

**CHARTER TOWNSHIP OF COMMERCE  
ZONING BOARD OF APPEALS MEETING**

*Thursday, September 27, 2018*

2009 Township Drive  
Commerce Township, Michigan 48390

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

**ROLL CALL:** Present: Rusty Rosman, Chairperson  
Jorge Pacheco, Secretary  
Clarence Mills  
Bill McKeever  
Robert Mistele, Alternate ZBA Member  
Absent: Rick Sovel (excused)  
Also Present: Paula Lankford, Assistant to the Planning Director  
Dave Campbell, Planning Director  
Jay James, Engineer/Building Official

Chairperson Rosman introduced the Members of the Board to those present, as well as Dave Campbell, Paula Lankford and Jay James. She reviewed all of the requirements for receiving either a sign and/or a dimensional 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.

**B. APPROVAL OF MEETING AGENDA**

Chairperson Rosman proposed to amend the agenda, with Item G3 being heard prior to Item G2.

**MOTION** by Mills, supported by Mistele, to approve the Zoning Board of Appeals Meeting Agenda for September 27, 2018, as amended.

**MOTION CARRIED UNANIMOUSLY**

**C. APPROVAL OF MEETING MINUTES**

**MOTION** by Mistele, supported by Pacheco, to approve the Zoning Board of Appeals Regular Meeting minutes of May 24, 2018 as presented.

**MOTION CARRIED UNANIMOUSLY**

**D. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA**

None.

**E. UPDATE OF ACTIVITIES**

Bill McKeever – Planning Commission

- We had a few conceptual reviews at our last meeting.
- We approved a Special Land Use for a retirement community on a 17-acre parcel, located west of Haggerty, between Maple and Crumb Roads. We also approved their site plan.

Chairperson Rosman – Dave, is there anything you'd like to share with us from the Township?

Dave Campbell – The non-motorized bridge over M-5 is obviously taking shape. Originally they were hoping to be done in August. There were some delays with that for legitimate reasons. The hope now is that it will be open to the public in October, but the finishing touches, some of the aesthetic enhancements that the Township is adding, will probably not get done until February 2019.

The Trail Way Commission is hoping to have the pathway improvements started in the spring on the Rail Trail that will connect to the bridge. They will pave the trail and put in crosswalks at all the major roads. Hopefully by this time next year, we will have 6 miles of paved Rail Trail, and a bridge over M-5.

**F. OLD BUSINESS:**

None.

**G. NEW BUSINESS:**

**ITEM G1: PA18-0009 – ALLERGY & ASTHMA CENTER – PUBLIC HEARING**

Dr. Pulin Patel of Commerce Township MI is requesting a sign exception from Article 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback for the Allergy & Asthma Center located at 2615 Union Lake Road. Sidwell No.: 17-12-229-011

**Chairperson Rosman opened the public hearing.**

The petitioner, Dr. Patel, 2615 Union Lake Rd, Commerce Township, was present and spoke to the variance.

Dr. Patel – I'm here today because I have a medical office building that was just constructed. I want to try to get a freestanding monument sign for my building to advertise our business.

Currently, if I went by the ordinance, it puts the monument sign into the building due to the distance requirements of the ordinance. I'm here to ask for a variance for the monument sign to be on the road, with the other monument signs of similar buildings in my neighborhood. That way people can clearly see what the building is, what it's used for, rather than having a sign in a different spot compared to the rest of the monument signs for the businesses along my street.

My property also has a septic area in the back, so I could not move my building back and have enough space for the building, parking lot and septic. If I was able to move that building back, then I could have a monument sign without applying for a variance; but unfortunately, with the current structure, I have to come here to ask for a variance. I want to have a sign that the public can see while they're driving.

Dr. Patel showed the proposed sign on the overhead, and elaborated on the details of the request. He noted the other monument signs for adjacent businesses, and showed that his proposed sign would line up accordingly with theirs. He did not want to have a sign that was out of place as that would distract drivers. He wanted it to be uniform. He noted that the sign otherwise complies with the requirements of the ordinance.

There were no public comments.

**There were -5- returns and -0- letters.**

**Chairperson Rosman closed the public hearing.**

**Board Comments:**

McKeever – I didn't have any questions regarding this request.

Mistele – You said because of the septic, you couldn't move the building back. Did you know before you built it that you couldn't put a sign out?

Dr. Patel – No, I sure did not.

Mistele – Okay.

Mills – I really don't have any problems with the request. I looked in the back where the septic is. In the front, I didn't see any impairment with the proposed location of the sign as it was staked.

Pacheco – I don't see any problems here either.

Chairperson Rosman – I don't have a problem with the sign. Is it going to be lighted, and if so, how?

Dr. Patel – Yes, it will be a lighted sign, with just the accent of the white areas, the address and the name.

Chairperson Rosman – Will it be solar or electrical?

Dr. Patel – I think it will be electrical. Nothing is solar, unless the Township requests that.

Chairperson Rosman – No.

Dave Campbell – Just a clarification, Dr. Patel. The sign is going to be internally illuminated, and you're saying the light will only come out through the white lettering and the address? In other words, when you drive by at night, the blue won't be illuminated; just the white?

Dr. Patel – Right, yes.

Chairperson Rosman – I learned about septic and reserve septic. Certainly, you have answered all the issues, as well as the shared driveway, and we understand why you're here.

Dave Campbell – The irony of this property is that there is a sewer main that runs up Union Lake Road. Unfortunately, and Jay could explain better than I can, it's not a sewer main where every user can tap into it. It's meant to be a main trunk line that you don't tap into along the way.

**MOTION** by Mills, seconded by Mistele, to **approve, with conditions**, Item PA18-0009, Allergy & Asthma Center, the request by Dr. Pulin Patel of Commerce Township MI for a sign exception from Article 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback for the Allergy & Asthma Center located at 2615 Union Lake Road. Sidwell No.: 17-12-229-011 Based on the presentation and comments we have heard, I believe the applicant, Dr. Pulin Patel of the Allergy & Asthma Center, has satisfied the standards of Section 30.09 of the Township Zoning Ordinance for granting an exception to the required front yard setback for a freestanding sign along Union Lake Road, and therefore I make a motion to approve the request for an exception of 40.75 feet relative to the front setback requirement of Section 30.03.F of the Zoning Ordinance. I do not see that the sign will create any obstructions for traffic.

**Approval is conditional upon the following:**

1. All other signage on this site must comply with the current Zoning Ordinance;
2. The freestanding sign to be removed and replaced at the owner's expense if & when necessary for work within the planned 60-foot half right-of-way of Union Lake Road;
3. The sign will meet all other Zoning Ordinance requirements.

**MOTION CARRIED UNANIMOUSLY**

*>>(Item G3 was moved up to be heard prior to Item G2.)*

**ITEM G3: PA18-0011 – KRIS KERBAWY – PUBLIC HEARING**

Jeffrey Leib, attorney representing Kris Kerbawy of Commerce Township MI is requesting variances from Articles 6, 10 & 33 of the Commerce Township Zoning Ordinance to construct an addition to a nonconforming detached garage that will encroach into the required front yard setback, will exceed the maximum percentage of lot coverage allowed, and is located on a lot without a principal residence located across from Mr. Kerbawy's home at 8792 Alsup. Sidwell No.: 17-01-151-022 & -023

**Chairperson Rosman opened the public hearing.**

The petitioner, Kris Kerbawy, 8792 Alsup, Commerce Township, was present and represented by counsel, Attorney Jeffrey Leib.

Mr. Leib – I have pictures available for your review.

Chairperson Rosman – We all have pictures, and Dave is also bringing them up on the overhead.

Mr. Leib – Kris has lived in the Township since 1971. He bought this property in 1971, and occupied the property in January 1972. His home is located across the street from the property in question. He has a small home, 960 square feet on the first floor. It has two floors and no basement. He lives on the south shore of Long Lake.

With that small of a home with no basement, he has very little storage. He needs to add storage. Across the street from his house, he has a tennis court and a garage. Next to his garage is the neighbor's nonconforming garage.

The vacant property, a cement slab, adjacent to his garage used to have another nonconforming garage, but it was torn down because it was not in good shape. He owns this property also.

We talked to Jay James before coming into the meeting tonight. I was told that we could eliminate one of the variance requests by combining the three properties, 22, 23 and 24 into one Sidwell number, and we are certainly willing to do that.

Mr. Kerbawy wants to add on a 15' addition, onto his existing garage, at the same setback as the existing garage, in order to provide additional space. He just has insufficient space for storage capacity for a lakefront home.

He needs a variance. Instead of exceeding the lot coverage, we'll solve that by combining the three parcels. The only encroachment would be adding an addition onto a nonconforming garage, by having it encroach into the front yard setback, but it's inline with the existing garage.

He has the support of all his neighbor's. I think you have a petition signed by them. Without the granting of the variance, Mr. Kerbawy will be unable to enjoy the use of his lakefront property in the same manner that other people have in the same district, because of the unique situation of the existing nonconformities, including his next door neighbor. The variance is really minor in scope, and is the least variance necessary to grant Mr. Kerbawy an equal footing with the rest of the neighbors and others similarly situated.

The variance is necessary because of the uniqueness of his landscape features, and these features do not uniformly apply to all properties in the same zoning district. It wasn't self-created. It's been there since 1972, or maybe before, and the garage was there when he bought the house. He was given permission to add on to the house at one time.

Granting of the variance will not cause any significant impact to the area, and won't be disrespectful to the health, safety and welfare. All the neighbors have supported it. It's a cure to a practical difficulty that will allow a Township resident the convenience to enjoy his lakefront home with more storage.

Mr. Kerbawy – I think he covered it all.

There were no public comments.

Chairperson Rosman noted that the petition in support of the proposal, as mentioned by Mr. Leib and signed by Mr. Kerbawy's neighbors, is included in the record and provides signatures for the neighbors in favor of Mr. Kerbawy's request at the following addresses:

- 1808 Alsup Ave
- 8798 Alsup Ave
- 8804 Alsup Ave
- 8784 Alsup Ave
- 1812 Alsup Ave
- 8788 Alsup Ave
- 8774 Portlock Ave
- 8760 Aquaview St
- 1806 Portlock Ave
- 8780 Alsup Ave

**There were -0- returns and -0- letters.**

**Chairperson Rosman closed the public hearing.**

**Board Comments:**

Pacheco – I want to make sure I understand what you're doing. I believe you're asking us to combine, in this decision ...

Chairperson Rosman – No, that does not belong to us. We are only about the Zoning Ordinance. It's not combined yet, so we have to address each one of these. He is asking to construct an addition onto a nonconforming detached garage.

Dave Campbell – Effectively, there are three properties in question; the property with the garage on it currently, the slab next door where Mr. Kerbawy wants to put on the addition to the garage, and then the sport court. Mr. Kerbawy owns all three. All three properties are currently nonconforming, because none of them meet the minimum lot size for the R-1D zoning district. In situations like this, our Zoning Ordinance says that for all intents and purposes, this is one lot. There are three nonconforming lots under common ownership, and they are considered one lot and one building site.

It is recommended that the Zoning Board of Appeals condition any approval for the dimensional variance upon the requirement to combine all three properties to make them truly one lot. That's a benefit to Mr. Kerbawy because it avoids one of the variances that we thought he was going to ask for tonight. By including the sport court parcel with the other two parcels, he's no longer struggling with minimum lot coverage.

Pacheco – What would be the request for the variance?

Dave Campbell – The variance at that point would be the fact that you have a garage, which we consider an accessory structure, on a piece of property that doesn't have a principal structure. Even when combined, these three properties don't have a principal structure on them; they don't have a house on them.

The Zoning Ordinance says you can't have an accessory structure on a piece of property without a principal structure. Mr. Kerbawy's house is across the street on his own piece of property, and his garage is on the other side of the street, on a property that doesn't have a house on it.

Effectively what he's asking for is to expand a nonconforming garage; expand a garage that's on a piece of property that doesn't have a house on it. That's the sole variance he's asking for at this point.

Pacheco – That answered my question.

Mills – The cement was well-marked. I had a good idea where as to where you wanted to put the addition. You mentioned the front of the addition is going to be the same as the front of the existing garage.

Mr. Leib – Exactly, it will be right in line with it. He wants to add an addition of 15'. It won't be as deep, but it will line up with the front.

Mills – You've got an overhang that's about 3' out from the front of the garage. Will the addition be the same?

Mr. Kerbawy – We're still in debate on that, but I want to keep the overhang that's there now. I was thinking more of 1.5' to 2' overhang for the addition.

Mills – So the new addition won't have the massive overhang?

Mr. Kerbawy – Correct.

Mistele – The only thing I would note was that no one else on that side of the neighborhood has a 3-car garage. That's the only thing that's different.

McKeever – How long have you owned that piece of property?

Mr. Kerbawy – I bought it in 1971.

McKeever – Shouldn't that have been combined?

Jay James – The ordinance doesn't require them to be combined. It just states that in the Ordinance, they are considered as one property.

McKeever – If they do combine them, and they get the variance, what's the possibility of a future split?

Jay James – We wouldn't allow a split that creates a more nonconforming lot.

Chairperson Rosman – By combining it, has it made a buildable lot?

Jay James – Yes, we believe so. It is closer to being a buildable lot if it's not.

Chairperson Rosman – By combining all three properties, he is now making it large enough that they could put a house on there. Is that something you want to do?

Mr. Leib – No, he wouldn't have a garage.

Chairperson Rosman – No, I'm not saying you're going to build a house on it. I'm saying by combining it, when you go to sell your house, you have now created a buildable lot. It's not really a problem, but every house has to have parking for two cars. I'm concerned with parking on the street.

Mr. Kerbawy – I have no desire to sell the house, and as part of my deal with my kids, we aren't selling. You can't get waterfront for what I paid for it.

Chairperson Rosman – Thank you. Once you build that garage, how many of your cars will be in the garage?

Mr. Kerbawy – Three, and on the other side, between the tennis court and the slab, there's space in there to park two or three cars outside also.

Chairperson Rosman – Okay, I'm just concerned about street parking on holidays, et cetera.

Dave Campbell – When we've had comparable requests, one of the things the Zoning Board of Appeals also looks at are the aesthetics of the building from the road, and whether anything can be done to the expanded garage to give it a residential

appearance, as opposed to just an overhead door. If there's an opportunity to add a window, or some other architectural element to make it more consistent with the other houses along the street, that's something you have considered in the past.

Discussion continued regarding adding a condition to the motion for a window or feature to make the garage addition aesthetically pleasing, along with a condition for combining of the lots. Chairperson Rosman inquired about any fire retardant requirements, and Jay James stated that would not be necessary in this case. Dave Campbell and Jay James recommended that the window or architectural feature be left to the discretion of Administrative Approval.

Jay James also noted that Bob Mistele was the one who caught the fact that combining the lots would eliminate the need for one of the variances. He thanked Bob and wanted to give him proper credit for catching that item. The original request was for three variances; however, the front yard setback encroachment was eliminated, and the maximum lot coverage percentage is eliminated by combining of the lots. Therefore, the only remaining variance request is for an accessory structure to be located on a lot without a principal residence, a variance from Article 10.

**MOTION** by Mistele, supported by, McKeever, to **approve, with conditions**, Item PA18-0011, Kris Kerbawy, the request by Jeffrey Leib, attorney representing Kris Kerbawy of Commerce Township MI, for a variance from Article 10 of the Commerce Township Zoning Ordinance to construct an addition to a nonconforming detached garage that is located on a lot without a principal residence, relative to Section 10.01, located across from Mr. Kerbawy's home at 8792 Alsup.

Sidwell No.: 17-01-151-022 & -023

Based upon the presentation and the comments we have heard, I believe the applicant has satisfied the criteria of Section 41.09 of the Commerce Township Zoning Ordinance for granting dimensional variances.

Therefore, I make a motion to approve Item PA18-0011, due to the following items:

1. Without the variance, the applicant could not use their property in the same manner that others in the zoning district can use their property.
2. The request is the least variance that will put the applicant on an equal footing with others in same zoning district.
3. The variance is due to the unique feature of the applicant's land.
4. Granting of the variance will not cause significant adverse impacts.
5. The practical difficulty and hardship sought to be cured by the variance request is not just a minor inconvenience.

**Approval is contingent upon the following items:**

1. The three lots will be combined into one;
2. Administrative approval of a revised design for the expanded garage to include windows and/or other design features, such that the garage has a residential appearance consistent with the homes in the neighborhood as discussed herein.

**MOTION CARRIED UNANIMOUSLY**

*>>(Item G2 was moved down, to be heard after G3.)*

**ITEM G2: PA18-0010 – THOMAS GUIRLINGER – PUBLIC HEARING**

Thomas Guirlinger of Commerce Township MI is requesting variances from Article 33 of the Commerce Township Zoning Ordinance to construct a privacy fence in a front yard (both lake side and road side), that will exceed the maximum height allowed, and will

encroach into the required front yard setback (both lake side and road side) located at 538 Appalachi. Sidwell No.: 17-15-202-017

**Chairperson Rosman opened the public hearing.**

Mr. Guirlinger, 538 Appalachi, Commerce Township was present to speak to the variance.

Mr. Guirlinger – Thank you for your time. I just want to point out that I make my living with numbers, so I'm not accustomed to public speaking, if you'll take that into account. I don't make my living in property, construction or law.

I think I answered everything correctly in the letter I wrote. The primary purpose of the fence is just security for my children. I don't want to mention names, as it will probably make the situation worse. I think that having a fence would help them stay out of trouble.

If you're curious of the severity of the situation, we had an incident this Sunday, and I have the incident number. The Sheriff doesn't have the report ready as it's still considered open. I have the deputy name here, I can read it into the record or hand you a piece of paper. There are also other documented incidents.

I think this allows me to use my property similarly to other people in the neighborhood, with the same amount of privacy. It is primarily just for the security of my children.

There were no public comments.

Chairperson Rosman read the following two letters into the record:

1. Jason & Jennifer Baldas, 519 Appalachia, were opposed to the variances requested. They did not want a fence put up that exceeds any Township ordinance. This is a private lake community and a fence will not look good. They suggested planting a hedge of arbor vitae.
2. Shaky Fermanian, 526 Appalachia, was opposed to the fence request. They felt it would obstruct views and negatively affect resale values. They hope the Board will seriously consider the negative impact it would have, not only to their property, but to surrounding neighbors and their property.

**There were -4- returns and -2- letters.**

**Chairperson Rosman closed the public hearing.**

**Board Comments:**

McKeever – Honestly, is this even something that applies to us? It's a security issue with a neighbor. Isn't that strictly a law enforcement or legal type of matter?

Dave Campbell – Yes, I don't think that any of the criteria that you as a Zoning Board of Appeals are to consider with any dimensional variance directly apply to security.

McKeever – I don't see where this falls into our jurisdiction.

Chairperson Rosman – Well, it does fall under our jurisdiction inasmuch as he's asking for a variance of height.

Dave Campbell – I think you would have to find that the security concerns actually fall into one of those six criteria.

Chairperson Rosman read the six criteria for granting a dimensional variance into the record for a second time, just for clarification.

Chairperson Rosman – I would like to point out, sir, that the Zoning Board of Appeals' job is extraordinarily specific. We absolutely refer to the Zoning Ordinance for everything we do.

You're allowed a 6' fence in certain parts of the property, but you've asked for 8', so you came to us for that. Did I see pictures of the fence? Is it board-on-board?

Paula Lankford – It is.

Dave Campbell – It's a cedar privacy fence.

Chairperson Rosman – I have multiple concerns. You're lakefront, and you want to put a fence on the lakefront. You would be the only property on a lake, that I know of, that has a privacy fence that's lakefront. That doesn't work, at all. There's no discussion here. It doesn't work because the concept of lake and open property to the lake is universal across the Township. It's not allowed anywhere.

You're asking for a fence on the road side, and you're asking for a fence on the shared property line with your neighbor to the east.

My other concern is the difficulty that you're creating for a neighborhood. I went through your entire neighborhood, and thanks to the fact that there's no road sign for Appalachia, I went through a lot. I looked for fences, and I didn't see any, not of the type that you are talking about.

The other things I've considered are as follows:

- *Will granting the variance result in substantial justice for the applicant and other property owners?*
  - I have to consider you and I have to consider the neighbors. Based upon the fact that there isn't another fence anywhere, I don't see that anybody else has a need for a fence that you are describing.
- *Does strict compliance with the Zoning Ordinance create an unnecessary burden on the applicant? Can the property be used for a permitted use without a variance?*
  - Best as I could see, with reading the ordinance and talking to staff, it can be used. I don't see any reason that you couldn't continue to use your property without a fence.
- *Is the need for the variance due to a unique feature of the land or structure?*
  - I walked all around your land twice, and I didn't see any major dips, or any major heights, or anything that gave me a feeling that there was a difficulty with the land itself that caused the need for that. So, I would answer that no.
- *Is the need for the variance self-created?*
  - I very much consider it is, as I walked around the property.
- *Will the variance cause adverse impacts? Will it impact other properties? Will it impact the neighborhood? Will it impact the Township? Will it cause a public nuisance? Will it impact the health, safety, comfort, morals and public welfare?*

- I understand that you are not happy with your neighbor, and that's precipitating this issue. I don't need to know what the issue is. I know you have in front of you a police issue. I don't need to know those things. What I do need to know is will this variance give you something that helps the neighborhood as a whole? I take your situation as a personal issue, as opposed to a necessary issue.
- *What hardship will the applicant face if the variance is denied?*
  - Again, this comes back to personal. I can't find an answer in the Zoning Ordinance to help me give you what you want. I have to be able to refer to the Section and number. I don't see anything.

Is there anything you can give us that helps us understand better why the Zoning Ordinance cannot be met for your particular need, other than personal desire?

Mr. Guirlinger – Having heard the letter from the neighbor, I would prefer to put in a hedge. The issue there is that we had some trees along there, weeping willows. The neighbors requested that they be cut down. We refused, and then the trees died mysteriously.

I'd like to make this better with greenery, but I'm afraid it would die like the trees did. I do think that the hedge would improve the neighborhood as well, so I'm not opposed to that. I would prefer it over a fence, and it makes sense. A fence is ugly, and I hear what you're saying. There's greenery between every house. I'll take a chance on that solution. I would take the 6', if give and take is acceptable for this forum. I'm willing to amend that to what you've stated.

Chairperson Rosman – Jay, when you talk about planting arbor vitae as a fence, are there certain requirements for planting trees as a fence?

Jay James – Yes, you cannot use vegetation to create a fence. You're allowed to put up vegetation, but it also has to be 50% see-through at maturity. Arbor vitae can be put up that will ultimately grow to 3' in diameter, but they have to be planted 6' apart, to allow 3' of open space between each one. On the waterfront side, they're not supposed to exceed 4' in height.

Chairperson Rosman – They always have to be trimmed?

Jay James – Yes, on the lake side.

Chairperson Rosman – What about the road side?

Jay James – On the road side, up to within 25' of the road, you can have them up to 4' again. You can't have anything that creates a fence within 25' of the road.

Chairperson Rosman – Do you understand? It's give and take. It answers what you want, but there are specific requirements for the amount of space between each plant.

Mr. Guirlinger – I understand. I don't exactly know what an arbor vitae looks like. I think I can figure it out and I can come back ask questions. I'm motivated to stay within whatever rules you've set up. I can come back next week and talk to them a little.

Chairperson Rosman – The Planning and Building Departments are open 7:15am to 5:30pm, Monday through Thursday. Give them a call and make an appointment with Jay. He'll be happy to provide you with the details.

Mr. Guirlinger – Thank you very much.

Chairperson Rosman – You're welcome. Are you withdrawing your request?

Mr. Guirlinger – No, I think you should formally reject it, then I'll see what I can do.

Jay James – I'm glad to sit down and meet with you. We might have actually talked about this, but the ordinance allows a 6' privacy fence on the side yard, which is the front face of the house to the back face of the house. Once you get into the front yards on both sides, the lake side and the road side, that's where the 6' is not allowed and we can talk about vegetation.

Mr. Guirlinger – Security is very important. I can't stress that enough. We need to get as much distance from these people as possible, and there's small children involved. I'm sorry. If you feel it necessary, I'll leave this piece of paper and you can call the Sheriff and see what's going on.

My family has been in this area a long time. I've never come before you previously, or asked for anything else. I'm saying I need some help here to remove my family from a bad situation. I think I'm helping the other family too.

Chairperson Rosman – Is this your summer home?

Mr. Guirlinger – No, this is my father ... I grew up in a home down the road, and my brother's in that home. My dad bought this home for my grandmother. She passed away and we've had it in the family. I returned to Michigan and I was going to build a home here, however I have a family member who's been paralyzed, so I've been helping him situate. I'm paying his taxes. I haven't felt comfortable to build the house yet. This is ultimately going to be a site where I'm going to build a house.

Chairperson Rosman – Who's living in the house right now?

Mr. Guirlinger – I'm living there with my wife and two children.

Chairperson Rosman – In that house?

Mr. Guirlinger – Well, she's a New Yorker. We were in a one-bedroom apartment for a while, so it's actually a lot of space for us. My first apartment in New York was 235 square feet.

Chairperson Rosman – Well, I walked around the house and I was shocked. I'm shocked to hear that you're living there. Did you say you're a property manager, a builder?

Mr. Guirlinger – No, just the opposite. I'm a numbers person. I'm going to build a house there. I'm just making sure. I've got two pieces of property. I'm helping my brother out. He's back to work, and we want to knock it down and build another house eventually. For us, it's a lot of space.

Mills – As I traveled the neighborhood, I didn't notice any other fences of the type that you're are requesting. That concerned me. The type of fence that you're requesting, a privacy fence, and the height and length of it, I think it would be really out of character for your neighborhood.

Pacheco – I agree with Clarence.

Mistele – I agree with what's been said. I think you should work with Jay to comply with the ordinance. There are some options there that will give you some relief, privacy wise. I don't think you need a variance from us.

Dave Campbell – There are 7 variances being requested here. Every one of the variances should be considered based upon the 6 criteria. If a motion were to be made, in lieu of making 7 separate motions, you could make one motion for all 7 variances, so long as the rationale for making that motion applies to all 7 variances.

**MOTION** by Rosman, supported by Pacheco, to deny Item PA18-0010, the request by Thomas Guirlinger of Commerce Township MI for seven (7) variances from Article 33 of the Commerce Township Zoning Ordinance to construct a privacy fence in a front yard (both lake side and road side), that would exceed the maximum height allowed, and would encroach into the required front yard setback (both lake side and road side) located at 538 Appalachi. Sidwell No.: 17-15-202-017

Mr. Guirlinger was requesting (7) variances, including the following: a lake side privacy fence, a road side privacy fence, to exceed the maximum height allowed, and to encroach into the required front yard setback, both lake side and road side. This motion applies to all (7) variance requests.

I make the motion to deny as I do not believe that the applicant has met all of the criteria of Section 41.09 of the Commerce Township Zoning Ordinance.

Therefore, I move to deny this request based upon the following:

1. The property can be used in the same manner that others in that zoning district can use their property without the proposed variance;
2. There is no unique feature of the applicant's land that doesn't apply to the other land in this zoning district;
3. The problem is self-created by the applicant or its predecessors;
4. Granting the variance will cause significant adverse impacts upon the neighbors, immediately to the east, as well as across the road, and all other lakefront properties, since this would have been the only house with a lakefront privacy fence;
5. The practical difficulty and the hardship sought to be cured is merely an inconvenience.

**MOTION CARRIED UNANIMOUSLY**

Chairperson Rosman – The phone number to call to make the appointment with the Building Department is 248-960-7060.

Mr. Guirlinger – Thank you.

Chairperson Rosman – You're welcome. We wish you well.

**H: OTHER MATTERS TO COME BEFORE THE BOARD:**

Paula Lankford reviewed the prospective November agenda. There are two potential variance requests, one for a fence, and the other for a new house.

The consensus of the Board was to move the meeting date to Thursday, November 8<sup>th</sup> at 5:30pm.

**I. CORRESPONDENCE:**

None.

**J. PLANNING DIRECTOR'S REPORT:**

Dave Campbell discussed the following with the Board members:

- We had a meeting with the developer yesterday for the Five & Main project, the large mixed-use PUD at the northeast corner of M-5 and Pontiac Trail. He is planning to go back before the Planning Commission in the near future with some changes to his plan. The most significant change is that he wants to add a hotel component to Phase 1 of his project. We thought that a hotel might be part of Phase 2. However, after conversations with hotel developers, he thinks that component will work as part of Phase 1. He will have to amend his development agreement which will require a Planning Commission recommendation, then final approval by the Township Board.
- As Bill had mentioned, the Planning Commission approved a senior independent living facility at their meeting on September 17<sup>th</sup>. That is a fairly significant project; 3-stories, 180,000 square feet, 130 rooms.

Chairperson Rosman – The whole world's getting older. How many of these do we have now?

Dave Campbell – That's actually true, as the baby boomer bubble moves up the age chain. We have certainly asked that question of ourselves. Is there a point where we are over saturated with these uses? That's something the Township Board and Planning Commission are considering as more of these might come before us.

Chairperson Rosman – 14 Mile and Decker is going to be an independent facility.

Dave Campbell – That's actually going to be assisted living and memory care. This one that Planning Commission approved a couple weeks ago is independent living. These are folks that are still capable to come and go as they please, they just choose to live in a facility. They have a full kitchen in their unit, but there's also a full dining area if they'd rather have somebody else do the cooking for them.

This is the logical progression; to be in a facility like this and at some point, they may proceed onto the more assisted type of facility.

Discussion continued regarding other senior living facilities in the area, and West Bloomfield's moratorium on rezoning of any single-family property for this use.

Dave Campbell – At the October Planning Commission meeting, they will consider a Conditional Rezoning request for Commerce Village Veterinary Clinic. Dr. Putt is hoping to rezone a property next door to her existing office, to add a single-family home as an extension of her veterinary practice that will be a pet rehabilitation facility.

Chairperson Rosman – Any restaurant updates?

Dave Campbell and Paula Lankford discussed the following:

- Sidecar Slider Bar had their liquor license held up, but they have finally nailed that down. They hope to open this fall.
- Five & Main will have 10-12 new restaurants, but that's still a few years away.
- Zerbos is making slow and steady progress. They hope to open this summer.
- The former Cooley Lake Inn, which was also the Duffy's, Kodiak, and The Waterfront previously, is being purchased. The new owner is closing on the property, and he has had his liquor license approved by the Township. It should be ready to open any day.

Discussion continued regarding the new restaurant that will be opening, Prime 7 Steakhouse. The new owner manages other restaurants, including upscale Coney Islands. Prime 7 will be more than an upscale Coney. It's anticipated to be a place where patrons can get a steak and a beer, or a glass of wine. McKeever inquired about why the elevated planter boxes were built in the front, with the lack of parking there. Dave Campbell stated that they replaced the patio area that was there, and they actually pulled it back. There was discussion that the patio previously came to the Township for special approval under the prior ownership, so it seems that the new owner chose to keep the patio. It takes advantage of the view of the lake and provides outdoor dining. Lastly, the owner assured the Township Board that he has no intention for this place to be a bar. He sees the restaurant closing at about 10pm on weekdays, and maybe 11pm on the weekends, so this isn't a place where people are going to be hanging out until 2am, which was part of the problem when it was the Cooley Lake Inn.

**K. ADJOURNMENT:**

- **NEXT REGULAR MEETING DATE: THURSDAY, NOVEMBER 8, 2018 @ 5:30PM.**

**MOTION** by Pacheco, supported by Mills, to adjourn the meeting at 8:20pm.

**MOTION CARRIED UNANIMOUSLY**

---

**Jorge Pacheco, Secretary**