

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

***** MINUTES *****

REGULAR MEETING – MONDAY DECEMBER 9, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, December 9, 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
Mike Flood, BOT Rep to ZBA
Lucy Koscierszynski, Board Member
Don Walker, PC Rep to ZBA

ZBA MEMBER ABSENT:

None

CONSULTANT PRESENT:

David Goodloe, Building Official

OTHERS PRESENT:

Randall Kreger	MaryEllen Maddary
Anton Rozhanskiy	L.R. Gustin
Lira Merced	Debra Walton

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

Moved by Vice Chairman Durham, seconded by Board Member Koscierszynski, to approve the 11-11-2019, Regular Meeting minutes as presented. **Motion Carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2019-46, Randall Kreger, 711 King Circle, 09-10-283-020

One variance from Zoning 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 (northwest) from the required 10-ft. side yard setback for a 6-ft. privacy fence to be erected/replaced 0-ft. from the side lot lines (northwest).

Mr. Randall Kreger, 711 King Circle, presented.

Mr. Kreger stated that currently there is a 6-ft. privacy stockade type fence that has been there for several years and is in disrepair. They purchased the property 1 ½ years ago. They had the property surveyed and found that the existing fence is about 5-6 ft. inside the property line. They are asking to

have a new fence go in on the property line and then along the back side of the parcel so they could match up with an existing privacy fence which is on the opposite side of that property.

Chairman Yaros asked if this was the west lot line?

Mr. Kreger replied he thought his house faced southeast. There is about a 25-ft. section there and then it would run perpendicular to that, to match up to the neighbor's fence at 695 King Circle.

Chairman Yaros questioned if the fence starts at the white picket fence?

Mr. Kreger replied, yes.

Chairman Yaros said at the front of the house, the white picket fence and then it goes from there back.

Mr. Kreger replied that Chairman Yaros was looking at the opposite side of the house. Mr. Kreger was looking at the other side of the house.

Mr. Kreger stated that there is a stockade fence already in existence, they can't see it from King Circle Rd. and can barely see it from Heights Rd., because they have property from King Circle all the way back to Heights Road.

Chairman Yaros asked this is an existing fence that they would like to move over right on the lot line?

Mr. Kreger replied, yes.

Board Member Koscierynski commented that she went by the property and the fence is in bad shape.

Mr. Kreger noted that it has gotten worse since he had asked for a variance. It was being held-up by a rope.

Vice Chairman Durham asked if he was also going to replace the wooden walk-through gate?

Mr. Kreger replied yes; it is also part of their property. The wooden gate is not used, they are the only ones that go back there.

Vice Chairman Durham stated that the gate looked good, but everything attached to it looks like it is going to fall on the ground.

Chairman Yaros questioned what type of fence was he going to erect?

Mr. Kreger replied that they are trying to match up to the neighbor at 695 King Circle, which is a simple dog-eared fence. They got a quote from the same company that put the neighbors fence up so it would match.

Mr. Kreger added that he wanted to get the dog-eared fence, but his wife wanted to go to a composite type of material. They haven't figured out if it was going to be wood or composite fence but would be that style of fence that they are looking at.

Board Member Koscierynski questioned if the Practical Difficulty is that the existing fence was very old and that it is not on the property line?

Mr. Kreger replied, yes.

Chairman Yaros questioned if there was any dispute over the 5-ft.?

Mr. Kreger replied they had their property surveyed and the neighbor was mad and ripped the survey stakes out of the ground. The neighbor called the Township and Code Enforcer Al Daisley came over. Mr. Kreger explained everything to Al Daisley and showed him the survey and where the stakes were supposed to be. He told Al Daisley that they were going to have to get it surveyed again before anything goes in. Al Daisley advised him on the day they have it surveyed they should put in concrete markers so that it cannot be ripped out of the ground again. He was going to have it resurveyed on that portion of the lot.

Vice Chairman Durham asked if they had looked for metal pins?

Mr. Kreger stated that the surveyor looked for them and found some on the opposite side of the property. The ones on this side of the property were removed. When the surveyor put them in, he pounded in an orange cap that is supposed to go over the top of the re-rod, and the neighbor removed them the same day.

Moved by Board Member Koscierynski, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-46, Randall Kreger, 711 King Circle, 09-10-283-020, I would move that the petitioner's request for one (1) variance from Zoning Ordinance No. 78: Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2): a 10-ft. side yard setback variance (northwest) from the required 10-ft. side yard setback for a 6-ft. privacy fence to be erected/replaced 0-ft. from the side lot lines (northwest) be **granted** because the petitioner has demonstrated that the following standards for variances have been met in this case in that they set forth facts which show that in this case: the petitioner does show the following Practical Difficulty due to the unique circumstances of the property: the existing fence is in bad shape, the petitioner had a survey done and the fence isn't on the property line; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties: the fence that is there is in pretty bad shape and may not last the winter; 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 findings of facts: the existing fence is in bad shape and he is willing to spend money to make the neighborhood look better.

Discussion on the motion:

Board Member Walker felt that they should add that the petitioner is willing to line the fence up with the other fences and make this fence like the other fences also.

Mr. Kreger said it will look exactly like the other fence if not upgraded with a different material.

Board Member Koscierynski amended the motion, re-supported by Chairman Yaros, that the fence will line up with the neighbors' fence.

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

Motion Carried 5-0

B. AB-2019-48, Northern Sign for La-Z-Boy, 4829 S. Baldwin Rd., 09-32-377-073

One (1) variance from Sign Ordinance #153, Ground Signs Zoned BIZ:

- 1.) A 10-ft. road right-of-way setback variance from the required 30-ft. to allow a ground sign to be 20-ft. from the road right-of way.

Ms. MaryEllen Maddary with the Northern Sign Company in Auburn Hills, MI, presented.

Chairman Yaros stated that he went out and looked at it and it was staked out. There is a curve there that comes out where you can put the sign a little farther back. As the applicant stated in the application it will be farther back than Taco Bell's sign which is currently there. He felt it was the only spot that they could put it and didn't have any problem the location.

Vice Chairman Durham questioned if it was the applicant's opinion that was the only place to put the sign?

Ms. Maddary replied, yes.

Board Member Koscierynski said that she did some research on La-Z-Boy and she really felt that the sign was something they needed. It is a good location and she didn't have a problem with it.

Chairman Yaros added that the parking is right there, and they have the curb line which takes up quite a bit of room but is needed to get the required parking. Fortunately, they have an extrusion that goes out there where they can take it 20-ft. back.

Trustee Flood added that the sign meets all the ordinances. The Practical Difficulty would be the widening of Baldwin Rd. and the way the parking lot is set-up. He had no concerns about blocking the view because it is well back beyond the sight lines.

Moved by Trustee Flood, seconded by Chairman Yaros, that in the matter of ZBA case #AB-2019-48, Northern Sign for La-Z-Boy, 4829 S. Baldwin, 09-32-377-073, that the petitioner's request for: one (1) variance from Sign Ordinance #153, Ground Signs Zoned BIZ: a 10-ft. road right-of-way setback variance from the required 30-ft. to allow a ground sign to be 20-ft. from the road right-of-way be **granted** because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case: the petitioner does show the following Practical Difficulty: the Baldwin Road widening project and the way the parking lot is set on the approved site plans for the location of this sign; the following are exceptional or extraordinary circumstances or condition applicable to the property involved that do not apply generally to other properties in the same district or zone: the Baldwin Road widening and the Practical Difficulty of where the sign can be located; 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: as the other businesses located in that section of the Township along that new road; 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; it will not impair an adequate supply of light to adjacent properties; it will not unreasonably increase congestion in a public streets; it will not increase the danger of fire or public safety due to the setback and will not impede the road sight lines to ingress or egress from there; it will not unreasonably diminish or impair established property values within the surrounding area; or, in any other respect impar the pubic health, safety, comfort, morals, or welfare of the inhabitants of Orion Township.

Discussion on Motion

Chairman Yaros asked if he would add that the sign is farther back than the adjacent signs located in that same area.

Trustee Flood amended the motion, re-supported by Chairman Yaros to add that the sign is farther back than the adjacent signs located in the same area.

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

Motion Carried 5-0

C. AB-2019-49, Anton Rozhanskiy, 3900 Gregory Rd., 09-30-400-014

One (1) variance from Zoning Ordinance No. 78:

Article XXVII, Section 27.02 (A)(8) Buildings, Structures, and Uses, for lot size over 2 1/2 acres:

- 1.) a 338.09-sq. ft. variance above the allowed 1,900 sq. ft. total maximum floor area of all accessory buildings to build a 1,217.09-sq. ft. pole barn in addition to a 1,021-sq. ft. attached garage.

Mr. Anton Rozhanskiy, representing Merced Lira at 3900 Gregory Rd., presented.

Mr. Rozhanskiy stated that they are currently building a house at 3900 Gregory Rd. He added that Mr. Lira has grown up children which all have vehicles and has a large family. Mr. Lira would also like to use it for storing a recreational vehicle and a trailer instead of them sitting outside.

Vice Chairman Durham said that they are allowed a large building without coming before the Board, what is the need to stretch it? Would it be a deal breaker if they had to stay within the ordinance?

Mr. Rozhanskiy replied that the accessory building is under the allowed square footage, it is 1,400-sq. ft. and they are at 1,200-sq. ft. It is combined with the current attached garage that they are over at 338-sq. ft.

Vice Chairman Durham noted if you shrink the garage you are good or shrink the accessory building you are good with the garage.

Mr. Rozhanskiy stated that if they shrink the accessory building then they cannot get the trailer in there. The homeowners also, has a company vehicle, a heavy-duty work vehicle, that he would like to park in there as well.

Vice Chairman Durham stated that there are storage places for recreational vehicles.

Mr. Rozhanskiy said the property owner owns 3.8 acres of land and that is really the reason, instead of leaving them outside.

Chairman Yaros stated that they could do a 30x30 almost without being there. They are basically 900-sq. ft., they have 1,000-sq. ft. in the garage, and they are allowed 1,900-sq. ft. They could do a 30x30; and you are asking for a 42x37?

Mr. Rozhanskiy replied a 46x26. The reason for it being longer is for the trailer and the vehicle to park in there because the lot is only 60 plus feet wide.

Vice Chairman Durham questioned if it would be a daily in and out park for people. Mr. Rozhanskiy replied that part of it will be.

Vice Chairman Durham asked as far back as it is going to sit? Mr. Rozhanskiy answered; correct.

Chairman Yaros asked what size it was again? Mr. Rozhanskiy replied 26x46.

Chairman Yaros stated in what they have in their packet it shows it as 44x32. Chairman Yaros questioned if there was anything submitted to the Building Department that was different? Building Official Goodloe replied that he had not seen anything.

Board Member Walker asked what is the request?

Mr. Rozhanskiy replied 26x46.

Chairman Yaros replied so that would be the 1,217.09-sq. ft. variance.

Board Member Walker asked about the trailer, this is the reason they need it so long? Mr. Rozhanskiy replied; yes.

Board Member Walker questioned what type of trailer it was. Mr. Rozhanskiy replied it was an enclosed trailer.

Board Member Walker asked what it was used for? Mr. Rozhanskiy replied for multi-use for business and for recreational use.

Board Member Walker questioned what type of business? Mr. Rozhanskiy answered masonry.

Chairman Yaros asked if they would be running a business out of the garage? Mr. Rozhanskiy replied; no; only to park it in between jobs.

Chairman Yaros said that part of the motion will include that they are not allowed to run a business out of there because it is a residential area. Mr. Rozhanskiy replied, correct; that is not the intent.

Chairman Yaros asked if anyone else would like to speak to this matter.

Mr. Larry Gustin, 3869 Long Meadow Lane said that the back of his property backs up to the back of his property in Rolling Meadows subdivision. He looked at the drawings, and what he was concerned about is that the pole barn does not end up at the very back of the property. It looked like it was going to be in the first half of the property but wasn't sure if that was true or not because it stated it was at the back of the property.

Chairman Yaros stated that what they are showing on the plan is it is going to be behind the house about 100-ft.

Mr. Gustin felt that there should be enough woods left between his property and their property if that is true.

Chairman Yaros said that they will nail that down and find out what it is.

Chairman Yaros asked Mr. Rozhanskiy how far behind the house will it be? Mr. Rozhanskiy replied approximately 200-ft. behind the house.

Chairman Yaros said that the house is 168-ft.; so approximately 360-ft. from the front property line?

Mr. Rozhanskiy replied that it sounded about right.

Chairman Yaros asked how long the property was? Mr. Rozhanskiy replied 600 plus sq. ft.

Chairman Yaros stated that is where it will have to be built now if they grant a variance. Mr. Rozhanskiy replied, correct.

Trustee Flood stated that they are not asking for any setback adjustments on this. It will fit on the property according to the ordinance as far as setbacks go.

Chairman Yaros said there were two things, number one is it doesn't require any dimensional as far as setbacks and it is under the size of an outbuilding. It is the total dimensional because of the size of the attached garage. He is always in favor of a larger attached garage. The house is very large, and no one will be able to see the pole barn because of the size of the house.

Mr. Rozhanskiy said originally the plan was to put the pole barn about 100-ft. behind the house and then that decided to give it more of a backyard since the property is so narrow and long.

Trustee Flood questioned the Building Official, when they pull the permit to build that will they have to show on the plans?

Building Official Goodloe replied yes; they will verify that during the inspections. If there was any deviation that would have to be corrected. They will be looking at the size and the location.

Vice Chairman Durham asked if there had been any input from the neighbors to the west of where that is going to be built on that long driveway that goes way back?

Mr. Rozhanskiy replied not that he knew of.

Vice Chairman Durham said there are people that are going to be looking at a pole barn instead of woods. You can put a pole barn in there, they will have to get used to it, but it is going to be larger than it would otherwise be.

Moved by Board Member Walker, seconded by Chairman Yaros, in the matter of ZBA case #AB-2019-49, Anton Rozhanskiy, 3900 Gregory Rd., 09-30-400-014, the petitioner's request for: one (1) variance from Zoning Ordinance No. 78: Article XXVII, Section 27.02(A)(8) Building, Structures, and Uses, for lot size over 2 ½ acres: a 338.09-sq. ft. variance above the allowed 1,900 sq. ft. total maximum floor area of all accessory building to build a 1,217.09-sq. ft. pole barn in addition to a 1,021-sq. ft. attached garage be **granted** because the petitioner did demonstrate that the following standards for variances have been met in this case in that they set forth facts which show that in this case: the petitioner does show the Practical Difficulty, due to the unique characteristics of the property and not related to the general conditions of the property: the lot is very narrow and long, and he had indicated that the pole barn will be placed approximately in the middle of the length of the property; 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 of the shape of the property, and a number of lots around it have the same dimension; the granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or to the improvements in such zone or district in which the property is located: there was some input from one of the neighbors, who was concerned about the location of the pole barn and was concerned that it would be placed in the back of the property but was found that it will be placed in the middle; further, based on the following findings of facts, the granting of this variance will not: impair an adequate supply of light and air to the adjacent property: it will not unreasonably increase the congestion in public areas: it will not increase the danger of fire or endanger the public safety: nor will unreasonably diminish or impair established property values within the surrounding area.

Discussion on the motion:

Chairman Yaros asked to include that a business will not be run out of the building. Also, that this variance does meet the detached size of an outbuilding but because the attached garage is large, this variance is required.

Board Member Walker amended the motion, Chairman Yaros re-supported that a business will not be run out of the pole barn and that the pole barn does meet the maximum size of an outbuilding but it was because of the attached garage being so large that the variance was needed.

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

Motion Carried 4-1

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

- A. Memo from Planning & Zoning Coordinator Harrison regarding Postponement Dates
Information only.
- B. Memo from Planning & Zoning Coordinator Harrison regarding Obtaining Variances
Information Only.

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

None

10. ADJOURNMENT

Moved by Board Member Koscierzynski, seconded by, Board Member Walker to adjourn the meeting at 7:34pm.

Motion Carried

Respectfully submitted,



Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

January 13, 2020

Zoning Board of Appeals Approval