

# CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

## \*\*\*\*\* MINUTES \*\*\*\*\*

### REGULAR MEETING – MONDAY, JUNE 12, 2017 - 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, June 12, 2017 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

#### ZBA MEMBERS PRESENT:

Loren Yaros, Chairman  
Dan Durham, Vice Chairman  
Mike Flood, BOT Rep to ZBA

Don Walker, PC Rep to ZBA  
Lucy Koscierszynski, Board Member

#### ZBA MEMBER ABSENT

None

#### CONSULTANT PRESENT:

David Goodloe, Township Building Official

#### OTHERS PRESENT:

Jim Butler	Jon Pfiffner	Ellen Podeszwa
Michelle Hopkins	Karen Seawright	Linda LaCroix
Danyeail Hopkins	Rene Bryce	Mark Vizeneb
Stephanie Cole	John Arsen	Lynn Harrison
Becky Ferguson	Mrs. Arsen	

#### 1. OPEN MEETING

Chairman Yaros called the meeting to order at 7:00pm.

#### 2. ROLL CALL

#### 3. MINUTES

##### 05-22-2017, Regular Meeting Minutes

Moved by Trustee Flood, seconded by Board Member Koscierszynski, to approve the 05-22-2017 Regular Meeting minutes as presented. **Motion carried.**

#### 5. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

#### 6. ZBA BUSINESS

##### AB-2017-16, Stephanie Cole, 3509 Minton Rd., Sidwell #09-28-301-004

Chairman Yaros read the request as follows:

The petitioner is requesting two variances from Zoning Ordinance No. 78:

1. Article VI, Section 6.07, R-2 requesting a 10 ft. variance from the required Side Yard Setbacks to construct a 6 ft. high fence on the side property lines (north and south).
2. Article XXVII, Section 27.02, A, 4: a 10 ft. variance from the required 10 ft. rear yard setback to construct a 6 ft. fence on the rear property line (west).

Stephanie Cole, the petitioner, was present.

Ms. Cole explained asked the Board to refer to the pictures she provided for the packets.

Chairman Yaros clarified that DTE cut all her trees down in her backyard. Ms. Cole concurred, and noted the baseball field that is behind her house. Chairman Yaros said he saw when he visited the site that everyone else had buildings or trees in the backyards that blocked their view of the baseball field.

Vice Chairman Durham asked, if Ms. Cole puts a fence up, she will still get foul balls, how will they get them? Ms. Cole responded, there will be a gate.

Trustee Flood commented that he is always in favor of vegetation, but because DTE has their lines there, she will not be able to grow anything there. Ms. Cole said she researched getting Arborvitaes, but because of the power lines, would have to get shorter ones. A fence would be easier. Trustee Flood said the name of the field behind Ms. Cole was McConnell Field which is owned by the Township.

Chairman Yaros asked if there was anyone here to speak to this matter, there was not.

Moved by Vice Chairman Durham, seconded by Trustee Flood, that in the matter of ZBA case AB-2017-16, Stephanie Cole, 3509 Minton Rd., Sidwell #09-28-301-004; the petitioner is requesting two variances from Zoning Ordinance No. 78: 1) Article VI, Section 6.07, R-2 requesting a 10 ft. variance from the required Side Yard Setbacks to construct a 6 ft. high fence on the side property lines (north and south) and, 2) Article XXVII, Section 27.02, A, 4: a 10 ft. variance from the required 10 ft. rear yard setback to construct a 6 ft. fence on the rear property line (west); that the request **be granted** because the petitioner did demonstrate that practical difficulties exist in this case in that compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using her property for a permitted purpose and would prevent her from having much use of her backyard at all and would render conformity with the ordinance unnecessarily burdensome; granting the variance request would do substantial justice to the petitioner, would have no direct effect on other property owners in the area; the petitioner's plight is due the unique circumstances of the property based mainly on the fact that she did have trees there and DTE cut them down so she was left without a barrier, without any protection from the baseball field that is right up next to yard that the Township owns, she has a small lot and does not have many other options; the problem is not self-created.

Roll call vote was as follows: Walker, yes; Kosciuszynski, yes; Durham, yes; Flood, yes; Yaros, yes.

**Motion Carried 5-0**

**AB-2017-17, Kay Industrial Development, LLC, 57 Kay Industrial Dr., Sidwell #09-35-200-025;09-35-400-045**

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting four variances from Zoning Ordinance No. 78, Article XVII, Section 18.06, IP:

1. A 37.7 ft. variance from the required 50 ft. Front Yard Setback to allow a building addition to be constructed 12.29 ft. from the front property line (Kay Industrial Dr.).
2. An 11 ft. variance from the required 50 ft. Front Yard Setback to allow an accessory storage building to be constructed 39 ft. from the front property line (Kay Industrial Dr.).
3. A 34 ft. variance from the required 50 ft. Rear Yard Setback to allow an accessory storage building to be constructed 16 ft. from the rear property line (east).
4. A variance of 17% beyond the allowed 35% Maximum Lot Coverage to construct a building addition and an accessory storage building on Parcel A, resulting in 52% lot coverage.

Jim Butler, with PEA, represented the petitioner. Mr. Butler explained that Kay Automotive is expanding, they are proposing a 43,000 sq. ft. addition to their existing facility at 57 Kay Industrial Drive. He noted that it is a corner lot and has 50 ft. front yard setbacks both on Kay and Lapeer

Roads. They meet the setback on Lapeer Road but on Kay Industrial Drive, they do not. The existing building is approximately 14 ft. depending on which side it is measured from, it is a long and narrow parcel.

They did look into possibly combining this parcel with the adjacent parcel to the north that Mr. Kay also owns unfortunately the parcel that Kay Automotive Graphics sits on is a platted parcel. The parcel to the north is not platted so they would have to un-combine the lots to make that happen which would be a long process; there is a sense of urgency with this expansion - Mr. Kay's business is going well and would like to add on to his facility. They also looked at the possibility of acquiring additional land to the east and to the north, that did not work out for a variety of reasons.

They are here this evening asking for four variances. He noted the drawing in the Board packets that was prepared by his office. The first variance is for the existing building and the addition, there is a 50 ft. setback requirement so they are asking for a 37.7 ft. variance; they are just extending the building to the east. The second variance is for the accessory building. The accessory building right now is planned for pallet storage. Currently the pallets are stored outside on the north side of the building. At the request of the Planning Department, Fire Department and other sources, they were asked that those be in a closed container. Therefore they are asking for a front yard variance of 11 ft. so that it will be 39 ft. from the front property line. Along the back property line they are asking for a 34 ft. variance to allow the building to be 16 ft. away from the rear property line. Regarding the lot coverage - Mr. Butler said if they could combine the lots that Mr. Kay owns, a lot of this stuff would go away except for the lot coverage due to the configuration.

It was Chairman Yaros' opinion that he doesn't have a problem with the extension of the line along the existing building for the addition. What he has a problem with is the lot coverage; 52% is huge for industrial. Also, he noted that Kay has been before the ZBA in 2000, 2002 and 2003; some of these things were mentioned back then about obtaining the property to the north. This has been an on-going problem, why wasn't the lot combination attempted sooner? Mr. Butler responded that he wasn't involved with Kay at the time and can't answer that. Mr. Butler said they could make the lot coverage variance go away if they could carve out the parking area they are building on the back of KPMF and combine it with this parcel but can't because of the mechanics of combining the two lots.

Chairman Yaros noted regarding the parking, the Township received an email dated June 12, 2017 from Applied Manufacturing Technologies. Their concern with the additions is the possible additional of truck traffic and the staging of deliveries on an already rough road, and that KMPG may be adding additional personnel which could cause a parking shortage for them. Chairman Yaros asked Mr. Butler to address that.

Mr. Butler said that currently there are 260 parking spaces, with the building addition and the additional parking they adding to the back of KPMF, when all said and done, they will have 326 parking spaces.

Chairman Yaros asked if they will be adding people with this addition? Mr. Butler answered, no, the biggest challenge they have is with shift changes. He noted that ordinance only requires 208 spaces, they will be providing 326.

Trustee Flood commented that he saw the Planning Commission meeting when this item was before them and the parking situation is their responsibility. He appreciated the concern of Applied Manufacturing but that should have been addressed at the Planning Commission level. According to the documents in the packet, there was the Planner's review and the parking was mentioned in it and it is also on the plans. Again, those issues are always handled by the Planning Commission. Also, for the record, the Township Board was invited to tour the facility in March and at no time was this

ever discussed to his knowledge. He did observe the pallets outside and there is a concern to keep them dry. Too, this is an industrial park and there is no residential around it.

Chairman Yaros commented that back in 1992, one of the things that was brought up in the minutes was lot coverage and that the zoning at the time was LI-2 and if it were rezoned to IP, they wouldn't have a problem. Chairman Yaros asked if the property was rezoned? Mr. Butler said it is zoned IP and they are currently just under the lot coverage requirement. Again, Chairman Yaros said his biggest concern is that they might next want to come in and ask for 60% and doesn't want to set a precedent. Mr. Butler agreed, it is a large percentage.

Mr. Butler explained there is a proposed expansion for KPMF and that they were in front of the Planning Commission last year. Essentially when building that out there will be a parking field in the front of an additional 125 parking spaces along Lapeer Road; they will have an excess of 400 parking spaces.

Trustee Flood asked if it was a 2-shift operation? The answer was, no, it is three with approximately 350 employees.

Chairman Yaros asked if there was anyone here to speak to this matter, there was not.

Trustee Flood noted that he too had concerns about the lot coverage.

Moved by Trustee Flood, seconded by Chairman Yaros, that in the matter ZBA case AB-2017-17, Kay Industrial Development, LLC, 57 Kay Industrial Dr., Sidwell #09-35-200-025;09-35-400-045; the petitioner is requesting four variances from Zoning Ordinance No. 78, Article XVII, Section 18.06, IP: 1) A 37.7 ft. variance from the required 50 ft. Front Yard Setback to allow a building addition to be constructed 12.29 ft. from the front property line (Kay Industrial Dr.), 2) An 11 ft. variance from the required 50 ft. Front Yard Setback to allow an accessory storage building to be constructed 39 ft. from the front property line (Kay Industrial Dr.), 3) A 34 ft. variance from the required 50 ft. Rear Yard Setback to allow an accessory storage building to be constructed 16 ft. from the rear property line (east), and 4) A variance of 17% beyond the allowed 35% Maximum Lot Coverage to construct a building addition and an accessory storage building on Parcel A, resulting in 52% lot coverage; be **granted** because the petitioner did demonstrate that practical difficulties exist in this case in that they set forth facts which show that in this case compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome based on the following findings of fact: the petitioner did try to purchase the property to the north but was unsuccessful and this is located in an industrial park area; granting the variance request would do substantial justice to the petitioner as well as to other property owners in the area and there is not a lesser relaxation than relief applied for that would give substantial relief to the property involved and be more consistent with justice to other property owners based on the following findings of fact: this complex is having to put on an addition and went before the Planning Commission and they have an approved site plan pending obtaining the necessary variances from this ZBA, also, there was an email from Melissa Fisher with Applied Manufacturing who was concerned about the parking but the Planning Commission handled that and was satisfied that the ordinance was met for the amount of parking spots; the petitioner's plight is due to the unique circumstances of the property based on the following: the way Kay Industrial Drive is situated necessitates the need for the variances; the problem has not been self-created.

Trustee Flood amended the motion, Chairman Yaros re-supported to add that the accessory storage building was requested by the Planning Commission and the Fire Department, also, on May 3, 2017 the petitioner was in front of the Planning Commission and indicated that all of the requests listed by both the Township Engineer and the Township Planner, they would have no problem complying with.

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

**AB-2017-18, John D. Arsen, 965 S. Long Lake Blvd., Sidwell #09-01-401-008**

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting three variances from Zoning Ordinance No. 78, Article VI, Section 6.07, R-3:

- Maximum Lot Coverage, requesting a variance of 5% beyond the allowed 39% Maximum Lot Coverage to build a 264 sq. ft. deck resulting in 44% total lot coverage.
- Minimum Lot Setbacks, Side Yard, requesting a 7 ft. variance from the required 10 ft. side yard setback (southwest) and a 5 ft. variance from the required 10 ft. side yard setback (northeast) to build a deck 3 ft. from the southwest side property line and 5 ft. from the northeast side property line.

John Arsen, 965 S. Long Lake Blvd., was present.

Chairman Yaros clarified that the 5% is beyond the allowed 39% lot coverage which was granted in a previous variance request by him; it is therefore an existing non-conforming lot and now asking for 44% lot coverage now. Mr. Arsen said that was correct, to build a deck that will be attached to the house on the lake front side in the back.

Board member Koscierzynski said she visited the property last week and walked behind the house by the lake and the area in question is where the rocks are? Mr. Arsen said yes, and that he did try and stake it.

Mr. Arsen said that basically he is requesting the deck to be the width of the house which is 22 ft. and 12 ft. out. He said that both neighbors on either side have decks that are slightly larger than that and at the same elevation. He showed the Board pictures of the area. He added that for the aesthetics, it will look better and that those lots 30 ft. and they cannot have basements because of the water table therefore storage is at a premium. Having a deck that is up 3 ft. will allow him to have store his boat equipment and recreational toys underneath and it would be more uniform with the rest of the houses that all have the same size deck or distance from the lake.

Mr. Arsen thanked the Board for giving what he needed to rebuild the cottage that was originally there. Chairman Yaros then asked that when he built the house, didn't he think he would have to build a deck on at some point? Mr. Arsen answered that he didn't know he had to come back to do that. When he brought the plans to the Building Department for the deck he was told he had to request a variance for additional lot coverage and then when the minutes were researched, they only said the setbacks were only for the house, he should technically ask for those too; he didn't know he needed to come back for that for the deck.

Mr. Arsen's wife commented that adding the deck will improve the whole look of Bunny Run and the neighborhood.

Chairman Yaros said he didn't have a problem especially looking at Mr. Arsen's pictures. It is going to look pretty much identical to both the side homes and wouldn't really affect ingress or egress long the sides of the house - his biggest problem is the lot coverage, 44% is a lot of coverage. Chairman Yaros added, however, that he doesn't know the placement of the houses on the other lots.

Chairman Yaros noted the correspondence received by the Township from the resident at 926 S. Long Lake and the resident at 949 S. Long Lake, both in favor of Mr. Arsen's requests.

Board Member Koscierzynski read the correspondence from Fire Marshall Williams dated May 17, 2017, who had no issues as long as the petitioner is in compliance with Michigan Building Codes and in compliance with applicable Township ordinances.

Mr. Arsen had an additional correspondence from Chad and Mellisa Johnson\* who were also in favor of granting the requested variances.

Vice Chairman Durham asked if Mr. Arsen or his builder had calculated how much they would have to shrink the deck to get it so it wouldn't need a variance? Mr. Arsen responded said that he is the general contractor, based on what he knows, without the variances, he could put a patio as big as they want but if it is raised, it would require the variances. Vice Chairman Durham explained he understands why Mr. Arsen wants a raised deck and that some of the other neighbors have them but the ZBA doesn't know what the ordinances were when those decks may have been built. What this Board has to consider is today's ordinance and the reason he is here.

Board Member Walker said what he has a problem with is when a petitioner comes in and receives a variance and then comes back and wants to expand that variance. In his opinion, that is something the ZBA should not do.

Building Inspector Goodloe commented that he believed the deck accounts for the additional 5% lot coverage.

Mr. Arsen responded that it was not his intent to "piece-meal" this and have to come back and pay more; he didn't know, he is not a builder, thought he was doing through the process and doing everything the best he could.

Chairman Yaros asked if there was anyone here to speak to this matter, there was not.

Moved by Board Member Koscierzynski, seconded by Trustee Flood, that in the matter ZBA case AB-2017-18, John D. Arsen, 965 S. Long Lake Blvd., Sidwell #09-01-401-008; the petitioner is requesting three variances from Zoning Ordinance No. 78, Article VI, Section 6.07, R-3: a) Maximum Lot Coverage, requesting a variance of 5% beyond the allowed 39% Maximum Lot Coverage to build a 264 sq. ft. deck resulting in 44% total lot coverage, and b) Minimum Lot Setbacks, Side Yard, requesting a 7 ft. variance from the required 10 ft. side yard setback (southwest) and a 5 ft. variance from the required 10 ft. side yard setback (northeast) to build a deck 3 ft. from the southwest side property line and 5 ft. from the northeast side property line; be **granted** because the petitioner has demonstrated that practical difficulties exist in this case in that they set forth facts that show that in this case compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome based on the following: the houses in that area were built a long time ago, there is very limited space, the deck will be in conformity with other houses in the neighborhood; granting the variance request would do substantial justice to the petitioner as well as to other property owners in the area and there is not a lesser relaxation than that relief applied for that would give substantial relief to the property involved and be more consistent with justice to other property owners based on the following: again, the houses on that street were built a long time ago, they are very small, there is a limited amount of property, and the deck isn't unreasonably large; the petitioner's plight is due to the unique circumstances of the property based on the following: the petitioner spent quite a bit of money to renovate the property, it looks a lot better than it did; the problem has not been self-created based on the following: the houses in that area are small and the deck would make the house look very nice.

Board Member Koscierzynski amended the motion, Trustee Flood re-supported, to add the three letters from the surrounding neighbors who were in support of the variance request and the letter from the Fire Marshall date stamped received May 17, 2017.

Roll call vote was as follows: Durham, yes; Koscierzynski, yes; Walker, Yes; Flood, yes; Yaros, yes.

**Motion Carried 5-0**

**AB-2017-19, Michelle L. Hopkins, 695 King Circle, Sidwell #09-10-283-021**

Chairman Yaros read the petitioner's case as follows:

The petitioner is requesting two variances from Zoning Ordinance No. 78, Article VI, Section 6.07, R-3: requesting a 9.08 ft. variance from the required 10 ft. Side Yard Setback to allow a 6 ft. high fence to remain 0.92' from the side property line (northwest) and a 23 ft. variance from the required 30 ft. Front Yard Setback to allow a 6 ft. high fence to remain 7 ft. from the front property line (King Circle).

Michelle Hopkins, 695 King Circle, the petitioner was present. She introduced Danyeail Hopkins who is the co-owner of the house.

Ms. Michelle Hopkins said they are asking that this fence remain for many reasons and hardship they could not control. Ms. Hopkins went on to describe some of the difficulties she has had with her adjoining neighbor, their habits and the amount of clutter on the property. She commented that she does not want their four children exposed to those bad habits.

Ms. Michelle Hopkins noted that they did speak with their neighbor before putting up the fence a couple of times and believed they had come to a verbal agreement in April that they were ok with them putting up the fence but was concerned about light getting through to her plants Ms. Hopkins therefore left some space between slats in the areas the neighbor was concerned about. After the fence was installed, the neighbor then filed a complaint.

Chairman Yaros asked the petitioners why they need the front yard fence, he doesn't ever remember allowing a front yard fence? The fence is the first thing people see when driving down the road. Michelle Hopkins said that is where they sit, their patio and barbecue is there; their backyard is just a driveway. All their time is spent in the front yard with their family.

Board Member Koscierzynski said she is familiar with King Circle and a lot of the front yards are really their backyards because of the lake. The back of the house faces Heights. Board Member Koscierzynski also wanted it noted that King Circle is very busy.

Building Official Goodloe asked the Hopkins if they had every contacted the Building Department about building a fence? Ms. Michelle Hopkins said they did not. They did not know they had to be 10 ft. away from the property lines. Building Official Goodloe commented that too often people come in who have already built something before they ask about the ordinance. Ms. Michelle Hopkins said she understands that was wrong on their part. Ms. Hopkins did note however, that the neighbor does have a similar fence long her property line.

Building Official Goodloe then asked if they had every filed any complaints regarding the condition of their neighbor's yard? Ms. Michelle Hopkins said, no, because they were trying to get along with the neighbor that lives there. Building Official Goodloe informed the Hopkins that the Township has ordinances in place to help homeowners with these types of concerns.

Board Member Walker asked the Hopkins how long they have lived there? Their response was 3 years in August and the their neighbor was already there when they moved in. Board Member Walker

made reference that Ms. Michelle Hopkins was in law enforcement, when someone asks for a variances what they are actually is for permission to break the law. They have to provide good reasons why the ZBA should allow them to do this.

Vice Chairman Durham then said, Ms. Michelle Hopkins should also know about neighborhood disputes and how they can escalate. He was surprised that if things were as bad as they said they are, that other neighbors had not come forward. He added that it was a critical mistake on their part and not starting with Ordinance Enforcement; it was his opinion this is not a situation that a fence is going to cure. Vice Chairman Durham also agreed with Chairman Yaros that he does not like fences in front yards.

Chairman Yaros referenced a letter from Charles and Kathryn Leech at 659 Kings Circle who were opposed to the fence, they did not want the so set a precedent and believed the fence was an eyesore and could affect property values.

Ms. Rebecca Ferguson, 707 King Circle, responded to the Hopkins concerns and noted that she has lived there for 27 years. She commented that she is trying to clean up her property but it has been difficult. Ms. Ferguson said she also sent the Board Members some pictures. She commented that she was upset about the fence because it blocks her view of her boat and because they cut down her lilac bush to make way for the fence. Ms. Ferguson also did not like the Hopkins' dog barking at her. Ms. Ferguson commented that she doesn't care about the back fence but can't see anything in the front of her house or her boat because of the fence in the front yard. She felt that they should have put the nice side of the fence facing her.

There was brief discussion on the lilac bush and whose property it was on.

It was also noted there was letter in the Boards packet and because it was anonymous, it was disregarded.

Trustee Flood said he agreed with concerns about a fence being in the front yard. Would the petitioners consider removing the variance for that section from their request? They said they would. Chairman Yaros explained, if agreed, the fence could go up to the front of the house, the side that faces King Circle. The variance for 23 ft. from the required 30 ft. front yard setback to allow a 6 ft. high fence to remain 7 ft. from the front property line (King Circle) would be removed from the variance request. Chairman Yaros again clarified that they agreed to alter their request to the side yard variance going no further or closer to the road than the front of their house.

Vice Chairman Durham asked that due to the nature of this situation, should there be a time frame noted for removal? It was agreed that 10 days should be sufficient.

Moved by Vice Chairman Durham, seconded by Chairman Yaros, that in the mater of ZBA case AB-2017-19, Michelle L. Hopkins, 695 King Circle, Sidwell #09-10-283-021; the petitioner has amended their prior variance request to now only be asking for one (1) variance from Zoning Ordinance No. 78, Article VI, Section 6.07, R-3: requesting a 9.08 ft. variance from the required 10 ft. Side Yard Setback to allow a 6 ft. high fence to remain 0.92' from the side property line (northwest); this would require everything that projects to the road, the fence that is currently in place, to be removed completely by close of business Thursday, June 22, 2017, anything past June 22, 2017 would subject the petitioner to enforcement at the discretion of the Building Official and Code Enforcement; therefore the amended request be granted because the petitioner did demonstrate that there are some issues and practical difficulties that exist in this case and have set forth facts which show that in this case compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose; granting the variance request would od substantial justice to the petitioner: the next door neighbor immediately to the side has stated that she would have no issue

with it and two other property owners in the area; there is not a lesser relaxation than the relief applied for that would give substantial relief to the property involved; the petitioner's plight is due to the unique circumstances of the property based on the following: those are rather small lots and have been there for quite some time; the problem in the rear has not been self-created.

Vice Chairman Durham amended the motion, Chairman Yaros re-supported, to add that the fence along the side property line will be no closer to the road than the front corner of the house.

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

**AB-2017-20, Linda La Croix/Unity Church, 3070 S. Baldwin Road, Sidwell #09-29-101-020**

Chairman Yaros read the petitioner's request as follows:

Per Zoning Ordinance No. 78, Article 30, Section 30.11, F-1, b, the petitioner is requesting a Temporary Use Permit for Open Air Business, for an open air market to be erected in a front yard on Wednesdays (1:00 PM to 7:00 PM), and Saturdays (10:00AM to 4:00 PM) from the approval date to October 25, 2017.

Ms. Linda La Croix who represented the church was present.

Chairman Yaros commented that he has no problem with this request, the petitioner has been here before and has done a great job. There was a comment, however, from Fire Marshall Williams dated June 2, 2017. He requested that all Fire Department access roads not be obstructed by any tent or membrane structure. Ms. La Croix said she understood.

Trustee Flood commented that there has never been a problem with this before and has gotten great comments from fellow Board members and residents that they appreciate this open air market. Ms. La Croix thanked him and said however that she is not sure they will have a farmer this year but there is a lot of at-home CEOs who really want to set up with them.

Trustee Flood also noted the Township Board's action on May 15, 2017 that waived the Temporary Use Permit fees for the church as they are a non-profit organization.

Chairman Yaros asked if there was anyone here to speak to this matter?

Ms. Karen Seawright with PNC Bank which is kiddy-corner from the church was concerned about open air market patrons parking at the bank and with their safety crossing the street. Chairman Yaros said he didn't believe that would be an issue, the church has quite a bit of parking and doesn't get that much traffic yet. Ms. La Croix concurred and said that whenever they have an event and need more parking, they have people park on their grass.

Board Member Walker noted the letter in the packet from Unity Church that noted the days and hours of operation planned for the market, that should be included in a motion. Trustee Flood clarified that as being: Wednesdays from 1pm to 7pm, Saturdays from 10am to 4pm; from the approval date up until October 25<sup>th</sup>. Ms. La Croix said, correct.

Moved by Board Member Koscierzynski, seconded by Chairman Yaros, that in the matter of ZBA case AB-2017-20, Linda La Croix/Unity Church, 3070 S. Baldwin Road, Sidwell #09-29-101-020; per Zoning Ordinance No. 78, Article 30, Section 30.11, F-1, b, the petitioner is requesting a Temporary Use Permit for Open Air Business, for an open air market to be erected in a front yard on Wednesdays (1:00 PM to 7:00 PM), and Saturdays (10:00 AM to 4:00 PM) from the approval date to October 25, 2017; that the petitioner's request be **granted** because the petitioner would be using the

property for a permitted purpose and the petitioner demonstrated they will be complying with the required conditions for an Open Air Business: the conditions of approval are as follows:

- the days of week and hours of operation will be Wednesdays from 1pm to 7pm, Saturdays from 10am to 4pm; from the approval date up until October 25<sup>th</sup>,
- that the petitioner adhere to the letter from the Orion Township Fire Marshall dated June 2, 2017 whereas per Section 3103 of the International Fire Code 2015 – all Fire Department access roads shall not be obstructed by any tent or membrane structure and to make sure that all temporary tents are located outside the Fire Lanes located on the property,
- that there be no parking allowed at the PNC Bank across Baldwin Road from the church,
- and, the Township Board, at its May 15, 2017, waived the \$1,000.00 cash bond re-inspection fee.

Roll call vote was as follows: Koscierynski, yes; Flood, yes; Walker, yes; Durham, Yes; Yaros, yes.

**Motion Carried 5-0**

#### **7. PUBLIC COMMENTS**

None

#### **8. COMMUNICATIONS**

None

#### **9. COMMITTEE REPORTS**

None

#### **10. MEMBERS' COMMENTS**

Trustee Flood noted that he sent an email to ZBA Members about the first reading of the new proposed Sign Ordinance, he thanked the Planning & Zoning Director Girling and Planning & Zoning Coordinator Nettle for their diligent work on it.

Board Member Koscierynski thanked Planning & Zoning Clerk Harrison for the organization of the Board packets and additional materials submitted after packets had been mailed.

#### **11. ADJOURNMENT**

Moved by Trustee Flood, seconded by Board Member Koscierynski, to adjourn the meeting at 8:24pm. **Motion carried unanimously.**

Respectfully submitted,



Lynn Harrison  
PC/ZBA Recording Secretary  
Charter Township of Orion

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Zoning Board of Appeals Approval

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\* Letter has been added to the appropriate file