

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY, JULY 23, 2018 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, July 23, 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
Mike Flood, BOT Rep to ZBA

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

ZBA MEMBER ABSENT

None

CONSULTANT PRESENT:

Dave Goodloe, Building Official

OTHERS PRESENT:

Bill Schulert
Rob Cathers
JoAnn Van Tassel
Jewett
Kregg Richardson
Lynn Harrison

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

6-25-18, Regular Meeting Minutes

Moved by Board Member Koscierynski, seconded by Board Member Walker, to approve the 6-25-18, Regular Meeting minutes as presented. **Motion carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

AB-2018-22, Kregg Richardson, 2200 Indianwood Rd., 09-04-176-015

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting one (1) variance from Zoning Ordinance No. 78, Article 5, Section 5.18, District: SE:

1. An 8' side yard variance from the required 20' side yard setback to allow an addition to the attached garage to be built 12' from the West property line.

Kregg Richardson, 2200 Indianwood Road, presented. Mr. Richardson explained they are trying to add on to their house. They added on a few years ago in 2004. At that time it only had a 1-car garage. The house has 4-bedrooms plus a finished basement – if they were ever to sell, it was his opinion no one would buy it.

Chairman Yaros clarified there is a 20 ft. setback because the property is in the SE zoning district and if the variance is granted, would still be 12 ft. away from the property line and then still quite a ways away from the neighbor. Mr. Richardson concurred. Chairman Yaros commented he did not have a problem with attachments to a house especially in this case - the space is badly needed. He understands that Mr. Richardson want to be able to use the house and property in the right way. Where Mr. Richardson is proposing to put the addition is the best place to put it on the property.

Vice Chairman Durham commented that when he visited the site, he spoke to someone there who informed him that the neighbor who owns the garage closest to the applicant is ok with the request and has no issues. Mr. Richardson replied, “no problems”.

Trustee Flood noted that the house was built in 1963 and they have made some improvements to it. He asked the applicant if he planned on turning the existing 1-car garage into living space? Mr. Richardson replied that it will remain as garage. Trustee Flood commented that the size of the garage now is 9 ½ ft. wide x 19 – by today’s standards, doesn’t know what could fit in there. Trustee Flood commented that 12 ft. would still leave plenty of room for access by the fire department for safety and emergency purposes – one of his concerns when a setback is being reduced.

Board Member Koscierzynski commented she noticed a company truck on the property when she visited, was that Mr. Richardson’s work vehicle. Mr. Richardson concurred.

Board Member Walker asked that when Mr. Richardson added the last addition, did he need to obtain a variance? Mr. Richardson replied, no, at that time they checked what the setbacks where and built accordingly.

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

Moved by Board Member Koscierzynski, seconded by Chairman Yaros, that in the matter of ZBA case AB-2018-22, Gregg Richardson, 2200 Indianwood Rd., 09-04-176-015, the petitioner’s request for a non-use variance from Zoning Ordinance No. 78, Article 5, Section 5.18, District SE: an 8’ side yard variance from the required 20’ side yard setback to allow an addition to the attached garage to be built 12’ from the west property line 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 the petitioner does show the following practical difficulty: that the present garage is not big enough for the petitioner’s needs and there is plenty of space on the property; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone: the petitioner’s property is unique and there is plenty of room on it for this addition; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following face: the petitioner needs more garage space; the granting of the variance or modification will not be materially 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.

Board Member Koscierzynski amended the motion, Chairman Yaros re-supported, to add that the reason the addition is proposed for that particular side of the house is because that is where the present garage is located.

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

Motion Carried 5-0

AB-2018-23, William D. Schulert, 225 Coats Rd., 09-06-251-013

Chairman Yaros read the petitioner’s request as follows:

The petitioner is requesting two (2) variances from Zoning Ordinance No. 78, Article 27, Section 27.02 (1/2 acre to 1 acre):

1. A 600 sq. ft variance above the allowed 1,300 sq. ft. Total Maximum Floor Area of All Accessory Buildings to build a 1,350 sq. ft. detached garage for a total of 1,900 sq. ft. of all Accessory Buildings.
2. A 450 sq. ft. variance above the allowed 900 sq. ft. Maximum Floor Area of Detached Accessory Buildings to build a 1,350 sq. ft. detached garage.

Mr. William Schulert, 225 Coats Road, presented.

Chairman Yaros commented that it appears Mr. Schulert will be taking down the existing structure. Mr. Schulert replied he would be taking down the old garage and also the shed that is next to it. Chairman Yaros noted, then, that he would be getting rid of 614 sq. ft. (of detached accessory building); he is then wants to add an additional 746 sq. ft. to come with the maximum floor area of detached accessory buildings of 1,350 sq. ft.

Chairman Yaros commented that he does not really have a problem with the request because the petitioner is eliminating some of the square footage of accessory buildings, however, could not see what the petitioner's hardship was. Mr. Schulert replied that he collects historic magic illusions and he keeps them in his current garage; his wife would like to use the garage to park their cars in. These illusions are important to him and wants to have an area where he can display them, work on them – more like a personal workshop for his hobby. Chairman Yaros clarified that he would not be running a business out of the new space.

Board Member Koscierynski said she saw a garage that was close to the house and a larger garage in the back, where would this detached garage be going. Mr. Schulert replied that the one in the back will be eliminated and the new garage will go in that spot. He noted that the metal shed will be eliminated too. Board Member Koscierynski noted what he is asking for is a large space. Mr. Schulert responded that the illusions are large.

Board Member Walker commented this request is a little different from the requests the Board usually gets for additional garage space to do things like wood working.

Vice Chairman Durham said it appeared to him that the garage in back that is going to be removed looked like it was never used as a garage, he didn't see any driveway going to it. Mr. Schulert introduced Dave who did the addition on his house, the house was built in the 30s and that was the old garage that came with the house originally. Part of that garage is starting to deteriorate and Mr. Schulert noted there is a driveway that goes to it. The other garage has a door on the front and the back so you can drive through it back to the other garage. There used to be a driveway that went all the way back to it before the remodel was done. Mr. Schulert reiterated that the garage he wants to take down was built in the 30s, is deteriorating, sags on one side, a lot of water goes through it, however he did have it resided when he remodeled the house so that they would match. Mr. Schulert also said the old garage doesn't have any height to it or smooth floor surface to work on.

Trustee Flood clarified the age of the structure he wants to remove. He also told Mr. Schulert that he appreciated him staking the property and that people wouldn't be able to see the new garage because it will be behind the house. Trustee Flood did recommend that Mr. Schulert put house numbers on his house, it would make it easier for the fire department or emergency vehicles to find it. Mr. Schulert said he actually has a plaque and will put it on.

Trustee Flood noted that three letters were received after the packets went out from neighbors who did not have a problem with Mr. Schulert's request and also there was one that was included in the packet.

Chairman Yaros read into the record the names on the letters received that were in favor of the request: Chad and Traci Cromwell, John Vackaro, Sammy and Diane Naggar, and Jim Schroeder.

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

Mr. Dave Plautz, Crest Homes, commented that he built the petitioner's addition and that Mr. Schulert's main concern regarding this project was what it would look like from the road and the beauty it could contribute to the community – it will look wonderful.

Moved by Vice Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2018-23, William D. Schulert, 225 Coats Rd., 09-06-251-013, that the petitioner's request for 2 non-use variances from Zoning Ordinance No. 78, Article 27, Section 27.02 (1/2 acre to 1 acre): 1) a 600 sq. ft variance above the allowed 1,300 sq. ft. Total Maximum Floor Area of All Accessory Buildings to build a 1,350 sq. ft. detached garage for a total of 1,900 sq. ft. of all Accessory Buildings, and 2) a 450 sq. ft. variance above the allowed 900 sq. ft. Maximum Floor Area of Detached Accessory Buildings to build a 1,350 sq. ft. detached garage; be granted, the petitioner did state that he will be eliminating one large detached garage and a metal shed which made the variance requests less than what it could have been; 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: the petitioner does show the following Practical Difficulty: the petitioner has a hobby that requires more space for storage and he has a big piece of property without neighbors surrounding him, it won't be seen from the street, it will be something that the petitioner can enjoy and no one else will be impacted by it; the exceptional circumstance is: the petitioner is going to take down one garage to build another; the variance is necessary for the preservation an enjoyment of a substantial property right possessed by other property in the same zone: the petitioner has a big, wide open lot without neighbors, there is one on one side who does not object to the request, he has four letters of support - nothing negative, and it would allow the petitioner to enjoy his property in a lawful and proper manner.

Vice Chairman Durham amended the motion, Chairman Yaros re-supported, to add that the petitioner will also be removing a metal shed.

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

Motion Carried 5-0

AB-2018-24, Robert P. Cathers, 3808 Waldon Rd., 09-19-400-007

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting three (3) variances from Zoning Ordinance No. 78:
Article 27, Section 27.02 (Over 2.5 Acres):

1. A 3,794 sq. ft variance above the allowed 1,900 sq. ft. Total Maximum Floor Area of All Accessory Buildings to build a 3,000 sq. ft. addition to a detached barn for a 5,694 total square footage of all accessory buildings.
2. A 3,712 sq. ft. variance above the allowed 1,400 sq. ft. Maximum Floor Area of Detached Accessory Building to build a 3,000 sq. ft. addition to a detached barn for a 5,112 total square footage of all detached accessory buildings.

Article 5, Section 5.02 H.2:

3. A 10' setback variance from the required 70' setback from any property line for a stable to build an addition to a detached barn 60' from the East property line.

Trustee Flood disclosed that he knows the applicant, he has used his lawn care services. He clarified that he has no personal gain in this matter. He offered to recuse himself if the Board so wishes; they did not.

Mr. Robert Cathers, 3808 Waldon Rd., presented.

Chairman Yaros asked how long has he lived at this residence? Mr. Cathers said, two months. He explained the reason he is asking for such a large space is because his wife wants to own horses. According to the Ordinance (with the amount of land they own), they would be allowed three. His wife would like to have a place to ride and train them during the winter months. They would also like the space for the horses to come into during inclement weather. He noted there are two small lean-tos which he will be tearing down.

Chairman Yaros commented that this is an extremely large variance request. Mr. Cathers said there is a barn there now which has stalls in it, they want to add 100 ft. to the back of that. Mr. Cathers said there is also a little garage on the property where he keeps his lawn mower, etc.

Chairman Yaros asked the petitioner what type of business does he do? Mr. Cathers replied, he has a lawn business; his building is behind Checkers on Brown Road. Chairman Yaros clarified that he would not be using the added structure for business purposes.

Trustee Flood commented that the property is just 3 tenths of an acre under 5 acres and noted the aerial view which showed how long and narrow the properties are in that area. He said he recognized the petitioner's request to be for a horse barn because of the size of it; they are pretty big. Trustee Flood then noted Section B of Article XXVII - "on parcels of more than 5 acres in size, use for agricultural purposes, a variance may be sought from the Zoning Board of Appeals to permit additional accessory buildings or structures for the purpose of storing agricultural equipment, implements, equipment, products, livestock and similar items". Trustee Flood believed that there would be such similar items stored in the new accessory building however the property is just 3 tenths an acre under 5 acres.

Trustee Flood said he did not have a problem with a 10 ft. variance from the 70' required property line setback. He then noted letters that were in the packet from neighbors that had no issues with Mr. Cathers' request.

It was Chairman Yaros's opinion that if the petitioner was just taking care of horses, a 30 x 40 or 50 ft. structure should be more than enough. In this case, Mr. Cathers wants to add an additional 3,000 sq. ft. building to be able to walk the horses in the winter. Mr. Cathers said, his wife would like to be able to ride in the winter and it would also serve as an area where the horses could come in and be away from their stalls, be out of the weather or be inside when not in the pasture. Again, it was Chairman Yaros's opinion that the petitioner didn't need that large of a structure to keep 3 horses. Chairman Yaros said he looked at an aerial view of the area and there were a lot of structures that appeared to be 30 x 40. Chairman Yaros said he had no problem adding a little more space to the 30 x 40 barn that Mr. Cathers already has.

Committee Member Walker verified that Mr. Cathers purchased the property 2 months ago? Mr. Cathers said, yes. Committee Member Walker then asked if the idea about having horses just came up? Mr. Cathers commented that his wife will be retiring soon and wants a hobby – horses. Committee Member Walker asked if he looked into this before purchasing the property? Mr. Cathers said he had and he was told he would have to appear before the ZBA to do this.

Mr. Cathers commented that if he can't get approval for a 100-extra ft., he would not be opposed to asking for something less.

Vice Chairman Durham asked if Mr. Cathers has horses now? Mr. Cathers said, no, it is something they will look into in the Spring. Vice Chairman Durham asked if he had any plans to board for profit? Mr. Cathers said, no.

Trustee Flood clarified that Mr. Cathers would be willing to cut the length down and if so, to what? Mr. Cathers said, yes, he would consider instead of 30 x 100 ft., making it 30 x 80 ft.

Building Official Goodloe commented that with a building this size, he was concerned about the future. If someone moves in after them, that building will be there and what will the new residents do with it? Mr. Cathers replied they bought this home to retire in.

Trustee Flood clarified that currently this property has a horse barn with stalls and a paddock in the back. Chairman Yaros indicated, yes.

Vice Chairman Yaros asked if Mr. Cathers knew if any of his neighbors had concerns about his request? Mr. Cathers said, no.

Board Member Koscierynski said that she was also concerned about the size, she asked if Mr. Cathers knew what a standard size was for keeping 3 horses? Mr. Cathers replied that his uncle trained thoroughbreds and he had a barn the size he is asking for. He based his request on that and research he did on the internet. As a compromise, he felt an additional 30 x 80 ft. would be ok.

Mr. Cathers add that everything will be painted the same color.

Board Member Koscierynski said she is having a hard time figuring out what the practical difficulty is in this case; this is the largest variance request she has ever seen.

Trustee Flood commented that Mr. Cathers said he would be willing to reduce the size to 80 ft. in length. Mr. Cathers said, yes. Trustee Flood calculated that the size would be 30 x 80, a reduction of 600 sq. ft.? Mr. Cathers concurred.

Trustee Flood noted the Petition of Support that was included in the packet. Those signatures included: Jeffrey Sellers, 3878 Waldon Road; Barbara, 3801 Waldon Rd.; Joe Chisholm, 3763 Waldon Rd.; Todd Brewer, 4041 Waldon Rd.; Peggy Hagen, 3851 Waldon Rd.; and Mike Chisholm 4025 Waldon Rd. Trustee Flood clarified that these were Mr. Cathers' neighbors and they were in favor of the request.

Vice Chairman Durham asked if the petitioner had ever considered two horses instead of three? Mr. Cathers responded, yes. His wife would like to start off with one and then work her way into more; it has been a dream of hers. If he is agreeable to reducing the size of the request, fewer animals could fit in a smaller space. Mr. Cathers replied, if they have to come down, they would limit it to two horses. Mr. Cathers explained that the barn he has now and wants to add onto has three stalls in it and that is what they are allowed for the size property they have. If they reduce the size of the addition and it can't accommodate three horses, she won't be able to have three horses.

When asked, Mr. Cathers said they would like to have an exercise ring in the addition.

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

JoAnn VanTassel, 2726 Saturn, commented that the Zoning Ordinance and the standards in it date back to 1984, almost 35 years ago. It was written by a committee of six citizens and was started in the late 70s. She noted that they used for their standards what was existing at the time. They considered how many acres a parcel was and then decided how much accessory storage would be needed for

equipment to maintain that amount of acreage. Things have changed, people have more toys, they have more things. She wanted to bring this to the Board's attention, that based on what she has heard tonight, most of the variances requested are for more space. She then noted in the preceding case that the petitioner was also looking for a size variance so he had a place to store stuff for his hobby. She noted that people base their hobbies on their interests and asked the Board to give that some consideration. She also suggested the Board might want to ask the Planning Commission to take a look at the size standards - the area and bulk requirements of the Zoning Ordinance, based on the cases they have had and what type of variances people are asking for. Is the Ordinance in need of updating because of standards that were set 35 years ago?

Chairman Yaros commented that the Board has to be able to justify their decisions, one of those being hardship. What is the hardship that causes someone to need 140 ft. long building?

Vice Chairman Durham said he understands the Chairman's concern but believes the Board needs to consider the fact that this is kind of a unique set up. He noted that until he walked past the petitioner's house, he wasn't able to see where the building was going to be. It won't be in line of sight to anybody that hasn't weighed in positively. The petitioner has a piece of property that will take it. These are supposedly non-precedent setting events. The petitioner wants to use his property for a permitted purpose, wants to enjoy his property and believes this will enable him to enjoy it to a higher degree. He added the petitioner is improving the property rapidly from what he saw.

Trustee Flood commented that by Ordinance, the petitioner is allowed 3 horses on that property and he has an existing structure that shelters 3 horse. In this case the petitioner wants to have an indoor arena so in the winter his wife can ride the horses indoors. It is a unique circumstance because not everyone has this in their backyard. He noted that back in the day, it was all farms here. There are still some locations that still have huge barns that are in use which are larger than what this building would be.

Trustee Flood said one of the things he considers when looking at a variance request is what do the neighbors say – there are 6 that live next door to him and they have no problem with this. Also, the petitioner is willing to reduce the length by 20 ft. or 600 sq. ft.

Board Member Walker said he had four issues – 1) the petitioner purchased the property 2 months ago, 2) this is the largest variance request he has ever seen, 3) he is looking for practical difficulty that was not caused by the petitioner, he couldn't find any, and 4) he couldn't find a hardship. He understands that things have changed a lot but the wording of the Ordinance says practical difficulty and hardship. He then noted that the Master Plan was updated not too long ago and some things were changed – the Township Board, Planning Commission, and this Board is not ignoring change. They spent a lot of time reviewing the Master Plan, nothing they did however changes this particular request.

Chairman Yaros added that they have granted variances so that people can enjoy their hobbies but never of this magnitude.

Vice Chairman Durham referred back to the previous case, AB-2018-23, and was looking for practical difficulty there - what was his practical difficulty versus this case? Chairman Yaros replied, that in that case, the petitioner was going to tear down a deteriorating building to put in a new structure. That petitioner was tearing down half as much as he wanted to build. In this case, there are two large structures already on the property and the petitioner is asking to expand one almost 3x the size – this was the problem he was having with this request.

Trustee Flood commented that he believes the practical difficulty is that the petitioner's wife wants to be able to ride inside and the existing barn is not large enough to do that.

Mr. Cathers said he is willing to work with the Board and offered to reduce the size of the addition to 30 x 60 ft., the barn would then be 100 ft. long total.

Chairman Yaros asked if Mr. Cathers uses the other garage for anything. Mr. Cathers said he uses it for his personal stuff like jet skis and a golf cart.

Moved by Trustee Flood, seconded by Board Member Koscierzynski, that in the matter of ZBA case #AB-2018-24, Robert P. Cathers, 3808 Waldon Road, 09-19-400-007, that the petitioner's request for 3 non-use variances from Zoning Ordinance No. 78: Article 27, Section 27.02 (Over 2.5 Acres): 1) a 2,594 sq. ft variance above the allowed 1,900 sq. ft. Total Maximum Floor Area of All Accessory Buildings to build an 1,800 sq. ft. addition to a detached barn for a 4,494 total square footage of all accessory buildings, 2) a 2,512 sq. ft. variance above the allowed 1,400 sq. ft. Maximum Floor Area of Detached Accessory Building to build an 1,800 sq. ft. addition to a detached barn for a 3,912 total square footage of all detached accessory buildings, and 3) Article 5, Section 5.02 H.2: a 10' setback variance from the required 70' setback from any property line for a stable to build an addition to a detached barn 60' from the east property line **be granted as revised by the petitioner** 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 following Practical Difficulty being that the addition if for an indoor arena for up to three horse which is allowed by Ordinance so that they can be ridden during inclement weather and in the winter; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone: the property is zoned Suburban Farms, it is a long "bowling alley" lot which is popular in the southwestern part of the Township, the lot is narrow but is extremely long; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts: in Suburban Farms, animals are allowed which occurs on other Suburban Farms zoned properties in the area; the granting of the variance or modification will not be materially 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 on the following findings: it is in the Suburban Farms district/area; further based on the following findings of facts, the granting of the revised variance would not impair an adequate supply of light and air to adjacent property; would not unreasonably increase the congestion in public streets; would not increase the danger of fire or endanger public safety; or unreasonably diminish or impair established property values within the surrounding area due to: the petitioner has six adjoining neighbors that are in favor of this variance request; and would not impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township; also, the petitioner was willing to reduce his request from 3,000 sq. ft. to 1,800 sq. ft.

Trustee Flood amended the motion, re-supported by Board Member Koscierzynski, to add that the existing barn that the petitioner will be adding on to is at 60 ft. from the west property line, it will not be going any closer than the building that is already there.

Roll call vote was as follows: Durham, yes; Walker, no; Flood, yes; Koscierzynski, yes; Yaros, no;

Motion Carried 3-2

AB-2018-25, Richard L. Jewett, 1146 S. Long Lake, 09-01-265-046

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting two (2) variances from Zoning Ordinance No. 78:

Article 27, Section 27.05.H.:

- 1) A 10' rear yard setback variance from the required 10' rear yard setback to build a 6' tall privacy fence on the rear property line.

Article 6, Section 6.07, District R-3:

- 2) A 10' side yard setback variance from the required 10' side yard setback to build a 6' tall privacy fence on both side yards.

Mr. Jewett, 1146 S. Long Lake, presented.

Chairman Yaros clarified that there is already an existing fence there on both sides. Mr. Jewett replied, yes, he wants to replace the chain link to a 6 ft. fence. He explained he has a son with autism who tends to climb over the chain link fence. Chairman Yaros commented, that is definitely a hardship.

Chairman Yaros asked if the existing fence on the side of the property goes all the way back to the rear property line? Mr. Jewett said it does. Chairman Yaros then said, basically Mr. Jewett is adding a fence along the rear property line and has an existing fence along the side now. Mr. Jewett said, correct. Mr. Jewett explained there is a 4 ft. chain link fence and then there is a 6 ft. fence next to that, inside of it.

Vice Chairman Durham clarified that everywhere Mr. Jewett has fence, it will be 6 ft. Mr. Jewett responded, all the way around the backyard.

Trustee Flood commented that Mr. Jewett got a warning from a Code Enforcement Officer for already having a 6 ft. fence. He also clarified that there is decorative lighting on the fence. The hardship is having a disabled son who likes to climb the 4 ft. fence; Mr. Jewett needs something tall enough to keep his son in the yard and to keep him safe. Mr. Jewett concurred, his son is autistic and cannot communicate with someone if he gets lost.

Trustee Flood clarified that the existing 6 ft. fence was put in where it was because Mr. Jewett didn't know he needed to meet property setbacks for a 6 ft. fence. Trustee Flood said he did not have a problem with this request.

There was discussion about Mr. Jewett flipping the 6 ft. fence around so that the smooth side would face his backyard so that his son couldn't use the support braces to climb over it. Mr. Jewett replied he didn't believe his son was strong enough to pull himself up and over that size fence. Mr. Jewett said he wanted to have the nicer side of the fence facing the neighbors. Board members concurred that is what they usually request but, in this situation, they would be ok if the fence was turned around. Mr. Jewett said he felt that wouldn't be necessary.

Chairman Yaros noted there was no one in the audience to challenge the request.

Moved by Board Member Kosciuszynski, seconded by Chairman Yaros, that in the matter of ZBA case #PC-2018-25, AB-2018-25, Richard L. Jewett, 1146 S. Long Lake, 09-01-265-046, the petitioner is requesting two (2) variances from Zoning Ordinance No. 78: Article 27, Section 27.05.H.: 1) A 10' rear yard setback variance from the required 10' rear yard setback to build a 6' tall privacy fence on the rear property line, and 2) Article 6, Section 6.07, District R-3: a 10' side yard setback variance from the required 10' side yard setback to build a 6' tall privacy fence on both side yards **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 following Practical Difficulty: the petitioner has a son that is autistic and impaired and if he were to climb the fence, he could injure himself; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone: the 6 ft. fence is already up and the petitioner is coming before them to make it right, the extraordinary circumstance is that the taller fence is needed for his child's safety; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts: the petitioner needs the 6 ft. fence to keep his son safe; granting the variance or modification will not be materially 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 on the following finding of fact: where the house is located, it is not far from a lake and the fence is necessary for the safety of the petitioner's family.

Board Member Koscierzynski amended the motion, Chairman Yaros re-supported, to add that there is an existing 6 ft. fence along the sides of the property, the petitioner will be adding a 6 ft. fence to the rear of the property.

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

Motion Carried 5-0

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

Memo from Planning & Zoning Coordinator Frey dated July 18, 2018 regarding the withdraw of ZBA case #AB-2018-19, Robert Cavanaugh. Trustee Flood added there was a situation that was brought up about Mr. Cavanaugh agreeing to donate some of his property along Fernhurst to the Road Commission. That donation could not take place because of a sewer main that runs along the road and there is also a sewer lift station there; to move those would have been extremely costly. Also, it was Trustee Flood's understanding that Mr. Cavanaugh was now going to build the house following Ordinance requirements and will no longer need any variances.

Memo from Planning & Zoning Coordinator Frey dated July 10, 2018 regarding the dates cases could be postponed to.

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

None

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Board Member Koscierzynski, to adjourn the meeting at 8:16pm.

Respectfully submitted,



Lynn Harrison
PC/ZBA Recording Secretary
Charter Township of Orion

August 13, 2018

Zoning Board of Appeals Approval