

# CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

## \*\*\*\*\* MINUTES \*\*\*\*\*

### REGULAR MEETING – MONDAY NOVEMBER 11, 2019 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, November 11, 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

#### **ZBA MEMBER ABSENT:**

Lucy Koscierzynski, Board Member  
Don Walker, PC Rep to ZBA

#### **CONSULTANT PRESENT:**

David Goodloe, Building Official

#### **OTHERS PRESENT:**

|                    |                  |
|--------------------|------------------|
| Mike Stephenson    | Bonnie Anderson  |
| Michael Anderson   | Tom Kemp         |
| Mike McDevitt      | Brian Hodgkinson |
| Kimberly Buchholtz | 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 Trustee Flood, to approve the 10-28-2019, Regular Meeting minutes as presented. **Motion Carried**

#### **4. AGENDA REVIEW AND APPROVAL**

There were no changes to the agenda.

#### **5. ZBA BUSINESS**

##### **A. AB-2019-43, Anderson Family Financial/MRJ Sign Company, 4215 S. Baldwin, 09-32-126-039**

Two variances from Sign Ordinance No. 153: Ground Signs Zoned RB:

- 1) A 24-sq. ft. ground sign area variance from the allowed maximum 64-sq. ft. (32-sq. ft. per side) to allow a ground sign area that is 88-sq. ft. (44-sq. ft. per side).
- 2) A 15-ft. road right-of-way setback variance from the required 20-ft. to allow a ground sign to be 5-ft. from the road right-of-way.

One variance from Zoning Ordinance No. 78: Article XI, Section 11.04:

- 3) An 11.75-ft. side yard setback variance from the required 15-ft. side yard setback to allow a ground sign to be 3.25-ft. from a side yard lot line (north).

Mr. Mark R. Johnson with MRJ Sign Company, presented.

Chairman Yaros stated that it was his understanding that this sign would be going in the same spot it was before. Mr. Johnson replied, correct.

Mr. Johnson said it will be in the exact same cabinet that was there before. They took out the cabinet before the Road Commission did. The OCRC had a temporary easement for site development, they were going to park large bulldozers and earthmovers, so they took out the sign. They were also going to take out the light pole but decided not to. They did take out the sign structure which Mr. Johnson was the contractor on originally.

Chairman Yaros said they are putting back the sign that was there. The variances are needed because now the right-of-way is different because it was taken away from the Road Commission to widen the road.

Vice Chairman Durham questioned that one of the variances is for a larger than allowed sign, was that sign larger than allowed previously? Mr. Johnson replied, yes.

Mr. Johnson stated that in November 14, 2008 the building permit was issued as a 32-sq. ft. on just the signage, but the base was calculated as 84-sq. ft.

Vice Chairman Durham asked Building Official Goodloe would that be a pre-existing non-conforming sign? Building Official Goodloe replied he did not believe so.

Mr. Johnson showed the Board what the sign looked like originally. It originally had much more brick, now they are just doing a brick base and taking down the square footage and the profile of the sign.

Vice Chairman Durham inquired if the message portion would be the same as it was. Mr. Johnson answered yes, with the exact same cabinet.

Trustee Flood questioned if it would still be behind the safety path? Mr. Johnson replied, yes.

Chairman Yaros asked if there was anyone to speak to this matter? There was not.

Moved by Vice Chairman Durham, seconded Trustee Flood, that in the case of AB-2019-43, Anderson Family Financial/MRJ Sign Company, 4215 S. Baldwin, 09-32-126-039, the petitioner is requesting two variances from Sign Ordinance No. 153, Ground Signs Zoned RB: 1) a 24-sq. ft. ground sign area variance from the allowed maximum 64-sq. ft. (32-sq. ft. per side) to allow a ground sign area that is 88-sq. ft. (44-sq. ft. per side); 2) a 15-ft. road right-of-way setback variance from the required 20-ft. to allow a ground sign to be 5-ft. from the road right-of-way; One (1) variance from Zoning Ordinance No. 78, Article XI, Section 11.04: an 11.75-ft. side yard setback variance from the required 15-ft. side yard setback to allow a ground sign to be 3.25-ft. from a side yard lot line (north); be **granted** because the petitioner did show that practical difficulties exist in this case that is not of their own making. They are another participant in the Baldwin Road right-of-way movement, and they seek to put back what they had before. They haven't changed, their business hasn't changed, the property has changed and it is not anything that they had anything to do with; it will not impede anything or cause any danger to anyone; the variance is necessary for them to be able to do business in the way they did before and it is not self-created.

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

**Motion Carried 3-0 (Koscierzynski & Walker absent)**

**B. AB-2019-44, Michael McDevitt, 2001 Hillwood Dr., 09-23-227-036**

Two variances from Zoning Ordinance #78:

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

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

Article VI, Section 6.04 Zoned R-1 & Article XXVII, Section 27.05(H)(2)

- 2.) A 40-ft. front yard setback variance (E. Scripps Rd.), from the required 40-ft. front yard setback (duel frontage) for a 6-ft. privacy fence to be erected 0-ft. from the northern property line.

Mr. Michael McDevitt, 2011 Hillwood Dr., presented.

Chairman Yaros stated he noticed that most of his fence is gone, he is on a corner. Mr. McDevitt replied, yes.

Chairman Yaros said that he could see where it was along the old fence line and where it turned because you could see where the fence went down into the grass. This will be replacing a fence that was there and had some damage from a storm.

Mr. McDevitt stated that they had some storm damage on September 13, 2019. It took down most of his fence so he took down the rest of it so his kids could go out in the backyard.

Vice Chairman Durham questioned if Mr. McDevitt would be putting the pretty side of the fence out. Mr. McDevitt replied, yes.

Mr. McDevitt stated that they plan on putting in a shadowbox fence.

Trustee Flood read a letter from the Roundtree HOA dated September 30, 2019. The Roundtree HOA approved of the fence.

Trustee Flood said that going back into the site plans for that subdivision they couldn't find whether that fence was on the site plan or not.

Moved by Trustee Flood, seconded by Chairman Yaros, that in the matter of AB-2019-44, Michael McDevitt, 2001 Hillwood Dr., 09-23-227-036, that the petitioner's request for two variances from Zoning Ordinance No. 78, Article XXVII, Section 27.02(A)(4) & Article XXVII, Section 27.05(H)(2): 1) a 10-ft. rear yard setback variance (east) from the required 10-ft. rear yard setback for a 6-ft. privacy fence to be erected 0-ft. from the rear lot line (east); 2) Article VI, Section 6.04 Zoned R-1 & Article XXVII, Section 27.05 (H)(2): a 40-ft. front yard setback variance (E. Scripps Rd.), from the required 40-ft. front yard setback (duel frontage) for a 6-ft. privacy fence to be erected 0-ft. from the northern property line be **granted** because the petitioner did demonstrate that the following standards of variances have been met in this case in that they set forth facts which show that in this case: the petitioner does show Practical Difficulty: originally the fence was put in by a developer and they are replacing a fence that was destroyed in a storm; 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: because this is the Roundtree Subdivision and the developer put that in originally; the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone or vicinity base on the following facts: it is replacing an existing fence; the granting of the variance or modification will not be materially detrimental to the 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: relating this to the letter dated September 30, 2019 from the Roundtree HOA Vice President Architectural Controls, Timothy Brodoski, that they are in full compliance with replacing the fence; further, based on the following findings of facts, the granting of this variance will not: impair an adequate supply of light and air to adjacent property; it will not unreasonably increase the congestion in public streets; it would not increase the danger of fire or endanger public safety; it would not unreasonably diminish or impair established property values within the surrounding area; or, in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Trustee Flood amended the motion, Chairman Yaros re-supported, to add that on the other side of the fence are roads, Scripps Rd. on one side and Bald Mountain Road on the other.

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

**Motion Carried 3-0 (Koscierzynski & Walker absent)**

**C. AB-2019-45, Michael Stephenson, 2009 Hillwood Dr., 09-23-227-035**

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. rear yard setback variance (east) from the required 10-ft. rear yard setback for a 6-ft. privacy fence to be erected 0-ft. from the rear lot line (east).

Mr. Michael Stephenson, 2009 Hillwood Dr., presented.

Chairman Yaros stated this is just a continuation of the prior case (AB-2019-44). This fence has not been torn down.

Mr. Stephenson said that it is structurally damaged, but it is still upright. His neighbor Mr. McDevitt was able to tear his out, his will need to be removed and replaced.

Chairman Yaros asked if it will be in the same location that it is currently in? Mr. Stephenson replied, yes.

Chairman Yaros asked if anyone was here to speak to this matter? There was not.

Vice Chairman Durham questioned if the fence would be stockade or shadowbox? Mr. Stephenson replied shadowbox. It will look the same as Mr. McDevitt's all the way down.

Moved by Vice Chairman Durham, seconded by Trustee Flood, that in the matter of AB-2019-45, Michael Stephenson, 2009 Hillwood Dr., 09-23-227-035, the petitioner is requesting 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. rear yard setback variance (east) from the required 10-ft. rear yard setback for a 6-ft. privacy fence to be erected 0-ft. from the rear lot line (east) be **granted** because the petitioner does show that the following Practical Difficulty exists: he is replacing an existing fence with a prettier one, the case before (AB-2019-44) was his next door neighbor who also had a letter from the same home owner association (Roundtree HOA) and his address was listed also, so the HOA is on board with this; he has a road right at the back of his property and would rather look at a shadowbox fence than Bald Mt. Rd.; the old fence is falling down and he wants to put a new fence up; the following are exceptional or extraordinary circumstances: he had a fence and he wants to replace it; 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: he would have zero privacy in his backyard without the

fence and would have a privacy with it; the granting of the variance or modification will not be materially detrimental to the public in anyway; it will not impair light, air or anything to anybody; it will not hinder emergency response; the motion maker did not see a downside to this.

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

**Motion Carried 3-0 (Koscierzynski & Walker absent)**

**D. AB-2019-47, Kemp Building & Development/Ajax Bldg. Addition, 4855, 4879, 4881 & 4883 Bald Mountain Rd., 09-36-300-003**

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

Article XXII, Section 22.04, Area and Bulk Requirements; Zoned SP-2:

A 52.98 ft. front yard setback variance (Dutton Road), from the required 150 ft. front yard setback to erect a building addition 97.02-ft. from a front property line.

Mr. Tom Kemp, 275 West Girard, Madison Heights, presented.

Chairman Yaros questioned if he was putting an addition on to an existing building for storage? Mr. Kemp replied, correct, it is an existing maintenance facility for Ajax Paving. It will have a parts room and a lunchroom.

Chairman Yaros noted that if there were leaves on the tree's, they would not know it was there. It is going to be 100-ft. from the property line, which is the ROW.

Trustee Flood asked if Kemp Building had been in front of the Planning Commission? Mr. Kemp replied correct.

Trustee Flood stated that the Fire Department needs that access in the front.

Mr. Kemp said that there has been further discussion and he thought that the Fire Department was on board with the plan now.

Chairman Yaros noted that this didn't make the last meeting because of that discussion. It is a 20-ft. addition for storage. He didn't see a problem with it. It is a big piece of property, and it is not affecting or interfering with the basic operation of the plant, it is just storage in the front by their office building.

Moved by Trustee Flood, seconded by Chairman Yaros, that in the matter of case #AB-2019-47, Kemp Building & Development/Ajax Bldg. Addition, 4855, 4879, 4881 & 4883 Bald Mountain Rd., 09-36-300-003, that the petitioner's request for a variance from Zoning Ordinance No. 78, Article XXII, Section 22.04, Area and Bulk Requirements; Zoned SP-2: a 52.98 ft. front yard setback variance (Dutton Road), from the required 150 ft. front yard setback to erect a building addition 97.02-ft. from a front property line 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: having to build the building to the south towards Dutton Rd. because the way the plant is set up with the manufacturing to the north; the following are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not generally apply to other properties in the same district or zone: this is an SP-2 zone and will be 97.02-ft. from the road; 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: they have to go to the south instead of the north for the addition on the building; 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: it is

in a Special Purpose area, an industrial area; further, based on the following findings of facts, the granting of this variance would not: impair an adequate supply of light and air to adjacent properties; it will not unreasonably increase the congestion in public streets; it will not increase the danger of fire or endanger public safety: the Fire Department wants to have access for their aerial truck; it will not unreasonably diminish or impair established property values with the surrounding area; it will not, in any other respect, impair public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Trustee Flood amended the motion, Chairman Yaros re-supported, to add that across the street on Dutton Rd., it is owned by the Road Commission and will never be built on, and there are soccer fields over in Auburn Hills.

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

**Motion Carried 3-0 (Koscierzynski & Walker absent)**

## **6. PUBLIC COMMENTS**

None

## **7. COMMUNICATIONS**

- A. Memo from Planning & Zoning Coordinator Harrison regarding 2020 ZBA Meeting Calendar  
Moved by Vice Chairman Durham, seconded by Chairman Yaros to remove the regular meeting on April 13, 2020. **Motion Carried**

Moved by Vice Chairman Durham, seconded by Trustee Flood to move Monday, May 25, 2020 regular meeting to Tuesday May 26, 2020. **Motion Carried**

Moved by Trustee Flood, seconded by Chairman Yaros to eliminate the Monday December 28, 2020 regular meeting. **Motion Carried**

Moved by Trustee Flood, seconded by Vice Chairman Durham to approve the 2020 ZBA schedule as amended. **Motion Carried**

- B. Memo from Planning & Zoning Coordinator Harrison regarding Postponement Dates  
Information only.

- C. Memo from Planning & Zoning Coordinator Harrison regarding Variance Information Memo  
Information Only.

## **8. COMMITTEE REPORTS**

None

## **9. MEMBERS' COMMENTS**

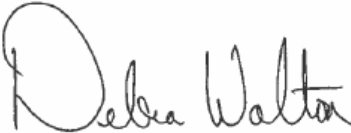
None

**10. ADJOURNMENT**

Moved by Trustee Flood, seconded by Vice Chairman Durham, to adjourn the meeting at 7:28pm.

**Motion Carried**

Respectfully submitted,



Debra Walton  
PC/ZBA Recording Secretary  
Charter Township of Orion

December 9, 2019

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Zoning Board of Appeals Approval