

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

Thursday, November 20, 2014

2009 Township Drive

Commerce Township, Michigan 48390

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

ROLL CALL: Present: Rusty Rosman, Chairperson
Jorge Pacheco, Secretary
Clarence Mills
Rick Sovel
Bill McKeever
Also Present: Terry Carroll, Community Development Director

Chairperson Rosman introduced the Members of the Board to those present, as well as Terry Carroll. She reviewed the requirements for receiving a variance from the Zoning Board of Appeals including the fact that all the 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.

APPROVAL OF MEETING MINUTES

MOTION by Mills, supported by Pacheco, to approve the Zoning Board of Appeals Meeting minutes of October 2, 2014, as presented.

MOTION CARRIED UNANIMOUSLY

UPDATE OF ACTIVITIES

Rick Sovel – Township Board, Library, and Parks & Recreation

- We met regarding the Library and the new building has been put on hold for a little while as we wait to see if changes may occur that impact the deed restrictions.
- Representative Kesto has proposed a bill in Lansing and the State may be willing to consider the changes. If it is approved, it could allow for the building to be placed closer to the road at the corner of Commerce and South Commerce Roads. The item was tabled and it's expected to be a controversial vote.

Bill McKeever – Planning Commission

- Site plan approval was granted for Granger to construct an assisted living facility in the DDA area.
- Other items were housekeeping issues.
- Planet Fitness is moving into the old Kroger building.

PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None.

PA14-0006 AND PA14-0007 – WALTER GOODMAN – PUBLIC HEARING

Walter Goodman of Farmington Hills, MI is requesting a variance from Article 32 of the Commerce Township Zoning Ordinance to build houses that will encroach into the required wetland protection setback located in the Maple Brook of Commerce Condominiums. Sidwell Nos.: 17-28-452-004 and 17-28-452-009

Terry Carroll, Community Development Director, gave a review of his letter. He stated that he and the Planner had spoken with Mr. Goodman and he had withdrawn his variance requests for both lots. He explained that staff is reviewing the Zoning Ordinance with the Township Attorney to see if changes may be necessary. Draft language will be proposed to the Planning Commission and Township Board to allow for certain projects that were approved prior to a certain date to comply with the Zoning Ordinance as of that approval date in this regard.

Chairperson Rosman opened to the public.

John Robinson, 1886 Loon Lake Road - I live on Loon Lake Road and I am concerned about Mr. Goodman's building, if he will fill in wetlands and if it will cause drainage into the ditch at my driveway across the road. I wanted to see what the Board would come up with this week. It sounds like a grandfather clause is being put into place.

Terry Carroll - Yes, sir.

John Robinson - So he was approved before and he can move forward?

Terry Carroll - Yes, he can go ahead and build now, he just can't go into the wetlands. After the text amendment, he would be allowed to encroach.

Sovel - Assuming that the text amendment is approved.

Rosman - I am assuming then that the Building Department will look this over and will have it flagged to review the drainage concerns. I understand that several residents were very concerned and we don't want to see more problems created. Some people already had flooding issues. The Building Department was very aware and Jay James will look at this and address it. Mr. Goodman won't get a building permit unless the Township is satisfied that the residents won't have new issues.

John Robinson - I just wanted to make sure we don't get back-ups or that he fills it in. I'm on the north side of Loon Lake Road. The ditches come down from Wixom Road to my driveway, and from Benstein Road into the culvert under the road, which is the drainage ditch beside my property called the wetlands.

Rosman - I will reiterate. We have talked about the Oakland County Drain Commission, which is another place you need to go. This may possibly get referred back to them.

Terry Carroll - We would have first authority on it. Jay is very aware of it and he did look at it after the comments from last month's meeting.

John Robinson - Yes, and I came up and talked to the Planning Department. I will let Jay handle it.

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

Board Comments:

Pacheco –

- I think it's a smart thing when citizens like you approach any of the boards of the Township, all the way up to Lansing, to express your opinions and concerns about what will happen with your property.
- You have the right to do that and we should be very conscious that he is concerned about his ditch.
- If this ditch serves a purpose, we cannot allow for the flow of water to be disturbed.
- I see your concerns and thank you for letting the Township know.

No action was taken on this item as the petitioner had withdrawn the requests.

OTHER MATTERS TO COME BEFORE THE BOARD

Noticing Requirements & Separating vs. Combining Requests

Chairperson Rosman directed the members to the Township Attorney's letter.

Rosman - Last month, Jorge stated that he was interested in having separate notices for each request, even if they all belonged to the same owner and were in the same arena. Terry took the request to the Attorney for review. As you will see, the Attorney's short answer is yes, they can be combined. On Page 3 of the letter, he specifically talks about how including more than one notice would not defeat the purpose.

Pacheco - If you read the conclusion, the first thing he says is that the variance "may" be included. He doesn't say that they have to be. There's a big difference.

Rosman - I hear you and if we ask for it, it should be done.

Pacheco - Exactly. If we want to have separate requests for each parcel, then there should be separate notices and separate Sidwell numbers for each different proposal or request.

Sovel - No, we can't do that. Someone may have three pieces of property, and have multiple Sidwells.

McKeever - They can be combined.

Rosman - From the Board of Review, they don't combine. If they have three parcels and they want to change a deck out, sending out three notices and charging them three times as much money just would not make sense. What is the purpose of having each being separate?

Pacheco - Because it was very confusing.

Rosman - I don't think so.

Sovel - I disagree with separating them.

Pacheco - It was totally confusing. I understand what you're saying, if there is a house on 3 lots and it's all together, it's understandable. But, there could be an exception to different parcels, and when you're talking about encroachments into the wetlands and right-of-ways, I think you need to take each one individually.

Rosman - I hear what you're saying, but if they are done together, it does not negate the noticing and each person is notified at addresses within 300'.

Sovel - Here's how we should look at it. The main focus is to make people within 300' of the property aware that someone requested to change something in the Zoning Ordinance on those properties. They get the notice by mail and then they either come here, or make contact with the Township. That is the main point. Internally, when we receive it, we can decide whether or not to handle each parcel separately, or if multiple parcels should be taken together. We don't have to send different notice to take each one separately and make separate decisions on each one. If someone wants three variances, we don't notice it three different times.

Pacheco - How can we prevent it from being all screwed up like it was last time?

Rosman - It was the applicant who screwed it up. He gave the wrong lot and Sidwell numbers to the Township. He is the one asking for the variance and completing the application. The mistakes were made by the applicant, not the Township.

Pacheco - Didn't the Township review it?

Rosman - They reviewed what he gave to us.

Sovel - I agree with Rusty. If we did it the way Jorge suggested last time, it would not have changed the issues and would have turned out exactly the same way.

Rosman - The owner actually gave us all the wrong information twice.

Pacheco - I understand what you're saying and I appreciate that. How can we make it so that we don't end up spending so much time in the future trying to figure out what the applicant wants?

Sovel - There is no policy or procedure that we can write to fix the fact that someone did a poor job on their application paperwork to the Township, listing their Sidwells wrong. We found out afterward.

Sovel - If you recall the meeting before last, we have the same issue with 10 lots, and if we had to notice and publish for all 10 lots, it would be thousands of dollars.

Rosman - Yes, the more notices that need to be put out, the more the applicant would have to pay.

Terry Carroll - It is not a cheap publication either.

Rosman - The applicant pays \$350.

Sovel - Noticing is expensive and although it's not a profit making situation, the Township needs to publish three or four to break even.

Pacheco - I still think it was a fiasco.

Rosman - Just remember who caused it. It was misinformation as he wrote the numbers all wrong.

Pacheco - I agree with you, but it needs to be detected sooner.

Sovel - I've been doing this for 20 years and I think it's the first time I've seen someone submit the wrong paperwork.

Pacheco - Then why not just reject it?

Sovel - The Zoning Enabling Act states that it still has to go through the public hearing process.

Rosman - It all starts with the applicant.

2015 Zoning Board of Appeals Meeting Schedule

Terry Carroll - In your packet is the proposed listing of 2015 Zoning Board of Appeals Meeting dates. The schedule has been vetted for holidays and it's consistent with the regular meeting dates. I don't know how it was voted on in the past.

Sovel - We recommend approval to the Township Board and it is reviewed along with the other boards schedules at the December Township Board meeting.

Pacheco - I haven't had a chance to see it yet. Why can't it be sent by email so I can check it to my calendar and let you know if I'm fine with the dates, or if I have any issues?

Rosman - It should have been delivered.

Pacheco - I can't say right or wrong on these dates tonight.

Rosman - We have to take action on it, but you are more than welcome to abstain.

Pacheco - I will. I would like to have the option to request another date if necessary.

Sovel - We don't just base the dates on whether or not someone can attend the meeting. We look for holidays.

Pacheco - I understand, I just think it's a courtesy to allow us to review our schedules accordingly.

MOTION by Mills, supported by McKeever, to approve the 6 dates as presented for the 2015 Zoning Board of Appeals Meeting Schedule.

Roll Call Vote:

Ayes: Mills, McKeever, Sovel, Rosman

Nays: Pacheco

MOTION CARRIED

Update on Ayrshire Parcel

Terry Carroll - The November 1st deadline came and went, but the foundation has been installed. In talking to the Building Department, they did a very good job. They are now beginning to work on fireproofing the exterior as required. We do expect that to be completed in December.

Election of Officers

MOTION by Rosman, supported by Sovel, to re-elect Rusty Rosman as Chairperson of the Zoning Board of Appeals.

MOTION CARRIED UNANIMOUSLY

MOTION by Rosman, supported by Sovel, to re-elect Jorge Pacheco as Secretary of the Zoning Board of Appeals.

MOTION CARRIED UNANIMOUSLY

Treasurer Position - Sue Gross Retiring

Sovel - Sue Gross is officially retiring as of the end of December. There were 12 applicants for the Treasurer position, which has been narrowed down to 6 interviews. The interviews will be conducted next week.

Rosman - We wish Sue the very best of everything and the best of health.

NEXT REGULAR MEETING DATE: THURSDAY, January 22, 2015

ADJOURNMENT

MOTION by Mills, supported by Pacheco, to adjourn the meeting at 7:37pm.

MOTION CARRIED UNANIMOUSLY

Jorge Pacheco, Secretary