

CHARTER TOWNSHIP OF ORION ZONING BOARD OF APPEALS
******* MINUTES *******
REGULAR MEETING – MONDAY, SEPTEMBER 24, 2018 – 7:00PM

The Charter Township of Orion Zoning Board of Appeals held a regular meeting on Monday, September 24, 2018 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

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

ZBA MEMBER ABSENT

None

CONSULTANT PRESENT:

Dave Goodloe, Building Official

OTHERS PRESENT:

Toufic Saati
Craig Pletta
John Cieslik
Lynn Harrison

1. OPEN MEETING

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

2. ROLL CALL

As noted

3. MINUTES

September 10, 2018, Regular Meeting Minutes

Moved by Trustee Flood, seconded by Board Member Koscierynski, to approve the September 10, 2018, Regular Meeting minutes as presented. **Motion carried**

4. AGENDA REVIEW AND APPROVAL

There were no changes to the agenda.

5. ZBA BUSINESS

A. AB-2018-31, Craig Pletta, 1292 Stoney Creek Rd., 09-12-426-011

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 2 variances from Zoning Ordinance No. 78, Article 6, Section 6.04, District: R-1

1. A 2.85' front yard setback variance to allow a home to remain 37.15' from the required 40' front yard setback (Orion Rd.).
2. A 2.6' front yard setback variance to allow a home to remain 37.40' from the required 40' front yard setback (Stoney Creek Rd.).

The petitioner, Mr. Craig Pletta, 2009 Noble Road, Oxford, MI; presented. Mr. Pletta explained that when they originally looked at purchasing the lot, they went to the Building Department to ask about the setbacks and were told, "40 ft. back from the Stoney Creek Road". They had a simple 2-story square house they wanted to build on the lot and according to that setback, it would fit nicely. They purchased the lot and when they applied for the permit, they found out they were going to be required to have a 40

ft. setback also from Orion Road because the parcel was pie shaped. They scrapped their original building plans and had a custom home designed to fit on the lot within the setbacks which involved some additional alterations, time and expense. He then staked out the property and put in the corner stakes which was a little confusing because the house had a lot of corners. When the foundation company came in, “they seen the hole, disregarded where the stakes were and put the footings in the hole”. Because the construction company did not exactly follow those stakes, the house no longer met the setbacks - the footings went in, then the walls, etc.

It was Chairman Yaros’s opinion that one of the reasons the petitioner couldn’t move the house back to the east line was because the house had a side-entrance garage which had to be 30 feet from that property line. Mr. Pletta said, that was correct.

Mr. Pletta commented that the driveway is shared between lots 1 & 2 and a variance was granted for that driveway and why they had to maintain 30 feet from that.

Trustee Flood said he believed this was unique because the property had two main road front yards.

Board Member Koscierynski noted that she went by there today. It was her understanding that this case was the result of an error made by the petitioner’s construction crew? Mr. Pletta said, it was the construction crew used by the company they hired. She then commented that the variance request is not for a lot.

Board Member Walker asked Mr. Pletta when they built the house? Mr. Pletta replied, they started it in June of 2017. Board Member Walker asked then, he (Mr. Pletta) didn’t catch that the footing wasn’t placed exactly where they were supposed to be? Mr. Pletta said he knew that he had it laid out, staked, batter-board and stringed. When he visited the site, the construction company had put them “where they wanted to”. Mr. Pletta then knew the house would be off a little bit but not by how much.

Vice Chairman Durham asked Mr. Pletta if he staked it himself? Mr. Pletta said he did it.

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

Chairman Yaros commented normally the front yard setback in an R-1, 2 or 3 is 30 or 35 ft. which would have given him plenty of room – the lot is fairly large. One of the problems was, that he (Mr. Pletta) had to stick to the requirements for a side entry garage and that the parcel was pie shaped.

Moved by Board Member Koscierynski, seconded by Trustee Flood, that in the matter of ZBA case #AB-2018-31, Craig Pletta, 1292 Stoney Creek Rd., 09-12-426-011, that the petitioner’s request for a non-use variance from Zoning Ordinance No. 78, Article 6, Section 6.02, District: R-1: a 2.85’ front yard setback variance to allow a home to remain 37.15’ from the required 40’ front yard setback (Orion Rd.); and a 2.6’ front yard setback variance to allow a home to remain 37.40’ from the required 40’ front yard setback (Stoney Creek Rd.); **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 home is considered to have 2-front yards on 2-main streets, Stoney Creek Road and Orion Road; the following are exceptional or extraordinary circumstances of conditions applicable to the property involved that do not apply generally to other properties in the same district or zone: the lot is on two main roads, the construction crew disregarded the staking which was done by the owner, there might have been an error; 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: the house is new, newly built, and some discrepancy with the staking; 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 findings: there will be no problem with

public safety vehicles getting in or out of the area, there is plenty of room, this is a matter of the petitioner being able to keep the house where it is despite a construction error; further, based on the following findings of facts, the granting of this variance would not impair an adequate supply of light and air to the adjacent property; it would not unreasonably increase the congestion in public streets: the house is on a corner, not an issue: would not increase the danger of fire or endanger public safety; no issue; would not unreasonably diminish or impair established property values within the surrounding area, not an issue; or, in any respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

Board Member Koscierynski amended the motion, Trustee Flood re-supported to change Article 6, Section 6.02 to Article 6, Section 6.04; and to include that the petitioner has it in his documents that this was the fault of the company that put the foundation in.

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

Motion Carried 5-0

B. AB-2018-32, MRDJ/RCOC, 4036 S. Baldwin, 09-32-101-033

Chairman Yaros read the petitioner's request as follows:

The petitioner is requesting 1 variance from Sign Ordinance No. 153, Section 7: Non-Residential Zoned Areas, Ground Sign: District GB

1. A 24' front yard setback variance from the required 30' front yard setback to build a ground sign 6' from the Baldwin Rd. right-of-way.

Mr. Toufic Saati with Foster Swift was present on behalf of the Oakland County Road Commission.

Board Member Koscierynski noted that this location will be back before the Board at the October 8th meeting regarding a greenbelt setback.

Mr. Saati had PowerPoint slides depicting their request.

Chairman Yaros asked if the request is for the same sign the car wash had? Mr. Saati said, correct and is going to be in the same exact location. He explained that the issue is a result of the expansion of Baldwin Road which has encroached on the property's greenbelt. He pointed out on one of the slides that there are two sections of greenbelt – regarding the first section, it appears to be about 75 to 80% removed and regarding the second section, it appears to be about 50% removed. Mr. Saati further explained that where the sign is now, is where they are asking that it be permitted to stay. The reason being, there is a built-in spot that has been filled with cement where the sign sits currently. To change the location of the sign, they would have to potentially pour new concrete and construct a whole new area for the sign.

Mr. Saati said they are here looking for a variance from Ordinance 153. This ordinance requires a sign to be 30 ft. away from the road right-of-way. In this situation, the property owners are in concurrence with the request and there are no contested issues.

Mr. John Cieslik, one of the car wash partners, asked the Board Members for their consideration. He commented that progress is great and Baldwin Road will be super when it is done. However, it did take a large piece of their property for that construction. This request is trying to minimize the impact on the car wash and the sign.

Chairman Yaros asked if there was going to be curb and gutter on the road? Mr. Cieslik responded that the car wash did have curb and gutter and the road commission will put that back in as they proceed with construction.

Mr. Saati clarified they are putting in a new sign in the exact same location. They did file a sign application along with this variance application and that sign application was granted by the Planning & Zoning Department.

Trustee Flood commented that he is familiar with this property. At one time he and his wife used to live near there, 4050 Baldwin. He noted that the sign will still be behind the safety path and will not impede any line of sight.

Mr. Saati then said the reason why they are reluctant to push the sign back further onto the remainder of the greenbelt is because of a bush on the site that would restrict access for someone traveling northbound on Baldwin Road – that is why the best spot for the sign is where it is at now.

Chairman Yaros reiterated that this not the fault of the owners; why this variance is needed.

Board Member Koscierynski added that this is a business that has been in Orion for quite a while.

Trustee Flood clarified that the car wash's address will be on the sign. Mr. Saati said, correct, and it will also be illuminated.

Vice Chairman Durham said he read the distance back from the safety path to be 6 ft. Mr. Saati, concurred.

Board Member Walker said he was ok with the request as long as it doesn't affect the line of sight; that was his biggest concern.

Mr. Saati noted that the sign itself is in full compliance with the Township sign ordinance.

Mr. Cieslik shared some of his concerns about the access to the site and the close proximity of one of the new roundabouts.

Mr. Saati then briefly touched on the greenbelt variance they will be seeking at the October 8th meeting.

Moved by Vice Chairman Durham, seconded by Board Member Walker, that in the matter of ZBA Case # AB-2018-32, MRDJ/RCOC, 4036 S. Baldwin, 09-32-101-033, that the petitioner's request for a non-use variance from Sign Ordinance No. 153, Section 7: Non-Residential Zoned Areas, Ground Sign: District GB: a 24' front yard setback variance from the required 30' front yard setback to build a ground sign 6' from the Baldwin Rd. 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: they (Town Auto Wash) lost a majority of the greenbelt that had put them in compliance with the ordinance through no fault of their own, the widening of Baldwin Road is a public safety project and they (Town Car Wash) are trying to work with what they have left; 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: they (Town Car Wah) have had to adapt to a changing piece of property and to try and keep the same sign so as to be visible to traffic - make it (the sign) serve its purpose; 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: for the preservation of the business; the granting of 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; it has no impact on any other properties, it (the sign) is far enough back off the right-of-way to not be an issue with line of sight for pulling in or out of the car wash, it is back behind the safety path, it should not be an issue to anybody using that safety path; it does not impair anything to

anybody; it will not unreasonably congest any public streets; it will not increase the danger to anything or diminish or impair established property.

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

Motion Carried 5-0

6. PUBLIC COMMENTS

None

7. COMMUNICATIONS

Memo from Planning & Zoning Coordinator Frey dated September 12, 2018, Dates which cases can be postponed to.

8. COMMITTEE REPORTS

None

9. MEMBERS' COMMENTS

Trustee Flood commented that at the last Township Board Meeting on September 17th, the Board approved the Supervisor and Attorney to negotiate selling 313 Brown Road which is Hamilton Electric.

10. ADJOURNMENT

Moved by Trustee Flood, seconded by Board Member Koscierzynski, to adjourn the meeting at 7:26pm.

Respectfully submitted,



Lynn Harrison
PC/ZBA Recording Secretary
Charter Township of Orion

October 8, 2018

Zoning Board of Appeals Approval