

FINAL
CHARTER TOWNSHIP OF COMMERCE
ZONING BOARD OF APPEALS MEETING
Thursday, September 23, 2021
2009 Township Drive
Commerce Township, Michigan 48390

A. CALL TO ORDER: Rusty Rosman, Chairperson called the meeting to order at 7:00pm.

<u>ROLL CALL:</u>	<u>Present:</u>	Rusty Rosman, Chairperson Robert Mistele, Secretary Clarence Mills, Vice Chairperson Rick Sovel Sarah Grever, ZBA Alternate Member
	<u>Absent:</u>	Bill McKeever (excused)
	<u>Also Present:</u>	Jay James, Engineer/Building Official Paula Lankford, Assistant to the Planning Director

Chairperson Rosman introduced the Members of the Board to those present, as well as Jay James and Paula Lankford. She reviewed the requirements for receiving a either a dimensional and/or sign variance from the Zoning Board of Appeals, including the fact that all standards are to be met by the applicant. She assured the applicants present that the sites of the proposed variances have been visited by the members of the Zoning Board. She also explained that if a petitioner's variance request is granted, they will receive their letter of approval by mail. It is imperative that the letter be presented when applying for a building permit. A variance is valid for 365 days from the date of the approval letter. If the variance is used, it runs with the land; however, if it is not used, it expires.

Chairperson Rosman – Sarah Grever is substituting tonight for Bill McKeever, our Planning Commission liaison. I want to explain a few things to everybody before we begin. We have to follow the rules, which state that a person who sits on the Planning Commission, who has voted on a proposal before the Planning Commission, cannot participate and vote on that same application to the Zoning Board of Appeals. Sarah is going to sit in for Bill tonight; however, Sarah did not sit on the board the night that one of our applicants came before this board, so she will not be able to vote on that. Additionally, Clarence Mills was not in attendance for that review, so only three of the board members can vote on that item this evening. In order to be granted approval, all three will have to vote in favor. Options are to request tabling until November, or ask for a special meeting. There is no guarantee that all four members, including Bill, would be present.

B. APPROVAL OF MEETING AGENDA

MOTION by Sovel, supported by Mistele, to approve the Zoning Board of Appeals Regular Meeting Agenda for July 22, 2021, as presented.

Discussion –

Sovel – I just want to make it clear. On the Robert Luscombe item, the only members that can vote on that are Bob, Rusty and myself?

Rosman – Correct.

Sovel – For the other two items, it's all five of us?

Rosman – Correct.

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MEETING MINUTES:

MOTION by Mistele, supported by Sovel, to approve the Zoning Board of Appeals Regular Meeting minutes of July 22, 2021, as presented.

MOTION CARRIED UNANIMOUSLY

D. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA:

None.

E. UPDATE OF ACTIVITIES IN COMMERCE TOWNSHIP:

Rick Sovel – Township Board & Library

- At our last meeting, we had a lot of discussion because there was misinformation in the public, and going through social media, about a parking lot on Wise Road for Wise Woods, which is the north side of the two parks. To clarify, we are only putting in a parking lot. It will accommodate 19 cars and we are not putting in an ice arena, a dog park, a splash park, soccer fields, or baseball fields. All these different rumors have been going throughout social media, and they're all totally false. When you get information about things going on at the Township, if you're not sure, please contact someone at the Township. Don't just reach out to other people on social media who have no idea what's really going on.
- Starting next Tuesday, we're beginning our budget meetings for 2022.
- At the last meeting, we also approved an architect. We're going to take the existing office building, just outside of the Township Hall here, and we're going to refurbish that to make it into our new Sheriff's Substation.
- Fire Station #3 on Welch Road will hopefully be open in November.
- This Saturday, if you are a Commerce Township resident, not a member of Wolverine Village, with your Commerce Township address on your driver's license, we're having our hazardous waste collection day. We do that once a year. It's free if you're a resident with a valid Commerce Township driver's license, which will be checked. That goes Saturday from 9am-1pm. Qualified items are on the Commerce Township website, commercetwp.com. This is held annually on the third or fourth Saturday in September.

Chairperson Rosman – Where will it be held?

Sovel – Here at the Township Hall.

Chairperson Rosman – Going back to Wise Woods. I read that too and I've been following it on social media. People are complaining that things come out of nowhere, but that is absolutely not true. Just as Rick talked about with the budget, everything that Commerce Township does is open to the public. The fact that people don't read about it, don't double check on it, or don't come to it – it's on their head, not on ours. Commerce Township has been open from Day 1 about every single thing that they do, because it is a municipality and they have to be.

Paula Lankford – Planning Commission

- At the last Planning Commission meeting on September 13th, there was a request for the BP Gas Station at Pontiac Trail and Beck. They wanted to add an SDM license, which is to sell beer and wine. They were denied based upon

spacing requirements. You can only have two off-premise alcohol sales outlets within one mile, and we already had that. So, that was denied.

- They recommended approval to rezone two Township-owned parcels, about 3.5 acres at 740 Glengary, and the vacant parcel next to it, to the west, from PRD, which is our Public Recreational District to Single-Family R-1B. Those parcels will be put up for sale.
- We had two PUD's that were approved a few months ago. They both came back in for site plan approval.
 - Midtown on Haggerty, which is mixed-use commercial and residential, received site plan approval and they will start working.
 - The Reserve at Crystal Lake, known as the gravel pit, that will be 203 single-family homes. They have quite a bit of site work to do before that gets rolling.

Chairperson Rosman – I would just like to add that Midtown on Haggerty is between 14 Mile Road and the Home Depot, immediately south of Home Depot. Thank you, Paula.

F. OLD BUSINESS:

MOTION by Sovel, supported by Mistele, to remove Item PA21-04 from the table.

AYES: Sovel, Mistele, Rosman

NAYS: None

ABSENT: McKeever

RECUSED: Mills, Grever

MOTION CARRIED

ITEM F1. PA21-04 – ROBERT LUSCOMBE – Tabled from May 27, 2021

Robert Luscombe of Commerce Township MI is requesting a variance from Article 6 of the Commerce Township Zoning Ordinance to demolish an existing home and construct a new home that will encroach into the required roadside front yard setback located at 4181 Lake Pointe Lane. Sidwell No.: 17-15-126-001

Chairperson Rosman – Mr. Luscombe? Is anybody here to speak to this issue?

Sovel – Motion to table?

Chairperson Rosman – I want to make clear that at the last meeting we had, we held the public portion of the meeting, and we closed it. Paula, can I reopen it?

Paula Lankford – It has already been open and closed.

Sovel – It's open and closed, it's just on us. I'll make the motion to table?

Jay James – Just a suggestion. I don't know if maybe they're stuck in traffic or something to that effect. Maybe it can be pushed to the end?

Chairperson Rosman – I'll leave it open and I will put it to the end. Thank you.

Sovel – Okay.

>>[Mr. Luscombe arrived later to the meeting, at 7:28pm. The Board members reviewed his request, Item F1. PA21-04, at 7:42pm, upon completion of reviewing Items G1. and G2. See Page 12 of 26, after conclusion of Item G2. PA21-11]

G. NEW BUSINESS:

ITEM G1. PA21-10 – NICHOLAS VORHOFF – PUBLIC HEARING

Nicholas Vorhoff of Commerce Township MI is requesting variances from Article 33 of the Commerce Township Zoning Ordinance to allow a detached structure (deck) to remain in the lakeside front yard and encroach into the minimum required front yard lakeside setback located at 4371 Bluebird. Sidwell No.: 17-10-428-025

Chairperson Rosman opened the public hearing.

The petitioner, Nicholas Vorhoff, 4371 Bluebird Drive, Commerce Township, was present and spoke to the variance.

Mr. Vorhoff – I included my response to the six questions in the package. Do I need to say those again?

Chairperson Rosman – All of us have read that and we have seen it.

Mr. Vorhoff – Okay. Our backyard is so steep, we really didn't have an option to do anything else to be able to enjoy our property, be able to see the water, be able to have company over and for there to be a recreational space. That was the reason for the deck. We can't put a deck on the front of the house because of the septic field and the well, so that wasn't an option. We built it before. We're first time homeowners. That's not a good excuse, but we took the wrong advice from other people. That was a mistake so don't hold that against us. That's the reason for it, with the slope there. Every other house has a deck on that street.

Chairperson Rosman – Thank you. Anybody else like to speak to that?

Steve Michell, 4363 Bluebird Drive, Commerce Township – I'm two doors down from the Vorhoff's. I have something for you after I read this. We went around and circulated a statement about this to some of the neighbors to show their support for them having a deck. Since Nic and Brandi Vorhoff lived at 4371, they have turned the previously "rough around the edges" property into a home that clearly shows pride of home ownership. They've been an integral part of the community. Nic volunteers to help keep the river open for navigation, the trees in there, and helped the neighbors during recent heavy rains. With their house sitting up on the bluff along Bluebird, there's not much level ground to work with. To find an area for their friends and family to gather, it's very steep on the bluff. I'm sure you all saw that when you visited. I live two doors down. We have 27 steps down to the river, and they have even more. We feel that the existing deck is not offensive, nor does it contrast with the neighboring properties that line this branch of the Huron River. With this in mind, we feel the Vorhoff's family, an integral member of the community, deserve consideration in this matter, and we request that variance #PA21-10 be approved.

Chairperson Rosman – Thank you. Do you have a petition to give to us?

Mr. Mitchell – Yes.

Chairperson Rosman – Thank you. I'll put that right in the record. Paula, there's several names here. I'll leave it in the record for the minutes.

With respect to variance request PA21-10 for 4371 Bluebird, we the undersigned support allowing the nonconforming structure (deck) to remain as configured.

1. *Steven Mitchell, 4363 Bluebird Drive*
2. *Carl Ickes, 4465 Bluebird Drive*
3. *Lisa McGuire, 4351 Bluebird Drive*
4. *Michelle Nabozny, 4383 Bluebird Drive*
5. *Joseph & Marcia Pfaff, 400 Creedmore Street*
6. *Mary Kaye Neumann, 311 Creedmore Street*
7. *Jason & Kim Hinzman, 4393 Bluebird Drive*
8. *Elizabeth McCauley, 4357 Bluebird Drive*

There were -0- returns, -0- letters, and -1- petition as indicated above.

Chairperson Rosman closed the public hearing as there were no additional questions or comments.

Board Comments:

Sovel – I'm going to start with Jay. My concern, obviously, is the fact that we didn't have a chance to inspect the footings.

Jay James – That happens occasionally. We will require that he get a permit for it, then we'll have him dig down next to the posts so that we can verify that the footings are down at the proper depth, with the proper concrete at the bottom.

Sovel – Okay. Anything else? Do you want that to be part of a motion then?

Jay James – That's part of his permit application. It's automatic.

Sovel – Okay. So how was it done on the footings? Do you know?

Mr. Vorhoff – Yes, the footings are [inaudible].

Chairperson Rosman – A little louder about the footings.

Jay James – Are the footings 42" deep?

Mr. Vorhoff – It's more than that, yes. The footings are good.

Sovel – So how did you get the proper footings, but not come in for the permit?

Mr. Vorhoff – I didn't do it personally. I watched it get done.

Sovel – But you didn't buy the house with the footings in, correct?

Jay James – The deck has recently been built.

Mr. Vorhoff – Yes.

Sovel – So you're the one that put in the...

Mr. Vorhoff – Yes, correct.

Sovel – How did you not go through the permitting process? What happened, or what didn't happen?

Chairperson Rosman – He told you. He was listening to other people.

Mr. Vorhoff – Yes, we're new homeowners. I didn't think I needed one. Obviously I'm wrong, but that's what happened.

Sovel – Are there any other issues with the structural part of it, as far as proper height and distance between the posts?

Jay James – We haven't been out there, so he will be required to submit a plan to us.

Paula Lankford – Which he has.

Sovel – We have a plan.

Jay James – A construction plan. We'll review that and go out and look at it since it's already constructed. Then if there is anything that does not meet the code, such as post spacing, et cetera, he would have to add additional posts or whatever it is, he will have to install it. It may mean he has to tear up some boards and replace them in order to do it. This does happen on occasion where people don't realize they need permits and then come back in afterwards. We're kind of used to dealing with those.

Sovel – I don't have any more questions.

Grever – I don't have any questions. I like the profile of the footings you put in. I've heard that with some contractors that come in, they'll say this is to code, 48". I didn't really have any thoughts about it. I understand that you did it without a permit, and that would be part of the permit process. Rick answered all of that.

Mistele – I do definitely find that there is uniqueness on this lot, with the large cliff down to the canal. I really don't see the structure as it stands now having a negative impact on the properties as it is pretty wooded back there, so I don't think there's a visibility issue with it. As long as it's safe, I don't really have any issues.

Mills – My question goes along with Rick's a little bit. Did you personally dig down for the footings on the posts, or did you have somebody else do it?

Mr. Vorhoff – I helped.

Mills – You helped. Did you hand dig those posts?

Mr. Vorhoff – No, we used an auger.

Mills – Okay. That was my concern and issue is how were they dug. Other than that, I don't see any problem with it. I think it looks even with the grade behind your house.

Chairperson Rosman – So long as Jay is satisfied, I have no problem with it. I know as a first-time homeowner, there's a lot of things you don't know. I'm sure whomever gave you advice thought they were helping, but I can truly assure you that any questions that anybody ever has can be answered at the municipality, rather than from the real estate person, your best friend, et cetera, because this is where you end up if you don't do it that way. I'm sure that once Jay comes out, whatever he wants you to do, that you will comply with it. It's a beautiful deck.

Mr. Vorhoff – Thank you.

Chairperson Rosman – Jay, anything to add?

Jay James – No, I'm good. If he is approved, I'll work with him through the process.

Chairperson Rosman – Okay, great. Thank you. Paula, anything?

Paula Lankford – No.

MOTION by Mills, seconded by Grever, that the Zoning Board of Appeals **approves, with a condition**, Item PA21-10, the request by Nicholas Vorhoff of Commerce Township MI for variances from Article 33 of the Commerce Township Zoning Ordinance to allow a detached structure (deck) to remain in the lakeside front yard and encroach into the minimum required front yard lakeside setback located at 4371 Bluebird. Sidwell No.: 17-10-428-025

Based upon the presentation and the comments we have heard, I don't see a problem with the request. The request is unique to the feature of the land, because of the drop-off.

Approval is conditional upon the applicant working with the Building Department to comply with any requests they may have, and to ensure the deck is safe and constructed according to the building codes.

AYES: Mills, Grever, Rosman, Sovel, Mistele

NAYS: None

ABSENT: McKeever

RECUSED: None

MOTION CARRIED UNANIMOUSLY

>>Paula Lankford – Rusty, Mr. Luscombe is here. [7:28pm]

Chairperson Rosman proceeded to Item G2.

ITEM G2: PA21-11 – GREG WHITE – PUBLIC HEARING

Greg White of Commerce Township MI is requesting variances from Article 33 of the Commerce Township Zoning Ordinance to construct a detached garage that will encroach into the required rear yard setback, have access to the rear road (Dryman

Street) and to eliminate the required ten (10) foot greenbelt on a lot considered to be a through lot with two parallel streets located at 1854 Thorndale.
Sidwell No.: 17-01-256-016

Chairperson Rosman opened the public hearing.

The petitioner, Greg White, 1854 Thorndale, Commerce Township, was present and spoke to the variance.

Mr. White – We're looking to construct a garage on the backside of our property, which would be considered the alley or side street, Dryman, as close as we can to the road and as far over, which we have 4' off the property next door. We're looking for variances to put it on the back side of Dryman versus Thorndale, because we have no access from Thorndale. The septic tank and field are in between where we want the garage, and where our home is currently. With the location that's there, it's the only place I can really put it because of the septic field.

Mrs. White – You should have copies, but I wanted to add that we did go around and talk to as many neighbors as possible.

Chairperson Rosman – We have three pages. I will read it into the public record and put that into the file.

To Whom It May Concern: Please be advised that I/we, neighbors, of Nicole and Gregory White, whose address is 1854 Thorndale Street, Commerce Township, 48382, are in support of them constructing a garage in their rear yard, with a setback of 4' and with access to Dryman Street. This will in no way change the characteristics of the subdivision and will not negatively affect us as their neighbors.

Respectfully,

Signed by the following neighbors in agreement:

- 1. Mike Griffith, 1865 Thorndale Street*
- 2. Krista Dipaola, 1881 Thorndale Street*
- 3. Sean O'Connel 1761 Point Street*
- 4. Jennifer Griffith, 1865 Thorndale Street*
- 5. Sarah & Joe Ely, 1757 Thorndale Street*
- 6. Dennis Smolen, 1851 Thorndale Street*
- 7. Jim Black, 1782 Thorndale Street*
- 8. Victoria Dixon, 1819 Thorndale Street*
- 9. Robin Cubr, 1800 Thorndale Street*
- 10. Robert Devore, 1754 Thorndale Street*
- 11. Jeff LaVoy, 1865 Dryman*
- 12. Mike Rihl, 1784 Union Lake Road*
- 13. Elizabeth DuSang, 1856 Point Street*
- 14. Phillip Chapuseaux, 1832 Point Street*
- 15. Valerie Milliken, 1883 Point Street*
- 16. Richard Utterback, 8285 Flagstaff Street*
- 17. Ronald & Nancy Carter, 1849 Point Street*
- 18. Dolores Colt, 1849 Point Street*

19. Jonathan Marquis, 8274 Flagstaff
20. Laura Steiner, 8255 Flagstaff Street
21. Inge Burdt, 8315 Flagstaff Street
22. Kelly Slack, 1890 Thorndale Street
23. Pauline Slack, 1870 Thorndale Street
24. William Josephson, 1873 Point Street
25. Angela Wright, 1838 Thorndale Street
26. Hazel Fishell, 1841 Point Street
27. Mark DeBenedictus, 1896 Point Street
28. June Bettone, 1809 Point Street
29. Julianne Reynolds, 1815 Point Street
30. Eric Snyr, 1785 Point Street
31. Doris Fisher, 1810 Thorndale Street

There were -0- returns, -0- letters and -1- petition as indicated above.

Chairperson Rosman closed the public hearing as there were no additional questions or comments.

Board Comments:

Mistele – When I was out there looking around, obviously the lot is unique as it's a through lot. I have not seen many of those. I walked up and down all of the streets, and there were houses on all of them. There's a good number that have garages opposite the main entrance of the house. I really don't see any big issues with the placement of this garage, and allowing entrance from Dryman.

Mills – The question I have, there is a ... I don't know if it's a playhouse or a shed back there?

Mr. White – Yes, there are a few sheds back there. They're all being removed.

Mills – That's what I wanted to hear for sure. Other than that, I don't have any problem.

Sovel – Can it be moved, keeping it the same size, further back from the road, or is this the minimum, as far away from the road that it can be, to accomplish this?

Mr. White – It could be maybe a couple more feet. My septic field is within 6' of it right now.

Sovel – What's the setback from a septic?

Jay James – Typically, the Health Department likes to see 10' if possible, but his plan, when he submits for his permit, will go to the Health Department. Have you spoken with them yet, by chance?

Mr. White – No, not yet.

Sovel – So, should they be before us?

Jay James – They would probably prefer to come to you first. She will go out and look at it to determine the actual extent of the septic field. Sometimes they don't know for sure, as I wouldn't know for sure. Based on that, she will either approve it or deny it, and then it would come back to us. Their rule of thumb is 10'.

Sovel – If we approve it, really what we're doing is two things. Within the setback part of the yard, I'm not worried about that part because that's either yes or no, but the setback from the road, if the Health Department deems it has to be 3" different or a foot, does that then have to come back to us?

Jay James – If it's approved with a variance for a setback, and the Health Department then denies it, he would either have to shrink the garage to meet the Health Department's requirements, or in this case he might be able to turn the garage. In no case would he be able to go closer than 4', or whatever the ZBA approves tonight.

Sovel – I don't have a problem with the garage, I'm just more concerned with ...

Jay James – Getting back to your first question, as far as could it be moved back? If the Health Department denies and he has to turn it, it might be possible to move it a little farther away from the road. If that's what you're referring to Rick, I would recommend that you put it in the motion; if the Health Department denies and it can be turned, that they just keep it the maximum distance away from the road that they can.

Sovel – It's not a variance as far as which way they enter the garage, so all we're doing is giving the distance. Turning it really doesn't impact us.

Jay James – If you're approving it to go within 4' of the property line, and they end up having to turn it, they might be able to get it farther back.

Sovel – I see what you're saying.

Jay James – If you approve it to 4', I don't think it's an issue if they go 6' back.

Sovel – As you know we're supposed to do the least amount of variance if possible. If we say turn it right now, then ... I don't know the number, 6'? That would be what we would approve. I'm just trying to deal with the minimum variance request.

Jay James – I get what you're saying. I'm looking at it, it's 16x24. If they were to turn it, they're going to have to go a little deeper. I think what you have here is the minimum that they're going to be able to do, even if they do turn it because they'll have to make it a little deeper for the depth of a car.

Sovel – For your benefit, not knowing what Health Department is going to say, if we give you the maximum allowed and you go something less than that, we're okay. If you come back to ask for something more, you have to go through the whole process again and pay the fee, we'll have to notice, et cetera. I'm trying to help you out so we can accomplish this without you having to start the process all over if the Health Department says no to some aspect of it.

Grever – I'll start with, this would be an improvement for the neighborhood. I'm surprised Dryman is actually a street and not an alleyway. Alleyways are usually 16', and this is a 20' road. I was shocked that it's an actual street. Is the 4' building setback because you want to give leniency for the right-of-way, or does that include ...

Mr. White – Just to have a little bit in front of the garage I guess. I mean I would even agree to be closer, but I want something there.

Grever – I think that would be helpful. With all of the insane storms we've been having, have you experienced any type of flooding or road runoff that has caused issues in your property?

Mr. White – No.

Grever – Okay, that's good. Right now, you'd be removing the existing shed and then you'll probably keep the covered shed that's closer to your house?

Mr. White – [Response inaudible].

Grever – Okay, you'll have a whole field to play in.

Mr. White – Lots of stuff has to happen.

Grever – That makes me feel better for grading and water percolation. Will you be having an engineer involved with this, or just going through permits and architecture?

Mr. White – Just permits.

Grever – Okay. Those are all the questions I had. I know you're really stuck in your placement. It's good that you're smart about it because you don't want to mess with the septic field. I think you did a good job and you did your best at improving your lot.

Chairperson Rosman – I'm glad that you're taking down all of the structures. Are you going to keep the trampoline?

Mrs. White – For a little while.

Mr. White – The kids are adults.

Chairperson Rosman – I hear you. I'm sure the structure will look nice and I understand you're going to do more gardening. You have lovely gardens. I don't have a problem with what you want to do, and understanding what Jay said, we're going to let you put it there, but exactly where it goes will depend on the Health Department. I'm all set. Anything you would like to add?

Jay James – I don't think so.

Paula Lankford – The only thing that was brought to my attention was that maybe you might want to entertain having the garage door, if you allow it to face Dryman, to maybe

have the garage door type that has windows in it to give it more feel than just a solid wall. That's up to you.

MOTION by Sovel, seconded by Rosman, to **approve, with conditions**, Item PA21-11, the request by Greg White of Commerce Township MI for variances from Article 33 of the Commerce Township Zoning Ordinance to construct a detached garage that will encroach into the required rear yard setback, have access to the rear road (Dryman Street) and to eliminate the required ten (10) foot greenbelt on a lot considered to be a through lot with two parallel streets located at 1854 Thorndale.

Sidwell No.: 17-01-256-016

Move to approve the following three variances.

1. The dimensional variance of 31' relative to the 35' rear setback requirement from Section 33.01.A.5.a.iii of the Zoning Ordinance, or basically to allow 4' from the road; and,
2. A variance from Section 33.01.A.5.a.iii of the Zoning Ordinance to allow vehicular access off the through lot's defined rear road of Dryman Street; and,
3. A variance from Section 33.01.A.5.a.iv of the Zoning Ordinance to exclude the requirement for a 10' landscape greenbelt between the accessory structure and the Dryman Street setback line.

Approval is subject to the following conditions:

1. Removing the other accessory buildings; and,
2. If the garage is turned sideways, on the Dryman Road side, there will be some windows on that wall, on that side of the street.

Approval is based upon the Finding of Fact in the Planning Department's report, and with the practical difficulties meeting all of the dimensional variance requirements and conditions.

Discussion –

Chairperson Rosman – Final placement will be determined by the Health Department.
Jay James – Rick, as I look at it now, even if they turn it, if they need 4 more feet to the septic field, they're going to need to widen it to get the car in anyway, so it will end up bringing it the same distance back.

Sovel – Okay, that's my motion.

AYES: Sovel, Rosman, Mills, Grever, Mistele

NAYS: None

ABSENT: McKeever

RECUSED: None

MOTION CARRIED UNANIMOUSLY

[7:42pm – The Board members returned to Item F1. PA21-04 as Mr. Luscombe was now present.]

ITEM F1. PA21-04 – ROBERT LUSCOMBE

Robert Luscombe of Commerce Township MI is requesting a variance from Article 6 of the Commerce Township Zoning Ordinance to demolish an existing home and construct a new home that will encroach into the required roadside front yard setback located at 4181 Lake Pointe Lane. Sidwell No.: 17-15-126-001

Chairperson Rosman – The next agenda item is PA21-04, which was already removed from the table earlier. Hi, Mr. Luscombe.

Mr. Luscombe – Hello.

Chairperson Rosman – We're glad that you made it. I'm sure traffic was not lovely. Please, would you come up to the podium. We don't have the minute taker tonight, so we need to speak into the microphone so she can transcribe it.

Mistele – Rusty, do you want to remind him about the three votes?

Chairperson Rosman – Mr. Luscombe, are you aware of the three votes that you have to have?

Mr. Luscombe – I noticed, yes.

Sovel – Clarify.

Jay James – You might want to remind him. One of the members that was at the last hearing is not here today, therefore there are only three members tonight that can vote, and you would need all three in favor in order to get your variance.

Chairperson Rosman – Okay, thank you. Please, go ahead. Your submittal is up on the overhead.

Mr. Luscombe – Yes.

Chairperson Rosman – Okay, we're ready.

Mr. Luscombe had submitted a letter which was in the packet. He read the letter into the record.

At the May 27th ZBA meeting, Chairperson Rosman remarked, "I'm going to suggest you listen carefully to what your neighbors have to say about the design of the house and see if you can meet that."

I took Chairman Rosman's suggestion to heart and listened carefully to my neighbors. As a result, I revised the design of my house to minimize the impact of their view on Commerce Lake. A copy of the revised site plan, Option B, has been submitted to the Township. For the revised site plan, I seek a variance to eliminate the 25' setback from the stub portion of Lake Pointe Lane that borders Lots 16 and 17, which will still leave a setback of over 60' from the traveled portion of the roadway. All of my neighbors – all of the other owners in the subdivision – now concur with this request for a variance. Absent the requested variance from the setback, the new home would sit closer to the lake and diminish my neighbor's view of the lake to a greater degree. Practical difficulties in complying with the 25-foot setback requirement from the private road in this instance include the following:

- 1. Will create an unnecessary burden on me because I would be forced to construct the home over the objections of my neighbors, who have each consented to the requested variance based on my revised site plan.*

2. *The variance will do substantial justice to me, as well as the other property owners, and a lesser variance than requested will not give substantial relief or be consistent with the justice of the other property owners. The variance, as requested, minimizes the impact of my new home on my neighbors' view of the lake. My neighbors strongly prefer the current design, Option B, over strict compliance with the setback because the variance would maximize their use and enjoyment of their property without impacting the general public. Granting of the variance will therefore promote harmony among all property owners in the subdivision.*
3. *The need for a variance is due to two unique circumstances particular to the land involved that are not applicable to other land in the same district. First, Commerce Lake Pointe Sub. No. 2 borders on Commerce Lake and creates a unique circumstance particular to the subdivision. Views of the lake are paramount to the property owners. The requested variance will mitigate the impact on other property owners by improving their view of the lake. Absent the variance, their views of the lake will be more adversely impacted. Second, the private road, Lake Pointe Lane, includes a 30x60' stub bordering the south ends of Lots 16 and 17, which is peculiar to the subdivision. Importantly, the stub is not part of the traveled portion of the roadway and has never been used by the other property owners. This peculiar stub dictates the need for the variance. Even with the variance, my house will sit over 60 feet from the traveled portion of the roadway.*
4. *The problem and resulting need for the variance has not been self-created by me or my predecessors. The peculiar road stub creates the need for the variance. Absent the stub, no variance would be required because the planned house would be situated over 60' from the traveled portion of the roadway. Neither I nor my predecessors were involved in the design or construction of the subdivision, the private road, or the stub.*
5. *The variance will not cause significant adverse impacts to the adjacent properties, the neighborhood or the Township and will not create a public nuisance nor materially impair public health, safety, comfort, morals, or welfare. To the contrary, the variance seeks to minimize the adverse impacts to adjacent properties and would promote harmony within the neighborhood.*
6. *The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return. The hardship resulting from a failure to grant the variance will adversely impact the neighboring property owners' views of Commerce Lake and cause unnecessary dissent within the neighborhood.*

For these reasons, I request a variance to eliminate the 25' setback from the stub portion of Lake Pointe Lane as it applies to Lots 16 and 17, Commerce Lake Pointe Sub No. 2, in accordance with Option B site plan as submitted.

My signature; below it, I concur with Robert D. Luscombe's request for a variance for the reasons set above. And, I have signatures from the other five property owners within the subdivision.

1. *Lot 18, Pamela Clement Furr*
2. *Lot 19, Michael Cunningham*
3. *Lot 20, Mark Plasko.*
4. *Lots 21-22, Denver Nichols*
5. *Lots 24-25, David Brier*

Chairperson Rosman – Thank you, sir. Because we already held the public portion of the meeting on May 27th, we're not going to speak to the public tonight. I'm going to close this portion, and turn to ... Yes, sir? Did you have more?

Mr. Luscombe – Yes, please.

Chairperson Rosman – I beg your pardon, sir. I thought you were finished.

Mr. Luscombe – Today, I got an email from Tristan Larson, with PEA Group, who did the surveying and helped us with the septic field. I was traveling from Portland where I was visiting my grandsons. So, he sent me this email:

Rob, Highlighted in the attached is a section that addresses the Circuit Court process required to change/amend the plot, i.e., vacate the roadway, investing title to lot owners. Our survey department has completed a few of these in the past few years, and generally the entire process takes no less than 12 months, and more likely, 18-14 months to complete. Our professional surveying services for these typically run in the tens of thousands of dollars. In addition to our fees, there would be attorney and court fees. You'll need to argue to the ZBA tonight that the above process is too costly and time consuming to vacate the roadway. I was informed that just having the signatures of your neighbors is not enough for the ZBA to grant you a variance. I tried to call you, but if you have any questions you can get back to me prior to the meeting tonight.

I don't know if you're interested in seeing the highlighted portion of what's necessary to go through this, and maybe you're aware of it.

Chairperson Rosman – I am.

Mr. Luscombe – I have copies for the members.

Chairperson Rosman – Thank you. Let me put in right in the record so we'll have it. Is there anything else you'd like to tell us?

Mr. Luscombe – Are there any questions about the proposal?

Chairperson Rosman – We're going to get to that in a moment. Is there anything else you'd like to include before I turn to board members?

Mr. Luscombe – Not at this time.

Chairperson Rosman – I'm going to start off with my question to Paula and to Jay. Am I correct that the only way a street can be abandoned in the State of Michigan is to have all of the neighbors sign off on it, or go through Circuit Court?

Paula Lankford – It's actually both. You can't do it with just signatures from the owners. You have to go through Circuit Court.

Chairperson Rosman – It has to go through Court. Is there any precedent to allowing a ZBA to do that for a homeowner?

Paula Lankford – The ZBA cannot do that, no.

Chairperson Rosman – So we cannot address the stub street and treat it as vacated. We must treat it as the street.

Paula Lankford – It is a road, yes.

Chairperson Rosman – So then we must look at 25' from the road when we're looking at this parcel, correct?

Paula Lankford – Yes.

Chairperson Rosman – I just wanted to clarify that for everybody on the Board, that we don't have the right to abandon that street for Mr. Luscombe. We're all clear on that. Now Mr. Luscombe, a couple questions for you. Regarding the parcel that I see in the picture, this is straddling both Lots 16 and 17, am I correct?

Mr. Luscombe – Yes.

Chairperson Rosman – My question is, can you make the house smaller to fit? With staying back that 25' from the stub street that we are not allowed to abandon for you.

Mr. Luscombe – I'm not asking you to abandon it. I'm just asking to reduce the setback from it. I don't need it abandoned. That's not what I'm asking for. I want to change the setback, but 25' takes it even to here. This is the 50' setback. The 25' setback comes up to here. I have 0 here, and it comes straight across to here, leaving me with about 70' to work with out of 190'. I've got a double lot and I'm losing more than two-thirds of it. I can only move this way so much. I can't move this way anymore. I'm trying to give as much as I can which is why she signed off on it. Shy of this, we can push it up, but I shove everything to the 50' line, and I cut her view off more than Option A that she objected to. Then I've got a neighbor over here who is also going to be impacted.

Chairperson Rosman – Thank you. Rick?

Sovel – If we were to do an overlay of this versus the other one, does it change anything from the original, what we posted from the variance requests that were published and posted?

Paula Lankford – No, nothing changes. It's the same request. He's just moved it back further from the lake.

Sovel – Okay, but by moving further, it hasn't changed. Did it change the amount that he's requesting from the lake setback?

Paula Lankford – There is no variance on the lake setback, so he's fine. It's just a road setback, so nothing in the notice had to be changed. He narrowed the house to give more of a setback on the lake, but kept the same 0-setback at the road.

Sovel – Have you had a chance to really get into this, Jay? Looking to see as far the way he has turned it, or is there anything else that he can do, taking the same piece and maneuvering it to make it less of a setback?

Jay James – I think the applicant just said, he can move the current house with the current footprint to meet with our ordinance. I understand he is trying to appease his neighbors and the viewsheds for which they would like to have, but he can move it to meet our ordinance.

Paula Lankford – He can't move this particular plan, no.

Jay James – He has submitted a plan that he can move that could meet our ordinance.

Chairperson Rosman – Are you saying there is another plan?

Jay James – He has submitted a couple different plans over the course of conversations. This plan, as Paula said, he shrunk it up to try to ...

Chairperson Rosman – This is Option B, but there is an Option C?

Mr. Luscombe – The difference between B and C ...

Chairperson Rosman – You've got to come up to the microphone.

Jay James – Mr. Luscombe, I think the question is, the house that you want to build, can it be put anywhere on your lot and not need a variance?

Mr. Luscombe – Yes, and it would be detrimental to my neighbors. This is why the neighbor to the east objected to Plan A. Originally, Plan A took the house much closer to her property. We took about 10% out of the house, between 300 and 400 square feet were taken out of the house, of approximately 3,500 square feet. I don't know the exact number. Most of that came from giving her more distance this way, not necessarily dropping it back. I can push it all the way up to the front, which is more objectionable and would take away her view more than the original Plan A would.

Chairperson Rosman – Well, if I'm right, her view is that way. She can look that way, but her view is that way.

Mr. Luscombe – Understand, that was our original objection, but she came in with seven other people. You asked me to work with her. I gave her both Plans B and C, both sized 24x36. I sent it to her house in North Carolina. She said, *I can do B. I like B. I'll work with that and I'll sign the letter. I don't like C, but I understand that you can do that over my objections.* I'm trying. I don't know whose feet I'm stepping on.

Chairperson Rosman – I get that.

Mr. Luscombe – I've got a stub that's off the road. What its use is, I don't know. Bill here suggested, well, that's a turnaround. Fine, they can use it as they have in the past. I don't know that anyone has ever used it as a turnaround. I'm not asking for ...

Chairperson Rosman – When they built the road, you were the end of the road. Then they built more afterwards. It wasn't all built at the same time.

Mr. Luscombe – No, they ended the road on the west side of my stub. When you pick up Subdivision 1, you don't see anything past Lot 15. We have no idea what was there. Nothing is defined. Personally, I think the road stub was to access Lot 17. Maybe it was a roadway.

Chairperson Rosman – Are you the original owner of 16 and 17?

Mr. Luscombe – No. I was 3 years old when that subdivision was made. I was 10 when the house was built.

Chairperson Rosman – Okay.

Jay James – Rusty, the stub street was, I think pretty obviously, included to access Lot 17 at the time.

Chairperson Rosman – Well, here is my next question to go with yours about the size and the neighbor and everything. You said that you had a Plan C.

Mr. Luscombe – I submitted it to the subdivision. I thought the Township, I thought maybe we could swap them and you could see the difference.

Chairperson Rosman – Rick, finish what you were doing please.

Sovel – Basically, Paula, if I'm understanding this, we're being asked to approve something that is self-created so that he can be a good neighbor.

Paula Lankford – Yes.

Sovel – That's basically the way I look at it. I admire the fact that he's trying to do that. He doesn't understand that we have these rules we're supposed to be following and adhering to, and we'd have to break one of those rules. Unfortunately, being a good neighbor is not one of the conditions in our ordinance. Are there any other issues? Does this help – the main reason I think we had the concern, and his neighbors' concerns were blocking views of the lake.

Paula Lankford – Correct.

Sovel – Does this appear to you that this is the minimal amount of blocking other residents' views?

Paula Lankford – Yes ...

Chairperson Rosman – That's not a ...

Jay James – Yes, with this footprint.

Paula Lankford - ... with this footprint.

Sovel – Right, okay. As far as vacating the road and all that, that's really not an issue for us, so I have nothing to say on that part.

Jay James – You cannot vacate the road.

Sovel – Right, I understand that. Even on the Township Board, we can't do that. We can only do what we're legally allowed to do and have the power to do. That's not one of those powers granted to us by the State Legislature.

Mr. Luscombe – Nor is it being requested.

Sovel – I understand.

Paula Lankford – We do have Option C if you want to see it on the projector.

Chairperson Rosman – There's also an Option D that I'd like to talk about, but I'd like Bob to have a turn.

Sovel – I'm done.

Mistele – I pretty much think the other members hit a lot of my points. One of the other concerns I have is that it does appear in the stub that he has landscaping, and obviously his driveway is on the stub road. It looks like he's treating that stub road as part of his property, which obviously is something he cannot do. We cannot give that away. That's been one of my concerns with this plan the entire time.

Chairperson Rosman – There is an Option D and that is to make a 2-story house with the master on the main floor, and everything you want on the main floor. Make the house smaller, bring it back, take care of your neighbors, but don't make it all over the lot as you have it now. That's an Option D, which I'm throwing out. We as a Board, our job is the least amount of variance needed to have you use your property.

Mr. Luscombe – It's a subdivision with a total of six property owners, and me being one of them. They've all requested – it's their desire, when choosing between the two. There are lots of options. I've taken the house, lifted it up and been there. I could put a prefab 20x30 on there. I can do all that. I want to build something that I think is a little more architecturally desirable, and use the lot. Right now, the way you're doing it, I have a double lot, and I don't even know if one-third of it is buildable if you take the strict adherence to a road stub that is not used. That is not part of the traveled road. I'm trying to ask for something reasonable here.

Chairperson Rosman – I want to go to the neighbors for a moment. I too live on a lake, and I have neighbors who have trees that are very close to the water. I can't make them move the tree so I can see the water. I live on the lake and I'm entitled to this, what's right in front of me. I know you have neighbors who have trees and so on, but you're entitled to what's in front of you. You're not necessarily entitled to this. While I hear you, and I know what I said to you about your neighbors, I can't see where the Zoning Board of Appeals can fit that into the least amount of variance necessary, when you do have a

plan that does fit. That's our job, is the least amount of variance necessary. That's where I am.

I'm going to go to Paula for a moment. I understand that there was another building drawing submitted. Did that fit?

Paula Lankford – Yes. We have it here for you, his Option C, which meets all setbacks of the Township.

Chairperson Rosman – This is it.

Jay James – Yes, this pushes it back, it meets the setback from the road stub, but what you can see is that it's out farther than this neighbor in particular, both neighbors. I think that's what he's trying to do is to appease his neighbors at the same time. But, this plan does meet with our ordinance.

Chairperson Rosman – So there is an opportunity for a structure to be on here that meets the ordinance, with no variances.

Paula Lankford – Correct.

Mr. Luscombe – There are infinite ways a house could be built to meet your ordinance.

Chairperson Rosman – Of course.

Sovel – Do we have the square footage? What's the difference between these two?

Mr. Luscombe – Similar square footages.

Jay James – This one, I think he shrunk it by 300-400 square feet on the Option that he is requesting the variance for.

Mr. Luscombe – What shrunk was the living area from A by 10%. The garage, the only difference between B and C is that the garage is bigger in B because we did bring it out a little bit and added some more storage. So, only the garage is bigger. The house footprint itself is the same.

Sovel – So the house is the same size and it has been shifted, but the garage is smaller?

Chairperson Rosman – In C.

Mr. Luscombe – Right, I can't have as much storage in the garage here in order to meet the 25'. But because of the shape of the house, the closer I come this way, the closer I get to the neighbor.

In addition to the lake, I'm losing all of that. I'm 85' from the traveled part of the road. What's reasonable here? Why is that reasonable? I'm not stepping on anybody's feet. All I'm doing is impacting the side view, peripheral vision of the other two neighbors, but people don't look just straight ahead. They look like this.

Chairperson Rosman – When they have to, they look straight ahead.

Mr. Luscombe – That's right.

Chairperson Rosman – I have to because there's trees all around.

Mr. Luscombe – If that's your decision, then they have to, if you can't allow them a little bit more like this. I don't know whose feet I'm stepping on. This is what frustrates me. I understand 25' from the road, but I'm 85' from the road.

Chairperson Rosman – How far is he from the lake in Plan C?

Jay James – 50'.

Paula Lankford – Right on the nose.

Chairperson Rosman – Which is the minimum?

Jay James – Which is the maximum that our ordinance can require you to go back. I believe there are three options here. One is that you grant him a variance for what he is asking. Two is that he can build a house that meets with the ordinance, per Plan C even which meets with the ordinance, and the other one is to abandon the stub and then he can build the house he wants where he wants and appease the neighbor.

Mr. Luscombe – Abandoning the stub is going to take, according to PEA, 18-24 months and tens of thousands of dollars.

Jay James – I can't speak to either of those.

Mr. Luscombe – Sure, that's the estimate I got today. No matter what I build, I'm still stuck in the same less than one-third of the property. Yes, I could build a 2-story. As somebody pointed out at the last meeting, that's even more obtrusive, but sure, we can do that.

Sovel – If he does this plan, he doesn't need any variances.

Jay James – That's correct.

Sovel – So we wouldn't have to do anything.

Chairperson Rosman – That's right. So if we deny it, he could build C.

Sovel – I understand, but this plan would be obstructing the neighbors' view.

Paula Lankford – I think any plan is going to obstruct their view. This one obstructs it the most.

Sovel – That's a tough one. Unlike your issue, it's not his view that's being obstructed, it's someone else's.

Chairperson Rosman – But the neighbors aren't here asking for the variance. He is asking for the variance, and we have to look at this piece and the ordinance. The ordinance doesn't tell us to ...

Mr. Luscombe – They all signed.

Sovel – Well I don't know if they all signed or not, but the ones that did sign, is that A, B or C?

Mr. Luscombe – B, and who signed it are the other five property owners of Lake Point Lane Sub No. 2. There's only six property owners in the sub.

Jay James – Okay, because I know there are some people here that are going to [inaudible 8:10pm]. Let me pull up Property Gateway. This is zoomed out a bit. His parcel is right here. You can see this dark yellow line that comes down here and wraps around. That is Lake Point Sub No. 2 I believe, which is his subdivision, but as you can see, there are neighbors on Lake Pointe Lane that aren't necessarily part of his sub, but are neighbors nonetheless.

Unknown – The stub belongs to us.

Jay James – That I don't know. There are people here that live on Lake Pointe Lane, but are not part of the subdivision plat that he is part of.

Mr. Luscombe – So the other five property owners have all signed this letter. They all prefer Option B to Option C. They prefer Option B to give me the variance so I can pull the house back from the lake.

Sovel – So assuming this is north, how about the person to your west? I don't care what sub it's in.

Mr. Luscombe – I asked them to come today as I thought it would be in their best interest, because their view is going to be impacted if I go with Option C.

Chairperson Rosman – Their view is impacted where your house is right now.

Mr. Luscombe – Their view is less impacted where I'm building the house because I'm going to be some 25' over, and I'm not building it as ... this is at 50'. I'm building it more this way and farther back. They get the most improvement. Obviously she gets something because nothing is built here. Anything I build on 17 is going to impact, but I'm moving about 25' away.

Chairperson Rosman – Okay.

Jay James – This property is literally a point in the subdivision, a point on the lake. Therefore, it's going to obstruct views regardless of where it's built.

Chairperson Rosman – And as you take a look, Rick, and you see the neighbor to the east, her vision goes off to the east. It doesn't go more to the center.

Sovel – Right, I understand what you’re saying. It makes sense.

Chairperson Rosman – And, I saw he took down a very big tree, right where the orange line is on the left, so that improves her sight also. I take it you’re the neighbor. You raised up from the pine tree so you can see out. I have neighbor that planted a tree right by the water, so my view goes right into the tree. There’s nothing I can do about that. Sometimes, that’s just the way life is. Bob, is there anything else you would like to add or ask?

Mistele – No.

Chairperson Rosman – Rick, is there anything else you would like to add or ask?

Sovel – No.

Unknown – We want to know why we can’t speak.

Chairperson Rosman – Because we already had the public portion of the meeting last time.

Sovel – Can I ask a question? I understand we had the public hearing based on what’s presented. This is something different. Would you be willing, as a Chairperson, to give them the opportunity to speak since this is a different plan than they had to address the first time?

Chairperson Rosman – Paula made the point to me that we’ve already had the public portion.

Paula Lankford – I think it would be fine.

Chairperson Rosman – Okay, then I will be happy to.

Chairperson Rosman opened to the public for comments.

Regina Fronczak Roth, 4080 Lake Pointe Lane, Commerce Township – I am in Subdivision 1. That stub was part of Subdivision 1 when it was created.

Chairperson Rosman – And 1 is to the left?

Jay James – To the left.

Ms. Roth – To the lady who didn’t show up today.

Sovel – In looking at the map, you’re on the left side.

Chairperson Rosman – It’s to the left, Subdivision 1. Okay, thank you.

Ms. Roth – It’s toward my house. I am here because I have a few things. Mr. Luscombe has said, *all of my neighbors*. He has never once approached me. He did approach my neighbor across the street, but for some reason, perhaps because I spoke at the last

meeting. I was the person who presented this picture, that Jack built the road. Perhaps that is why he has not addressed me, nor asked me any questions. He said, *each person down the street has agreed to that*. That is not true. He also used the word *harmony*. You can tell, there's no harmony here.

I want to present Lake Pointe Lane to you, and to you, what it looked like before Jack Horner developed it. This is what Lake Pointe Lane looked like. Mr. Horner created the street, and that stub there, to end Lake Pointe Subdivision 1 before he could go on and build the next, or extend the road, Lake Pointe 2. That was supposed to be a turnaround. Now, Jack Horner is no longer with us. I learned a lot from the man. He had the insight to look and create this road. He was an engineer. He knew what he was doing when he did the stub. It was a turnaround, and it still should remain as that. He had the vision to create Lake Pointe Lane from this. We all appreciate that.

My last thing I have here is that, as I understood, he wants to encroach that stub.

Personally, I liked your suggestion. That part of the sub does permit 2-story houses.

The first part does not. The six houses or whatever, we would not permit nor vote on a 2-story house for the reason of blocking views.

But I guess I really wanted to come and speak because Mr. Luscombe says the entire neighborhood. That is not true. My neighbor across the street is here and will address you shortly. Mr. Horner had a vision, and I'm here to protect his vision. He had a reason why he wanted a stub.

Chairperson Rosman – Thank you very much. Is there anybody else?

William Pate, 4095 Lake Pointe Lane, Commerce Township – I don't need to repeat what I said at the last meeting.

Sovel – Please don't.

Mr. Pate – We were here to defend the stub, and it is part of the road. It's our only turnaround. Based on what you said, it sounds like the stub is protected if I hear that correctly. There's no cul-de-sac on this street. All of the service trucks use that. In spite of what people are saying, it's the only way in and out. Any single axle truck has to turn around there. Any double axle truck drives in and backs out.

The only other thing I'd like to say is that 16 and 17 were always linked together. If you look at it visually, it's the largest two pieces on the whole lake, owned by one owner. It's on an arc. It's a huge lot. The stub was never an entry to 17. It was never buildable on its own. Lot 17 is part of 16. The argument there is, the stub was not an entry or a driveway. It's a turnaround.

If you look at the house ... well you can't look at it. The house has already been torn down, the seawalls are put in and it's beautiful. We want Mr. Luscombe to build a home. But, if you look at the home and that lot, there must be a way for him to build a home there and fit and meet those setbacks. It's larger than any of the other lots.

Chairperson Rosman – Thank you very much. Anybody else?

No comments.

Chairperson Rosman closed to public comments.

Sovel – Do we want to ...

Chairperson Rosman – Remember, that you need all three of us.

Sovel – I want to give him an opportunity to say if he wants us to vote or not.

Chairperson Rosman – He’s here for us to vote.

Sovel – Okay.

Chairperson Rosman – Paula, are the dimensions the same that he’s asking for?

Paula Lankford – The setback, yes. It’s at 0 for the 25’ setback.

Chairperson Rosman – Thank you.

MOTION by Rosman, supported by Mistele, that the Zoning Board of Appeals **denies** Item PA21-04, the request by Robert Luscombe of Commerce Township MI for a variance from Article 6 of the Commerce Township Zoning Ordinance to demolish an existing home and construct a new home that will encroach into the required roadside front yard setback located at 4181 Lake Pointe Lane. Sidwell No.: 17-15-126-001 Based on the applicant’s presentation and the comments we have heard, I do not believe the applicant has met all of the criteria of Section 41.09 of the Commerce Township Zoning Ordinance, and therefore, I **move to deny** the request for a variance from Section 6.01 of the Zoning Ordinance for a 25’ setback from the traveled portion of the road, for the following reasons:

1. The property can be used in the same manner, that others in the zoning district can use their property, without a proposed variance because one of the drawings submitted to the Township does meet all of the setbacks; and,
2. There is no unique feature of the applicant’s land that does not apply to other land in the zoning district; and,
3. The problem is self-created by the applicant; and,
4. The practical difficulty and hardship sought to be cured is merely an inconvenience.

Discussion –

Sovel – So this allows him to build a house, Option C.

Rosman – Option C; it does fit onto the lot without needing any variances.

ROLL CALL VOTE

AYES: Rosman, Mistele, Sovel

NAYS: None

ABSENT: McKeever

RECUSED: Mills, Grever

MOTION CARRIED TO DENY

Chairperson Rosman – I’m sorry, sir. Your request has been denied.

Mr. Luscombe – Thank you for your time.

H. OTHER MATTERS:

None.

I. CORRESPONDENCE:

None.

J. PLANNING DIRECTOR'S REPORT:

Paula Lankford – You've all received a copy of the report.

- The only thing that has come up since then is Barrington, the apartments behind the Township Hall, they are going in front of the Planning Commission in October for an expansion. He owns another unit of site condo which fronts on Martin Parkway. He was going to do some retail there; however he is now proposing to put in three more apartment buildings.
- Bay Pointe is still working on a plan to come in front of the Planning Commission.

Chairperson Rosman – Anything else?

Mills – Paula, I don't know if it's possible when we have these type of documents, and you have the Lot #, is it okay to put the street number next to the Lot #?

Paula Lankford – Sure. I will make sure to do that for you in the future.

Mills – That would be helpful. When I was out there, it was tough trying to figure out what was where. Thank you.

Sovel – So, I'm thrilled we have Sarah with us. But, when I look at the minutes now, my suggestion is that when we have six people here, that we do a roll call vote on every item. When I look back at these minutes, it says Motion Carried Unanimously, but not everyone voted on every item. So, you can't tell who voted.

Chairperson Rosman – Okay, you want roll calls.

Sovel – Well, when Bill can't vote on something, but he's still here, and it says unanimous; I think we need to do that, because when you try to go back and look at the minutes, it may give the wrong impression that someone voted who shouldn't have voted. I think it's the easiest way to clarify that. There's only five people and it will add ten seconds more.

Chairperson Rosman – That's smart.

Discussion continued regarding roll call votes for every case going forward.

K. ADJOURNMENT:

- **NEXT REGULAR MEETING DATE: NOVEMBER 18, 2021**

MOTION by Mills, supported by Grever, to adjourn the meeting at 8:26pm.

MOTION CARRIED UNANIMOUSLY