

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
******* MINUTES *******
REGULAR MEETING – MONDAY SEPTEMBER 23, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, September 23, 2019 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:

Lucy Koscierzynski, Board Member
Don Walker, PC Rep to ZBA
Mike Flood, BOT Rep to ZBA
Loren Yaros, Chairman
Dan Durham, Vice Chairman

ZBA MEMBER ABSENT:

None

CONSULTANT PRESENT:

None

OTHERS PRESENT:

Brett Holsworth	Gertrude Pearce
Sara Holsworth	Bill Bader
Joel Holsworth	Kathleen Kennedy
Mary Duenow	Debra Walton

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

Moved by Secretary Koscierzynski, seconded by Vice Chairman Durham, to approve the 08-26-2019, Regular Meeting minutes as presented. **Motion Carried**

4. AGENDA REVIEW AND APPROVAL

Applicant 5C requested to be removed from the agenda.

Moved by Commissioner Walker, seconded by Trustee Flood to remove 5C from the agenda.

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

Motion Carried 5-0

5. ZBA BUSINESS

AB-2019-36 Brett Holsworth, 651 N. Blocki Ct., 09-11-410-013 (postponed from the 8/26/19 meeting)

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

Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2)

- 1) A 10-ft. side yard setback variance (north) from the required 10-ft. side yard setback for a 6-ft. privacy fence to be erected 0-ft. from the side lot line (north).

Article VI, Section 6.05 Zoned R-3 & Article XXVII, Section 27.05(H)(2)

- 2) A 30-ft. front yard setback variance (Rochester Dr.), from the required 30-ft. front yard setback (duel frontage) for a 6-ft. privacy fence to be erected 0-ft. from Rochester Dr.

Mr. Brett Holsworth, 651 N. Blocki Ct., the applicant presented.

Chairman Yaros questioned the applicant that he had put a line from the pole back to the fence, and the fence was where the right-of-way was; correct?

Mr. Holsworth replied, yes; he had found the survey. He also used a metal detector to find the pins on Rochester Rd. and he spray painted them.

Vice Chairman Durham questioned how the current request differs from the previous request? Did he make any changes to the request?

Mr. Holsworth answered that he was willing to negotiate on the distance from the road. The Board had previously said that it would be better if he could make it 20-ft. away from the road like the remainder of the fence that will be behind the trees that no one would see. He would like to have it at 10-ft. but would not put it right at 10-ft. he would come in a little bit. If it was between 15-20-ft. from the road, he would not have to cut down any trees. He felt that everyone agreed that it needs to come in and they needed to know where his property line was.

Vice Chairman Durham stated that the neighbors thought it would be better if it was bright white instead of natural wood. They wanted some manufactured type fence instead of regular stockade. He went out and looked at it the second time, he would rather see just a stockade type fence because it would weather over time and tend to disappear where if it had color it would stay that color forever.

Mr. Holsworth noted that Lisa and Mike, their neighbor to the north, would settle for any type of material along their property line. Most of the fence would be hidden and discrete especially if it was an aged wood behind pine trees.

Vice Chairman Durham questioned if he wanted to follow the rail fence all the way down?

Mr. Holsworth replied that the split rail fence, he only wanted to follow that to roughly behind his barn and then go towards the barn. The split rail fence that is right up against Rochester Rd., would stay a split fence.

Mrs. Lisa Lee, 641 North Blocki Ct., lives next to Brett and Sara. She noted they sent a letter to the Board at the last meeting and have spoken to Brett and Sara regarding a fence between their homes. They would look at something they could agree upon that could go along the existing fence that is there.

Chairman Yaros said he liked the idea of a 15-ft. fence rather than a 10-ft. fence because it would then put it behind most of the trees. He also felt that if the petitioner used regular wood, it would weather and no one would even know it is there. The request would then be for a 6-ft. fence to be 5-ft. from the road right-of-way instead of 10-ft. – a 25 ft. variance for a 6-ft fence to be 5-ft. from the road right-of-way line; a 25-ft. variance instead of a 30-ft. variance.

Secretary Koscierzynski said the “Practical Difficulty” on the application stated that adhering to the required setbacks would not let him use all of his yard. She asked him to explain this.

Mr. Holsworth replied, regarding the fencing in the backyard, the more he fences that in, that would make more of his yard on the other side of the fence that he will not see or use, he would just be mowing it. He figured that because he is paying taxes on it, the more he can use of his property, the better.

Secretary Koscierzynski questioned, you want to use more of your yard - that is your practical difficulty?

Mr. Holsworth replied, yes.

Mrs. Sara Holsworth, the petitioner’s wife, said she is a nurse, and has safety concerns for her baby and dogs with the road back there. Regarding the pictures, she was aware there was a 4-ft fence back there and didn’t have an issue with it but now wants a taller fence because she does not want people to be able to throw dog treats into the yard - people walk on that road all the time.

Vice Chairman Durham noted that the vehicle damage they recently suffered that may have been caused by “pass-throughs” from Rochester to the property.

Mr. Holsworth answered, yes, the attached police report was because of some kids that walked across the back yard.

Ms. Lori Young, 640 Rochester Dr., asked, how high is the fence going to be?

Chairman Yaros replied, 6-ft.

Ms. Young questioned if it would be behind the trees?

Chairman Yaros asked her if she had seen the split rail fence? Ms. Young replied, yes. He replied that currently, their request is to go 5-ft. behind that.

Ms. Young asked if they would have to take the trees down to do that?

Chairman Yaros replied they would probably have to trim some but would not have to take them down. He believed that they would not see much of the fence.

Mr. Holsworth noted that he has planted over 500 seedlings – Norways, spruces, blues, maples, pine trees and cedars that should help thicken things up. He will, though, have to move some around for the fence so that there will be some trees between the road and the fence.

Chairman Yaros stated the variance request now is: #1 stays the same, a 10-ft. side yard setback from the required 10-ft. setback to put in a 6-ft. fence on the north property line; #2 changes to, a 25-ft. front yard setback variance, Rochester Rd., for a 6-ft. fence to be erected 5-ft. off the property line; correct?

Mr. Holsworth replied, correct.

Moved by Vice Chairman Durham, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-36, Brett Holsworth, 651 N. Blocki Ct., 09-11-410-013, the petitioner is seeking two variances from Zoning Ordinance No. 78: Article XXVII, Section 27.02 (A)(4) and Article XXVII, Section 27.05(H)(2): a 10-ft. side yard setback variance on the north from the required 10-ft. side yard setback for a 6-ft. privacy fence to be erected 0-ft. from the property line north; and Article VI, Section 6.04 Zoned R-3 and Article XXVII, Section 27.05(H)(2): a 25-ft. front yard setback variance (Rochester Dr.),

from the required 30-ft. front yard setback (duel frontage) for a 6-ft. privacy fence to be erected 5-ft. from Rochester Dr., be **granted** because the petitioner did show that the following Practical Difficulty exists: they have a very thick and wooded piece of property, you cannot see anything happening back there from the front, they have had a history of vehicle damage in that area that they believe was caused by people walking through; they have dogs that they want to keep contained and away from other people that use Rochester Drive for a walking route; exceptional or extraordinary circumstances: the property is very thick, they have two front yards and they are wanting to contain their property; they are going to use a wood type fence that over time should weather, “disappear”, and not stand out; they have worked with this Board to downsize their original request to move the fence further in off of Rochester Drive because they were aware that the Board had some issues with that distances as well as some of their neighbors; the variances are necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same zone: they are trying to secure the property; granting the variance will not be materially detrimental to public welfare in any way; further, based on the following findings of facts: granting the variances would not: impair anything to anybody regarding air or light; would not unreasonably increase the congestion in public streets – the fence is going to be further in from the split rail fence already there; it would not increase the danger of fire or endanger public safety in anyway; it would not unreasonably diminish or impair established property values; or, in any other respect, impar public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Discussion on the motion:

Ms. Katheryn Kennedy, 690 Rochester Drive, commented that the paperwork she received indicated the entire parcel was being fenced in, all the way around the land and to the pond. She understood that it has changed since that point but did not understand how it changed. Her concern was that most of that parcel is wetland and there is a lot of wildlife that have nesting patterns there that cause them to cross Rochester Drive. If a fence is put in that wetland area, turtles for example, would not be able to nest there anymore.

Mr. Holsworth asked if she knew where his pole barn was? Ms. Kennedy replied she did. He said it will stop at the pole barn.

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

Motion Carried 4-1

AB-2019-38, Gertrude Pearce/Bill Bader, 748 Walden Rd. 09-27-201-017

Chairman Yaros read the petitioner’s request as follows:

Two variances from Zoning Ordinance #78:

Article XXVII, Section 27.02(A)(8) Buildings, Structures, and Uses, for lot size over 2 ½ acres:

- 1) A 1,400 sq. ft. variance above the allowed 1,400 sq. ft. maximum floor area of detached accessory building to build a 2,400 sq. ft. detached pole barn in addition, to an existing 400 sq. ft. shed/garage.
- 2) A 1,373 sq. ft. variance above the allowed 1,900 sq. ft. total maximum floor area of all accessory building to build a 2,400 sq. ft. detached pole barn in addition to an existing 473 sq. ft. attached garage and an existing 400 sq. ft. detached shed/garage.

Mr. Bill Bader, 748 Waldon Rd., the petitioner, presented.

Chairman Yaros questioned, what is his difficulty that he needs a 60x40 building?

Mr. Bader gave a brief history of the property and that when he moved in, the house was small and didn't have a basement so he has no storage; the Practical Difficulty is, he doesn't have any storage in the house. He explained the existing barn is 20x20 and in disrepair. He also noted that as a hobby, he likes to restore vehicles.

Chairman Yaros said, there is a lot of stuff on the property - boats and old cars, but is still trying to come up with a Practical Difficulty of why Mr. Bader needs a 60x40 sq. ft. barn. He asked Mr. Bader if he really needs that much room?

Mr. Bader replied, in order to accommodate the motor home, the tractor, and all the equipment to maintain the property - he felt he needed that much room. Again, there isn't any storage in the house to store anything. The current garage has all his stuff in it from the house he moved from and his grandmother wants to park her car in the garage.

Chairman Yaros stated, he understands that and then asked, it seems like the building will be far from the house, why is that?

Mr. Bader answered, that it is an unused corner of the property that they can see from the living room so they will then be able to keep an eye on it and make sure it is secure.

Mr. Bader said the "Airstream" is in the backyard there is a small existing shed in the east field. The original purpose was a horse stable.

Chairman Yaros asked, how many acres he has?

Mr. Bader replied, 16.

Trustee Flood stated that he could reduce the square footage on his request if he removed the 400 sq. ft. shed; would he consider doing that?

Mr. Bader said he had some pictures of the shed and that he did plan on that coming down, but it was just a question of when.

Chairman Yaros said, if he agrees that the shed would be coming down, they would make that part of the motion; if in fact the variances are granted, the motion would included that the shed would come down.

Mr. Bader said, that would be something he would be willing to do.

Chairman Yaros stated, then if they take the shed out of the equation, the variance request would now be for a 1,000 sq. ft. variance above the 1,400 sq. ft. allowed; the request would be under 1,000 sq. ft., or a total of 973 sq. ft. which makes the request a little more "palatable".

Chairman Yaros explained that he could build a 35x40 pole barn with no variances if the 400-sq. ft. shed was removed – he could just build it. He said understands that in a 35x40 pole barn and if he puts the airstream in it, a boat, and a tractor to do the yard, he would probably need that much.

Mr. Bader said, said that he has some attachments for the tractor and would like to get some and be able to keep them out of the elements.

Chairman Yaros agreed that he would like to see the yard cleaned up.

Vice Chairman Durham said it was noted that it wouldn't be able to be seen from the road. The way that property ditches down, he believed it would be seen from the road - won't it?

Mr. Bader said, if someone looks in between the other houses, they will probably be able to see the roof.

Vice Chairman Durham was concerned about the boats, that one of them belonged to Mr. Bader's cousin. Is he looking to build an oversized barn to store his family's stuff.

Mr. Bader replied, that his cousin's boat is there because it needs some repairs, once those are done, it will be removed from the property.

Vice Chairman Durham asked if he planned on keeping the 16-acres mowed?

Mr. Bader replied, just the east and west fields.

Secretary Koscierynski stated that when she was there, she thought that the shed was in bad shape and that they had a lot of stuff in the yard.

Mr. Bader replied, he would like to get that all out of the yard and into the proposed building.

Commissioner Walker asked if he was going to build a driveway to the barn?

Mr. Bader replied that he has cut a gate into the fence there and there is a gate there now that accesses the west field.

Commissioner Walker questioned if he was going to mow in between there, to keep it cut down and drive on the grass.

Mr. Bader replied yes; both the east and west fields, he mows every two weeks.

Trustee Flood read a letter sent from Earl and Marie English at 810 Walden Rd., - they had no issues with it.

Mr. Bader stated that he has spoken with the neighbors and they all said they didn't have any problems with them.

Secretary Koscierynski was confused as to what the Practical Difficulty was. She understood that they had a lot of things out in the yard.

Chairman Yaros said that he has no storage in his house.

Secretary Koscierynski asked, then he would be taking down the shed?

Mr. Bader replied, yes.

Building Official Goodloe noted that if this property was zoned Suburban Farms (SF), 1,900 sq. ft. would be the maximum floor area allowed and a smaller variance would then be needed.

Chairman Yaros added, that being this is a 16 acre parcel in an R-2 zoning - another reason the variances are needed.

Moved by Secretary Koscierzynski, seconded by Chairman Yaros, in the matter of ZBA case #AB-2019-38, Gertrude Pearce/Bill Bader, 748 Waldon Rd., 09-27-201-017, requesting variances from Zoning Ordinance #78: Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot sizes over 2 ½ acres: a 1,000 sq. ft. variance above the allowed 1,400 sq. ft. maximum floor area of detached accessory buildings to build a 2,400 sq. ft. detached pole barn; a 973 sq. ft. variance above the allowed 1,900 sq. ft. total maximum floor area of all accessory buildings to build a 2,400 sq. ft. detached pole barn in addition to an existing 473 sq. ft. attached garage be **granted** because the petitioner did demonstrate the following standards for variances have been met in this case in that they set forth facts which shows that: the petitioner shows the following Practical Difficulties due to unique circumstances of the property and not related to general conditions in the area: the property is 16-acres and zoned R-2; 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 house is on a slab of concrete and have very little storage, the petitioner is willing to work with Board regarding the 400-ft. shed and will take it down; the variances are necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone or vicinity based on the following: there is no storage in the house, the garage is full, there are two people that live there, there are several items that need to be kept out of the elements; granting the variance 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 findings of facts; the property is 16-acres; it would not impair an adequate supply of light or air to adjacent properties; it would not unreasonably increase the congestion in public streets; or increase the danger of fire or endanger public safety: there is plenty of room for any kind of public safety to make it in and out of there; it would not unreasonably diminish or impair established property values within the surrounding areas; or, in other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Secretary Koscierzynski amended the motion, Chairman Yaros re-supported, to include that the shed needs to be demolished before a building permit can be issued. There is no need for any setback variance requests because the pole barn will be 15-ft. from the west property line and over 129-ft. from the south property line and behind the house several hundred feet from the road. It will be, at a minimum, 300-ft to 400-ft. from the road.

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

Mr. Bader asked if the existing shed had to be taken down before hand?

Chairman Yaros replied, yes, before he can get a building permit.

Mr. Bader noted there was stuff in there that he would like to be able to move into the new barn once it is completed. Would he be able to get a 6-month extension?

Chairman Yaros said he could speak with the Building Department.

Mr. Bader asked if he could contact them tomorrow.

Building Official Goodloe stated that he could contact him.

Mr. Bader wondered if that was a reasonable request?

Building Official Goodloe said they could work something out. They just want to make sure that a demo permit is issued and ready to go and then he would not be able to receive a final until that was done.

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

A. Memo from Planning & Zoning Coordinator Harrison regarding Postponement Dates

B. Memo from Planning & Zoning Coordinator Harrison regarding Possible Meeting Cancellation
Being there are no agenda items for the October 14th meeting, the Board can choose to cancel it.

Moved by Trustee Flood, seconded by Secretary Koscierzynski, to cancel the October 14, 2019 ZBA meeting due to lack of agenda items. **Motion Carried**

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

None

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Secretary Koscierzynski, to adjourn the meeting at 7:44pm.
Motion Carried

Respectfully submitted,



Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

October 28, 2019
Zoning Board of Appeals Approval