

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

Wednesday, February 15, 2012

2009 Township Drive

Commerce Township, Michigan 48390

CALL TO ORDER: Rusty Rosman, Chairperson called the meeting to order at 5:00pm.

ROLL CALL: Present: Rusty Rosman, Chairperson
Clarence Mills
David Law
Absent: Bill McKeever (excused)
Jorge Pacheco, Secretary (excused)
Also Present: Kathleen Jackson, Township Planner

Chairperson Rosman introduced the Members of the Board to those present, as well as Kathleen Jackson. 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. She added that in order to have a variance approved this evening; applicants would need the approval of all 3 Zoning Board of Appeals members present.

APPROVAL OF MEETING MINUTES

MOTION by Mills, supported by Law, to approve the Zoning Board of Appeals Meeting minutes of September 21, 2011, as written.

MOTION CARRIED UNANIMOUSLY

MOTION by Mills, supported by Law, to approve the Zoning Board of Appeals Meeting minutes of October 27, 2011, as written.

MOTION CARRIED UNANIMOUSLY

UPDATE OF ACTIVITIES

David Law – Township Board, Library and Parks & Recreation

- The Board allocated funds for Library improvements.
- The Library improvements are underway and membership is increasing.
- The roundabout is open and running smoothly. Good feedback has been received.
- The Board is looking at building a water tower in Commerce Township to offset some of the water rates.
- Commerce also has a new sledding hill and the Parks & Recreation Committee is holding a contest to name the hill. The contest will be advertised in the Spinal Column and other media. The winner will name the hill and receive a prize.

PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None

>>Chairperson Rosman proposed that both A12-01 and A12-03 be reviewed concurrently and there were no objections from the Board members.

ITEM I: A12-01 – RICHARD RYTMAN – PUBLIC HEARING

Richard Rytman of Auburn Hills MI is requesting a variance from Article 33 of the Commerce Township Zoning Ordinance to construct a fence that will encroach into the front yard located at 8730 Oak Beach.

Sidwell No.: 17-13-151-018

ITEM II: A12-03 – RICHARD RYTMAN – PUBLIC HEARING

Richard Rytman of Auburn Hills MI is requesting a variance from Article 33 of the Commerce Township Zoning Ordinance to construct a fence that will encroach into the front yard located at 8730 Richardson Road.

Sidwell No.: 17-13-151-007

Chairperson Rosman opened the public hearing.

The petitioner was present, Richard Rytman, Jr., Manager, Executive Protection Group, Emergency Operations Center, along with Bill Cousins, Head of Corporate Security, Chrysler Group LLC, 1000 Chrysler Drive, Auburn Hills, MI, and Jeffrey Leib, Attorney, 30445 Northwestern Hwy, Ste 230, Farmington Hills, MI, to speak to the variance request.

Jeffrey Leib – It is our pleasure to be here tonight representing Richard Rytman. Our client is actually Sergio Marchionne, Chairman and CEO of Chrysler Group, LLC and CEO of Fiat. The request is to allow for construction of a decorative security fence which will run along both side yards and the roadside frontages. A gate is also included on the Richardson frontage with a 108' setback. The photos on the overhead screen show the plans. The gate and proposed turnaround do not encroach into the required right-of-way. The entrance at Oak Beach Drive will also have a gate.

The parcels to be combined are a 10 acre parcel and the lot for condominium unit 10, resulting in about 13 acres total, which will be considered an estate size parcel of property. The Richardson Road entrance will be the primary ingress/egress.

The proposed fencing on the west side will be one foot east of the property line. Fencing on the east will be 10' off the property line. The home on Richardson will be used as a guest home and is being renovated to match the façade of the existing buildings in the Lake Oaks condominiums.

The fencing will be ornamental and consists of a decorative aluminum. The gates are wrought iron. (Examples provided on overhead). The overall design is intended to be as unobtrusive as possible and is almost imperceptible as it will blend in.

There may be a wetland issue, therefore we have engaged Brooks Williamson of the DEQ to guide us through that matter. We do understand that any approval by the ZBA

will be subject to DEQ approval. Mr. Williamson stated that during the summer months, the foliage will likely hide the fence.

There is a great need for security in this case as outlined in the hardship letter I submitted to the Board. Mr. Marchionne has a global personality and he is acquainted with many public officials and politicians.

We have been fortunate to garner the support of the condominium association at Lake Oaks. Letters were submitted in support of the request and many neighbors are present tonight.

Mr. Leib continued to review his hardship letter detailing the need for the fence, the unique circumstances associated with estate size parcel, and addressing each of the requirements for receiving a variance. Significant adverse impacts are not anticipated for adjacent properties and the neighbors are in full support.

Richard Rytman – We would be happy to answer any questions or concerns. I can address matters from a security stand point, and Bill Cousins, retired Secret Service, is also here and available to speak with tonight. We worked with the neighbors to ensure that we did not intrude upon their rights while attempting to meet our client's needs.

Larry Marson, President of Lake Oaks Association Board, 3978 Lake Oaks Dr, Commerce Township, MI – I have spoken to the individuals in property units 6, 7, 8 and 9, and with Mrs. Ida Wiener by phone. She also sent a letter. Everyone is well aware of what is going on and I have met with Richard and Bill. Our Association has no problems with the fence. It was clearly staked out and we were informed.

Kathleen Jackson – I mean no disrespect, but unless we have communications on file from residents, it is not within the purview of the Zoning Board of Appeals to consider any alleged knowledge or opinions on the matter during deliberations. We do have several letters in the record and the Chairperson will make note of those.

Lois Bartush, 8700 Richardson Road, Commerce Township, MI – I live next door and I am perfectly fine with the fence.

John Levinson, 8770 Oak Beach Drive, Commerce Township, MI – I am the Chairman of the other Lake Oaks Association and have been since I first moved to the lake. We also have no objections to the fence and agree with Mr. Leib that it is a good thing.

Chairperson Rosman reviewed and/or quoted portions of the following letters for the record:

1. Recommend gates and fencing for security; Michael Bouchard, Office of the Sheriff, County of Oakland, 1200 N Telegraph Rd, Building 38 East, Pontiac, MI
2. Opposed to having any view of lakeside fencing; Richard Zemmin, 8931 Edgewood Park Dr, Commerce Township, MI
3. In favor; Larry Marson, President, Lake Oaks Association Board
4. In favor; Mrs. Ida Weiner, 8740 Oak Beach Dr, Commerce Township, MI

5. In favor; Mr. & Mrs. Larry Evans, 8740 Oak Beach Dr, Commerce Township, MI
6. No objections as concerns were addressed with gaining access to the property in the event of an emergency; Todd A. Martin, Fire Marshal, Commerce Township Fire Department, 2401 Glengary Road, Commerce Township, MI

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

There were -0- returns and -6- letters.

Board Comments:

Mills –

- Will the gate be a sliding type or swinging?
- The packet also mentions that the gates will be triggered to open during an emergency to allow access by emergency personnel. What mechanisms are used for this?
- Are there sensors along the fence that will detect intruders?

Richard Rytman – It will be a swinging gate. The Fire Marshal reviewed the proposed and agreed. We have met their standards. If an alarm is triggered in the house, such as fire or panic, the gates will automatically open. There is also a backup box at the house, and a manual release for emergency responders and security personnel. We also signed an agreement to hold responders harmless if they have the need to damage the gate or fencing to gain access.

We have also taken technological measures along the fence, gates and buildings to incorporate sensors that detect intruders. They are not so sensitive that they will be triggered by rodents, but will detect trespassers.

Law –

- Your letter indicates that the hardship is not self-imposed.
- Who assembled the two parcels?

Mr. Leib – The hardship relates to this home in particular which is at the end of a long dead end street that winds through the sub and leads into the driveway. It is a manor home on an estate parcel, so it is unique to the neighborhood. The seclusion requires and extra layer of protection.

In addition, the nature of the existing pillars calls for a gate, and the previous owner had received permission to install one. It is a home that should have a gate.

Kathleen Jackson – The parcels are not yet legally combined. If approved, they can apply to combine them at a future date. Mr. Marchionne recently purchased the two parcels and that is why the applications each show a different owner and sidwell number. Therefore, two motions are required.

Rosman –

- I have no objections, however I do have concerns.

- If and when ownership of the property changes, or if the parcels are separated again, what should happen to the fencing and gate?
- This creates a type of “island” and we would not want to see a future owner take the fenced-in estate and turn it into a compound or something that it was not intended to be.
- I understand that you may keep the side fencing according to the proposed ordinance amendments, so you are here primarily for the gates.
- I would prefer to see it stipulated in the motion that “upon sale of either property, the fence must come down”.

Richard Rytman – Mr. Marchionne’s intent was to buy both parcels to create an estate. This was a good piece of land to develop and have beautiful grounds. In all of our discussions, he has never mentioned the possibility of breaking the two parcels apart again.

The fencing is ornamental, lightweight aluminum and could be easily dismantled if necessary. We have spoken with the homeowner’s association as they had similar concerns. The fencing and gates could absolutely be removed upon sale of the property.

Mr. Leib – My feeling is that the gate at Richardson Road should remain. A 10-acre estate is worthy of the security of an unobtrusive gate.

Kathleen Jackson – Although this is not directed at any individual property owners, the Township as a whole is adverse to gated communities and this is discussed in the Master Plan. However, I will add that the Planning Commission has recently recommended to the Township Board an amendment that may allow for fences between the street front setback and the home. This does not necessarily provide for gates, but as long as this is in keeping with the Zoning Ordinance, it would not be improper to put a condition on the variance.

The Planning Commission recommended approval of ornamental fences within the front yard, but not in the front yard setback. The Board has not yet approved this amendment, but if approved, it would allow for the Richardson Road request as it does not encroach into the setback. The Oak Beach portion of the request does encroach into the setback and would therefore still require a variance.

I will also note that I reviewed the history and records for the property and found no approval for the previous property owner to install a gate on the Oak Beach frontage. It is not permitted in the Zoning Ordinance and there is no approval in the records to support the claim.

Mr. Leib – If you include removal of the gate within the motion, we will concur. That is fine.

Kathleen Jackson – I would suggest that any motion to approve include the stipulation that the “fence be removed, or brought into compliance with the Zoning Ordinance at such time as Mr. Marchionne vacates the premises or sells the property”. This verbiage will protect your desires and comply with the report.

MOTION by Law, supported by Mills, that the Zoning Board of Appeals approve, with conditions, Item A12-01, the request by Richard Rytman of Auburn Hills for a variance from Article 33 of the Commerce Township Zoning Ordinance to construct an ornamental security fence that will encroach into the front yards located at 8730 Oak Beach. Sidwell No.: 17-13-151-018

Approval is subject to the condition that the gate/fence will be removed, or brought into compliance with the Commerce Township Zoning Ordinance, at such time that Mr. Marchionne vacates the premises or sells the property.

Approval is for the reason that the proposed will not be materially detrimental to the public health, safety and welfare, and it will not be materially injurious to the property or improvement in such zone or district in which the property is located. Approval is also in consideration of the Finding of Fact as stated within the Planning Department's report.

MOTION CARRIED UNANIMOUSLY

MOTION by Mills, supported by Rosman, that the Zoning Board of Appeals approve, with conditions, Item A12-03, the request by Richard Rytman of Auburn Hills MI for a variance from Article 33 of the Commerce Township Zoning Ordinance to construct an ornamental fence that will encroach into the front yards located at 8730 Richardson Road. Sidwell No.: 17-13-151-007

Approval is subject to the condition that the gate/fence will be removed at such time that Mr. Marchionne vacates the premises or sells the property, unless the Commerce Township Zoning Ordinance has since been amended and therefore allows it to remain.

Approval is for the reason that the proposed will not be materially detrimental to the public health, safety and welfare, and it will not be materially injurious to the property or improvement in such zone or district in which the property is located. Approval is also in consideration of the Finding of Fact as stated within the Planning Department's report.

MOTION CARRIED UNANIMOUSLY

OTHER MATTERS TO COME BEFORE THE BOARD

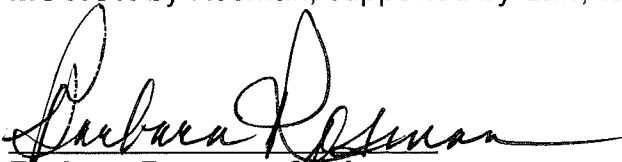
Mills requested that the web site be updated to reflect the current Zoning Board of Appeals members. Kathleen Jackson replied that updates are underway.

NEXT MEETING DATE: THURSDAY, APRIL 26, 2012

ADJOURNMENT

MOTION by Rosman, supported by Law, to adjourn the meeting at 5:51 pm.

MOTION CARRIED UNANIMOUSLY



Barbara Rosman, Chairperson

Signing for Secretary, Jorge Pacheco (absent)