

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY, JANUARY 14, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, January 14, 2019 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
Tony Cook, Alternate

ZBA MEMBER ABSENT:

Loren Yaros, Chairman

CONSULTANT PRESENT:

OTHERS PRESENT:

Mark Chavaux	Deborah Mirch
John Navarro	Gloria Arra
Vicki Navarro	Nathan Eller
Greg Korleski	Lynn Harrison

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. ELECTION OF OFFICERS

Moved by Vice Chairman Durham, seconded by Trustee Flood to nominate and re-elect Loren Yaros for the Chairman position for 2019, that the nominations be closed and a unanimous ballot be cast.

Motion carried unanimously.

Moved by Trustee Flood, seconded by Board Member Koscierzynski to nominate and re-elect Dan Durham for the Vice Chairman position for 2019, that the nominations be closed and a unanimous ballot be cast. **Motion carried unanimously.**

Moved by Vice Chairman Durham, seconded by Board Member Walker to nominate and elect Lucy Koscierzynski for the Secretary position for 2019, that the nominations be closed and a unanimous ballot be cast. **Motion carried unanimously.**

4. MINUTES

11-26-2018, Regular Meeting Minutes

Moved by Trustee Flood, seconded by Secretary Koscierzynski, to approve the 11-26-2018, Regular Meeting minutes as presented. **Motion carried**

5. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

6. ZBA BUSINESS

A. AB-2019-01, Mark Chavaux, 3640 Kern Road, 09-25-400-032

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

The petitioner is requesting two variances from Zoning Ordinance 78, Article XXVII, Section 27.02, Subsection A.8 (over 2.5 acres):

1. a 200 sq. ft. variance above the allowed 1,400 sq. ft. Maximum Floor Area of Detached Accessory Buildings to build a 1,600 sq. ft. pole barn
2. a 276 sq. ft. variance above the allowed 1,900 sq. ft. Total Maximum Floor Area of All Accessory Buildings to build a 1,600 sq. ft. pole barn

Mark Chavaux, 3640 Kern Road, the petitioner, presented. He stated that he is here to ask for permission to build a 1,600 sq. ft. pole building.

Vice Chairman Durham noted that he visited the property and that the petitioner will need to build a good size road to be able to get to the proposed building along with a “bunch of cement”. Mr. Chavaux concurred. Vice Chairman Durham said he noticed there were cars parked outside on the property and a boat – would it be a fair statement that the proposed building would help clean up the property by concentrating things in one place? Mr. Chavaux replied, absolutely.

Vice Chairman Durham then said that even as large as the building would be, it would not be easily seen from the road. Mr. Chavaux agreed.

Board Member Cook asked, in terms of building it, is it something he is going to contract or build himself? Mr. Chavaux responded, that it would be contracted.

It was noted there was no correspondence from surrounding neighbors received.

Vice Chairman Durham commented that Mr. Chavaux has one neighbor far to the south which there was no input from and a tree line to the north - he hasn't heard from anybody? Mr. Chavaux said, correct.

Board Member Walker asked if there was any reason why Mr. Chavaux couldn't reduce the size of the building so that he wouldn't need the variances? Mr. Chavaux replied, that he did give that some thought but his overall intention was to buy an RV and be able to park it in the pole building - to be able to put everything in it so they are not out in the elements.

Vice Chairman Durham asked how big was the property? Mr. Chavaux said, 2.65 acres.

Trustee Flood commented that the size of the building is a good size, did Mr. Chavaux plan on putting any trees in to screen his property from the Pulte sub? Mr. Chavaux replied, he was planning on getting some hybrid poplars, he heard they grow very fast and have a nice spread. He added that he was going to clear some of the scrub brush, he wanted to get a tractor and equipment to clean up the property.

Vice Chairman Durham clarified that he was told the property was a foreclosure and was vacant when Mr. Chavaux acquired it. Mr. Chavaux said, yes, and he has put a lot of money into it – this is what he would like to do as the next step.

Secretary Koscierzynski commented that the house is 1,126 sq. ft., the pole barn will be bigger than the house. Mr. Chavaux said, yes, if the basement is not counted towards the square footage of the house.

Vice Chairman Durham asked if there was anyone here that would like to speak to this matter, there was not.

Secretary Koscierzynski asked when Mr. Chavaux was planning on building the pole barn if approved? Mr. Chavaux replied, very soon. He noted that he has a road permit from the Road Commission to construct a road going to the pole barn because there is no access currently.

Vice Chairman Durham asked if the permit had an expiration date? Mr. Chavaux said he believed it did but did not have it with him. He explained he just got it so believes it should be good for a while.

Trustee Flood commented that one of the things he looks at is the acreage – Mr. Chavaux has almost 2 ¾ acres and is not asking for any setback variances. He concurred with Board Member Walker about asking if it could be built a little smaller so that no variances would be needed. Because Mr. Chavaux said he wanted to store an RV in the barn, he considered that a practical difficulty – the pole barn would have to be large enough to do so. Trustee Flood concurred that it would be nice to be able to store everything inside.

Vice Chairman Durham asked if Mr. Chavaux planned on buying an RV whether or not he received the variances for the pole barn – there are self-storage place around? Mr. Chavaux replied that he wasn't sure if he would buy one if he didn't get the variances, but would prefer to keep it inside.

Secretary Koscierzynski commented that the property does have exceptional circumstances because of where it is located. The pole barn will be large but there aren't any neighbors close by that it will be an eyesore to. The property is kind of isolated.

Vice Chairman Durham said, that as it was staked out, people would see it as they come down Kern Road but then it wouldn't be seen again.

Mr. Chavaux added that this will be his final residence and does not plan on moving again.

Trustee Flood stated, for the record, that Mr. Chavaux wouldn't be using the pole barn for any type of commercial business. Mr. Chavaux concurred.

Moved by Board Member Cook, seconded by Vice Chairman Durham, that in the matter of ZBA case #AB-2019-01 Mark Chavaux, 3640 Kern Road, 09-25-400-032, who is requesting two variances from Zoning Ordinance 78, Article XXVII, Section 27.02, Subsection A.8 (over 2.5 acres): 1) a 200 sq. ft. variance above the allowed 1,400 sq. ft. Maximum Floor Area of Detached Accessory Buildings to build a 1,600 sq. ft. pole barn; and 2) a 276 sq. ft. variance above the allowed 1,900 sq. ft. Total Maximum Floor Area of All Accessory Buildings to build a 1,600 sq. ft. pole barn 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 size of the property which is 2.679 acres and there are no front yard, side yard or rear yard variances needed; 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 zoning district: the property is very isolated and the pole barn would only be visible by someone traveling west on Kern Road for a short time; the variances are necessary for the preservation of enjoyment of a substantial property right possessed by other property in the same zone or vicinity based on the following facts: he and his neighbor, who has a similar sized property, are fairly isolated; granting the variances or modifications will not be materially detrimental to 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: there is nothing from the fire department or any other public safety department that have concerns about this being constructed; further, based on the following findings of facts, granting this variance would not: impair an adequate supply of light or air to adjacent property; would not unreasonably increase the congestion in public

streets; would not increase the danger of fire or endanger public safety; would not unreasonably diminish or impair established property values within the surrounding area; or, in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township

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

Motion Carried 4-1

B, AB-2019-02, John Navarro, Vacant Lot N. Long Lake, 09-01-176-048

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

He is requesting four variances from Zoning Ordinance 78, Article VI, Section 6.04, Zoned R-3:

1. a 10-ft. front yard setback variance from the required 30-ft. front yard setback to build a home 20-ft. from the front property line (N. Long Lake)
2. a 22-ft. front yard setback variance from the required 30-ft. front yard setback to build a home 8-ft. from the front property line (Beardslee Drive)
3. a 17-ft. rear yard setback variance from the required 35-ft. rear yard setback to build a home 18-ft. from the rear property line
4. a 4.02% variance above the Maximum Lot Coverage allowed of 25% for a Maximum Lot Coverage of 29.02%

John Navarro, 1456 Oakmont Ct, the petitioner, presented.

Mr. Navarro explained he would like to get a variance for an offset to build a single-family home for him and his wife on the subject property. He introduced his wife, Vicki.

Vice Chairman Durham commented that he had difficulty finding the property as did Board Member Cook. Vice Chairman Durham verified that the property has a blue house on one side of it, then there is a vacant lot and Beardslee comes in. Mr. Navarro said, yes.

Vice Chairman Durham then explained that the property has two front yards because it is on a corner. Mr. Navarro said, correct.

Vice Chairman Durham said that while he was out looking at the property, noticed that the property behind it sits up at a greater elevation than the subject property. It was his opinion that no matter what Mr. Navarro does, he wouldn't impair sight lines to the lake for any of his neighbors.

Secretary Koscierzynski read letters from residents received regarding this case who were not in favor of the variances being granted. Reasons for their opposition were: the variances were excessive, they pose a danger to traffic on Long Lake and Beardslee Dr., the home will obstruct views, and will be a danger for walking and biking pedestrians. Letters were from Gregory Korleski, 608 Butler; Steve Farrington, 625 Beardslee Dr.; Ted Booze, 659 Beardslee Dr.; William Caddick, 631 Johnson Dr.; and Joanne Purdon, 589 N. Long Lake Blvd.

Vice Chairman Durham asked Mr. Navarro if he was aware that this "level of upset" was out there? Mr. Navarro replied, no, not at all.

Vice Chairman Durham reiterated that he visited the site and, to him, it didn't appear this request would cause sight line issues or walking and driving issues. He then asked Mr. Navarro how he was going to handle the parking. Mr. Navarro replied, that in front of the house there will be room for 2 cars to park on the property, off the road.

Trustee Flood said he noticed a For Sale by Owner sign on the property, the packet documents indicate the property is owned by David Massoglia – therefore, is Mr. Navarro the prospective buyer? Mr. Navarro said, yes. Trustee Flood then asked about the different color strings used to stake the property. Mr. Navarro explained the pink string indicated the footprint of the house and the white string indicated the porch and the deck – he believed it would be easier for the ZBA members to look at it that way.

Trustee Flood reiterated that the property has two front yard setbacks - corner lots are more difficult to develop for that reason. The Township has setback requirements so that sight lines won't be obstructed.

Board Member Cook commented that he made a mistake and drove by the petitioner's current residence and then seeing the property in question – said, he isn't seeing the vision. Mr. Navarro replied they are trying to down size, he is getting to the end of his career and this will be their final home. With the water access and having grandkids, they thought it would be nice.

Board Member Cook asked if they have decided yet whether they want to add the dormer noted on the plans? Mr. Navarro replied, no, not until they sit down with the architect. Board Member Cook then asked about a basement. Mr. Navarro said they would like a basement but were not sure the land would perk correctly.

Vice Chairman Durham asked if they add the dormer, would it increase the overall height of the structure? Mr. Navarro said, the dormer would be up approximately half way to the roof. He explained the pitch of the roof is pretty high, normally when someone does that, because of the square footage on the inside, a dormer would add more living space.

Secretary Koscierynski was concerned about there being enough room for emergency vehicles to get in and out of there, will the home be too close to neighbors? It was Vice Chairman Durham's opinion that putting a house there would have no effect on emergency vehicles getting to it. Recording Secretary Harrison added that the plans were looked at by the Fire Marshall and he had no issues.

Trustee Flood asked the petitioner if he could adjust the house so that at least the request for the front yard variance could be reduced? Mr. Navarro replied that the floor plan in the packet shows the main floor of the house to only be 890 sq. ft., if they reduced that by 10 ft., the house would be extremely small. It was Mr. Navarro's opinion that the size of the house will fit in with the rest of the neighborhood and the variances fit in with other properties in the area, which was indicated on one of the sheets he provided.

Vice Chairman Durham asked if Mr. Navarro knew how close he would be to the neighbor next door, the blue house? Mr. Navarro said he was not sure how far off the property line that house was, but if it is 10 ft. off the property line, then he would be 30 ft. away from the house.

Vice Chairman Durham asked for comments from the public.

Deborah Mirch, 615 N. Long Lake, commented that she owns the blue house next door and the house is setback where it is supposed to be. She said that she is in favor of beautifying that corner, it is a cute house but was concerned about possible water run-off. Her property butts up to the subject property which is lower. She asked if Mr. Navarro will have a professional builder or will he be building the home himself? Will the property be graded? Will she have to incur costs to level the area between her house and his? Vice Chairman Durham replied that her question might best be addressed by the Township Building Official who could not be here tonight. However, in his opinion, the property would have to be leveled and, that it is not legal to allow water to go from one property to another. Mr. Navarro would not

be allowed to redirect water to her property – he did not see where there would be any cost to her. Vice Chairman Durham suggested she call the Building Official at the Township.

Gloria Arra, 602 N. Long Lake, commented she lives across the street from the subject property. She had concerns about the proposed driveway being directly across from her driveway as she already gets a lot of flooding on her property. She explained how extreme the flooding is at times and the measures they took to help alleviate it. When asked, she said the water comes from the “hill” and it comes down the road – the drain in that corner does not drain well. She said that when it rains there is a “river” of water that comes down Beardslee. She asked that if Mr. Navarro builds on that property, that he moves a drain to the front of his house. It was her opinion her garage will be deluged with water. She noted that she is in favor of building a home there, but concerned what might happen to her house. Vice Chairman Durham said he understood her concerns and again, this might be a question for the Building Official.

Greg Korleski, 608 Butler, commented his property is on the hill behind the subject property. He explained how the rain water is supposed drain through an underground drain however that overflows all the time, it has been like that for a long time. He did note the County does come out once in a while to clean it but there is a high-water table there. Mr. Korleski was concerned about traveling the roads when it snows and what repercussions there might be if a house is built closer to the road than what is allowed. He said there is already an issue not being able to see people coming down the “hill”. Vice Chairman Durham asked, would that, in his opinion, make that lot unbuildable? Mr. Korleski said, yes, it is dangerous, people going up the “hill” need to get a running start and if someone is coming down the “hill” they aren’t able to stop. Vice Chairman Durham asked if there was another way to get out of the subdivision? Mr. Korleski replied, yes, but it is all hills through there. Vice Chairman Durham said he understands Mr. Korleski’s concern but did not believe that reason would render the lot vacant forever. Mr. Korleski added that being he lives behind the property, if they build a two-story house, they would be looking right through the windows into his house, and it would block his view – he compared it to putting in a high-rise. Vice Chairman Durham asked Mr. Korleski how high his lot sits? Mr. Korleski responded, about 4 or 5 ft. above the retaining wall. Mr. Korleski also had concern about emergency vehicles and garbage trucks maneuvering around there and getting up the “hill” if the house is built closer to the lot line. He believed the house will be too close to other houses, and will have no backyard. Vice Chairman Durham said that is what is unique about that area, houses are close and people want to be around the lake, Mr. Navarro wants to also enjoy that too. Mr. Korleski agreed it is a nice-looking house but it will be right up next to his. He was also concerned about a large pine tree they would have to remove and an Oak tree on his property that building activity might kill off.

Nathan Eller commented that he used to live in the subject neighborhood, owns property there and has an interest in the property that is for sale. He addressed some of the comments that were heard. Regarding fire trucks – there was a fire from a downed powerline there about a year ago and there were no issues. Two fire trucks were able to get there in a matter of minutes. He concurred that getting up and down the “hill” in the winter that Mr. Korleski spoke of is difficult but there are two other ways to get in and out of the neighborhood. Mr. Eller said he is in favor of the Board granting the variances. The house would beautify the neighborhood - the lot is an eyesore being vacant.

Trustee Flood addressed a possible height issue. He looked through the ordinance and reviewed the request and the petitioner does not need a variance to exceed allowed height, the maximum height allowed in that zoning district is 30 feet. He also noted that they are only requesting a 4.02% variance above the allowed lot coverage of 25%. He explained that if someone wanted to build a house that didn’t require any variances, they could pull a building permit and do so – it is a permitted use on that property.

Vice Chairman Durham asked Mr. Navarro if he had any interaction with the Building Department? Mr. Navarro said, no.

Mr. Navarro replied to some of the public concerns. He noted that the house would be built by a professional builder and he ensured that Ms. Mirch would not incur any costs due to anything he is doing. He offered to let her be a part of the survey as it pertains to regarding the land. He would do anything possible to divert water from going onto her property. Regarding Mr. Korleski's concerns, he really couldn't address those but said he would feel the same way about someone wanting to build a house he feels would be too close or impairing a view of the lake. He and his wife are just looking to build a small house that requires some variances, not any different than any of the other houses in the neighborhood.

Vice Chairman Durham commented that in listening to public comments, there is a big concern about water runoff and doesn't know how to address that. He then asked Mr. Navarro if he had any preliminary discussions with a builder? Mr. Navarro replied, no, he was waiting to see if the variances were approved first.

Board Member Walker noted the topography of the property, and that the deviations Mr. Navarro is asking for are small, but they may be just enough to mess with the ingress and egress of water and that bothers him. He doesn't want to grant something that might cause someone else a problem.

Vice Chairman Durham agreed. He explained to Mr. Navarro that he has the right to ask for a vote on what he has presented tonight or to request a postponement to get input from the Building Department. Mr. Navarro asked for a postponement until the February 11th regular meeting.

Board Member Koscierynski concurred with Vice Chairman Durham and Board Member Walker. She commented that he would get good advice from the Building Department and, she would think that he would want his neighbors to like him.

Vice Chairman Durham said that Ms. Mirch and Ms. Arra may also want to consult with the Building Department.

Mr. Navarro asked what, other than information on diverting water, would the Board like him to bring back? Vice Chairman Durham suggested he consult with the Building Department and let them know what stalled this, something in writing would be helpful. Regarding the traffic flow, he believed there were other alternatives. Mr. Navarro is fortunate that it appears the neighbors aren't opposed to him building there but do have legitimate questions.

It was noted that Chairman Yaros will not be at the February 11th meeting nor will Board Member Cook. It was also noted that because the item is being postponed to a date certain, 300 ft. notices will not be sent out.

Moved by Trustee Flood, seconded by Vice Chairman Durham, that in the matter of ZBA case #AB-2019-02, John Navarro, Vacant Lot N. Long Lake, 09-01-176-048, to postpone action per the petitioner's request to obtain more information until the February 11, 2019 ZBA regular meeting.

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

Motion Carried 5-0

7. PUBLIC COMMENTS

None

8. COMMUNICATIONS

Memo from Planning & Zoning Clerk Harrison regarding ZBA Appointment

Lucy Koscierynski was reappointed for another term.

Memo from Planning & Zoning Clerk Harrison regarding Item Postponement Dates

Memo from Planning & Zoning Clerk Harrison regarding Possible Meeting Cancellation

Being there are no agenda items for the January 28th meeting, the Board can choose to cancel the meeting.

Moved by Trustee Flood, seconded by Secretary Koscierynski, to cancel the January 28, 2019 ZBA meeting due to lack of agenda items. **Motion Carried**

9. COMMITTEE REPORTS

None

10. MEMBERS' COMMENTS

Trustee Flood commented that the State fireworks law was redone and the Township has two ordinances this might affect, #143 and #78. He requested that the Township Attorney look at the law and advise if those ordinances need to be amended.

Board Member Walker commented the Friends of the Orion Public Library will be having a book sale next week, Tuesday through Saturday, he encouraged everyone to attend.

Board Member Cook congratulated Lynn Harrison on her promotion to Planning & Zoning Coordinator; and to Ms. Koscierynski on her reappointment.

11. ADJOURNMENT

Moved by Trustee Flood, seconded by Secretary Koscierynski, to adjourn the meeting at 8:10pm.

Motion Carried

Respectfully submitted,



Lynn Harrison
PC/ZBA Recording Secretary
Charter Township of Orion

February 11, 2019

Zoning Board of Appeals Approval