

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

Thursday, March 28, 2019

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

Rick Sovel

Bill McKeever

Clarence Mills

Robert Mistele, Alternate ZBA Member

Absent:

Jorge Pacheco, Secretary (excused)

Also Present:

David Campbell, Planning Director

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 Dave Campbell, 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. Lastly, she noted that any documents, photos or other items presented to the ZBA during the meeting by the petitioner to assist Board members in making a decision will be copied and retained for the permanent record.

Joanne Heinzmann, 3351 Byron Road, Howell, MI – Is the public discussion over yet?

Chairperson Rosman – No.

B. APPROVAL OF MEETING AGENDA

MOTION by Mills, supported by Mistele, to approve the Zoning Board of Appeals Regular Meeting Agenda for March 28, 2019, as presented.

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MEETING MINUTES:

MOTION by Sovel, supported by Mistele, to approve the Zoning Board of Appeals Regular Meeting & Special Meeting minutes of Thursday, January 24, 2019, and the Zoning Board of Appeals Special Meeting minutes of Tuesday, February 5, 2019, as presented.

MOTION CARRIED UNANIMOUSLY

D. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA:

Chairperson Rosman – Would you like to discuss something?

Joanne Heinzmann, 3351 Byron Road, Howell, MI – Please.

Ms. Heinzmann provided handouts to the ZBA members.

Ms. Heinzmann – I should like to know please why, if this was updated on 12/4/18, it's hard for I think the public to understand that there is more afterwards in between December and now.

Chairperson Rosman – Okay, I understand what you're saying; however, we as the Zoning Board of Appeals do not handle what it is you're asking about. I am going to turn this over right now to Dave Campbell to explain.

Dave Campbell – This is a list that the Planning Department provides on our website, that we update periodically. We do it as a courtesy, just so our residents, if they're interested to know what's happening in Commerce Township, they have an opportunity to go on the website and take a look at it. It's not necessarily anything we are obligated to do, or obligated to keep updated, but Paula updates it every couple months.

Paula Lankford – Every month or so. It depends on how much is going on.

Dave Campbell – Yeah, it depends on the workload and how many projects we've had. Obviously it was updated in December of '18, and we're probably due for an update here in the next few weeks.

Chairperson Rosman – So these are basically for the Planning Commission?

Dave Campbell – These are for the public.

Chairperson Rosman – I know, but these items that she's talking about, do these come under the Planning Commission?

Dave Campbell – I think for the most part, those are commercial projects that come before the Planning Commission.

Chairperson Rosman – Let me just explain to you that we are the Zoning Board of Appeals, which means that when you want to build something on your property that does not fit into the Zoning Ordinance, you have the right to come to appeal that and ask for a variance. That's what we do. We don't handle the planning portion, which is what Bill McKeever who's sitting at the far end does.

Ms. Heinzmann – So I should have addressed it to them?

Chairperson Rosman – To Planning.

Sovel – The Planning Commission meets on Monday nights.

Dave Campbell – April 8th is the next Planning Commission, but this list is generated by the Planning Department, which includes me and Paula. We update it periodically, and we're due for an update here, but it's just meant to be a courtesy.

Chairperson Rosman – Any questions you have about that, we would not be able to answer because we're not part of that portion.

Ms. Heinzmann – Good enough.

E. UPDATE OF ACTIVITIES IN COMMERCE TOWNSHIP:

Rick Sovel – Township Board & Library

- With the last two meetings, the main topic has been the garbage and recycling.
 - There have been a lot of complaints regarding the service.
 - Our contract is up at the end of this year.
 - This is a cyclical issue; when the economy is doing well, the garbage companies have a hard time keeping employees when there's other good-paying jobs elsewhere.
 - Many communities are having the exact same issues.
 - Regardless, we're going out for bids. It's a huge undertaking when you're talking about 13,000 homes, and all the garbage cans that have to be redistributed and collected.
 - On the recycling side, we're looking at having a rolling, smaller size container with a lid, as opposed to bins.
 - If anyone would like to attend, to hear what's going on and provide input, we will likely be discussing this further at the April and/or May Township Board meetings. Check the Township website for the agenda. The Township Board meets the second Tuesday of each month.
- There have been lots of changes being made in the parks. At Dodge Park, Scarlet's Smile is getting ready to start soon.
- The pedestrian bridge is operational. As for the lighting package, is it good to go yet, Dave?

Dave Campbell – We have not yet uploaded the different lighting schemes that we want to do, depending upon holidays, et cetera. We are scheduling a time with the electrician. Apparently there's only one electrician in southeast Michigan that knows how to do that. Currently, the bridge is on a default lighting program, which is the blue and white.

Chairperson Rosman – That's terrific. Thank you very much. Bill, what's going on with the Planning Commission?

Bill McKeever – Planning Commission

- There was a Special Land Use granted for 4266 Haggerty Road for accessory outdoor storage.
- There was also a recommendation to rezone several parcels of property on the south side of Commercial Drive, north of Commerce Road, between Ponderosa and Broadway, from B-2 Community Business to R-1D, Single-Family Residential.
- There was a motion to approve an outdoor storage facility located at 1165 Rig Street, which is basically a vacant lot currently.

Dave Campbell – Yes, that's in the Harrison Industrial Park, which is off of Ladd Road. There's a landscape company that wants to store their materials there.

F. OLD BUSINESS:

ITEM F1: PA18-0012 – ERIC MOJICA – TABLED FROM JANUARY 24, 2019 – REMAIN TABLED

Eric Mojica of Commerce MI is requesting a variance from Article 6 of the Commerce Township Zoning Ordinance to construct a new home that will exceed the maximum number of 2 ½ stories allowed located at 8147 Farrant. Sidwell No.: 17-01-431-008

G. NEW BUSINESS:

ITEM G1: PA19-0002 – RANSOM HEAD – PUBLIC HEARING

Ransom Head of Commerce MI is requesting a variance from Article 33 of the Commerce Township Zoning Ordinance to construct a detached garage in the non-required front yard located at 2360 Glen Iris. Sidwell No.: 17-16-351-019

Chairperson Rosman opened the public hearing.

Cynthia Tatu, 3809 Catherine Anne, Holly, MI 48442 – I'm here on behalf of my dad. He is requesting to put the garage where it's squared off.

In the back of the property behind the house, it goes down a deep slope. Just before that tree line on the left is the septic field. That area is undesirable for those reasons.

Another area was suggested, but that is a long distance from the house and it slopes upward. In addition, this is adjacent to the neighbors, and the garage would be highly visible to them. The proposed area seems to be the best. It doesn't require removal of any mature trees. It's the least visible to all of the adjacent neighbors. That is why he would like to place it in that area.

Chairperson Rosman – There's no room to add on to the existing garage?

Ms. Tatu – The driveway is here. He never really discussed that with me as an option. I think because of the entry of the garage; the front door leads into the driveway.

There was -1- return and -0- letters.

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

Board Comments:

Mistele – In looking at the property, there was definitely a lot of hills and trees that would prohibit putting the garage behind the house. It would be a very difficult situation in my opinion. With the house being situated in the back corner of the lot, there's definitely a uniqueness to this lot.

Mills – I've got a question for Dave. On the second page of the report, it talks about, *The ZBA has the authority to approve the dimensional variance as requested, approve the variance with conditions, approve a lesser variance...*

I don't understand the lesser variance because according to the ordinance, you can't put it in the front yard.

Dave Campbell – Correct, in this instance, it might be difficult to approve a lesser variance.

The garage is proposed in what is the defined front yard, and what defines the front yard is where the house is situated. This house is situated on the far northwest corner of the property, which makes everything from the front wall of the garage southward, by definition, a front yard. I don't know that there could be a lesser variance on this one.

Mills – That's what I was thinking, that there is no option for a lesser variance at this point with what they want to do according to the ordinance.

I agree with Bob. When you look at the land and how it slopes off to the back there. Now, why couldn't it be put in the side yard?

Dave Campbell – That might be a better question for the petitioner. I know when we spoke to Mr. Head, I remember there are some power lines and utility poles in that area that he would have to work around. I believe there were also some big trees that he was hoping not to lose. We mention in the letter that this area is dry upland, but as Cynthia said, it's probably 200' from the house. There are places on the property where this pole barn could be constructed that would be in compliance, as they would not be in the defined front yard, but they feel this is the ideal location.

Sovel – Dave, are the overhead power lines considered a unique feature of the applicant's land?

Dave Campbell – The power had to get to the house one way or another. I think it's a reasonable argument that having to relocate power lines on a residential property ... as a guy who got a quote from DTE once on what it would cost to relocate a power pole on my own property, I can tell you it's an absurd amount of money.

Sovel – And, as you know, we can't deal with the financing of it. I don't have a problem with it, I'm just not sure.

Jay James – I would consider that as unique as it is for a septic field.

Sovel – I'm just trying to qualify it.

Jay James – I do believe, as Dave was saying, over where it says side and rear yard, I think there is a neighbor up close to there too, and I think they wanted to try to keep it out of the view of their neighbors.

Sovel – What is the acreage?

Dave Campbell – This property is 4.4 acres.

Chairperson Rosman – It's nearly 4 acres in front of the home.

Dave Campbell – It's a big property, huge for Commerce Township. It just so happens that where the house is situated, it makes the majority of the property, by definition, the front yard.

McKeever – I'm in agreement with Bob. I think that to try to put it anywhere else would definitely be a hardship, not only on the property owner, but also the neighbors. If he puts it where it's proposed, it would be tucked away. No one will ever know it's there.

Chairperson Rosman – Well, they will in the winter, but I hear you.

McKeever – I don't know that you would see it. It's quite a ways off the road. Is it the elevations of the house that dictates that the entire parcel is the front yard? Or if the house were rotated 90 degrees, would the side yard become the front yard?

Jay James – No, because their address and entrance is off of Glen Iris, which is the southeast corner. So, in regard to how the house is oriented, everything from the house to that southeast corner is considered the front yard.

McKeever – That makes it quite unique.

Chairperson Rosman – Yes, it's a no-win.

Dave Campbell – If I may, one of the things I pointed out in our review letter was, if the house was built in 1948, right about here, then everything to the northwest of it would all be considered the rear yard, and they could put the pole barn exactly where it's proposed. This is all based upon where the house was situated.

Chairperson Rosman – Which was put in there in 1947. I make Number 5 on that, because I agree with Bob as well. Well said.

MOTION by Sovel, seconded by Mistele, to approve Item PA19-0002, the request by Ransom Head of Commerce MI, for a dimensional variance from Article 33, Section 33.01 of the Commerce Township Zoning Ordinance to construct a detached garage in the non-required front yard located at 2360 Glen Iris. Sidwell No.: 17-16-351-019

Based on the presentation and comments we have heard, we believe the applicant has satisfied the criteria of Section 41.09.A of the Township Zoning Ordinance for granting a dimensional variance; therefore, I make a motion to approve the front yard variance at 2360 Glen Iris, as after reviewing all of the information, it satisfies the six conditions.

Approval is for the following reasons:

1. It is unique, in both the design, and layout or placement of the house in the topography.
2. This is not self-created.
3. It will not adversely impact anybody.
4. In addition, the house was built in approximately 1947 or 1948, and it was not placed there by the petitioner. It was remodeled, but the original house was built in 1947 or 1948.

MOTION CARRIED UNANIMOUSLY

Chairperson Rosman – Your father will receive a letter from the Planning Department anywhere from 5 to 10 days after this meeting. He needs to bring that letter with him when he applies for a Building permit.

Ms. Tatu – Okay, which would be the next step.

Chairperson Rosman – Yes, thank you very much.

Ms. Tatu – Thank you so much.

ITEM G2: PA19-0003 – STEVE MCCAFFREY – PUBLIC HEARING

Steve McCaffrey of Commerce MI is requesting a variance from Article 6 of the Commerce Township Zoning Ordinance to construct an attached garage in the required front yard setback located at 1210 W. Oakley Park. Sidwell No.: 17-15-353-036

Chairperson Rosman opened the public hearing.

Mr. and Mrs. McCaffrey, 1210 W. Oakley Park, Commerce Township, were present to address the request.

Steve McCaffrey – We're seeking a variance because we're only at 1028 square feet. We're trying to add on. Going out the back doesn't make much sense because it drops off and the

ground is soft back there. The variance would come up basically to the neighbor's house next door, to their garage. The plan is just behind where they are, and then we have nobody to the west of us.

There was -1- return and -0- letters.

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

Board Comments:

McKeever – I didn't have any questions. Given the proximity to the neighbor's garage, I didn't see that this would create an issue.

Sovel – Nothing to add.

Mills – I'm the same way. I didn't see any real problem when I looked at it, especially when looking at how it was staked and even with the front of the neighbor's building.

Mistele – Why 26' as opposed to 24' or 21'?

Mr. McCaffrey – We're trying to get a laundry room or a mud room coming in off the garage, so that only gives us 23' on the inside of the garage for a parking space.

Mrs. McCaffrey – Then the truck's still not going to fit.

Chairperson Rosman – Are you going to have a circular drive so you go out the other way?

Mr. McCaffrey – I have a septic field in the way, otherwise, I would love to have one.

Dave Campbell – Just to clarify, the issue at hand is the required setback for any structure is 25' from the right-of-way line. For Oakley Park Road, the right-of-way line is 60', so that means any structure has to be 85' off the centerline. Mr. McCaffrey is proposing his addition to be 70' off the centerline, so the variance requested is for 15' for the proposed new garage.

MOTION by Mills, seconded by Mistele, to approve the request by Steve McCaffrey of Commerce MI, for a variance from Article 6 of the Commerce Township Zoning Ordinance to construct an attached garage in the required front yard setback located at 1210 W. Oakley Park. Sidwell No.: 17-15-353-036

Based on the presentation and comments we have heard, we believe the applicant has satisfied the criteria of Section 41.09.A of the Township Zoning Ordinance for granting a dimensional variance; therefore, I make a motion to approve the dimensional variance, from Section 6.02.U, of 15 feet for the front yard setback.

Approval is for the following reasons:

1. The variance will provide justice to the applicant, and it's going to be comparable to the other property owners.
2. Granting the variance will not cause significant adverse impacts to the neighbors or the community.
3. The variance will put the applicant on equal footings with others.

MOTION CARRIED UNANIMOUSLY

ITEM G3: PA19-0004 – JOSEPH RANDAZZO – PUBLIC HEARING

Joseph Randazzo of Commerce MI is requesting a variance from Article 33 of the Commerce Township Zoning Ordinance to construct an addition onto an existing detached garage that will in total exceed the maximum allowable square footage for an accessory structure, located at 2145 Glencoe. Sidwell No.: 17-23-200-019

Chairperson Rosman opened the public hearing.

Joe Randazzo, 2145 Glencoe, Commerce Township – I'm looking to add a 12' addition onto my current detached garage, to provide additional space for maintenance equipment. I have a tractor, grading equipment and a plow. I live on a private road that is not maintained by the Township. I have several residents that rely on me to maintain our road for their health, safety and welfare, and for emergency vehicles and such.

Basically my property is about 326' wide, so I have the largest portion of the road to maintain. The variance is minor in scope. I'm hoping that it will put me on equal footing with the rest of the neighbors who are similarly situated. It's necessary because of the unique feature of my property, which is the fact that the road is private, and there was no private maintenance agreement put into place. This is not self-created, but I'm trying to maintain it for me and for the welfare of my neighbors. Granting the variance would not cause any adverse impacts to my neighbors. It's 140' to my property line, plus the neighbor's house closest to there is another 170' away. This will allow me to cure that practical difficulty and allow me to maintain the road.

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

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

Board Comments:

Sovel – Why not make this an enclosed garage?

Mr. Randazzo – The attached section?

Sovel – Yes.

Mr. Randazzo – As a matter of fact, I do have renderings of it enclosed. That was my preference. When I originally submitted this, I got clarification from Jay James regarding the roof structure being counted as part of the square footage. I didn't believe it was initially, so when I submitted my plans, I showed it as a lean-to roof. I absolutely have no problem with enclosing it, which would basically make it look like not much of a change at all.

Chairperson Rosman – We would prefer that.

Jay James – We get a lot of questions about lean-to's. People think that it doesn't count toward the square footage of the building, but it actually does because the roof is attached, and therefore it increases the footprint of the building itself.

Sovel – If it was allowed to be an enclosed garage, are we still okay with our current posting?

Dave Campbell – That would not change the nature of the variance, and we would not need to repost. He would still need the variance, whether it was a lean-to or whether enclosed, it's still the issue with the square footage of the garage.

Sovel – I thought it would probably be enclosed anyway someday.

Chairperson Rosman – The variance is 360 square feet.

Dave Campbell – Yes, because he is allowed up to a maximum of 900 square feet for any detached structure. He's at 840 right now. With the addition, that would take him up to 1260, resulting in the need for 360 square feet of dimensional variance.

McKeever – What do you keep in the other 800 square feet?

Mr. Randazzo – Good question. So I do have my RV in the garage, and on the other side it's packed with lawn equipment. It's a lot of property, it's almost 200' by 326'. It's nothing I can mow by hand. I like to keep my things out of sight and protected.

Mistele – I just wanted to disclose that Joe and I talked when I was out there. He showed me everything on the site. I have no issues.

Mills – The question I had was, is it your intent to enclose that, assuming the variance is granted for the lean-to?

Mr. Randazzo – Yes, sir. I would enclose it to look like this.

Chairperson Rosman – I want it enclosed.

Mr. Randazzo – Me too.

Sovel – The request is not for enclosed.

Jay James – It's still an addition. If you're going to make a condition that it be enclosed, I would just put that in your motion.

Sovel – Just to clarify, if we give you the enclosed, you don't get another lean-to after that.

Mr. Randazzo – Absolutely, and I will pursue the extra cost to make it match the outside of the garage. It will look better and you don't see anything.

Chairperson Rosman – It's safer for your equipment too.

MOTION by Rosman, seconded by Mills, to approve, with conditions, Item PA19-0004, the request by Joseph Randazzo of Commerce MI, for a variance from Article 33 of the Commerce Township Zoning Ordinance to construct an addition onto an existing detached garage that will in total exceed the maximum allowable square footage for an accessory structure, located at 2145 Glencoe. Sidwell No.: 17-23-200-019

Based on the presentation and comments we have heard, we believe the applicant has satisfied the criteria of Section 41.09.A of the Township Zoning Ordinance for granting a dimensional variance; therefore, I make a motion to approve a dimensional variance of 360 square feet, from Section 33.01 of the Commerce Township Zoning Ordinance, to allow an

addition onto the existing detached garage that would result in a total square footage of 1,260 square feet.

Approval is subject to the following conditions:

1. This addition will be enclosed with matching materials to the existing garage.
2. This variance will be the only one allowed on the detached garage, and that runs with the land; i.e., there will be no “lean-to” in the future.

Approval is for the following reasons:

1. The variance request is the least amount of variance that will put the applicant on equal footing with others in the same zoning district.
2. Granting this variance will not cause significant adverse impacts.
3. This request is not just a minor inconvenience, or a desire for a higher financial return.

MOTION CARRIED UNANIMOUSLY

Mr. Randazzo – Thank you.

Chairperson Rosman – You’re very welcome. Remember to bring the letter with you.

H. OTHER MATTERS:

Chairperson Rosman – Today was to be Jorge’s last Board meeting. He wasn’t able to be with us due to a family situation, but we would like the minutes to reflect how much we’ve enjoyed working with Jorge and appreciated all of his wisdom for the many years that he sat on this board.

Dave Campbell – We have a card and I think all of you had a chance to sign it. We had a plaque that we hoped to give him tonight. If he’s up for it, I’d love for him to come to the May meeting and be recognized for his almost 20 years of service on the ZBA.

Chairperson Rosman – Very nice, that would be terrific.

Also, I would like to welcome Bob Mistele, who has moved up from the alternate to the permanent. We are so happy to have you.

We have a little situation that Jorge was our Secretary. So, we need another one.

Dave Campbell – We do. Point of clarification. Jorge’s term actually ends on March 31st. Technically, Mr. Mistele is still the alternate until April 1st. Our next regular meeting isn’t until May 23rd. My guess is that on May 23rd, you will appoint a new Secretary, and I would not be surprised if you appointed Bob. Keep in mind that Bill and Rick are not eligible because both the State Enabling Act and our bylaws say that if you’re on the Planning Commission or Township Board, you cannot be an official on the ZBA.

I. CORRESPONDENCE:

None.

J. PLANNING DIRECTOR’S REPORT:

Dave Campbell – The tabled item, Mr. Mojica, and his proposed home on the south side of Farrant; his engineer is still working with Jay, trying to find a solution as to how to grade the property so that his home is, by definition, a 2-story home and not a 3-story. There is still the possibility that he will need to come back to you for a variance.

Chairperson Rosman and Dave Campbell discussed voting on the tabled item at a future meeting by Bob Mistele. The bylaws state if you were not sitting on the Board at the time of the

hearing, you can't vote on it when it comes back. Dave Campbell will consult with the Township Attorney in this regard.

Dave Campbell – Paula, do we have anyone definite for the May 23rd meeting?

Paula Lankford – Nothing definite. We've had three people discussing it.

Dave Campbell – We thought we were going to have a 4th applicant this evening, but he worked with Jay to reconfigure the orientation of his attached garage and got it out of his front yard, and actually he's happier now with where it's going to be.

Jay James – The list that was passed out earlier; Paula looked at it and there have not been any changes to it since the last update.

Chairperson Rosman – Any new restaurants coming?

Dave Campbell – Sort of. Johnny Carino's is re-branding as Bar Verona. I think he has one on the east side also that he is re-branding. The architect said they want to have the bar right in the middle of the building. I think it's going to be more of a bar and less of a restaurant.

Chairperson Rosman – What about the former Cooley Lake Inn?

Jay James – Last time he came in, a couple months ago, he felt he would be opening in the spring. He had some issues as far as what the past owner had not paid in taxes, and what he had to pay. He was still trying to square that away before opening.

Chairperson Rosman – What about Zerbo's?

Dave Campbell – The owners are also the owners of Uptown Grille. Back in January when we did our annual liquor license inspection, we asked this question and I think they said June or July.

Chairperson Rosman – How's he doing on the rooftop dining?

Jay James – Nothing like that has been approved. I'm watching for that.

Dave Campbell – They've been making changes along the way.

Jay James – They added a wine cellar to the basement.

Chairperson Rosman – Anything new at M5 and Martin Parkway?

Dave Campbell – Nothing has changed since the last time we discussed this. Mr. Aikens got approval to amend his plan to include a 4-story hotel. His next step is to submit a fully developed site plan to the Planning Commission.

Chairperson Rosman – Are we announcing a gourmet store yet?

Dave Campbell – He's got a commitment from the market but I have not heard that it's meant to be public knowledge yet. I'm told that it's a very tough deal.

K. ADJOURNMENT:

- **NEXT REGULAR MEETING DATE: THURSDAY, MAY 23, 2019 @7:00PM.**

MOTION by Mills, supported by Mistele, to adjourn the meeting at 6:25pm.

MOTION CARRIED UNANIMOUSLY

Jorge Pacheco, Secretary