

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY, JUNE 25, 2018 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, June 25, 2018 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
Don Walker, PC Rep to ZBA

Lucy Koscierzynski, Board Member
Mary Painter, Board Member

ZBA MEMBER ABSENT

Mike Flood, BOT Rep to ZBA

CONSULTANT PRESENT:

Dave Goodloe, Building Official

OTHERS PRESENT:

Tom Haury
Joe Caradonna
Lynn Harrison

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

6-11-18, Regular Meeting Minutes

Moved by Vice Chairman Durham, seconded by Board Member Koscierzynski, to approve the 6-11-18, Regular Meeting minutes as presented. **Motion carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

AB-2018-20, Baldwin Holdings, LLC, 4713 S. Baldwin Rd., 09-32-376-001

Chairman Yaros read the petitioner's request as follows:

Two variances from Sign Ordinance 153, Section 7 Ground & Wall Signs In Non-Residential Zoned Areas, Ground Sign BIZ District,

1. A 3.3 sq. ft. variance above the allowed 50 sq. ft sign area to build a 53.3 sq. ft. sign.
2. A 10' front yard setback variance from the required 30' front yard setback to build a 6' tall ground sign 20' from front yard setback.

Mr. Joe Caradonna, Baldwin Holdings, 2145 Crooks Rd., Troy, MI, presented. Mr. Caradonna explained that the first request for the 3.3 sq. ft. variance is to allow them to etch their company name, Pristine Properties, in the limestone base. This is something they typically do at other developments. He explained it is not real visible but something they do to mark their properties. The actual sign that is lit, the illuminated cabinet, doesn't exceed the 50 sq. ft. maximum but when they add the extra "logo" onto the limestone, it will exceed that.

Chairman Yaros clarified that Pristine Properties not only owns the business buildings but also the condos/townhomes on the property. Mr. Caradonna replied, correct, they own the entire project. Mr. Caradonna also clarified that the sign is not electronic, it is just a normal back-lit ground sign. A portion of it is basically the sign moniker to let people know there is rental apartments in the back and the other portion is to advertise the businesses within the retail center.

The second variance request for a 10 ft. variance from the required setback - he explained that when they initially received site plan approval, where their sign sits today would have been 60 feet from the road right-of-way. Basically, the need for this variance is because of the Baldwin Road expansion and also because of the fact they gave the Road Commission some extra right-of-way to accommodate that expansion.

Per a question by Chairman Yaros, Mr. Caradonna said at the time they came for site plan approval, they knew about the road expansion but not to what extent. At the time their plans were approved, the sign location worked and put the detention pond where it is. They then got the final drawings for the expansion which happened after the pond was dug, now they are basically as far back as they can go without getting into the under-footing of the pond. He doesn't believe the sign location will create any type of a hazard, there will still be a bike path that will go across the front. He commented that the other nice thing is that because they own both projects, they will be advertising both the retail and the multifamily development on one sign.

Chairman Yaros said he now better understands what they want to do. At the time the petitioner purchased the property, he did not know where the road right-of-way would be. Chairman Yaros believed the petitioner's hardship was that the Road Commission took a considerable amount of right-of-way and the sign will now be closer than they thought. Mr. Caradonna replied, that is correct.

Board Member Painter clarified that when the petitioner first appeared before the Planning Commission, their sign location was accepted? Mr. Caradonna said, it was, at that time the right-of-way wasn't dedicated. It was just within the last couple of months that it had been dedicated and recorded. He commented that by the time they "cut a deal" with the Road Commission, his project was already in the ground.

Mr. Caradonna also commented that the road expansion has been a big disruption to them. He can't finish the front 40 feet of his property and they have beautiful, expensive townhomes in the back, it constantly appears they are a construction site because of the road construction. He noted, too, that the Road Commission will also be taking an additional 20 feet for a temporary easement while they finish the expansion.

Mr. Caradonna added that even if they knew where the right-of-way was going to be, they still probably would have needed a variance because the pond has to be where it is due to the topography of the site - the pond had to be in the southwest corner. There is 43 feet of fall from the back of the property to the front.

Mr. Caradonna informed the Board that they paved 790 feet of Jordan Road which will benefit their property as well as the community.

Board Member Painter asked about the other signs that are there now, will those go away after the permanent sign goes in? Mr. Caradonna responded, those are temporary signs, once this sign goes up, the ones that are advertising the retail center, will go away. He said they do have permits for the banners advertising that the model is open and they are leasing. Those will remain through the lease-up and then will go away once they just have standard turnover.

Mr. Caradonna explained this sign will be the one for the entrance to their community. He noted that the wooden temporary sign in front of the retail building will come down once the new sign goes up, but there are some banners and temporary signs that is up while they are leasing; those will go away when they are no longer needed.

Vice Chairman Durham asked for further clarification – the sign was originally going to be closer to the road or further away? Mr. Caradonna said the sign was going to be in the same spot where it is now. Prior to the right-of-way being expanded, they did not need a variance for the setback. It is only because the road expansion took 40 feet of their right-of-way. He said they thought they had given themselves enough leeway because they were 40 feet off the right-of way. Instead that right-of-way ended up bigger then they anticipated.

Vice Chairman Durham said this is a fairly good size sign and the retail outlets all have big wall signs facing Baldwin Road. Does Mr. Caradonna anticipate by having their names on this ground sign that it will help business? Mr. Caradonna said, they do, especially now with the road construction, everybody is suffering there now. Patty Burger sales have been nearly cut in half and Dickies is having a hard time making it.

Mr. Caradonna explained the business names on the signs will be proportionate to the size of the project - the retail signs are only a 1/3 of the total sign, the apartments is 2/3s. He does believe it will help – it will better help people to see what is there. Right now, the wall signs aren't visible for someone to be able to turn in the parking lot before they pass it. It was Vice Chairman Durham's opinion, that within reason, the same people who pass by them in the morning, pass back by them come at night and therefore should know what is there.

Vice Chairman Durham also had concern about the company's name being down at the bottom. Signs are not meant necessarily to distract drivers, especially there - does Mr. Caradonna see that as an issue? Mr. Caradonna said he doesn't, the name is etched into the limestone and its more of a moniker that adds a little bit of character as opposed to leaving plain stone at the bottom of the sign. It was his opinion having very clear, bigger signs are less of a distraction and cause less problems. Right now, there is no moniker for that project.

Chairman Yaros said in his opinion, he likes the idea of one sign for two projects; and it is a fairly minimal request considering it is going to cover Baldwin Square and the retail businesses.

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

Board Member Walker asked about the safety path – will that sign impede the vision of anyone on that path? Mr. Caradonna said no, the safety path falls within the County right-of-way.

Moved by Vice Chairman Durham, seconded by Board Member Painter, that in the matter of ZBA case # AB-2018-20, Baldwin Holdings, LLC, 4713 S. Baldwin Rd., 09-32-376-001, would move that the petitioner's request for two variances from Sign Ordinance 153, Section 7 Ground & Wall signs In Non-Residential Zoned Areas, Ground Sign BIZ District, 1) a 3.3 sq. ft. variance above the allowed 50 sq. ft sign area to build a 53.3 sq. ft. sign, 2) a 10' front yard setback variance from the required 30' front yard setback to build a 6' tall ground sign 20' from front yard setback; **be granted** because the petitioner did demonstrate that the following standards for variances have been met in this case in that he set forth facts which show that in this case: the petitioner showed the following Practical Difficulty: by the Township's actions, it changed the petitioner's anticipation of what yardages were going to look like and how far they were going to be, it appears that the right-of-way was changed to an additional 10 feet in front of the petitioner's businesses; this is not related to the general conditions of other property in the area but is specific to this property alone, in addition, for the first request (a 3.3 sq. ft variance), the Board indicated it is a relatively small variance however this Board does not act on the size, but the sign

will cover two distinct businesses - the four retail businesses and the apartment project; further, the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties because they didn't have the same issue, it was in the middle of the petitioner's development of the property that all this happened and suspects the petitioner did not anticipate being here for this because they didn't believe the right-of-way would end up where it is; granting the variance will not materially be 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 upon the discussions had regarding the placement of the sign in relationship to the safety path; for these reasons, ask that the petitioner's request for two variances be granted.

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

Motion Carried 5-0

AB-2018-21, JT Teal Property Group, LLC, 1145 Bayfield ST, 09-01-402-015

Chairman Yaros read the petitioner's request as follows:

Two variances from Zoning Ordinance 78, Section 6.07, District R-3

1. A 12.36' front yard setback from the required 30' front yard setback to build an attached garage 17.64' from the front yard property line. (Orion Terrace)
2. A 1.1' front yard setback from the required 30' front yard setback to build an attached garage 28.9' from the front yard property line. (Bayfield St.)

Mr. Tom Haury, 7477 Groveland Road, Holly, MI, the petitioner, presented. Mr. Haury explained that they are a residential redevelopment company. They plan on renovating the house and selling it.

Vice Chairman Durham asked if the new garage location will cover the current front door? Mr. Haury replied the current front door is being moved west – the entire layout of the home is being redone.

Vice Chairman Durham asked what the square footage will be? Mr. Haury said, 1,458. Vice Chairman Durham then clarified that the current garage will become living space? Mr. Haury responded, yes, it will be the master suite.

Vice Chairman Durham inquired about the bricks that he saw between the trees. Mr. Haury said that he believes it is an old retaining wall that runs the entire length of the property and does not appear to be any part of construction. Per another question, Mr. Haury noted that the driveway will be off Bayfield Road and does not see a problem with it being close to the corner because Orion Terrace is a dead-end street.

Board Member Painter commented that the house has been vacant for a long time and this will be an improvement. Building Official Goodloe added that the Building Department actually had that house scheduled to be demolished.

Board Member Koscierzynski stated that she likes to see people who are willing to use their resources to redo these older homes. She thanked Mr. Haury and said it will really make a difference to the community.

Board Member Walker commented he believed there wouldn't be a lot of neighbors objecting to this. Mr. Haury said people have actually stopped by and thanked him for getting rid of the eyesore.

Chairman Yaros said his first concern was the corner but after visiting the sight, saw that it will not be an issue.

Chairman Yaros noted that there was no one in the audience, therefore there now comments from the public regarding this matter.

Building Official Goodloe noted that the property fronts on two roads and why it is being held to two front yard setbacks.

Moved by Vice Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2018-21, JT Teal Property Group, LLC, 1145 Bayfield St., 09-01-402-015, that the petitioner's request for two variances from Zoning Ordinance 78, Section 6.07, District R-3; 1) a 12.36' front yard setback from the required 30' front yard setback to build an attached garage 17.64' from the front yard property line (Orion Terrace), and 2) a 1.1' front yard setback from the required 30' front yard setback to build an attached garage 28.9' from the front yard property line (Bayfield St.); 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 that in this case: it is a small lot, it is locked-in by houses on both sides, the property has been vacant for years, the petitioner is attempting to make it livable, the property fronts on two different roads, their ability to do anything with it is severely limited, they want there to be garage to go along with the house and they will adjust the house to make it livable; the following are exceptional or extraordinary circumstances or conditions applicable to the property: the piece of property "is what it is", there is no room for expansion, and there is no room to do anything other than what they are proposing to do if they would like to have a garage; the variances are necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone based on the following facts: the petitioner would like to have a garage to go along with the newly renovated house, and there are many other garages in the area; granting the variances will not be detrimental to public welfare, on the contrary, it will do a vast service to the community in that area as it has essentially been a rundown piece of property for a longtime, the petitioner will bring it back and hopefully get someone in there that wants to be there.

Vice Chairman Durham amended the motion, Chairman Yaros re-supported, to clarify that a finding of fact is that the property fronts on two roads and one of those is a dead-end so there won't be a sight distance problem.

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

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

Memo from Planning & Zoning Coordinator Frey dated June 13, 2018 regarding date certain options should a case be postponed.

Memo from Planning & Zoning Coordinator Frey dated June 25, 2018 regarding possibly cancelling the July 9th meeting due to lack of agenda items.

Moved by Board Member Kosciarzynski, seconded by Chairman Yaros, to cancel the July 9, 2018 regular ZBA meeting due to lack of agenda items. **Motion Carried 5-0**

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

None

10. ADJOURNMENT

Moved by Vice Chairman Durham, seconded by Chairman Yaros, to adjourn the meeting at 7:29pm.

Respectfully submitted,



Lynn Harrison
PC/ZBA Recording Secretary
Charter Township of Orion

July 23, 2018

Zoning Board of Appeals Approval