

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
******* MINUTES *******
REGULAR MEETING - MONDAY, FEBRUARY 25, 2013

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, February 25, 2013 at 7:00 p.m. at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

ZBA MEMBERS PRESENT:

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

CONSULTANT PRESENT:

Tom Berger, Township Building Official

OTHERS PRESENT:

Lindsey-Anne Gawthrop	Robert Gawthrop	Wade Sullivan
Brad Klein	Salvatore Lore	Gene McNabb, Jr.
Eugene McNabb	Roland Stoops	Anthony Coneff
Ryan Skalnek	Phoebe Schutz	

1. OPEN MEETING

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

2. ROLL CALL

All members were present.

3. ZBA ELECTION OF MEMBERS

Board Member Walker nominated Mr. Loren Yaros for re-election of the Chairman position for 2013.

Board Member Flood supported the nomination.

Moved by Board Member Walker, supported by Board Member Flood that the nominations be closed and a unanimous ballot cast to re-elect Mr. Loren Yaros to serve in the Chairman position for 2013. **Motion carried 5-0.**

Chairman Yaros nominated Mr. Dan Durham for election of the Vice-Chairman position for 2013.

Board Member Walker supported the nomination.

Moved by Chairman Yaros, supported by Board Member Walker that the nominations be closed and a unanimous ballot cast to elect Mr. Dan Durham to serve in the Vice-Chairman position for 2013. **Motion carried 5-0.**

4. MINUTES

Moved by Board Member Flood, supported by Board Member Walker to approve the January 14, 2013 regular meeting minutes as presented. **Motion carried 5-0.**

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5. AGENDA REVIEW AND APPROVAL

Moved by Board Member Walker, supported by Board Member Flood to approve the agenda as amended to place agenda item 7. Public Comments before agenda item 6.D. Zoning Board of Appeals Training Session. **Motion carried 5-0.**

6. ZBA BUSINESS

**A. AB-2013-04, Robert Gawthrop, Vacant Parcel on Shady Oaks, Sidwell
#09-10-254-035**

Chairman Yaros noted that the petitioner is seeking four variances from Zoning Ordinance No. 78, in order to construct a new home: 1) requesting a 31.46-foot rear yard setback variance from the required 35-foot rear yard setback in order to build a home 3' 6.5" from the rear lot line; 2) requesting an 8.46-foot front yard setback variance from the required 30-foot front yard setback in order to build a home 21.54 feet from the front property line; 3) requesting an 18.58-foot front yard setback variance from the required 30-foot front yard setback in order to build a deck 11.42 feet from the front lot line; and, 4) requesting a 24.125-foot rear yard setback variance from the required 35-foot rear yard setback in order to build a porch on a home 10' 10.5" from the rear lot line. He then noted that if the first variance request is granted, then the fourth variance request would not be necessary.

Mr. Robert Gawthrop noted that they have provided a certified survey as was requested along with the new plans and noted the revision on their plans. They removed the balcony from the master bedroom side of the house and all the other pieces have remained the same. They also showed on the plans how the water drainage will happen on either side of the house.

Board Member Durham inquired regarding the drainage.

Mr. Brad Klein, of Stephen Auger and Associates, Inc., overviewed the plans with members. He noted that the drainage will be above the ground that would be basically a swale-type situation that will divert it to either the lake or the street side.

Mr. Gawthrop commented that neighboring homes are very close to the road, similar to what they have proposed.

Board Member Flood inquired whether the lots across the road from the subject site were owned by the petitioner.

Mr. Gawthrop replied that the two lots across the street are actually part of what they've purchased and that there is no proposal on that lot, but that's to show that there's no view restrictions toward the lake as the neighbor had commented that he was concerned about.

Chairman Yaros offered time for public comments on this case.

Mr. Roland Stoops, of 455 Shady Oaks, commented that he also has property on the west side of Shady Oaks where they were supposed to build a road, but they haven't built the road because it has always been a swamp area with standing water and drains right through this property. The sewers that were put in do not have the capacity to do a run-off, they overflow

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and it's a very high water area and it all floods out behind Ms. Garbacz's garage and behind his garage. He would like the proper departments and authorities in this case to look at the topography of the land and the natural drainage. He is concerned that it may cause damage to his garage if the water drainage is increased due to the proposed development. It also appears on the plans that you could not see the road well to see if it's clear to pull onto the road and it is a very large house for that site. Their main concern is the natural drainage of the water.

Mr. Anthony Coneff, of 431 Shady Oaks, commented that he lives next door to the subject site. The only difference he sees in this submittal from the last one is that he took the balcony away. There is way too much square footage for the size of the lot and way too many variances they're requesting. He believes they should meet the setback requirements and that it's a safety issue to children as well as the traffic. He has no problem with someone building there, but he would prefer that they stay within the requirements. He also suggested that they may consider building the garage across the street.

Mr. Wade Sullivan, of 270 Shady Oaks, commented that he believes that you couldn't build a home on that lot without variances and the proposed house would be in keeping with the other homes in the neighborhood. He is in favor of the project and hopes that it is passed.

Mr. Ryan Skalnek, of 415 Shady Oaks, commented that he lives three houses down from the proposed site. He doesn't believe that there would be a safety issue with the driveway and that many neighbors in the area had to get variances. A new home there would improve the neighborhood.

Chairman Yaros overviewed correspondence and pictures of the area received from Ms. Candace Garbacz, of 447 Shady Oaks, Lake Orion, Michigan 48362, date stamped received by the Township on February 25, 2013, in which she expressed her concerns regarding the requested variances. She is concerned that the proposed project would increase the water drainage problems that they already have and even cause damage to the surrounding properties*.

Chairman Yaros noted that the proposed house is the only one in the area that would meet the side setbacks and that the lake side is not a problem. However, the problem is on the road side with the garage. He asked if he would consider taking four feet off the garage to allow more room from the road, because the way it is currently shown, if you parked a car there nobody would be able to see around it or walk by it safely.

Board Member Flood and Vice-Chairman Durham agreed.

Chairman Yaros suggested they might also consider putting the garage across the street.

Vice-Chairman Durham noted that if they did put the garage across the street they could have the size of house that they want without having to compromise and they could still have the garage size that they want.

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Mr. and Mrs. Gawthrop noted that they don't want to have to walk across the street in the winter and in the future, carrying children across the road.

Vice-Chairman Durham commented that he is very concerned about the safety issues that the plans would create for pedestrians and the traffic.

Board Member Walker noted that he is still concerned about the drainage issues, especially regarding the depth of the basement in relation to the bottom of the lake level.

Mr. Klein noted that it would be a waterproof basement and would be used for storage and that the codes would address this type of situation for what they're allowed to do.

Board Member Walker noted that it is a lot of square footage of building for that small of a lot.

Moved by Board Member Flood, supported by Chairman Yaros regarding case AB-2013-04, Robert Gawthrop, Vacant Parcel on Shady Oaks (which does not yet have an address), Sidwell #09-10-254-035, to **grant the revised non-use variance requests from Zoning Ordinance No. 78, Article VI, Section 6.07, Single-Family Residential-3 (R-3) Zoning District, in order to construct a new home as follows:** 1) requesting a 27.46-foot rear (road side) yard setback variance from the required 35-foot rear yard setback in order to build a home 7-foot 6.5-inches from the rear lot line; 2) requesting an 8.46-foot front (lake side) yard setback variance from the required 30-foot front yard setback in order to build a home 21.54 feet from the front property line; and, 3) requesting an 18.58-foot front yard setback variance from the required 30-foot front yard setback in order to build a deck 11.42 feet from the front lot line. The petitioner did demonstrate that the practical difficulties exist in this case and the petitioner set forth facts that show that compliance with the strict letter of the zoning ordinance would unreasonably prevent the petitioner from using the property as a permitted use in the R-3 Zoning District. Also, that the petitioner shall submit plans to the Building Department that show the storm water drainage and shall provide an engineered drainage plan to the Building Department to handle the water underneath the basement foundation and concrete floor. Roll call vote was as follows: Walker, no; Koscierszynski, yes; Flood, yes; Durham, yes; Yaros, yes. **Motion carried 4-1.**

B. AB-2013-05, Interpretation of Sign Ordinance No. 138, Sign Regulations in the Brown Road Innovation Zone (BIZ) Zoning District

Chairman Yaros noted that currently the sign ordinance does not have regulations for the BIZ Zoning District and that is the reason that members have been asked to make an interpretation of what those sign regulations should be until the Township Board of Trustees creates and adopts a text amendment for that zoning district.

Moved by Board Member Walker, supported by Chairman Yaros regarding case AB-2013-05, Interpretation of Sign Ordinance No. 138, Sign Regulations in the Brown Road Innovation Zone (BIZ) Zoning District that until a text amendment is created to add the Brown Road Innovation Zone (BIZ) Zoning District and adopted by the Board of Trustees, then temporarily in the BIZ

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District, if the use is allowed in multiple zoning districts, then the most restrictive or smaller-sized sign applicable to that zoning district will be used. Roll call vote was as follows: Koscierzynski, yes; Flood, yes; Durham, yes; Walker, yes; Yaros, yes. **Motion carried 5-0.**

C. 2012 Zoning Board of Appeals Annual Report

Members reviewed, received, and filed the annual report.

7. Public Comments

Agenda amendment. Public comments were heard.

D. Zoning Board of Appeals Training Session

Mr. R. Donald Wortman, of Carlisle/Wortman Associates, Inc., (Township Planner), conducted a thorough training session that included all aspects of Zoning Board of Appeals procedures:

- ZBA Duties and Powers
- Zoning Ordinance No. 78 Text and Map Interpretations
- Appeals
- Variances
- Practical Difficulty
- Common Incorrect Reasons Used to Grant Variances
- Membership and Voting
- Decision Principles
- The Function of the ZBA
- Standards for Review of Variance Requests
- Making a Motion

7. Public Comments

Agenda amendment.

8. COMMUNICATIONS

None further.

9. COMMITTEE REPORTS

None.

10. MEMBERS' COMMENTS

Members thanked Planner Wortman for the very informative training session.

11. ADJOURNMENT

Moved by Board Member Walker, supported by Board Member Flood to adjourn at 8:51 p.m. **Motion carried 5-0.**

* Attachment