

# CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

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

### REGULAR MEETING – MONDAY, DECEMBER 11, 2017 - 6:30PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, December 11, 2017 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

#### **ZBA MEMBERS PRESENT:**

Loren Yaros, Chairman

Mike Flood, BOT Rep to ZBA

Don Walker, PC Rep to ZBA (6:55pm)

Lucy Koscierzynski, Board Member

Tony Cook, Alternate

#### **ZBA MEMBER ABSENT**

Dan Durham, Vice Chairman

#### **CONSULTANT PRESENT:**

Dan Kelly, Township Attorney

Tammy Girling, Township Planning & Zoning Clerk

David Goodloe, Township Building Official

#### **OTHERS PRESENT:**

Ken Letz

Chris Roumayeh

Rob Sweet

Lynn Harrison

Al Chakonas

#### **1. OPEN MEETING**

Chairman Yaros called the meeting to order at 6:30pm.

#### **2. ROLL CALL**

As noted

#### **3. CLOSED SESSION** (6:30 P.M.): Review Confidential Attorney Opinion

Moved by Trustee Flood, seconded by Board Member Koscierzynski to go into Closed Session at 6:33pm to discuss Attorney Opinion Letter; attendance to include Chairman Yaros, Trustee Flood, Board Member Koscierzynski, Board Member Cook, Attorney Kelly, Planning & Zoning Director Girling, and Building Official Goodloe.

Roll call vote was as follows: Flood, yes; Koscierzynski, yes; Cook, yes; Yaros, yes.

**Motion Carried 4-0**

Moved by Trustee Flood, seconded by Board Member Koscierzynski, to reconvene the regular meeting at 7:00pm. **Motion Carried**

#### **4. MINUTES**

##### **11-27-2017, Regular Meeting Minutes**

Moved by Board Member Walker, seconded by Board Member Koscierzynski, to approve the 11-27-2017 Regular Meeting minutes as presented. **Motion carried**

#### **5. AGENDA REVIEW AND APPROVAL**

There were no changes to the posted amended agenda adding the Closed Session at 6:30pm and ZBA Business A & B.

#### **6. ZBA BUSINESS**

**A. AB-17-36: Cliff Summit LLC, Parcel 09-34-300-015, Ordinance No. 154 Variance Request from Article V(3)**

Mr. Chris Roumayeh, 581 Central Drive, Lake Orion, presented.

Chairman Yaros clarified that the applicant is seeking to build a processing facility at the location noted on the application, and that he is seeking a variance of approximately 300 feet from a residential property which is within the 15% allowed by Ordinance 154.

Board Member Cook noted that the hours of operation on the application are Monday through Wednesday and then on the application when asked about days and hours that security will be provided, Mr. Roumayeh had answered, Thursday, Friday and Saturday. Board Member Cook asked what the reason for that was? Mr. Roumayeh responded those days are closer to the weekend and there is more traffic potentially through that area during that time; he was told by Sgt. Zehnpfenning that area (Brown and Giddings) gets a little more traffic during weekend evenings. Board Member Cook then asked why Mr. Roumayeh feels those are the only days security is needed? Mr. Roumayeh said ideally, they would like to have security on all days and would eventually like to get to that point but it is costly. Potentially, there is more traffic on that road during weekend evenings and so he believes it would be better to have security during those hours.

Chairman Yaros then noted that Giddings is a dead-end street. Mr. Roumayeh said he is more referring to Brown Road; it was brought to his attention that sometimes that is used as a “cut-through”

Chairman Yaros said it was his understanding the intent of Ordinance 154, which is very specific, is that facilities have to be 1,500 ft. from churches, 2,000 ft. from residential areas, and 2,500-feet away from schools. He clarified that the applicant’s application meets everything except for being 2,000-feet from a residential area, and looking at a map, it is basically one parcel that is closer than 2,000-feet. It was noted that the condition of the land between that residential property and the proposed facility was rather swampy.

Trustee Flood clarified that Mr. Roumayeh will be compliant with Ordinance 154 – the facility will be in an industrial park and reiterated that it was the intent of the Township Board to require specific distances between facilities and certain uses (such as residential, churches and schools) and that there is also a certain traffic volume control stipulation in the ordinance. Trustee Flood added that the Township Board wanted to add some leeway to the requirements and therefore included the 15% allowable variance; he noted if granted, the applicant would still be 1,700-feet from the nearest residential building.

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

Moved by Trustee Flood, seconded by Board Member Walker, that in the matter of case AB-17-36, Cliff Summit LLC, parcel 09-34-300-015, Ordinance No. 154, the 15% variance request from Article V(3), to approve the requested variance under Ordinance 154, Article V, Section 3, **be granted**.

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

**Motion Carried 5-0**

**B. AB-17-37: Cliff Summit LLC, Parcel 09-34-300-015, Ordinance No. 154 Variance Request from Article V(3)**

Chairman Yaros commented that this request is for a different type of facility but in the same location and that the same Ordinance 154 restrictions apply.

Trustee Flood said this facility will be in the same building as the one above but will be separate from the facility acted on in the previous motion. Attorney Kelly add that having two separate facilities in one building is allowed under state law.

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

Moved by Trustee Flood, seconded by Board Member Walker, that in the matter of case AB-17-37, Cliff Summit LLC, parcel 09-34-300-015, Ordinance No. 154, the 15% variance request from Article V(3), to approve the requested variance under Ordinance 154, Article V, Section 3, **be granted**.

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

**Motion Carried 5-0**

**C. AB-17-35: Speedway LLC/Road Commission of Oakland County, 1030 & 1100 S. Lapeer Rd., 09-14-201-004 & Portion of 09-14-201-003**

Chairman Yaros disclosed that he is a retiree from the Road Commission however believed that would not have an effect on him hearing the case. The rest of the members concurred and did not request that he recuse himself.

Chairman Yaros read the applicant's first request as follows:

The applicant is requesting five (5) variances from Zoning Ordinance No. 78, Article 14:

1. From Section 14.04, an 18 ft. variance from the required 30 ft. front yard setback to construct a convenience store 12 ft. from the property line (North).
2. From Section 14.04, a 20 ft. variance from the required 30 ft. rear yard setback to allow a convenience store to be built 10 ft. from the rear property line (West).
3. From Section 14.04, a 1.5 ft. variance from the required 20 ft. side yard setback to allow the construction of a dumpster/shed to be built 18.5 ft. from the side property line.
4. From Section 14.03.D.3., a 15 ft. variance from the required 20 ft. setback to construct a paved parking/maneuvering lane 5 ft. from the property line (South).
5. From Section 14.03.D.3., a 10 ft. variance from the required 20 ft. setback to construct a paved parking/maneuvering lane 10 ft. from the property line (North).

Rob Sweet, McBride Dale Calarion, 5721 Dragon Way, Suite 300, Cincinnati, OH, presented.

Chairman Yaros commented the section of Road Commission property they will be taking over is basically the back section of the building they are proposing to build and currently it is only being used for parking employee cars. Chairman Yaros then noted as the gas station currently sits, it is not the best situation for property ingress or egress. This plan improves that situation at that intersection and traffic flow is important to him. Mr. Sweet said it is their opinion it will be significantly improved.

Board Member Walker also felt the new design is much better and noted a recent incident that happened to him after fueling up there and trying to exit and go west bound on Clarkston Road.

Board Member Koscierynski concurred, she was happy to see the new design and that it is an improvement.

Mr. Sweet thanked the Board Members for their comments and also felt it was a great project. He showed the Board PowerPoint slides of the proposed elevations.

Chairman Yaros said the biggest issue is with the flow around it, and with the drawings, can see that someone can now, being that all the fuel pumps are now together, will know exactly what is open and

what isn't. There will now be enough room to move between the building and the gas pumps, to get in and to get out, something that it isn't there now.

Mr. Sweet also pointed out the importance of where the new underground tanks will be and that tankers should no longer be required to block the entrance from Clarkston Road.

Board Member Walker commented that what the applicant is proposing will be a benefit to the Township.

Chairman Yaros explained they will take the variances in two sections – part A will be for the dimensional variances and part B will be for the sign variances.

Board Member Koscierynski asked the applicant, if approved, when do they plan on starting? Mr. Sweet replied, they have to close on the new piece of property first, and then there is a 3 to 4-month timeline to acquire permits – they would like to start at the end of spring, beginning of summer and it typically takes about 100 days to rebuild a store like this; he would like to be open by Labor Day.

It was Board Member Koscierynski's opinion that this is particularly important to the community because there are so many people that go through (it), not only for gas but for convenience store items; it is a busy intersection.

Mr. Sweet commented they are also proposing a café with outdoor seating tables and to extend the pedestrian path along there.

Trustee Flood said he is glad to see local businesses upgrading and modernizing, it will be great for the community and great for their business.

Chairman Yaros asked if there was anyone here to speak to the matter? There was not.

Moved by Board Member Walker, seconded by Chairman Yaros, that in the matter of ZBA case # AB-17-35, Part A, Speedway LLC/Road Commission of Oakland County, 1030 & 1100 S. Lapeer Rd., 09-14-201-004 & Portion of 09-14-201-003, the applicant is requesting five (5) variances from Zoning Ordinance No. 78, Article 14: 1) from Section 14.04, an 18 ft. variance from the required 30 ft. front yard setback to construct a convenience store 12 ft. from the property line (North), 2) from Section 14.04, a 20 ft. variance from the required 30 ft. rear yard setback to allow a convenience store to be built 10 ft. from the rear property line (West), 3) from Section 14.04, a 1.5 ft. variance from the required 20 ft. side yard setback to allow the construction of a dumpster/shed to be built 18.5 ft. from the side property line, 4) from Section 14.03.D.3., a 15 ft. variance from the required 20 ft. setback to construct a paved parking/maneuvering lane 5 ft. from the property line (South), and 5) from Section 14.03.D.3., a 10 ft. variance from the required 20 ft. setback to construct a paved parking/maneuvering lane 10 ft. from the property line (North), **be granted as presented**; it was noted that usually the ZBA would not consider five (5) variances or of this magnitude but the applicant has done an exemplary job of taking a very dangerous situation and rerouting and rebuilding things that will look much nicer and will clearly benefit public safety; the applicant did demonstrate that practical difficulties exist in this case in that they set forth facts in their presentation: 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; 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; the applicant's plight is due to the unique circumstances of the property, based on the fact that the existing station has been there for 20-30 years and this plan is to remodel, modernize, and make the property safer; the problem is not self-created.

Board Member Walker amended the motion, Chairman Yaros re-supported to add that the property to the north is bordered by Clarkston Road and bordered to the east by a State Highway, M-24, the rest of the property is surrounded by a commercial operation that being the Oakland County Road Commission, there is no residential area involved.

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

**Motion Carried 5-0**

Chairman Yaros announced the second portion of the applicant's request which is from Sign Ordinance No. 153 and was as follows:

The applicant is requesting five (5) variances from Sign Ordinance No. 153,

1. A variance allowing three (3) additional wall signs above the allowed one (1) per establishment.
2. A 603.63 sq. ft. variance above the allowed 67.07 sq. ft. to construct a 670.7 sq. ft. wall sign on the canopy (East).
3. A 183.6 sq. ft. variance above the allowed 20.4 sq. ft. to construct a 204-sq. ft. wall sign on the canopy (North).
4. A 183.6 sq. ft. variance above the allowed 20.4 sq. ft. to construct a 204-sq. ft. wall sign on the canopy(South).
5. A 20 ft. variance from the required 30 feet road right of way setback to construct a ground sign 10 ft. from the road right of way.

Chairman Yaros explained they are proposing to take a large canopy over the gas pumps and modifying the colors and logo. He noted that the variance amount seems huge but board members need to consider that they are that way mainly because of the canopy colors which is considered signage

Board Member Koscierynski commented that they, the ZBA, had just recently approved similar variances for the newly remodeled gas station on Baldwin Road. She said she, and believes the other members too, understand that a lot of gas companies have specific signage requirements.

Trustee Flood added that each request is considered on its own merit but they sometimes need to see what they have done in the past as well. He explained that any paint on the canopy will be considered as part of the signage. If the Township did not consider the colors or stripping signage, the square footage amount would be reduced significantly.

Chairman Yaros said that one of the variances being requested is for 3 additional wall signs over the 1 allowed. The building will be large and then there is what is on the canopy. Mr. Sweet believed there was two signs on the canopy but also there was the stripping around it. He noted that the style they are trying to achieve is the new café model which is Speedway's new standard.

Chairman Yaros also noted the 20 ft. variance from the required road right of way. He commented that the property is so close to the intersection that there really isn't any other place a ground sign; they are limited.

Board Member Walker reiterated his recent trip to Cincinnati and because of the canopy signage request that has becoming before them, noticed the canopies of other gas stations and realized that this is the norm.

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

Board Member Cook clarified that the request is for 3 additional wall signs. Mr. Sweet said they are proposing one for the building, and then colors or lettering on 3 sides of the canopy, the fourth side will remain the standard tan color, and then the free-standing sign.

Moved by Board Member Koscierynski, seconded by Chairman Yaros, that in the matter of case #AB-17-35 B: Speedway LLC/Road Commission of Oakland County, 1030 & 1100 S. Lapeer Rd., 09-14-201-004 & Portion of 09-14-201-003; the applicant's request for a non-use variance from Sign Ordinance No. 153; the applicant is requesting five (5) variances from Sign Ordinance No. 153, 1) a variance allowing three (3) additional wall signs above the allowed one (1) per establishment, 2) a 603.63 sq. ft. variance above the allowed 67.07 sq. ft. to construct a 670.7 sq. ft. wall sign on the canopy (East), 3) a 183.6 sq. ft. variance above the allowed 20.4 sq. ft. to construct a 204-sq. ft. wall sign on the canopy (North), 4) A 183.6 sq. ft. variance above the allowed 20.4 sq. ft. to construct a 204-sq. ft. wall sign on the canopy(South), and 5) a 20 ft. variance from the required 30 foot road right of way setback to construct a ground sign 10 ft. from the road right of way; **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: this is now the new "normal", the café model, the signs have been carefully measured and set up architecturally to be a benefit to Speedway; 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: this seems to be the trend among various gas stations, that the signs be constructed a certain way to allow the business to prosper and for the signs to be seen reasonably through Clarkston and M-24; the applicant's plight is due to the unique circumstances of the property, based on the following findings of fact: this establishment is on Michigan State Highway M-24 and Clarkston Road and it presents an issue; the problem has not been self-created based on the following findings of fact: based on the location and on the size that the signs need to be.

Board Member Koscierynski amended the motion, Chairman Yaros re-supported, to add to the motion that the reason for the large variance request it mainly due to the required colors and striping.

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

**Motion Carried 5-0**

## **7. PUBLIC COMMENTS**

None

## **8. COMMUNICATIONS**

Chairman Yaros noted there was a memo from Planning & Zoning Coordinator Frey regarding possibly cancelling the January 8<sup>th</sup> meeting because there were no agenda items, however it was decided not to cancel it just in case an Ordinance 154 application needed to seek a variance.

## **9. COMMITTEE REPORTS**

None

## **10. MEMBERS' COMMENTS**

Trustee Flood wished everyone a Merry Christmas and a Happy New Year and looks forward to seeing everyone in the new year.

## **11. ADJOURNMENT**

Moved by Trustee Flood, seconded by Board Member Cook, to adjourn the meeting at 7:14pm. **Motion carried.**

Respectfully submitted,



Lynn Harrison  
PC/ZBA Recording Secretary  
Charter Township of Orion

January 9, 2018  
Zoning Board of Appeals Approval