

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY, OCTOBER 9, 2017 - 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, October 9, 2017 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:

Dan Durham, Vice Chairman
Mike Flood, BOT Rep to ZBA
Don Walker, PC Rep to ZBA

Lucy Koscierzynski, Board Member
Mary Painter, Alternate

ZBA MEMBER ABSENT

Loren Yaros, Chairman

CONSULTANT PRESENT:

David Goodloe, Township Building Official

OTHERS PRESENT:

Howard Leak Family representative
Johanna Van Der Straaten
Jennifer Williams
Lynn Harrison

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

09-11-2017, Regular Meeting Minutes

Moved by Trustee Flood, seconded by Board Member Koscierzynski, to approve the 09-11-2017 Regular Meeting minutes as presented. **Motion carried**

5. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

6. ZBA BUSINESS

AB-2017-32, Antonius Hurkmans and Johanna Van Der Straaten, 365 355 Shady Oaks St., Sidwell #09-10-211-001

Vice Chairman Durham read the applicant's request as follows:

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

1. Article XXVII, Section 27.17, B, requesting: a 22 ft. variance from the required 25 ft. wetland setback to allow a shed to be built 3ft. from the water's edge.
2. Article VI, Section 6.07, R-3: requesting a 27 ft. variance from the required 30 ft. front yard setback to allow a shed to be construct 3 ft. from the front property line just south of the bridge.

It was noted that there was a typo on the agenda, the address is 355 Shady Oaks Street.

Ms. Van Der Straaten was present. She explained that they want to build a shed to keep tools and trash cans in.

Vice Chairman Durham commented that there is not much room on their property to put things and they have no other choice then the piece they targeted. He then suggested that the applicant consider not storing pesticides or fertilizer in the shed if approved due to the fact it would be close to the water's edge. He also asked if they plan on building the shed on a concrete slab?

Ms. Van Der Straaten responded that she would adhere to Vice Chairman Durhams' suggestion and keep any pesticides and fertilizer in their Michigan basement. She also said that the structure would be on a concrete slab.

Board Member Painter said she recalled that the house that once was there was condemned because of mold and the Zoning Board allowed the residents to live in a trailer on the site while they made repairs. She also remembered the "island" being bigger, and that the applicant did a very good job with the new house. She asked if they built it and if they needed any variances? Board Member Painter said what is there now is an improvement to the area and they really don't have any place to park vehicles except for across the road. She commented that she is usually not in favor of people putting things in their front yard but in this case, there is nowhere else to put it

Ms. Van Der Straaten responded they did build the house, believed they did need some variances, and the island was once bigger – the DNR would not allow them to fill it in.

Trustee Flood said he liked how the applicant had the area staked out and noted that the shed they are proposing is 6 x 8 which is relatively small. Trustee Flood commented that one of the concerns when someone wants to put an accessory structure at the front of their property is potential sight line blockage. Here there would be no sight line blockage because it would be on an island and there is no driveway to the house and would be set back far enough from the road.

It was Board Member Koscierzynski's opinion that what the applicant is proposing will be an improvement.

Moved by Board Member Koscierzynski, seconded by Board Member Walker, that In the matter of AB-2017-32, Antonius Hurkmans and Johanna Van Der Straaten, 355 Shady Oaks St., Sidwell #09-10-211-001, the petitioner is requesting two non-use variances from Zoning Ordinance No. 78: 1) Article XXVII, Section 27.17, B, requesting: a 22 ft. variance from the required 25 ft. wetland setback to allow a shed to be built 3ft. from the water's edge, and 2) Article VI, Section 6.07, R-3: requesting a 27 ft. variance from the required 30 ft. front yard setback to allow a shed to be construct 3 ft. from the front property line just south of the bridge **be granted as presented** because the applicant 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 applicant from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome, based on the following findings of fact: there isn't much space there, it would be an improvement and something the applicant needs to store belongings in during the winter; granting the variance request would do substantial justice to the applicant 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 findings of fact: it is a "tight squeeze" on that street, there isn't much space to but anything and it would be an improvement to the neighborhood; the applicant's plight is due to the unique circumstances of the property, based on the following findings of fact: again, there isn't much space there; the problem is not self-created, based on the following findings of fact: there isn't a lot of space around there and what the applicant is proposing would look better than having to have their belongings out in the elements during the winter.

A member from the Leak family asked what the Board means when they reference "zoning"? Vice Chairman Durham responded that there is a specific zoning in place for that area and that is not

changing. The applicant is asking for a variance or deviation from that zoning requirement to build a shed closer to the water's edge and front property line and it doesn't affect anyone else's property.

Roll call vote was as follows: Walker, yes; Flood, yes; Painter, yes; Koscierynski, yes; Durham, yes.
Motion Carried 5-0

AB-2017-33, Jennifer Williams, 4360 Cornith St., Sidwell #09-33-252-012

Vice Chairman Durham read the request as follows:

The applicant is requesting two variances from Zoning Ordinance No. 78: Article VI, Section 6.07, R-1 requesting a: 35 ft. variance from the required 40 ft. Front Yard Setback and a: 6 ft. variance from the required 10 ft. Side Yard Setback to allow a carport to be constructed 5 ft. from the front property line and 4 ft. from the side property line (north).

Ms. Jennifer Williams was present and explained that she does not have a garage so all of her things get snowed and rained on; she needs something to cover and protect her vehicles. She noted that her property is very irregular and there is nowhere to put a garage. The only place she can put something is on top of the driveway which is already paved; she will just put the carport right over the driveway.

Vice Chairman Durham asked how long has she owned the property? Ms. Williams said, 5 years.

Vice Chairman Durham commented that when he was there, he looked for somewhere else on the property where she could put the carport and he didn't see anywhere. He noted the drop in grade from the driveway to the road and understands why she is requesting what she is. He asked her if she would be getting the proper permits from the building department and using a contractor to erect it? Ms. Williams said she would be using a carport company to install it but did not know she needed a permit. Building Inspector Goodloe clarified she will need a building permit and that either she or the contractor can come in to get that.

Board Member Koscierynski recommended that Ms. Williams doesn't solely rely on the contractor to pull the permit; that she should check and make sure that it gets done.

Board Member Painter concurred there is no other alternative and that she will lose some of her view from the patio.

Trustee Flood clarified that the property was as it is when Ms. Williams brought it and therefore the situation was not self-created. Ms. Williams said that was correct. Also, that Ms. Williams said she didn't want to build a garage because it would cut off her view of the lake. He also commented he did not believe there would be any interference with sight lines.

Vice Chairman Durham asked if there was anyone that wanted to speak to this matter? There was not.

Moved by Board Member Walker, seconded by Board Member Painter, that In the matter of ZBA case #AB-2017-33, Jennifer Williams, 4360 Cornith St., Sidwell #09-33-252-012, the applicant is requesting two variances from Zoning Ordinance No. 78: Article VI, Section 6.07, R-1 requesting a: 35 ft. variance from the required 40 ft. Front Yard Setback and a: 6 ft. variance from the required 10 ft. Side Yard Setback to allow a carport to be constructed 5 ft. from the front property line and 4 ft. from the side property line (north); normally a variance request like this would be very large compared to the amount of setback there is but in this case moves that the variance request **be granted as presented** and that compliance with the strict letter of the ordinance would unreasonably prevent the applicant from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome; granting the variance request would do substantial justice to the applicant and a lesser relaxation than that relief applied for would not give substantial relief to the property involved and be

more consistent with justice to other property owners; the applicant's plight is due to the unique circumstances of the property in that the property is very hilly, there is a septic field in the way and no other practical place to put the carport and therefore has not been self-created.

Roll call vote was as follows: Koscierynski, yes; Walker, yes; Flood, yes; Painter, yes; Durham, yes.
Motion Carried 5-0

7. PUBLIC COMMENTS

None

8. COMMUNICATIONS

Moved by Trustee Flood, seconded by Board Member Koscierynski, to cancel the October 23, 2017 regular meeting due lack of agenda items. **Motion carried**

9. COMMITTEE REPORTS

None

10. MEMBERS' COMMENTS

Trustee Flood noted the email he sent regarding the new ordinance that had its first reading at the recent Township Board meeting, there is one section in that ordinance that pertains to the ZBA; and wished Chairman Yaros a speedy recovery, the rest of the Board Members concurred.

11. ADJOURNMENT

Moved by Trustee Flood, seconded by Board Member Koscierynski, to adjourn the meeting at 7:25pm.
Motion carried.

Respectfully submitted,



Lynn Harrison
PC/ZBA Recording Secretary
Charter Township of Orion

November 27, 2017

Zoning Board of Appeals Approval