

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

Thursday, November 21, 2017

2009 Township Drive
Commerce Township, Michigan 48390

A. CALL TO ORDER: Chairperson Rosman called the meeting to order at 5:30pm.

ROLL CALL: Present: Rusty Rosman, Chairperson
Jorge Pacheco, Secretary
Rick Sovel
Bill McKeever
Clarence Mills
Robert Mistele, Alternate ZBA Member

Also Present: Jay James, Engineer/Building Official
Dave Campbell, Planning Director

Chairperson Rosman introduced the Members of the Board to those present, as well as Jay James and Dave Campbell. 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.

B. APPROVAL OF MEETING AGENDA

MOTION by Mills, supported by Sovel, to approve the Zoning Board of Appeals Meeting Agenda for November 21, 2017.

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MEETING MINUTES

MOTION by Pacheco, supported by Mills, to approve the Zoning Board of Appeals Regular Meeting minutes of September 28, 2017 with corrections as proposed by Rosman; remove the words "to allow" and reword the first sentence of each motion on Page 15, as follows:

1. **MOTION** by Rosman, supported by Sovel, to deny Item PA17-0010, Sherry Diez, the request by Jeffrey Leib, representing Sherry Diez of Commerce MI, for variances from Articles 32 & 33 of the Commerce Township Zoning Ordinance for a shed and waterfall feature (accessory structures) in a lakeside front yard, which would also encroach into the wetland/lake setback located at 9015 Commerce Road.
2. **MOTION** by Rosman, supported by Mistele, to deny Item PA17-0010, Sherry Diez, the request by Jeffrey Leib, representing Sherry Diez of Commerce MI, for variances from Articles 32 & 33 of the Commerce Township Zoning Ordinance for a shed and waterfall feature (accessory structures) in a lakeside front yard, which would also encroach into the wetland/lake setback located at 9015 Commerce Road.

MOTION CARRIED UNANIMOUSLY

D. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None.

E. UPDATE OF ACTIVITIES

Rick Sovel – Township Board

- Since our last ZBA Meeting in September, we've passed our budget.
- We're making progress on the Richardson Center remodeling.
- The old Touby building has been demolished.
- MDOT accepted a bid for the pedestrian bridge. The Township had asked for the bridge to be customized in some ways and those bids came in higher than expected, but the improvements were approved. This should be their first project in Spring 2018.

Dave Campbell – Based upon their contract, they could start the bridge as early as December 29th, but most likely they will start real construction work in early spring. They have to be done by August 15, 2018, or they have to pay a penalty back to the State.

- Last Tuesday, we had a rezoning request for a 10-bay gas station on the property located on the northeast corner of Commerce and Carroll Lake Roads. The Board denied the request.

Rosman inquired about the new bridge in Dodge Park. Dave Campbell stated that there was an old wooden covered bridge over Hayes Creek, south of the Library, connecting the north and south sides of Dodge V Park. That bridge was falling apart, so in addition to putting in new paved sidewalks, that bridge is also being replaced. The work was being done today.

Bill McKeever – Planning Commission

- At our last meeting, we recommended dissolution of the Mill Race Condominium, located at 415 Commerce Road, Dr. Pulgini's practice.

Dave Campbell – That was approved as a commercial condominium that would have included Dr. Pulgini's office, which actually exists, and there was also supposed to be another commercial building to the east, and a big restaurant behind both of those. They were to have shared parking and underground parking. It was a pretty ambitious project that fell apart during the recession. The only thing that actually got built was the addition to Dr. Pulgini's dental practice.

Dr. Pulgini now wants to dissolve the condominium, parcel the land into three parcels, and then sell two of those parcels to another developer who may build their own office building or restaurant. That had to go before the Planning Commission and the Township Board. They hope to go before the Board at the December meeting after they get some title work cleaned up.

F. OLD BUSINESS:

None.

G. NEW BUSINESS:

None.

ITEM G1: PA17-0013 – WILSON MARINE – PUBLIC HEARING

Wilson Marine of Commerce MI is requesting exception from Article 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the front yard setback located at 4272 Haggerty Road.
Sidwell No.: 17-13-400-014

Ron Wilson of Wilson Marine was present.

Rosman – Mr. Wilson, I know when you applied for your building permit, you were given a paper to fill out that had this on the front of it, which says, *ATTENTION: Please make sure to stake your lot. Otherwise, the ZBA will not hear your case.*

Ron Wilson – I apologize for that.

Rosman – All of us had been there and it wasn't staked. We called Paula. She shared that she had also sent an email to your engineer, Dave Smith, that it needed to be staked. She sent that on the 7th of November.

Ron Wilson – That's correct.

Rosman – The ZBA has bylaws; #3.6 says, *Site Inspection: To the extent possible, each ZBA member shall, on an individual basis, visually inspect all property to be considered at a ZBA meeting. Site inspection shall occur within 7 days of the meeting. The Planning Department shall provide all ZBA petitioners with a detailed packet, including instructions on how to flag, paint, and/or otherwise mark the property in anticipation of the site inspections. The ZBA may table a petition if the site has not been properly marked.*

Since it has not been properly marked and we don't know where you want this sign to go, I propose that your appeal be tabled this evening.

Sovel – The public hearing was published so that should be held.

Dave Campbell – Yes, you've published the hearing and the letters went out so we do have to open and close the public hearing.

Chairperson Rosman opened the public hearing.

Ron Wilson – We have a building that sits quite a distance off the road. When we opened the building, it was not really intended for the use of the public, it was only for our use. It ended up becoming a rather key component within the community for accessories, parts and service, but they couldn't find us because it's located 100 yards off Haggerty Road. We put a temporary sign out. The Township has been very kind to us, and allowed us to use that sign until recently. When Jay brought it to our attention, we complied, and we're just here trying to comply.

I picked the wrong guy and I apologize. We had no knowledge that he didn't stake it. I'm prepared to take the consequences. I hope you folks have a good Thanksgiving and I'll make sure it's staked.

Rosman – It does need to be staked. We don't know where you want it.

Ron Wilson – I don't know where I want it either. I've never visited the site. I left it up to Mr. Smith to get me the information. I hired him to do a job.

Rosman – All right, is there anybody else in the public who would like to address this?

No comments.

There were -2- returns and -0- letters.

Chairperson Rosman closed the public hearing.

MOTION by Rosman, seconded by Sovel, to table Item PA17-0013, the request by Wilson Marine of Commerce MI for an exception from Article 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the front yard setback located at 4272 Haggerty Road. Sidwell No.: 17-13-400-014
This item is tabled until the next meeting of the Zoning Board of Appeals, which is scheduled for January 25, 2018, at 7:00PM. **MOTION CARRIED UNANIMOUSLY**

ITEM G2: PA17-0014 – BENSTEIN GRILLE – PUBLIC HEARING

Benstein Grille of Commerce MI is requesting an exception from Article 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the front yard setback located at 2435 Benstein Road.
Sidwell No.: 17-21-401-078

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

Mike Richardson, Co-Owner and Founding Partner of the Benstein Grille, 2435 Benstein Road, Commerce Township, was present to speak to the request.

Chairperson Rosman thanked Mr. Richardson for staking the property.

Mr. Richardson – Behind me is my co-partner. He and I have had many discussions with our guests since we opened two and a half years ago. The request is for a monument sign as we constantly have guests who drive past the building, especially going northbound on Benstein Road, and then they have to turn around at Clara Miller Park, or in the cemetery.

There were -0- returns and -1- letter.

Chairperson Rosman read the letter into the record from James Schroader, 2405 Benstein Road, Commerce Township. Mr. Schroader had no objections to the proposed sign.

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

Board Comments:

Mills – I didn't have any problems at all. I was pleasantly surprised and pleased with the site being staked as well as it was.

I stood in the exit driveway, and to me the sign is well back behind the line of sight so that a driver's view will not be impaired by the sign when they are pulling out of the establishment.

Pacheco – I don't have any problems. I do have a question. The drawing I have here seems to be a little different than the one on the overhead. It shows the right-of-way on Benstein is 33' from the center. The report mentioned otherwise.

Dave Campbell – The existing right-of-way for Benstein Road is 33'. The RCOC has a master plan for all public roads in the county that designates what their planned right-of-way is, and Benstein has a 120' planned right-of-way, so a 60' half right-of-way. The sign, where proposed, would be within the RCOC's planned right-of-way for that stretch of Benstein.

Pacheco – Thank you. I don't have a problem.

McKeever – If we were to grant this variance, being as there is a planned right-of-way of 60', how would work within that right-of-way affect the sign?

Dave Campbell – Typically, if you were to grant the sign exception, historically the ZBA would condition it on a number of things; one being that, if the RCOC or any public utility has work to be done in the planned right-of-way, then it would be the property owner's obligation to relocate/remove the sign so the work could be done, and then replace the sign, all at their own expense. However, I'm unaware of any work in the foreseeable future along that stretch of Benstein.

McKeever – I have no issues.

Sovel – Do you own the building?

Mike Richardson – That's correct.

Sovel – No issues.

Chairperson Rosman – I loved that you staked it out, and I saw that the edge of the sign, closest to Benstein is on the same sightline as the cemetery fence. I thought that was well placed. I don't have any objections.

Jay or Dave, do you have anything to add?

Jay James – No.

Dave Campbell – I do have a question for the applicant. Where the new sign will be placed, do you see having to remove any existing landscaping, the two trees out front or any shrubs?

Mike Richardson – Everything should be fine. The landscaping shouldn't have to be touched. We've already talked to a licensed electrician to have the wiring relocated, but there shouldn't be any impact on the trees.

Chairperson Rosman – Is it internal illumination?

Mike Richardson – Yes.

Dave Campbell – I believe we had an approved landscape plan when you occupied the building. The reason I asked the question is if any of the trees or anything that were put in place as part of that approved landscape plan, if they had to be moved as part of the sign, they would need to get replaced somewhere else on the site.

MOTION by Mills, seconded by Sovel, to approve, **with conditions**, Item PA17-0014, the request by Benstein Grille of Commerce MI for an exception from Article 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the front yard setback located at 2435 Benstein Road.

Sidwell No.: 17-21-401-078.

Based on the presentation and comments we have heard, I believe the applicant – Mike Richardson of Benstein Grille - 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 Benstein Road, and therefore I make a motion to approve the request for an exception of 35.0 feet relative to the front setback requirement of Section 30.03.F of the Zoning Ordinance.

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 and when necessary for work within the planned 60-foot half right-of-way of Benstein Road.
3. Any existing site landscaping to be removed for the sign to be replaced / relocated elsewhere along the front of the building.

MOTION CARRIED UNANIMOUSLY

H: OTHER MATTERS TO COME BEFORE THE BOARD:

2018 ZBA MEETING SCHEDULE

MOTION by Sovel, seconded by Mills, to approve the 2018 ZBA Meeting Schedule as presented.

Discussion

Rosman – Has everyone had a chance to review the schedule?

Members – Yes.

Rosman – Great.

MOTION CARRIED UNANIMOUSLY

DISCUSSIONS OF OTHER MATTERS

- Chairperson Rosman discussed wall signs, restrictions and the Jensen Building on Haggerty Road with Jay James.
- Sovel initiated discussion regarding the variance application form with Dave Campbell. He would like to see a line included to specify the property owner. Currently, the form shows applicant's signature and owner's signature, but they

might be the owner of the business, as a tenant in the building, and not the owner of the building or property. Sovel wants a new line for the property owner's signature, and a separate line for business owner/tenant signature. Dave Campbell explained that tenant's renting a commercial building are required to get signed permission from their landlord. Dave will have the form updated accordingly to clarify these fields.

- Chairperson Rosman discussed holding an educational meeting for the Board Members. She would like to discuss signs; both wall signs and ground signs. She has seen more sign requests coming to the ZBA than ever before and she feels it would be beneficial to have a good review of the sign ordinance. Discussions continued regarding enforcement and measuring of signs.

I. CORRESPONDENCE:

None.

J. PLANNING DIRECTOR'S REPORT:

Dave Campbell discussed the following with the Board:

- The Planning Commission had only one item of note at last month's meeting, as Bill mentioned, and that was the dissolution of the Mill Race Condominium.
- The mixed use commercial center at the northeast corner of Pontiac Trail and Martin Parkway is moving forward. Mr. Aikens and his group are proposing a development that will be anchored by an entertainment component, an upscale movie theater, a comedy/theater club, fancy restaurants and stores, and a gourmet grocery. We had a conference call today with the Attorneys and the DDA Director. We want to get a game plan as there are a lot of steps and layers to the project.
- The Township is very close to closing on the sale of the old Library building to Mr. Aikens. The building will be demolished, and that area will be used as part of his development.
- Mr. Aikens would like to have an approved site plan when he goes to the ICSC event in Vegas in May 2018.

Chairperson Rosman inquired about any new restaurants planned in the area. Dave Campbell stated that there will certainly be a lot in the Aikens development. Discussion continued regarding Zerbos, a restaurant/banquet center on the south side of Oakley Park Road, the Sidecar Slider Bar on Haggerty, and the Mexican restaurant at Carroll Lake and Commerce Roads.

- **NEXT REGULAR MEETING DATE: THURSDAY, JANUARY 25, 2018**

K. ADJOURNMENT:

MOTION by Mills, supported by Pacheco, to adjourn the meeting at 6:09pm.

MOTION CARRIED UNANIMOUSLY

Jorge Pacheco, Secretary