

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY JUNE 24, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, June 24, 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
Mike Flood, BOT Rep to ZBA
Mary Painter, Alternate

ZBA MEMBER ABSENT:

Lucy Koscierzynski, Board Member

CONSULTANT PRESENT:

None

OTHERS PRESENT:

Mat Dunaskiss	Mike Kraut
Diane Dunaskiss	Lisa Franzoni
Jerry Richard	Mike Riddle
Randy McCoy	John Wyatt
Karee McCoy	Gabriel Carnell
Amanda Duda	Debra Walton
Kevin Laidla	Bud Mueller

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

06-10-2019, Regular Meeting Minutes

Moved by Trustee Flood, seconded by Vice Chairman Durham, to approve the 06-10-2019, Regular Meeting minutes as presented. **Motion Carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2019-26, Randy McCoy, 633 N. Long Lake, 09-01-176-049

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 2 variances from Ordinance No. 78:

Article XXVII, Section 27.03 (C)(3)(b)(ii) – Zoned R-3:

1. A 13-ft. variance from the required 20-ft. rear yard setback for a deck, to construct a deck to be 7-ft. from the rear property line.

Article VI, Section 6.04 Zoned R-3:

2. An 11.51% lot coverage variance above the allowed 25% lot coverage for a total lot coverage of 36.51%.

Mr. Randy McCoy the applicant, presented.

Chairman Yaros asked if he could explain a little bit it is kind of an unusual.

Mr. McCoy replied the reason he is doing this because the deck was in bad shape and he would like to eliminate the angle and make it look right. He likes the house very much, but he is not going beyond the house, it is just a little bit bigger.

Chairman Yaros asked if there were questions from the Board.

Board Member Painter stated that she was out there a couple of times. When talking about the coverage she saw that there is something covering a boat; would that be taken into consideration with that also because it is on the property? It is not permanent, she didn't think.

Chairman Yaros questions the shed covering?

Board Member Painter replied where the boat is on the left-hand side.

Mr. McCoy said that is a canopy it keeps the boat out of the sun, but he will take it down in the winter. It is not permanent. He keeps it there so the sun doesn't beating-it up and the birds.

Chairman Yaros read through four letters received, one letter from Darrin McDonald at 675 Butler Dr., one letter from Amy & Dave at 655 Butler Dr., and two letters from Bud & Nanette Mueller 650 Butler Dr, all were opposed.

Chairman Yaros asked the applicant if he played a lot of music?

Mr. McCoy stated that they must remember it is not just him, they have dogs in the neighborhood that are barking all the time, they have a neighbor that play music too, the boats go by with loud motors, there is noise everywhere.

Chairman Yaros stated that it seems to be what everyone is worried about is the major portion of the deck being built bigger toward the back of the lot line and not so much the part that is closer to the garage, that seems to be the part that they want to build bigger closer to the lot line. He knows that he wants to square it off.

Mr. McCoy replied yes only 6-ft. is all he is asking, but at the bottom he is losing because he is cutting off the lower part to become like a pare shaped, so he followed that point at the bottom and straight up. He could squeeze it in a little bit, but then again while was the only way he could get it.

Chairman Yaros said he knows he has some grade there.

Mr. McCoy stated that he is a lot of water issues coming from the property behind him, every time it rains all the water flows down, so he is trying to improve the water problem, but there is a downspout aiming to his property. He would rather be elevated than to have to trip and fall when it comes to mud.

Vice Chairman Durham noted that reading through these letters, they seem to have a common theme as the Chair brought up, they seem to be concerned about music. Now it appears that the applicant

might have some hearing related issues and it appears to him that would make the neighbors a little bit more tolerant. They speak of being overly crowded, he would hazard to guess unless they were one of the original cottage owners it was probably crowded when they got there. That is a tight area down there. For the applicant they must look at Practical Difficulty, and he looked on his application and he kind of ran by it, can he help him understand what the Practical Difficulty might be?

Mr. McCoy replied that the Practical Difficulty is access to the back of the house, to have a deck from his garage he has a back door in his garage, once he gets an updated deck, he will be able to walk up to his back door on the same level. He would like that improved, ultimately, he has the lower deck like a walkway part of the deck connected to, but it has too many challenges here, he wants it on the same level if possible.

Vice Chairman Durham asked what is the widest part of the old deck that they have taken off?

Mr. McCoy replied the widest part of the deck is down on the bottom in between the upper deck and the lower deck.

Vice Chairman Durham questioned and that would be about how many feet?

Mr. McCoy said he is losing 4-ft. at the bottom but would gain 6-ft. on the top.

Mr. Bud Mueller 650 Butler Dr. stated that the last letter that he submitted to them was his. That is a tight area and there is not question about it and this variance is going to make things even tighter over in that little triangle situation they have there. He thinks that Randy has done a remarkable job working on their home there, he and Karee, they have done terrific work, he just has a problem with the fact that they need to expand this deck make it even bigger towards the back of their lot, as they have even pointed out, when they have all this room forward, that they could work. They could even overtop their lower deck and turn that lower deck into a multi season deck, because sometimes it rains in Michigan. It just doesn't seem that they should have a 16-ft. wide deck 7-ft. from his lot line with his home right there and the situations that they have encountered over time. He just thinks that this needs to be looked at as a practical matter and he won't read the last page of this letter because he didn't, but as they know there are some issues that he wouldn't mind hearing read because they seem a little inappropriate to him for this whole situation, but if he doesn't think they should be read then he will not read them.

Chairman Yaros read the second page of the second letter that was submitted from Bud Mueller.

Board Member Painter questioned one of the questions that she had written the first time she went out to see this because they are talking about expanding their lot coverage to 36.51% and she was curious at what point what took them over the 25% coverage?

Chairman Yaros replied that when the Building Inspector went out there and recalculated and that is what it came out to be. They don't really know what the old lot coverage really was because it is gone, part of it. This is what the new calculation will be and that is what they are asking for.

Board Member Painter said that one of the things that she has always had a problem with is one house on top of another. She wonders if there is another way that possibly if they needed to add more of a deck it could go into a direction that it isn't infringing upon a neighbor's property.

Chairman Yaros stated he thinks that is what Mr. Mueller was alluding to that.

Board Member Painter said that she picked up on that and she thought it was an option that they might have instead of going back and going closer to the lot line of someone else, especially since they are

too close. She made the mistake of going down Butler which is awful. Just to look and see of the houses that would be impacted by this and she didn't think she would be happy with it.

Board Member Walker stated that following up on Vice Chairman Durham's comments on section 5 of the application the question was describe how the alleged Practical Difficulty has not been self-created. The applicant answered no difficulty at all just makes more sense to improve it.

Vice Chairman Durham questioned if they were sure that the applicant was done speaking?

Chairman Yaros asked the applicant if he had anything further to say?

Mr. McCoy said that he is trying to increase the value of that neighborhood. He wants to keep everything updated and look nice and comfortable. Every time he looks at his neighbor's property it is all covered with all woods never maintained, he is not complaining about it. He respects everybody in the neighborhood.

Moved by Vice Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-26, Randy McCoy, 633 N. Long Lake, 09-01-176-049, the petitioner's request for variances from Zoning Ordinance No: 78, Article XXVII, Section 27.03 (C)(3)(b)(ii) - Zoned R-3: 1) a 13-ft. variance from the required 20-ft. rear yard setback for a deck, to construct a deck to be 7-ft. from the rear property line; Article VI, Section 6.04 Zoned R-3: 2) an 11.51% lot coverage variance above the allowed 25% lot coverage for a total lot coverage of 36.51%, be **denied** because the petitioner did not demonstrate that the following standards for variances have been met in this case in which they set forth facts which show that in this case: the petitioner does not show Practical Difficulty: his lot does have some varying grand and things to that nature but he has overcome an amazing amount with what he has put on there now; in the application itself the petitioner in his or her own hands stated that there was no difficulty and Practical Difficulty is one of the prime hooks that they have to hang their hats on for approval; the following are not exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally apply to other properties in the same district: the property is cramped as are all the properties around it, the property is lower than the front then it is at the back, which the properties along that road all are, he did not see any unique values to this property; the variance is not 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: they have letters in the record that speaks to loud music, he is discounting the loud music for obvious reasons but they are cramped they do make some valid points about the fact that the lot lines would be impinged upon; granting of the variance or modification will be materially detrimental to public welfare and of concern to the property owners in the area, improvements in such zone or district in which the property is located based on the following findings: the neighbors are concerned he see that some of the reasons as valid others not so much but they don't have any Practical Difficulty to work with here.

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

Motion Carried 5-0

B. AB-2019-23, Mike Riddle, unaddressed lot on Cushing St., 09-03-278-026

Chairman Yaros explained that the following case was postponed from the June 10, 2019 ZBA Meeting. He is requesting seven variances from Zoning Ordinance 78:

Article VI, Section 6.04 Zone R-3:

1. A 15-ft. rear yard setback variance from the required 35-ft. rear yard setback (west) to build a house 20-ft. from the lot line.
2. A 15-ft. front yard setback from the required 30-ft. front yard setback to build a house 15-ft. from the lot line (east).

Article XXVII, Section 27.01 (C)(1)(b) Lot Width 66 to 69 feet

3. A 2-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 7-ft. from the lot line (north).

4. A 3-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 6-ft. from the lot line (south).

Article XXVII, Section 27.03 (C)(3)(b)(iii)

5. A 9-ft. setback variance from the required 20-ft. setback for structure to shoreline of a lake, to build a deck 11-ft. from the shoreline of a lake.

Article XXVII, Section 27.17(B)

6. A 1-ft. setback variance from the required 25-ft. setback for structure to wetland, to build a house 24-ft. from the wetland (south).

Article VI, Section 6.04 Zoned R-3:

7. A 19.24% lot coverage variance above the allowed 25% lot coverage for a total lot coverage of 44.24%

Mr. Mike Riddle, the applicant, presented.

Mr. Riddle stated that he is back in front of them this evening, they were there a couple of weeks ago and at the time they had asked for a number of variances, since that time they have gone back and tried to relook at their plans, their site everything they could and come up with what they hope is a fair compromise for everybody. There difficulties are that they are finding are their site, the width, the depth, the topography and trying to build a home that down the road they will be able to market with todays standards. They have tried to, and he believes they have met and kept uniformity on their street and for the project. Prior to this meeting it seemed like the lot coverage was one of the main sticking points and they were just over 44% and now the are at 37%. When they reduced their basement foundation their deck and they think from the new site plan and the architectural plans they can see what they have pulled away trying to still keep and create a very nice product for their self for the community and reduce the amount of site coverage. Their variances on the sides all changed also and were reduced because they reduced the foundation approximately 1-ft. on each side and 2-ft. in the rear, so that also changed their setback and also changed the setback from the lake which was approximately 11-ft. and now out to almost 17-ft. They have gone back and tried to produce a home that will be consistent in what they have. He is going to have Michael go through a few slides to put in perspective what they are trying to achieve, and it might give a better visual through the slides.

Mr. Riddle stated that what they did was took a drone went over the site and were able to put the home in on the slide. It looks very consistent to the neighbors, you will see another slide where the roofs and everything lines up, they look very consistent and it gives them a very good visual of how that site will look down the road. He showed them an aerial and they put the house in there so they could see what it looks like compared to the adjacent homes. They feel it is very consistent to what is already been approved and what is built, and they think it will be a benefit and a compromise and being very consistent with the subdivision. They then showed a slide with the neighbor's lot and their lot and shows that they are consistent with the setbacks. The next slide they showed the letting them see the size of the homes and the roofs are consistent. One of the things that came up when he was talking to the neighbor apparently there is parking issues, so they did expand it and they did show that they could actually get three cars in the front of the home, most driveways are not able to do that, so they wanted to show them that. The next slide gave them an idea of the type of home that would go there and again it is consistent with the neighborhood for a walk-out nice materials, nice home. Trying to go through and compromise and see what else has been built, he found a couple homes, one of them on Fernhurst and he knows what is in the past, is the past but this one at 1690 Fernhurst, and he went to the lot coverage and have been back and forth for two weeks upstairs trying to come up with the Building Department with the Assessing Department trying to figure out what would be their best approach and that one has 42% lot coverage, so that had come up before that they may have been asking for more than anybody had asked for and he was just trying to point it out that there has been some homes that were able to meet or exceed that. There was one other thing that came up, when he turned the site

plan in, the original site plan and they did their setbacks they did it based on what the criteria was that he still believe is the criteria and a deck could be different than the house when they did the setback, so he didn't know if they had it or not but the red calculations there are if they only went to the property line where when they read the ordinance at some points they go to the waters edge and others they go to the property line, so just to be clear because they had conversation this afternoon he had everything put on the drawing so, hopefully, that helps if there are any questions on setbacks and measurements.

Chairman Yaros stated that he reviewed their new proposal and he is looking at before, 1) is the same 15-ft. rear yard setback variance required 35-ft. rear yard setback; 2) was a 15-ft. rear yard setback variance from the required 30-ft. now it is 3.89-ft. front yard setback variance from the required 30-ft.; 3) is a 2-ft. side yard setback variance is still the same on the north side; 4) a 3-ft. side yard setback on the south side now at .17-ft. side yard setback variance from the required 9-ft.; 5) is from a 9-ft. setback variance from the required 20-ft. for the deck they now are requesting a 3.23-ft. setback variance from the required 20-ft. setback so the deck is 16.77-ft. from the shoreline which showed on the drawing; 6) they are withdrawing the request they no longer need it; 7) a 19.24% lot coverage variance is now a 12% lot coverage for a total of 37%.

Chairman Yaros added that they asked for the time to reduce it and he thinks that they took a lot of what they said and acted on it. They were talking about the corner of the deck being a little close to the lake, so they pushed that over to the north so personally he is one vote, but he has does not problem with what they are proposing.

Board Member Walker stated that he thinks that they have done a lot of good stuff, he still has somewhat of an issue with the lot coverage percentage. He is not saying he is going to vote against them because of that. Is there anything else can they chip away at that anymore?

Mr. Riddle replied probably not anything that would really give them percentage changes. He can't really reduce the deck anymore than they have. In order to get the type of home that they would like to get and they think that is what people would like, the first floor master, he thinks that they have reduced everything down to sizes that are equivalent to all of the neighbors and not just the neighbors but the area. In total their first floor is roughly 1,800-sq. ft. and when he had pulled it out before and he can do it again, their neighboring houses were 2,400-sq. ft. on the first floor, down to 750-sq. ft. but the average was right around 1,650-1,900-sq. ft. so that is what he needs to get the first floor. He unfortunately does not know where else he can go unless he starts back at scratch. They have really tried to squeeze, and compromise meet the requirements. He thinks they have shown through some of the other homes on the lake that they have created something consistent with their neighbors and something that they feel will enhance the neighbors and the community.

Board Member Walker asked if he moved his sign?

Mr. Riddle replied that he moved the sign and he weed wacked.

Mr. Jerry Richards 535 Indianwood, he is within the 300-ft. distance for notification of this. First thing he wanted to mention was he looks at the agenda and all the variances that are on the agenda for tonight are the same variances that were presented on the 10th, do they not update the agendas to reflect the new variances?

Chairman Yaros replied no it is a postponement; you have not seen the new one?

Mr. Richards stated that he found out that the new one had been submitted.

Chairman Yaros said that he has seen now.

Mr. Richards noted that he had seen it and in fact he had a conversation with Mike Riddle today in the Zoning office and that is where they shared the thoughts about the parking.

Chairman Yaros asked what he thought about the new proposal?

Mr. Richards responded first he wanted to commend this Board for the work that they have put into this. He had never participated in a ZBA before the 10th. He was duly impressed that each one of them had visited each of the properties that were in question and they had really great questions and expressed great concern, but more than that they have really expressed a lot of sympathy towards the people, they were very polite and very professional and having not been apart of that before they really impressed him. He was also was impressed with Mike's presentation tonight he did a great job on it. He still has an issue his issue is with the setback from the lake. They need to protect their shorelines and he doesn't believe that they should use other homes that got variances for a reason to establish a precedence for this home tonight. This home is being built as a spec, this home is not somebody that is trying to build a house for themselves, so this is all predicated on spec, market values potentially etc. This doesn't pose a hardship to these folks there could be further adjustments made to this and he knows that a considerable amount of money has already been invested in what they have done so far, but it is interesting that they came in with a real heavy duty laundry list of variances that they wanted and he almost thinks they knew that they were going to have to go away, so now they have made some concessions and the concessions are considerable but they could design a house that would fit in there and be within the zoning. The Board tonight has to decide if they are going to allow this issue or precedence to dictate what they are going do tonight or are they going to ask the people involved with it to go back to the drawing board, because this is not a hardship; just the case before they turned it down, they had several letters from the neighbors, they don't have letters from the neighbors but that doesn't make any difference relative to the setback on the lake. If they go out on the lake there is a lot of homes sitting on top especially in the Village, the Village has a different set of rules and regulations but unfortunately those homes are up into the 45-50% coverage, they don't want to be that in the Township, at least he doesn't think they want to be there. So, he would ask the Board to duly consider the fact that this is not a hardship. He does appreciate that they have put the side lines back to almost within the zoning and he believes those setbacks there on the sidelines are there for safety reasons, because if their house was to happen to catch on fire you certainly don't want to take the neighbors homes with them. He believes that the setback for the lake was established to protect the lake, they need to protect the lake it is the asset of their community they pay taxes based on that and they don't want to lose their lake. It is just one little bit at a time and over time they lose it; he asked that at least make sure that they protect the setback for the lake.

Chairman Yaros read a letter that came in from a current resident on 495 Cushing Rd., they were in favor.

Vice Chairman Durham stated that there was a letter from the Fire Marshal that states that he has read through the case and sees no significant issues or concerns at this time. He has seen it and has examined it from their side.

Chairman Yaros said that it is wider than the first proposal would have been, so that helps, every bit helps on the width.

Trustee Flood noted that these lake lots are the most difficult ones they must handle, historically they have struggled with these since he has been on the Board. Most of them were lake cottages and everyone wanted to put homes there now. Everyone has a valid reason here. He likes the concept that he pulled it back, he is very adamantly opposed to their first one and how close it was to the lake.

Building Official Goodloe said that the house is compliant it is the deck that is raised

Chairman Yaros noted that the deck is up in the air.

Trustee Flood added once you approve the one on the top then the one below it is approved. They are not going to make everyone happy.

Moved by Vice Chairman Durham, seconded by Yaros, that in the matter of ZBA case #AB-2019-23, Mike Riddle, unaddressed lot on Cushing St., 09-03-278-026, (this has been postponed from June 10, 2019) requesting 6 variances from Zoning Ordinance 78, Article VI, Section 6.04 Zoned R-3: 1) a 15-ft. rear yard setback variance from the required 35-ft. rear yard setback to the (west) to build a 20-ft. from the lot line. 2) a 3.89-ft. front yard setback variance from the required 30-ft. front yard setback to build a house 26.11-ft. from the lot line (east). 3) a 2-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 7-ft. from the lot line (north). 4) a .17-ft. side yard setback variance from the required 9-ft. side yard setback to build a house 8.83-ft. from the lot line (south). 5) a 3.23-ft. setback variance from the required 20-ft. setback for structure to shoreline of a lake, to build a deck 16.77-ft. from the shoreline of a lake. 6) a 12% lot coverage variance above the allowed 25% lot coverage for a total lot coverage of 37%, be **granted** because the petitioner did demonstrate that the following standards for variances have been met the petitioner shows that there is some Practical Difficulty: the lots are substandard size and they are not going to make anymore so it is a matter of having to build a house that will in fact be saleable, enjoyable and fit in nicely with the rest of the homes in the area; the petitioner also came back from the June 10th meeting with new specs for the variances tonight he has worked quite well and diligently with this Board to satisfy some of there concerns before; the following are exceptional or extraordinary circumstances or conditions applicable to property that do not generally apply to other properties in the same district or zone: it is a lake lot and it is on the small size, they want to maximize to the degree possible the house that they are going to put on it; the deck involved is the major part of the variance it is elevated it does not cover the ground it does not cover grass; the variances are necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity: it fits in very well with other houses in the area and the lot size the6 can only pull the house down so far; granting of the variances or modification 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: it fits in with the houses that are around it, it has adequate spacing, the Fire Department of the Township has looked at the plans they have looked at the case they have stated they have no concerns; granting these variances will not: impair an adequate supply of light or air to adjacent property; it will not unreasonably increase congestion in public streets: they have shown that they can get three cars in a parking area which are not doable in some of the houses down the road; it would not increase the danger of fire or endanger public safety; it will not unreasonably diminish or impair established property values within the surrounding area: if anything it will help to increase property values in the area.

Amended by Vice Chairman Durham, seconded by Chairman Yaros, that the findings of facts as far as hardships the meandering lot line along the lake lead to part of the problem with the setback of the deck, if it was squared off it would not have been a problem.

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

Motion Carried 4-0

AB-2019-25, The District Venue, 4005 S. Baldwin, 09-29-326-031

Chairman Yaros read the petitioners request as follows:

The petitioner is requesting 1 variance from the Sign Ordinance No 153:

Section 7, Residential Zoned Areas – Ground Signs

- 1) A 20-ft. variance from the required 20-ft. Road Right-of-Way setback, to erect a ground sign on the Road Right-of Way line.

and, is requesting 1 variance from Zoning Ordinance #78:

Article XXVII, Section 27.05(4)

- 2) a 20-ft. variance from the required 20-ft. greenbelt separation area to have 0-ft. between parking and a road.

Chairman Yaros asked the petitioner to come forward.

Chairman Yaros stated that he knows this has to do with the relocation of Baldwin Rd.; and you really have no other place to put the sign?

Mr. Gabriel Carnell, a Minister at Mt. Zion Church, presented.

Mr. Carnell stated that he owns and operates The District Venue which is a group counseling facility and a coffee house, it is a community house they do entertainment events public events.

Mr. Carnell stated that the Practical Difficulty is 2/3 of their property in the front are no longer there they are part of the main round-a-bout there at Gregory and Baldwin Rd. so they are not contesting that part of it just that now their road sign is non-compliant as a result, so they need these variances or their road sign will literally be touching their front parking spaces. Now that it is time to reinstall their road sign when they applied for the road sign request, they were made aware that their road sign is not compliant so then they got the documentation that they have. There are two Practical Difficulties that really dovetail one into the other, the first one really isn't the location of the road sign, the first one is the fact that Baldwin Rd. elevation has changed considerably higher and as a result drivers that pass by, their observance of the road sign, now, their road sign sinks 2-3 feet below grade, so that is the principle Practical Difficulty but nothing that really can be overcome unless they build the road sign up, that is not what they are asking but that dovetails with the next Practical Difficulty which is the location, which he has mentioned in his opening remarks. What he has is that Ordinance 153 requires a 26-ft. setback from the right-of-way, which what they can see from the drawing in front of them would touch the front parking spaces in front of their building. They are requesting a 0-ft. variance that way at minimum they can come out 26-ft. from that front parking space out into what would be the right-of-way. He did measure the car wash across the street, he wanted to find out what the setback was from the actual road and so when he did that measurement, he realized that what they are requesting would certainly be normal. The car wash across the street, their elevation didn't change theirs did considerably he is certain they all went to look and see it. Did they see the stakes he had with the caution tape?

Chairman Yaros replied yes.

Mr. Carnell said if they are traveling from the south heading north, there is a clearing space where they can see the road sign off to the right, but it is down a hill so they are asking for that road sign location and then also that they are able to reinstall the existing sign. What they are looking to do is take the same cabinet and have new face panels installed with different art work, kind of upgraded signage material to reflect the Baldwin project and then their building, they are going to have some facade work cleaned up and done there, so they want to spiff up the sign but the cabinet itself they would like to remain the same size which would be about 10-inches over the current length, but they need all the visibility they can get because they just can't see the sign the way they used to. Finally, he was speaking with Lynn Harrison and she told him that Ordinance 78 says that there is a greenbelt variance that requires a 20-ft. greenbelt from the road right-of-way, but as you see in the diagram that greenbelt tapers to 0-ft. right there towards the north side of the parking lot entrance, that is a formality where they are requesting a variance so that if they were to sell the building they are compliant and that would not be an issue in the future.

Chairman Yaros added that they will still have a little bit of a greenbelt around the sign according to the drawing but then it tapers to zero as you get towards their drive.

Mr. Carnell stated that they like that greenbelt it was a little sad for it all to go away but they are pleased with the overall round-a-bout, so it is not an issue for them.

Trustee Flood said that is the old Proper School there.

Mr. Carnell replied that is.

Trustee Flood noted that the plaque is still on the wall.

Mr. Carnell said that he has had the Gingell family come through, which he was able to meet, grandchildren that is, and they were able to give them the history of the Proper vs Gingell feud. He has had several people, one of the guys that works there for them now went to elementary school there. He loves the building.

Trustee Flood stated that he thinks he is going to find out that they judge each case on its own merit and they had to handle that already with the car wash and church across the street. As he has told the Board Members be prepared because you can see all the widening, they are doing on phase two along all that eastern portion and this was not created by them it was the Road Commission.

Board Member Painter stated that she feels very strongly, she feels that the people on Baldwin Road have really been beaten up over all of the improvements that are being made and they have really taken a hit from the beginning and feels they should help them out the best that they can.

Moved by Board Member Painter, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-25, The District Venue, 4005 S. Baldwin, 09-29-326-031, the applicant is requesting one variance from Sign Ordinance No. 153: Section 7, Residential Zoned Areas – Ground Signs 1) a 20-ft. variance from the required 20-ft. Road Right-of-Way setback, to erect a ground sign on the Road Right-of-Way line; and, is also requesting one variance from Zoning Ordinance #78: Article XXVII, Section 27.05(4) 2) a 20-ft. variance from the required 20-ft. greenbelt separation area to have 0-ft. between parking and a road, be **granted** because the petitioner did demonstrate that the following standards for variances have been met I this case in that they set forth facts which show that in this case: the petitioner does show the following Practical Difficult: to comply with the ordinance the road sign would be set too far back for visibility; 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: their problem was not self-created as most requests are that they get, as changes to the road construction took some of the ground needed to be able to comply; the variances are 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: that they should be allowed to have a sign that is visible to the cars going by to show that they are there; 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 of facts, the granting of this variances would not: unreasonably increase the congestion in public streets: because people looking for this location would be able to identify it and the signage being placed in an area where it could be seen; it would not increase the danger of fire or endanger the public safety due to: the Fire Marshal has stated that the Fire Department has no issues from a Fire Department stand point; the signage will not diminish or impair established property values within the surrounding area.

Amended by Board Member Painter, seconded by Chairman Yaros add that on the number two variance request of a greenbelt separation that it is a per the drawing that was submitted this date with the request for the variance because it is not the whole area it is just the area that is going to be zero. Also, to include to have the address on the sign.

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

Motion Carried 5-0

D. AB-2019-27, John & Jenny Wyatt, 890 Indianwood, 09-03-251-003

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting one variance from Zoning Ordinance 78, Article VI, Section 6.04 Zoned R-1:

- 1) a 6.25-ft variance from the required 10-ft. side yard setback (west), to build an addition to an existing home 3.7-ft. from the side property line (west).

Mr. John Wyatt, 890 Indianwood, the applicant, presented.

Chairman Yaros asked the applicant to explain to them about what they are looking for here.

Mr. Wyatt explained that they are looking for a variance to build an extension over an existing foundation on the property.

Mr. Wyatt introduced Rob who he has been working with, he is an architect trying to come up with a plan for the home.

Mr. Robert Clark with CBI Design Professionals said he has been working with Mr. Wyatt on the renovation to this home that they purchased recently. They are looking for a variance to the side yard ordinance, the variance is for a portion of the existing house that has a basement that is existing there and has been existing since the home was originally built, that goes to 3.75-ft. from the lot line, on the corner. It does taper it does not parallel the property line it is tapered from the property line slightly. This particular property tapers very heavily towards the lake, it starts out wide at the road and it tapers down to significantly as it goes towards the lake, which is what is causing the problem.

Chairman Yaros noted that it looks like a point.

Mr. Clark stated that if they go to end of the property it is a point.

Mr. Wyatt said the end of the property is in the lake. It is deceiving there he thinks it is about 67-ft. of shoreline.

Mr. Clark noted that it goes off his survey, so he wasn't positive.

Chairman Yaros said that he was just curious.

Mr. Clark said that the Practical Difficulty they have is they have an existing structure that is there right now, the top of the existing structure is in somewhat of disrepair at this point, it needs to be modified and replaced, the decking is becoming a problem there. The goal is for them to be able to pull the building out over top of what is the existing structure so they don't have a long term issue with this going forward in that, that area becomes a kitchen area as well, they have windows that are high on the wall there but they are not sight lines to the adjacent neighbors and he believes that they have some good support from the neighbors. He usually finds it easy to answer questions then it is to keep talking.

Board Member Painter stated when she was out there the other day she spoke with his wife Jenny and when she had looked at the drawing it shows that the steps are on the outside and those are going to be gone because they are going to put the steps down in the front, but it is going to lead right out to the lake, so that would take care of that if that was a problem or if anyone had a problem with that.

Chairman Yaros noted so it would be less non-conforming.

Board Member Painter said yes less non-conforming, and there was already a cover over that walkway anyway where the kitchen will be extended so it is not like it is adding something that no one has ever seen before on that side of the house. It looks like it is going to be nice and a great improvement.

Chairman Yaros read two letters from Todd and Jean Rachel at 950 Indianwood Rd. and from Jim Skiba from the Indianwood Improvement Association.

Moved by Board Member Walker, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-27, John & Jenny Wyatt, 890 Indianwood, 09-03-251-003, the petitioner is requesting one variance from Zoning Ordinance No. 78, Article VI, Section 6.04 Zoned R-1: 1) a 6.25-ft. variance from the required 10-ft. side yard setback (west), to build an addition to an existing home 3.7-ft. from the side property line (west), be **granted** because the petitioner did demonstrate that the following standards for variances have been met in this case in that they show facts which show in this case: that the petitioner does show Practical Difficulty: there are unique circumstances to this property and they are not retaliated to the general conditions of the property in this area in that the petitioner's home already has a basement so they variance is already in existence, they normally don't do variances that are to non-conforming properties but in this case it is not much of a non-conformance and it is going to make the property look nicer and be more practical for the petitioner; those are the exceptional or extraordinary circumstances that are applied to the property and they don't apply generally to other properties in the same district or zone: he has never seen such a build and such a request in his years of doing this; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other proper in the same area: because this will now allow them to enlarge their kitchen and it is not a large request for a variance; it will not be materially detrimental to the public welfare; there will be no congestion increases; no impairment of adequate light or air supply and no increase of fire or danger to the public safety.

Amended by Board Member Walker, seconded by Chairman Yaros, including that moving the stairs to the back they are decreasing the non-conformity and if they keep the trees unharmed.

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

Motion Carried 5-0

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

Chairman Yaros noted that there will be a July 8, 2019 ZBA Meeting.

8. COMMITTEE REPORTS

None


9. MEMBERS' COMMENTS

Chairman Yaros stated that everybody worked hard on this one case that was tough to do but they must make

10. ADJOURNMENT

Moved by Vice Chairman Durham, seconded by Board Member Painter to adjourn the meeting at 8:10p.m. **Motion Carried**

Respectfully submitted,



Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

7/8/19
Zoning Board of Appeals Approval