated that they cannot construct anything inside of the easement. He confirmed the location of the 6 foot easement.

Mr. Anglebrandt confirmed the location of the utilities.

Board members and Building Official Goodloe discussed the location of the easements on the property.

Building Official Goodloe stated that if there is a utility easement, they need to make sure that Miss Dig is out there to stake it. He suggested that the motion is 6 foot distance so the easement is not an issue. He suggested that it would be a 29 foot setback variance.

Board member Dunaskiss asked if the side setback requests would remain the same.

Building Official Goodloe answered yes.

Ms. Anglebrandt stated that they have two front yards as it was explained to her by Township staff.

Building Official Goodloe stated that having two front yards does affect them.

Chairman Durham asked if the petitioner would be okay with the setback being amended to a 29 foot front yard setback variance. The fence would be located 6 foot off of the property line. He explained the options to the petitioner.
Mr. Anglebrandt replied he wouldn’t know until he measured it out. He is concerned about the cable.

Ms. Anglebrandt asked what would happen if they agreed and then this is where the cable is. She asked if they should check and then come back to the Board.

Chairman Durham agreed that this would be the best option. The petitioner could request that they could come back to a date certain.

Building Official Goodloe commented that sometimes the easements are abandoned and since there are so many trees in there, it might be an option. He suggested that they go to Oakland County and investigate this possibility.

Chairman Durham asked if this was an underground cable.

Mr. Anglebrandt replied yes.

Vice-chairman Cook suggested they look at a location 10 feet from the property line.

Ms. Anglebrandt stated that if it was 10 feet in, they would lose half of their backyard.

Board members discussed the Baldwin Road fencing.

Ms. Anglebrandt stated that they would like to investigate further and come back on February 28th.

Trustee Flood moved, seconded by Chairman Durham, in the matter of ZBA case AB-2022-01, Linda C. Anglebrandt, 2957 Walmsley Circle, 09-20-380-011 at the petitioner’s request to postpone until February 28, 2022. Roll call vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.

C. AB-2021-57, James Garris, 215 N. Conklin Road, 09-01-403-014 (postponed from 11/22/2021 Meeting)

Chairman Durham read the petitioner’s request as follows:

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

No petitioner presented for this case.

Board member Dunaskiss moved, seconded by Trustee Flood, in case AB-2021-57, James Garris, 215 N. Conklin Road, 09-01-403-014 to remove this case from consideration since this is the third time this case has been before the Board, the petitioner did not appear, and the petitioner can re-apply if needed. Roll call vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.

Board member Dunaskiss stated that along Waldon Road there are fences that have deteriorated and the landscaping is patchy. She asked if there was a solution, maybe through the Township Board, for the corridor and making it more attractive.

Trustee Flood summarized the discussion at the joint meeting. There is a subcommittee set up dealing with the 6 foot fence part of the ordinance. They have had one meeting.
Building Official Goodloe asked if this would go to the Planning Commission.

Board member Walker answered yes. He suggested that trees are an alternative to the fencing.

Board member Dunaskiss agreed with the trees. She asked if it was a Township problem.

Board member Walker stated that it is a citizen problem.

Building Official Goodloe stated that they do have problems if there are trees that are planted as part of a site plan because if they die, no buffer is created. It could be proactive code enforcement action to make sure that the site plans are being adhered to.

Board members discussed tree plantings through site plans and also they also discussed fencing and possible ordinance language that could be helpful to establish natural vegetation that is effective as a buffer.

D. 2021 Annual Report

Chairman Durham commented that the Board members received a copy of the 2021 Annual Report.

Board member Walker moved, seconded by Board member Dunaskiss, to accept the 2021 Annual Report. Roll call vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.

7. PUBLIC COMMENTS

8. COMMUNICATIONS

A. Memo Regarding Cancelling January 24, 2022 Meeting

Trustee Flood moved, seconded by Vice-Chairperson Cook to cancel the January 24, 2022 meeting due to a lack of agenda items. Vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.

B. Memo Regarding ZBA Meeting Recording
C. Memo Regarding Approved Meeting Dates
D. Information from Giffels-Webster regarding “Safety and Site Design”
E. Information regarding “Winter 2022 Citizen Planner via Zoom” Training

Chairman Durham summarized the additional communication items.

9. COMMITTEE REPORTS

10. MEMBER COMMENTS

Board member Walker stated that the library is having a book sale this weekend and they need volunteers to work the event. He urged the Board members to help if they can.

11. ADJOURNMENT

Moved by Vice-Chairperson Cook, seconded by Chairman Durham, to adjourn the meeting at 8:02 pm. Vote was as follows: Durham, yes; Cook, yes; Flood, yes; Dunaskiss, yes; Walker, yes. Motion passes 5-0.
Respectfully submitted,

Erin A. Mattice
Recording Secretary