

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS

******* MINUTES *******

REGULAR MEETING - MONDAY, SEPTEMBER 9, 2013

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, September 9, 2013 at 7:00 p.m. 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	Lucy Koscierszynski, Board Member
Tony Cook, Alternate	

ZBA MEMBERS ABSENT:

Mike Flood, BOT Rep. to ZBA (not scheduled)

CONSULTANTS PRESENT:

Tom Berger, Township Building Official

OTHERS PRESENT:

Steven Holder	Marvin Arnold	James Andritsis
Edward R. Eckler, Sr.	Edward R. Eckler, Jr.	Shelly Rickman
Phoebe Schutz		

1. OPEN MEETING

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

2. ROLL CALL

Mike Flood (not scheduled) was absent.

3. MINUTES

Moved by Board Member Walker, supported by Vice-Chairman Durham to accept the August 21, 2013, Board of Trustees, Planning Commission, and Zoning Board of Appeals special joint meeting minutes as presented. **Motion carried unanimously.**

Moved by Board Member Koscierszynski, supported by Vice-Chairman Durham to accept the August 26, regular meeting minutes as presented. **Motion carried unanimously.**

4. AGENDA REVIEW AND APPROVAL

No changes were made to the agenda.

5. ZBA BUSINESS

A. AB-2013-21, Northern Sign Co., Inc./Forest Mexican Cantina Restaurant, 780 S. Lapeer Road, Sidwell #09-11-476-019

Chairman Yaros noted that the petitioner is seeking two variances from Sign Ordinance No. 138 to install a total of four wall signs: 1)Section 8, B, Zoning District RB-2, Maximum Number of Signs, Wall Sign, requesting three additional wall signs, over the allowed one wall sign, to install a total of four wall signs (one wall sign existing); and, 2)Section 8, B, Zoning District RB-2, Wall Sign, Area, requesting a 69.24-square foot variance, above the allowed 40 square feet, to install wall signs equaling 109.24 square feet (36.62 square feet existing).

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS MINUTES
REGULAR MEETING - MONDAY, SEPTEMBER 9, 2013

Mr. Marvin Arnold, of Northern Sign Company, 101 E. Walton Blvd., Pontiac, Michigan 48340, commented that they are requesting basically to replace what was on the south green awning over the door and to replace the plastic letters that said, "Mediterranean Cuisine", but this would say "Forest Mexican Cantina".

Chairman Yaros and Vice-Chairman Durham inquired about the banner that is currently on the building.

Mr. Arnold noted that his company installed a new sign, but he didn't know anything about the banner, but would inform the owner.

Board Member Walker noted that there were nine or ten lights on the south side of the building, but the plans only show three.

Mr. Arnold replied, ok.

Chairman Yaros noted that he has no problem with the signs on the column since that does get your attention. He doesn't believe the 12" x 18' signs with the words along the sides of the building really do much.

Vice-Chairman Durham inquired whether Mr. Arnold has the authority to negotiate on any possible revisions here tonight.

Mr. Arnold replied that he does have that authority.

Mr. Arnold and members briefly discussed possible revisions.

Moved by Vice-Chairman Durham, supported by Chairman Yaros regarding case AB-2013-21, Northern Sign Co., Inc./Forest Mexican Cantina Restaurant, 780 S. Lapeer Road, Sidwell #09-11-476-019, **to grant the revised sign variance requests as follows:** that the petitioner is seeking two variances from Sign Ordinance No. 138 to install a total of two wall signs: 1)Section 8, B, Zoning District RB-2, Maximum Number of Signs, Wall Sign, requesting one additional wall signs, over the allowed one wall sign, to install a total of two wall signs (one wall sign existing); and, 2)Section 8, B, Zoning District RB-2, Wall Sign, Area, requesting a 33.24-square foot variance, above the allowed 40 square feet, to install wall signs equaling 73.24 square feet (36.62 square feet existing), because the petitioner has demonstrated that there is practical difficulty with the positioning of the restaurant, the sight lines to the south, they will have one sign on the east side and one on the south side of a proper size and height that it would enable them to draw customers in. The strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome based on what was already stated. The granting of the variances will do substantial justice to the petitioner as well as to other property owners in the area, especially in the restaurant business, if they come to one, they may come to others.

Chairman Yaros offered time for public comments. None were given.

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS MINUTES
REGULAR MEETING - MONDAY, SEPTEMBER 9, 2013

Roll call vote was as follows: Cook, yes; Durham, yes; Walker, yes; Koscierynski, yes; Yaros, yes. **Motion carried 5-0.**

B. AB-2013-22, Steven Holder, 1048 McClellan Street, Sidwell #09-01-412-017

Chairman Yaros noted that the petitioner is seeking a variance from Zoning Ordinance No. 78, Article 6, Section 6.02, B, 2, to park a stake truck on a Single-Family Residential-3 (R-3) zoned property.

Mr. Steven Holder, of 1048 McClellan Street, was present.

Chairman Yaros inquired of Mr. Tom Berger, Building Official, whether this request is a use variance.

Mr. Berger replied, yes it would be taking action on a use variance, since it has nothing to do with property setbacks.

Chairman Yaros noted that he believes that the law states that the Zoning Board of Appeals does not have authority to grant use variances. Until that is researched by the Township's legal department, this board should not go forward with this case.

Moved by Board Member Walker, supported by Chairman Yaros regarding case AB-2013-22, Steven Holder, 1048 McClellan Street, Sidwell #09-01-412-017, in which the petitioner is seeking a variance from Zoning Ordinance No. 78, Article 6, Section 6.02, B, 2, to park a stake truck on a Single-Family Residential-3 (R-3) zoned property, **to postpone ruling on this request** to the October 14, 2013 regular meeting, until we obtain a legal opinion with regard to the change in the zoning law for a special use variance.

Chairman Yaros informed members of the public that if they have signed in for this meeting, they will be sent an agenda for the October 14, 2013 regular meeting for this case.

Roll call vote was as follows: Durham, yes; Walker, yes; Koscierynski, yes; Cook, yes; Yaros, yes. **Motion carried 5-0.**

6. PUBLIC COMMENTS

Mr. Edward Eckler, of 1001 McClellan Street, commented that he had commercial equipment that he was told he had to remove from his property and he did. He inquired whether he could bring his commercial equipment back onto his property now since his neighbor's case is in limbo now.

Chairman Yaros replied that Mr. Holder's case is in limbo at this time, because his case is before the board and that Mr. Eckler would have to contact the Ordinance Enforcement Officer for any questions regarding his own property. He also noted that the board does have Mr. Eckler's letter and it will be read into the record during the hearing of the October 14, 2013 regular meeting.

Ms. Shelly Rickman commented that she, too, lives at 1048 McClellan Street and also that there are several other commercial vehicles in their neighborhood.

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS MINUTES
REGULAR MEETING - MONDAY, SEPTEMBER 9, 2013

Mr. Steven Holder, 1048 McClellan Street, commented that his employer requires that he have his vehicle at home with him so that he can drive directly to a site rather than coming in to the shop first.

7. COMMUNICATIONS

Chairman Yaros commented regarding a few communications.

8. COMMITTEE REPORTS

None at this time.

9. MEMBERS' COMMENTS

Chairman Yaros thanked members for the fine job they did while he was on vacation.

10. ADJOURNMENT

Moved by Vice-Chairman Durham, supported by Board Member Walker to adjourn at 7:28 p.m. **Motion carried unanimously.**

* Attachment