

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – TUESDAY MAY 28, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Tuesday, May 28, 2019 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
Mary Painter, Alternate Board Member
Lucy Kosciernycki, Board Member

ZBA MEMBER ABSENT:

Mike Flood, BOT Rep to ZBA

CONSULTANT PRESENT:

Dave Goodloe, Building Department Official

OTHERS PRESENT:

Michael Mahan	Bob Alexander
Ryan Cudworth	Richard Jewett
Stacey Alexander	

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

05-13-2019, Regular Meeting Minutes

Moved by Vice Chairman Kosciernycki, seconded by Secretary Durham, to approve the 05-13-2019, Regular Meeting minutes as presented. **Motion Carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

AB-2019-16, LO Fireworks, 660 S. Lapeer Rd., 09-11-428-015

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting Temporary Use Permit for Open Air Business from Ordinance No. 78, Article XXX, Section 30.11, F, 1, b:

1. A Temporary Use Permit for Open Air Business, to sell consumer fireworks from a tent June 20, 2019 – July 7, 2019.

Mr. Michael Mahan, 645 Johnson Dr., the petitioner, presented.

Chairman Yaros stated that he saw that he is on the other side of Taco Bell.

Mr. Mahan replied yes.

Chairman Yaros asked weren't you on the south side at one time?

Mr. Mahan answered that he was on the south side in the Optimized Plaza.

Mr. Mahan stated that it got a little expensive there.

Chairman Yaros asked if he could tell them about his operation.

Mr. Mahan replied that it is going to be a 20x20 under the exempt amount, there is a 500lb. limit., so he is exempt under those rules. He is not carrying that much product; he will just have his table out there.

Chairman Yaros said so you are going to have a 20x20 tent; and you are going to have a POD there to store that materials?

Mr. Mahan responded yes. He stated that he will have a generator for electricity. He runs the generator to a box.

Vice Chairman Durham questioned where is the generator going to be located?

Mr. Mahan replied 20-ft. from his tent. He said that the fireworks will be on the north side so the generator will be on the south side.

Vice Chairman Durham asked where does the generator go when they are not open?

Mr. Mahan stated that someone will be there 24-7. It is a small portable generator.

Vice Chairman Durham questioned if he was going to shut down for the night?

Mr. Mahan responded that he will shut down at midnight.

Vice Chairman Durham inquired if the generator goes in the POD?

Mr. Mahan replied he could.

Vice Chairman Durham said what he is trying to determine is that no hot generator is going to get in with fireworks.

Mr. Mahan said no not at all.

Board Member Painter questioned if he has had any problems in the past or sighted for anything?

Mr. Mahan replied no nothing at all. He said that he cleans up his mess, he is a local person, and he has seen the remains of other people; he takes pride in his town.

Board Member Painter asked viewing the drawing, coming in you have an entrance and an exit, but when showing the booth, you show two exits?

Mr. Mahan responded that he must have two exits out of the tent for the workers inside of the tent.

Board Member Painter questioned how do they get in then?

Board Member Painter referred to the drawing and asked this area is open, correct?

Mr. Mahan answered yes, it will be open, they will be in the center, and the tables will be on the outside underneath the tent. In the back there will be caution tape with pylons and there will be a little gate for them to go in and out of, not really a gate but there has to be two means of egress, in and out of the tent itself.

Chairman Yaros questioned on the drawing it shows an entrance and an exit, that is for the public?

Mr. Mahan replied yes.

Chairman Yaros noted that the back two exits are for the workers to get inside to the tables.

Mr. Mahan replied yes; the public will not be able to get back there it is so they can get safely out if something happens.

Board Member Koscierzynski read a letter from LaHood Properties, dated May 13, 2019, address to Penny Shults. She read the letter as follows: Dear Board of Appeals, I am the managing member of the property owner adjacent north of the proposed Temporary Use Permit for the sale of fireworks, we object to this for two reasons, 1.) safety concerns of the fireworks being close to their property incase of a major mishap, shrapnel can go a great distance with only a tent to contain the missiles. 2.) the unsightliness of a tent, they hope that the Board of Appeals denies the applicant and suggests that the applicant find a location in a building with a fire suppression system that would contain any mishap.

Board Member Koscierzynski questioned is LaHood Properties are they the owners?

Chairman Yaros asked do you have permission from the owners?

Mr. Mahan responded absolutely.

Board Member Koscierzynski asked who are they?

Mr. Mahan stated that Charly Allen used to own that lot, now Tracy Rubin owns it; and there is a letter in there signed.

Board Member Koscierzynski questioned who is LaHood Properties?

Mr. Mahan replied that he had no idea. Star Bucks or Taco Bell are the only adjacent properties.

Chairman Yaros stated that if they have the owner's permission which he does show, that he has the owner's permission to be there. You had an operation very similar on the other side of Taco Bell and a very similar fashion that you ran without any problems. There are tents in several locations, the law states that there can not be other fireworks within a mile and there are none of which we know of right now, so it meets that criteria and if he has permission from the owner, he meets the State Statue.

Board Member Painter noted that there is also a letter from the Fire Marshal that says that the Fire Department must conduct an inspection of the tent because it is a temporary structure.

Mr. Mahan said right.

Chairman Yaros noted that he must provide phone numbers for people to contact incase there is a problem. Does the Building Department require that?

Building Official Goodloe said that they do an inspection.

Chairman Yaros asked so they must give them a phone number they can call for inspection too.

Mr. Mahan noted that yes because he will need an inspection, he has an inspection from the State coming out June 20, 2019.

Vice Chairman Durham questioned that he had stated he would be there 24-7, where are you going to stay?

Mr. Mahan said that someone will be there 24-7, yes, he will be there most of the time and sometimes he will stay out there all night, as well to protect the property.

Chairman Yaros asked if he was going to have some type of motorhome or anything?

Mr. Mahan replied no, there will be no camper no nothing.

Board Member Koscierynski noted that he lives in Lake Orion.

Mr. Mahan replied yes for 50 years now and he is hiring Lake Orion people to work there too.

Moved by Durham, seconded by Yaros, that in the matter of ZBA case #AB-2019-16, LO Fireworks, 660 S. Lapeer Rd., 09-11-428-015, that the petitioners request for Temporary Use Permit from Zoning Ordinance No. 78, Article XXX, Section 30.11, F, 1, b: to open and run an Open Air Business, specifically fireworks; be **granted**, the petitioner would be using the property for permitted purpose and they have demonstrated that they will be complying with the required conditions for an Open Air Business. Conditions of approval are as follows: they note that the Ordinance requires that there be no other Open-Air Businesses within one mile, there are none. Applicant will provide phone numbers to the Building Department of contact people that can be reached anytime of day or night. Hours of operation they have 10a-12m, the articles will be secured in a storage POD which makes it a lot easier. Fire Department approval will be required prior to opening. They are going to be using a generator for power they have discussed where and their dates will be June 10 – July 7, 2019. The petitioner has operated a very similar business in the past and has had no issues. He advised the petitioner that he is subject to inspection by Fire Department and or Building personal at any time.

Vice Chairman Durham amended the motion, Chairman Yaros re-supported, to add that the petitioner must provide a \$1,000 cash bond for reinspection if and as necessary. If someone comes out and reinspects and you don't make it, they must have the \$1,000 cash bond for them to come back.

Discussion on Motion:

Mr. Mahan asked he must pay \$1,000 for this inspection?

Building Official Goodloe replied it is just a bond.

Mr. Mahan said he has a \$1,000 bond with the State already.

Chairman Yaros noted that the ordinance states that the petitioner must supply a \$1,000 cash bond for reinspection. The reason for that was, they changed the ordinance because the Fire Department had to go and reinspect one of them several times because they had a person living there and they had all sorts of problems.

Vice Chairman Durham asked Building Inspector Goodloe, if no additional inspections are required the bond will be refunded?

Building Inspector Goodloe replied that is correct.

Mr. Mahan questioned if they must come back, if the Fire Marshal comes out and says that he doesn't like the way he did something, fix this and I will come back, that is not counted against him?

Building Inspector Goodloe replied that typically that is when it would be, that is called reinspection fee.

Mr. Mahan asked it is going to cost him a \$1,000?

Chairman Yaros replied no whatever the cost of the inspection is he would have to pay; it is a \$1,000 cash bond so that the Township knows they will have the money there to pay it whatever that inspection fee is.

Building Inspector Goodloe said the inspection fee is \$60.

Chairman Yaros noted that whatever the Township ordinance requires that is what he will have to meet.

Mr. Mahan stated ok he will get with Tammy.

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

Motion Carried 5-0

AB-2019-17, Bob & Stacey Alexander, 600 Fernhurst, 09-03-254-006

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 1 variance from Ordinance No. 78, Article Section 6.04, Zoned R-3:

1. a 7.4% variance above the allowed 25% lot coverage for a total lot coverage of 32.4%, to add a 350 sq. ft. deck to an existing house.

Mr. Bob Alexander, 660 Fernhurst the petitioner, presented.

Chairman Yaros asked maybe he could explain to them a little about what his request is.

Mr. Alexander stated that right now there is a very small deck that is unusable, they have two chairs and a small table, so what they would like to do is expand that. The footprint is 20x14 which would double the size of the deck and then allow for stairs because right now the deck sits about 10-ft. off the ground and there is no way they have access to the lake and their boat.

Chairman Yaros noted that the footprint is 25x14.

Mr. Alexander said correct the extra 5 is the stairs.

Board Member Walker questioned when their house was built?

Mr. Alexander replied in 2014.

Board Member Walker asked if they were the original owners?

Mr. Alexander responded, no.

Board Member Walker asked when they purchased the property?

Mr. Alexander replied approximately 4 years ago in 2015. The house was built as a spec home, they were the first owners of the house. Marley Anntob from Oxford was the actual builder.

Mr. Alexander stated that he included a picture she had also built the same house right next door to them, and they were granted a permit for a larger deck. They have a slightly larger footprint as far as the lot size.

Chairman Yaros said that he is only one vote, his feeling is that you purchase a house on a lake to use the lake and generally most people consider that their frontage, because that is primarily where you are going to spend your time. He saw the they really didn't have much of a deck before and in his eyes that is not that big of a deck 25x14, 14 feet out 25 feet wide, and really 20 foot because you have the stairs.

Board Member Koscierynski read two letters one from Jeff Schloff at 650 Fernhurst and from Michael Kellar 660 Fernhurst dated May 11, 2019 and they both had no issues with the Board granting the variance.

Board Member Koscierynski stated that the Practical Difficulty would be that you must have the deck to use the lake.

Mr. Alexander stated yes and there are safety issues, there are two doors, one is the garage one is front that are literally four feet next to each other, so if there is ever a fire in that part of the house, they would have no way to get out.

Board Member Koscierynski questioned that it doesn't infringe with public safety with getting in and out of there.

Moved by Board Member Koscierynski, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-17, Bob & Stacey Alexander, 660 Fernhurst, 09-03-254-006, that the petitioner quest for a non-use variance from Zoning Ordinance No. 78, Article VI, Section 6.04, Zoned R-3: a 7.4% variance above the allowed 25% lot coverage for a total lot coverage of 32.4%, to add a 350 sq. ft. deck to an existing house be **granted** because the petitioner has demonstrated the following standards for variance 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: due to the unique circumstances of the property, there is a small yard he has lake access and the current deck is not useable and doesn't look like it is safe; 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 on a small lot and they don't have much space; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other by other properties in the same zone or vicinity based on the following facts: the property is on a small lot and they need to have lake access and to enjoy the lake the deck is necessary; welfare or materially injurious to the property or improvements in such zone or district in which the property is located base on the following finding of fact: there isn't anything that would make the welfare of other property owners injurious here. Further, based on the following findings of facts, the granting of this variance would not: impair adequate supply of light and air to adjacent property.

Board Member Koscierynski amended the motion, re-supported by Chairman Yaros to add that when this was advertised in the Lake Orion Review the map that was printed was the wrong map this was done by Lake Orion Review, everything else was correct.

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

Motion Carried 5-0

AB-2019-18, Ryan Cudworth, 349 Waldon Road, 09-26-151-007

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 4 variances from Ordinance No. 78, Article Section 27.05 (H)(2):

1. A 2-ft. variance above the allowed 6-ft. privacy or decorative fence height to erect a privacy fence on the west property line 8-ft. tall.
2. A 2-ft. variance above the allowed 6-ft. privacy or decorative fence height to erect a privacy fence on the east property line 8-ft. tall.
Article XXVII, Section 27.01 (C) (1) (b) – Lot Width 60 to 65 feet.
3. An 8-ft. side yard setback variance (west) from the required 8-ft. side yard setback to erect an 8-ft. privacy fence 0-ft from the lot line.
4. An 8-ft. side yard setback variance (east) from the required 8-ft. side yard setback to erect an 8-ft. privacy fence 0-ft from the lot line.

Mr. Ryan Cudworth, 349 Walden Road, presented.

Chairman Yaros noted that 8-ft. is a high fence.

Mr. Cudworth stated that he would like withdraw the first two variances. They decided that a 6-ft. fence would be plenty.

Chairman Yaros said they would still need a 2-ft. variance from the Ordinance for a 6-ft. fence.

Mr. Cudworth asked he thought that anything above 4-ft. required the full 8-ft. off the property line?

Chairman Yaros said that everything above 4-ft. requires a variance. If you are going to do a 6-ft. fence you still need a 2-ft. for a 6-ft. fence on the lot line. So, you still need two variances for the height and for the side-yard setbacks which is 0-ft.

Building Official Goodloe, noted that they could build a 6-ft. fence if it is 8-ft. off.

Chairman Yaros said yes you can build a 6-ft. fence if it is 8-ft off, but you can't build a 6-ft. fence on the lot line without a variance.

Mr. Cudworth correct, which is still the second two variances.

Chairman Yaros replied ok that is true, so you are right, so withdrawing the first two for the 2-ft. above for the 8-ft. So, you are proposing to put a 6-ft. fence on the lot line; explain why you need that.

Mr. Cudworth replied there is an existing 4-ft. fence it is a little dilapidated, it is just a chain-link fence, that he would like to replace that with a nicer larger privacy fence. Also, they are having their wedding reception in September and they just wanted to get everything looking nice and updated. They do have a neighbor that likes to collect scrap and wait for it to pile up and then go scrap it and get some money back. He felt that they had the right to do whatever he pleases with his property; it doesn't get out of hand really, but they prefer not to look at and not have their guest sitting right next to it.

Chairman Yaros asked what side is that on?

Mr. Cudworth answered that it is on west side.

Chairman Yaros questioned why do you need the east side?

Mr. Cudworth stated that there is a 4-ft. fence, he just wants to replace that fence leading up to the shed.

Chairman Yaros added his problem is that there are no 6-ft. fences anywhere in that area, he looked up and down; a lot of times they get into an area where there are a lot of 6-ft. fences, but he couldn't find any within that area. A lot of people were using arborvitae to separate their lots and even their back-lot lines he noticed quite a few, but he didn't see any 6-ft. fences.

Board Member Durham asked if they have tried to deal or talk to the neighbor on the right- hand side about your concerns on the west side?

Mr. Cudworth said he has, they are fine with him putting up a fence.

Board Member Durham questioned if he spoke with them regarding the scrap?

Mr. Cudworth replied he hasn't because he feels he has the right to do with what he wants to he just prefers not to look at it.

Board Member Durham noted if he is staying with ordinance limits.

Mr. Cudworth said that there is not stuff all over the yard there is just a clear view from his deck right to where he keeps it in the back, it is all open.

Board Member Durham asked how deep are those lots?

Mr. Cudworth replied that both of their lots are 350-ft.

Board Member Durham noted it seems like there should be a less intrusive way to deal with this. If the guy is outside of ordinance limits, he needs to get in ordinance limits, that might solve your problem. Then that would be something you would have to take up with the Building Department. He is not a fan of the stockade compound looking fences, because you can see them as soon as you drop over the hill where those buses are coming down Walden you will be able to see it. There is no way you can make them attractive.

Board Member Painter noted that she didn't look at the fact that there are no other fences in the area. It is a long lot he does have a fence there. You can see what is in the back. She is not a fan of fences, but she doesn't have that big of a problem with this because of the existing fence and because she wouldn't want to look at that water area next to the house either on the other side. She doesn't have much of a problem with it.

Board Member Kosciuszynski stated that she doesn't have a problem with it either, only because she understands the need for privacy. She did wonder if they did consider buying a bunch of shrubs and let them grow out and have privacy and it looks prettier than a fence. She does understand a need for privacy.

Board Member Durham questioned if they know the distance on the east side that they would want to put that fence.

Mr. Cudworth replied that he didn't know the exact distance it might be roughly 100-ft.

Chairman Yaros stated so you are asking for 100-ft. on the east side and from the house all the way to the lot line on the west side.

Mr. Cudworth replied correct.

Board Member Walker stated that his concern is that he is not sure that the scrap is enough for him to grant them their fence. He likes the fact that the other Board Members threw out the idea of arborvitaes which he is not crazy about because they grow so fast, but they do, they are the tall skinny pine trees that you see everywhere, and they grow like weeds either that or bushes it would look so much nicer if they could work out something with their neighbor.

Chairman Yaros replied they wouldn't grow fast enough for their wedding.

Mr. Cudworth replied correct in September.

Mr. Cudworth had images for the Board to look at of the neighbors back yard.

Mr. Cudworth stated that the images were various times over the last 3 months. The neighbor is constantly building up the scrap and taking it out. It doesn't look like that 24-7.

Vice Chairman Durham questioned Building Official Goodloe, are they allowed to scrap in this zoning area?

Building Official Goodloe replied absolutely not, they can't do that.

Vice Chairman Durham added there are 5 pressurized tanks sitting there 6 maybe.

Board Member Painter stated that they are caught in a crossfire because they want to keep good relationships with their neighbor, but they don't want to look at that, which you can't blame them for.

Vice Chairman Durham said how they keep a good relationship with their neighbor is have the ordinance person be the bad guy.

Vice Chairman Durham stated that he does this kind of work in another community, Ordinance Enforcement, and when he gets a call from somebody, he advises them to say out of it and he will drive by and say "oh look what I found today" and I will handle it from here. That way they don't associate their neighbors with a problem. He gets paid to be hated, you must live next door to them.

Mr. Cudworth said hence the pictures.

Board Member Painter asked if they wanted to come-in he could build it 4-ft. fence?

Chairman Yaros replied that they already have a 4-ft. fence, but in order to get the 6-ft. they need a 2-ft. variance.

Vice Chairman Durham asked if it would be advisable for the gentleman to consider pulling this back to the first possible meeting and in the meantime put Ordinance Enforcement on this guy and giving them a run at it.

Board Member Walker asked when is the wedding?

Mr. Cudworth replied end of September.
Board Member Walker replied there is a lot of time.

Mr. Cudworth said unless you are trying to build a fence.

Vice Chairman Durham noted that he would hate to see a fence go up and now they are stuck with it and it cost a lot of money too, when an ordinance person might be able to solve your problem if they get aggressive with the guy.

Ms. Alycia Isler, 349 Walden Rd., stated to be perfectly honest, even if all the metal was gone in his yard, there are still many other problems. They have a barn that is falling over, he has 4 dogs which are constantly coming over into their property and going in their yard; they have children that constantly ride their bikes and four-wheelers and go-carts go through their back yard without permission. These are all the things that are causing problems with the neighbor. They haven't confronted them at all.

Chairman Yaros replied that is the kind of stuff that they need to know. Now by putting the fence up will that stop the dogs from coming into your property.

Ms. Isler replied yes. They are trying to be civil and they haven't confronted them about any of this so far; this is their first house and they are trying to stay on good terms and the fence seems like the best way to do that.

Chairman Yaros asked if they have talked to either of the neighbors about the fence?

Ms. Isler replied yes, both to the left and right.

Chairman Yaros questioned if either of them has a problem.

Mr. Cudworth replied that the one on the east side said he just came back from Texas and that everyone has a fence there and no one knows each other.

Ms. Isler stated on the east side they are only going to be putting a 100-ft. fence so they will still be able to see each other.

Board Member Walker asked how is the dogs and the kids get into their yard?

Ms. Isler replied that the fence they have right now, the existing fence, only goes 150-ft. so the entire back portion is open. The kid is 12 and he is constantly riding his bike through it.

Board Member Walker questioned if they are going to have the fence the whole length of the property on that side and only 100 on the other side?

Mr. Cudworth said correct, also on the east side there is a drainage ditch and past the shed it is really overgrown it is really covered over there so it is not necessary to put the fence all the way back on the east side.

Chairman Yaros stated that throws another slant on it because 250-ft. of fence is a lot of fence to put in there and the only barriers he saw were plants, the arborvitaes were quite a bit around there. He never saw any 6-ft. fence, but he doesn't have to deal with dogs either, he likes to see open when he can.

Building Official Goodloe said having 4 dogs is a violation of the ordinance.

Ms. Isler said they don't want to get their neighbor in trouble.

Chairman Yaros stated not following the ordinance is not their problem that is our problem.

Building Official Goodloe noted if all that stuff started to harbor rodents, and you end of having kids and there are rats. That is why we have these ordinances is to keep things safe. They try to handle things in a tactful manor, and they approach them in a customer service friendly. Typically, we get compliance without an issue's and feels that it is in their best interest to look at this.

Chairman Yaros added regardless if you get the fence or not.

Building Official Goodloe said it is in the whole neighborhoods best interest to make sure that it is cleaned up.

Chairman Yaros noted that they still have the issues of kids coming through on their property and dogs.

Building Official Goodloe asked what was causing the grass issues in the pictures?

Ms. Isler replied that was a lot of brush that they had cleared, they just cleared it a couple of weeks ago so there is no grass yet.

Mr. Cudworth stated that when they staked it off to see where the actual property line was it turned out they had about 8 more feet than they realized so they are going to plant some grass seed there.

Chairman Yaros asked the Board if they had a Motion? The request is for a 100-ft. on the back of the house on the east side 100-ft. to the shed 6-ft. fence and then on the west side from the back of the house to the south lot line that is for a 2-ft. variance to install a 6-ft. privacy fence, good side out on the lot line.

Board Member Walker stated that the petitioners have withdrawn two of their requests already, so showing some kind of good faith of trying to get it resolved in a reasonable fashion.

Moved by Board Member Walker, seconded by Chairman Yaros, that in the matter of ZBA case #PC-AB-2019-18, Ryan Cudworth, 349 Waldon Road, 09-26-151-007, Zoning Ordinance No. 78, Article XXVII, Section 27.05 (H) (2) to **grant** the petitioner's request as amended for 1) a 2-ft. variance above the allowed 4-ft. to allow a decorative or privacy fence to be erected 6-ft. tall on the entire (west) side of the property, from the back of the house to the south property line. 2) a 2-ft. variance above the allowed 4-ft. to allow a decorative or privacy fence to be erected 6-ft. tall on the (east) side of the property 100-ft. back side of the house, to **be granted** because the petitioner's did demonstrate that the following standards for variances have been met in this case as they have set forth facts which show in this case: the petitioner did show the following Practical Difficulty: the petitioner indicated that their property is not completely fenced and the neighbor has dogs that enter their property, children that drive 4-wheelers or bicycles through their property and could somehow injure themselves, due to the unique characteristics of the property, they are not related to the general conditions of the property in that area; there are exceptional and extraordinary circumstances applicable to the property involved that do not apply generally to other properties: because of the lack of fencing and the neighbor, along with the debris in the neighbors yard; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity: because the other properties do not have the same difficulties that the petitioner's have; the welfare or material injurious to the property or to improvements in such zone are based on the following findings: there is no impairment of any supply of light or air to adjacent property; there is no congestion to the public; no increase of fire or danger to the public safety; it will not unreasonably diminish or impair established property values within the surrounding area.

Board Member Walker amended the motion, Chairman Yaros re-supported, to change since it is on the property line, they are granting an 8-ft. variance from the 8-ft. requirement that the 6-ft. fence, to be on the property line. They are granting an 8-ft. setback variance from the required 8-ft.

Discussion on Motion:

Vice Chairman Durham asked if they are certain where their rear corner post/pins are?

Mr. Cudworth replied, yes.

Vice Chairman Durham added that they don't need to stray over the property line on top of everything else.

Mr. Cudworth said correct.

Vice Chairman Durham questioned if they were certain where they are going to fall?

Mr. Cudworth answered, yes.

Chairman Yaros added they are aware that they must have the good side of the fence out.

Mr. Cudworth replied yes.

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

Motion Carried 5-0

AB-2019-19, Richard Jewett, 1146 Long Lake Rd., 09-01-265-046

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 2 variances from Zoning Ordinance 78, Article VI, Section 6.04, Zoned R-3:

- 1) A 5-ft. variance from the required 35-ft. rear yard setback to build an addition to an existing home 30-ft. from the rear lot line.
- 2) A 3.87% variance above the allowed 25% lot coverage for a total lot coverage of 28.87% to add a 1,136 sq. ft. addition to an existing house.

Mr. Richard Jewett, 1146 S. Long Lake, the applicant, presented.

Chairman Yaros asked to explain to them the reason they are doing this?

Mr. Jewett replied the reason he was there was he was looking for an addition on his home to make his house ADA compliant for his son.

Chairman Yaros stated that they meet the setback you just need a 5-ft. on the rear, you meet the side-yard setbacks you just need the rear and then lot coverage of a minimal of 3.87%

Board Member Koscierzynski said that she was there yesterday and she talked about where he was wanting to do this. They have everything stacked out like they like.

Chairman Yaros said that he didn't have a problem with the 5-ft. from the back it is not causing any problems that he saw. There is nobody here to speak to it, the neighbors don't have any problems.

Board Member Koscierzynski added and he needs it because of his son's disabilities.

Vice Chairman Durham asked on his drawing, show him where the addition is going to be.

Mr. Jewett approached the Board to show them where the addition on the drawing was going to be.

Board Member Painter stated that the swimming pool will be removed.

Mr. Jewett said the pool will be removed.

Board Member Painter asked what kind of container is that?

Mr. Jewett replied yes, it is a container which is a storage container which is holding up the wall, which is the driveway, it keeps it from washing away because it keeps washing backwards.

Board Member Painter asked how big is this?

Mr. Jewett said 20-ft. POD it is temporary storage.

Vice Chairman Durham noted that Mr. Jewett had said it is going to hold the driveway up.

Mr. Jewett replied currently it is because it is washed out right there so he put lumber there, there are 4x4's stacked to try to make a retaining wall because you have to dig it back, and he didn't want to dig back that way because his well is there.

Vice Chairman Durham questioned the POD has nothing to do with the driveway?

Mr. Jewett said correct the POD is adjacent to the driveway, which is a separate parcel that he owns.

Vice Chairman Durham asked have they been out there before for other variances?

Mr. Jewett replied they were there for a privacy fence, because his son climbs over the fence and escapes, so he has a 6-ft. privacy fence along the perimeter which is inside the 4-ft. fence of his.

Mr. Jewett said the house was vacant for 10-years. When the economy went, the house went vacant for 10 years.

Moved by Vice Chairman Durham, seconded by Yaros, that in the matter of ZBA case #AB-2019-19, Richard Jewett, 1146 S. Long Lake, 09-01-265-046, to **grant** the petitioner's request for two variances from Zoning Ordinance No. 78, Article VI, Section 6.04, Zoned R-3: a 5-ft. variance from the required 35-ft. rear yard setback to build an addition to an existing home 30-ft. from the rear yard lot line: a 3.87% variance above the allowed 25% lot coverage for a total lot coverage of 28.87% to add a 1,136 sq. ft. addition to an existing house; **be granted** because the petitioner did demonstrate that the following standards for variances have been met, the petitioner does have some Practical Difficulty: that has nothing to do with him it is not self-created, the petitioner has a young man that is going to need the home to be ADA compliant and that is what the purpose of this addition is. It will make it easier for the family and for the young man to move about inside the house by outlooks; an exceptional or extraordinary circumstances or conditions applicable to the property: the property is essentially normal shaped normally used, it is just occupied by a young man that needs some special consideration to make things go better for him; 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: it is medically necessary that the home be brought into ADA compliance so he can move around; welfare it will not be or materially injurious to anyone around it will not impinge on the light or air or ability of fire or EMS to respond: it is on the side and back of the home; it does nothing to

the road and to the frontage; it will not increase any congestion; it should not do anything to the property values in the surrounding area due to: the fact that it is on the side and the rear of the property; or, in any other respect, impar the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

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

Motion Carried 5-0

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

None

8. COMMITTEE REPORTS

None

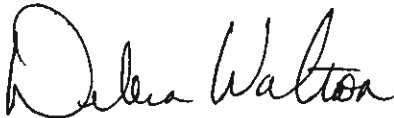
9. MEMBERS' COMMENTS

None

10. ADJOURNMENT

Moved by Vice Chairman Durham, seconded by Board Member Painter to adjourn the meeting at 7:59p.m. **Motion Carried**

Respectfully submitted,



Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

6/10/19
Zoning Board of Appeals Approval