

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

*Thursday, July 25, 2019*

2009 Township Drive  
Commerce Township, Michigan 48390

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

**ROLL CALL:** Present:

Rusty Rosman, Chairperson  
Robert Mistele, Secretary  
Rick Sovel  
Bill McKeever  
Clarence Mills

**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.

**B. APPROVAL OF MEETING AGENDA**

**MOTION** by Mills, supported by Mistele, to approve the Zoning Board of Appeals Meeting Agenda for July 25, 2019, as presented.

**MOTION CARRIED UNANIMOUSLY**

**C. APPROVAL OF MEETING MINUTES:**

**MOTION** by Sovel, supported by McKeever, to approve the Zoning Board of Appeals Regular Meeting minutes of May 23, 2019 as presented.

**MOTION CARRIED UNANIMOUSLY**

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

None.

**E. UPDATE OF ACTIVITIES IN COMMERCE TOWNSHIP:**

Rick Sovel – Township Board & Library

- The Township Board met on Tuesday for our Quarterly Discussion meeting, and also met with the Parks & Recreation Committee.
- We went through what's happening with all of the different parks and set budgets for each of the projects.

Chairperson Rosman – I just want to say that every time I'm at the Library, it is so wonderfully busy. It's terrific to see how busy it is.

Bill McKeever – Planning Commission

- We've had a full agenda.
- The majority of our items have been conceptual reviews.
- We did have a site plan that came before us at our last meeting for the Rock Ridge development, located north of Pontiac Trail, east of Beck Road. It will be just east of the mobile home park on Pontiac Trail. It was approved subject to a few items that were going to be quasi-administratively approved. I didn't get an update on that.

Dave Campbell – The Planning Commission's recommendation of approval was conditional upon certain items, and some of which have since been cleaned up. In particular, the building elevations were approved by the subcommittee of the Planning Commission. They did place some limitations on the types of materials that could be on the fronts of these 17 new homes. Given that, the project proceeded to the Township Board at their last meeting on Tuesday night, where they received final approval of the condominium, including site plan and the master deed.

Chairperson Rosman – So it's going to be condos?

Dave Campbell – It's a site condominium, so 17 single-family homes on a property that previously was part of the Commerce Ridge mobile home community, and was intended to be another 40-50 mobile homes. So instead, it will now be 17 single-family homes.

**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*

Dave Campbell – I had a conversation with the Township Attorney. Mr. Mojica is working on getting easements from his neighboring property owner, so he can adjust the grades on the neighboring property to get the grades that he needs on his property. That's a negotiation with the property owners.

Assuming that they're able to negotiate, which every indication is that they are, then hopefully we can take this off the agenda as a tabled item because he would not need a variance at that point.

Jay James – The Attorney had some questions on the easement documents and we're getting back in touch with the applicant. If we can work through those issues, it should come off of your list.

**G. NEW BUSINESS:**

**ITEM G1: PA19-0008 – KARL KOLLIN – PUBLIC HEARING**

Karl Kollin 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 along the secondary road frontage of a corner lot (southeast corner of Juniper Drive & Bourbon Street) that would face the primary road frontage (Juniper Drive), where the Zoning Ordinance requires the garage face the secondary road frontage (Bourbon Street). Concurrently, the Zoning Board of Appeals has the option to consider an appeal of staff's interpretation of the provisions of Article 33 relative to the orientation of the proposed detached garage. Located at 4900 Juniper Drive.  
Sidwell No.: 17-09-153-001

**Chairperson Rosman opened the public hearing.**

The petitioner, Karl Kollin, was present to speak to the variance.

Chairperson Rosman – On the overhead is your proposal.

Mr. Kollin – Thank you to the Board for your time here tonight, and for the time it took to visit my property. I'd also like to thank the Planning and Building Departments. Staff has been very helpful to me to understanding the process and answering some of my questions with the forms, et cetera.

Sovel – You did a great job staking.

Chairperson Rosman – It was incredible. You win the prize, I told you that, for the very best staking job anybody has ever done.

Sovel – That's how I felt too. It was the best I've seen.

Mr. Kollin – Well your first page on the application makes it pretty clear that I need to stake my property.

I'm asking for a variance to build this garage. The purpose of the garage is primarily for storage. One of my hobbies and interests is old cars. I have two antique vehicles, so those will be stored in there, as well as seasonal furniture, the lawn mower, the snow blower, the things you need to maintain and run a household. If I can do that, then maybe I can park my daily driving vehicle in the attached garage.

As you saw at the site, it is a challenge from a topographical standpoint. There are lots of changes in the elevations. That particular location that I'm proposing is relatively level and will hold the garage.

When I wrote my application for the variance, I didn't quite understand that it was okay to build it with the garage door facing Bourbon Street. But, I think you saw that to have the garage situated in that area, it would have to be a side entrance garage, and there isn't sufficient room to maneuver a vehicle. Typically they would want to have 30-35' to be able to pull in and turn your vehicle into the garage. When I had the survey done, I asked the surveyor to stake the 25' so I'd know right where that was. Then I ruled that out as it's not an option for me.

In terms of bringing the driveway in from Bourbon Street, at the front of the garage, there's roughly a 9' elevation change between highest point and the street level. If that portion of the garage were as far east, I think that's about an 8' variation. I did some quick calculations and if I wanted to have a flat surface to the north of the garage so I could park the car in preparation to go in or out of the garage, that slope to get down to the street level would vary anywhere from 22 to 34 degrees. I don't know about

Commerce Township, but I think in general, the recommended maximum slope for a driveway is 12%.

When I looked at all the various options I had, I thought that having the garage door face Juniper was the best solution, so that's what I'm asking the variance for, to allow construction of the garage with the garage door facing Juniper.

I went back and reread the letter, as suggested by the Chairperson of the Board. I happened to be home when Ms. Rosman visited to view the site. My original intent was to just have a very simple garage, four walls, a garage door and a pedestrian door. I understand the concern with having it blend in as residential and not look industrial, or like a pole barn. I also observed most of the garages in the area, both attached and detached, and they all have windows in them.

Chairperson Rosman – And yours is going to also.

Mr. Kollin – And mine will too. My proposal would include two windows on the north side of the garage, located approximately 6' in from either end of the building, and sized approximately the size of the windows in the current home. I think that will blend in well. My intention is to have the same roof pitch as the house, and to use the same T1-11 as the siding. The home needs a new roof, so whatever shingle I pick will be the same on the home and the new garage. It might not be at the same time, but that's my intention. So from a design standpoint, that's what I'm proposing. The pedestrian door will be on the south side of the garage, or toward the house.

The other thing mentioned was people had asked about my proposal for a driveway. When I initially build the garage, I would put the cement pad in front of the garage door, the width of the garage door, and approximately 10' out. This isn't going to be a daily use garage, so I hope that whenever I bring one of my cars out, I would drive it on the lawn and over to the driveway. If it looks like the ground is not taking that amount of use, I would propose a grass driveway, where you excavate a small 6" down and put in a honeycomb style plastic mesh, or building blocks. After those are installed, you fill in the holes with soil and plant grass on top or lay sod. That stabilizes the ground to prevent ruts in the grass.

I really think, given all things considered, that location is really the best site for the detached garage. It's the least intrusive to the natural setting of the lot and the neighborhood. It will be complementary to the existing residence. It meets the current and future needs of the homeowners, which is my wife and myself. I think it's appealing to the neighbors. I've spoken with five of my neighbors in person, and reviewed the site plan with them. They had no objections. They did have some questions and I answered those. I don't believe this creates any adverse impact to my lot, the neighborhood or the Township.

Chairperson Rosman – I also have some letters from your neighbors that I'll be reading into the public comments in a few minutes. Thank you very much. Ma'am, would you like to address this?

Susan Neiryneck, 4986 Juniper, Commerce Township – I'm on the other side of Bourbon. I've spoken with some neighbors over there. I guess I don't see a rendering of exactly where the garage is going to go. We wanted to make sure it was going to be back far enough. Doesn't the back of the property dip down, and wouldn't it be easier to put it

back there with a straight shot out to Bourbon? You wouldn't have the angle of the driveway, possibly.

Mr. Kollin approached the overhead, and also provided a copy of the site plan to Ms. Neiryndck.

Mr. Kollin discussed topographical issues with the site which presented difficulty in placing the garage elsewhere. Ms. Neiryndck was concerned with visibility around the corner at the stop sign. There are children riding bikes and people walking dogs.

McKeever – I don't think that will be an issue. He's far enough back so that doesn't come into play.

Mr. Kollin – The front of the garage is 130' back from the lot line.

Chairperson Rosman – It's not near the corner.

Ms. Neiryndck – If you moved it back another 20', wouldn't you be more level with Bourbon Street?

Mr. Kollin – It's like a trench and it drops off in both directions. It would require a significant amount of fill to raise.

Chairperson Rosman – It is not even with the front of the garage that faces Juniper. It is setback from there. It's not continuing the sightline of the garage. I know what you're concerned about, but it is set further back from there 130'. Most stores we shop at today are setback 100'.

Mr. Kollin – In addition, part of my positioning of the garage is to preserve as many trees as possible. If I go any further back, then I've got a couple more trees I would have to lose. I'm minimizing that impact.

Ms. Neiryndck identified the proposed location on the overhead.

Chairperson Rosman – It's pretty surrounded by trees, especially the Bourbon side is pretty well treed. Once the garage is up, you might see color as you drive by, but you won't see the whole mass of the building.

Ms. Neiryndck – You said it would be T1-11 like on the house?

Mr. Kollin – Yes.

Ms. Neiryndck – It doesn't sound like it's feasible at that point to relocate it.

Chairperson Rosman – Not with where the septic is located. We walked the whole property because of course we wanted to move it off the street, but the slopes are something else back there.

Chairperson Rosman read the following letters into the record:

1. Chloral L. Shew, 4948 Juniper Drive, Commerce Township; Mr. and Mrs. Shew had no objections to Mr. Kollin's request.
2. In support of the variance, a letter was submitted signed by four residents:
  - a. Enzo Campagnolo, 2212 Applebrook
  - b. Michael Bobbitt, 4862 Juniper
  - c. Chuck Cascaden, 4501 Juniper
  - d. Michael Zikewich, 4945 Juniper

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

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

**Board Comments:**

McKeever – All the questions I had have been answered. I have no issues with the Building Department's interpretation, but I do consider multiple front yards to be a hardship. There's a little bit of confusion as to what exactly we're asking for.

Dave Campbell – In my mind, there's potential for a two-prong approach here. One is confirming or reversing the administrative interpretation of the Building Official with respect to the orientation of the garage. Jay's denial was based in part on the proposed garage door facing Juniper. He interprets the Zoning Ordinance to say that the garage door has to face Bourbon Street.

I think the language of the Zoning Ordinance is open to interpretation, so I first wanted the Zoning Board of Appeals to affirm or deny the Building Official's interpretation. If you agree, then we move to the second prong to consider a variance, which is what the petitioner is asking for. However, if you feel the Zoning Ordinance was interpreted and applied incorrectly, then you can reverse the decision of the Building Official, in which case Mr. Kollin could orient his garage the way he has proposed. Staff is asking you to make an interpretation, and then depending upon that decision, you may or may not have to consider a variance.

It's worth pointing out here again that the location of the garage is not issue. The garage is permitted to be constructed where it is proposed. It is the orientation of the garage door and how this structure faces. That's ultimately why we're here this evening.

Chairperson Rosman – The Zoning Board of Appeals, when we're ready to make a motion, need to have two specific points made. One, regarding agreement or disagreement with the Building Official, and two, if we agree with the Building Official, we then grant a variance, should we choose to. Or, if we don't agree with the Building Official and we say, *Go ahead and build the garage and orient it to where you want it.*

Dave Campbell – If you respectfully disagree with the Building Official, then there's recommended motion language that says as much and that would be the end. If you do agree with the Building Official, then we would be looking for a motion confirming that, and then you could consider a variance from the Zoning Ordinance.

McKeever – I do not have any issues with Jay's interpretation of the Zoning Ordinance. I think he applied it correctly, and I would not be opposed to consideration of a variance.

Sovel – I agree that Jay got it right, he followed the rules of evidence. I do support a variance. There are a couple reasons. Jay did what he was supposed to do. As opposed to just taking the easy way out and reversing it, I don't agree with that because when it comes to other petitioners in the future, this could water down what Jay is supposed to do. The other reason is that if we consider a variance, then we can require that the windows be installed if the variance is granted. There are beneficial reasons to affirm and consider a variance on the record.

Will the new garage door match the door on the existing attached garage?

Mr. Kollin – That was my initial thought as I considered blending in and making it look less industrial. The current garage door is a plain aluminum door with no windows. I was thinking that it might look better if it was a quality garage door with windows on top.

Sovel – Will it be the same pattern?

Mr. Kollin – Yes.

Sovel – Okay, I'm all set. That was the right answer.

Mills – I agree with both Rick and Bill. I don't have a problem with Jay's interpretation of the Ordinance. I feel it's appropriate and I don't think it would be right to reverse it. In addition, I would not have a problem with the variance, going the direction as requested.

Mistele – Looking at the Building Department's interpretation, I can see how there is confusion. I actually tend to fall the other way. I believe it was misinterpreted by the Building Department. That being said, as far as a dimensional variance, I think there are other options that could potentially be explored, attaching it to the house via breezeway, or along those lines that might eliminate the need for a variance.

Chairperson Rosman – I agree with Jay. I don't have a problem with the variance. I'm delighted about the windows. I am concerned about the well. My concern isn't you. My concern is when you sell the house, and the next owners have teenagers who will park their cars there; they will make a driveway there. My concern is with the location of the well and driving over it. I would like to suggest in a motion that if anything happens to that well, that you would locate it further away from the drivable area.

Mr. Kollin – I understand that if that were to happen, relocation of the well is a viable option I think. Quite frankly, I'm a little bit frustrated because city water is 200' away. My wife would love for us to have city water. It might be someday.

Dave Campbell – If the consensus is that the Building Official interpreted the Ordinance correctly, then I'll leave it up to you if you want to make a formal motion stating as much.

Chairperson Rosman – Well I think it's just cleaner on the record.

Jay James – Bob mentioned possibly attaching it with a breezeway. I don't think that would be allowed because he would exceed the square footage of an attached garage. Also, Rusty you're concerned with the well. I understand your concerns, but also realize

that sometimes driveways are tight to the house. You could hit the house just as easily as you could the well. Oftentimes there are obstacles off the driveways that could be hit.

**MOTION** by Sovel, seconded by McKeever, to affirm the administrative decision of the Building Official regarding the Building Official's denial of a Building Permit application, for Item PA19-0008, for a detached garage at 4900 Juniper Drive, under the ZBA's authority per Sec. 41.06 of the Commerce Township Zoning Ordinance. The ZBA finds that Section 33.01.A.2 allows detached accessory structures on corner lots to be located between the house and the secondary road only when the accessory structure faces the secondary road, in this instance Bourbon Street. In making this interpretation, the ZBA recognizes that the petitioner retains his right to seek a variance from the standards of Sec. 33.01.A.2.

**AYES: Sovel, McKeever, Mills, Rosman**

**NAYS: Mistele**

**ABSENT: None**

**MOTION CARRIED**

Sovel – On the list of conditions, we want two windows, and the garage door should be similar to that of the existing door on the attached garage. Rusty, do you want something about the well if he had to replace it? Would he connect to city water?

Jay James – City water isn't actually available.

Chairperson Rosman – I'm not going to worry about it. I'm okay about the well. It was a concern, but Jay was 100% right.

Dave Campbell – As far as the variance motion language, this is typically where you would use the language as provided by the Township Attorney.

**MOTION** by Sovel, seconded by Rosman, **to approve, with conditions**, Item PA19-0008, the request by Karl Kollin of Commerce MI for a variance from Article 33 of the Commerce Township Zoning Ordinance to construct a detached garage in the non-required front yard along the secondary road frontage of a corner lot (southeast corner of Juniper Drive & Bourbon Street) that would face the primary road frontage (Juniper Drive), where the Zoning Ordinance requires the garage face the secondary road frontage (Bourbon Street). *(Concurrently, the Zoning Board of Appeals has affirmed staff's interpretation of the provisions of Article 33 relative to the orientation of the proposed detached garage.)* Located at 4900 Juniper Drive. Sidwell No.: 17-09-153-001 Based on the presentation and comments we have heard, we believe the applicant has satisfied all the criteria of Section 41.09 of the Township Zoning Ordinance for granting dimensional variances, and therefore I make a motion to approve Item PA19-0008, the request for a variance from Section 33.01.A.2.

**Approval is subject to the following conditions:**

1. Two windows will be added on the north side of the garage; and,
2. The garage door will be similar to the door on the existing attached garage (as discussed herein).

**MOTION CARRIED UNANIMOUSLY**

**H. OTHER MATTERS:**

None.

**I. CORRESPONDENCE:**

None.

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

Dave Campbell shared the following with the Board:

- Regarding Five & Main –
  - The latest is that the developer requested an extension on closing, from both the Township Board and the DDA, on both the library parcel and the larger DDA-owned parcel surrounding the library. The extensions were granted, with conditions, including non-refundable deposits.
  - Along with that, in order for the developer to close on the DDA parcel before he closes on the library parcel, the master condominium had to be amended to pull the library portion out of the condominium.
  - Hopefully, shortly thereafter, he will also be able to close on the library parcel, at which point that parcel will be merged back into the condominium. It's mostly a financing thing.
  - The library parcel is where the hotel is anticipated, and everything around it is planned to be shopping, restaurants and residential.
- As I mentioned, Township Board approved the Rock Ridge condominiums on Pontiac Trail that Mr. McKeever spoke to.
- There is a lot of interest in a few large pieces of property:
  - The Fedder property, on the west side of Haggerty, north of 14 Mile. We've heard from a developer who wants to do a driving range or pro-golf development there. Another interest was to do residential toward the west end of the property, with commercial along the Haggerty Road frontage.
  - Across from the Township Hall, there is interest in developing the old driving range with residential.
  - We continue to have conversations about the Beaumont property.
  - There's also interest in the gravel pit property, on the north side of Sleeth Road, with potential for residential development there. The site has challenges because of the gravel pit itself, the slopes and other earthwork that's been done there over the years.

Chairperson Rosman – How is Zerbo's coming along?

Dave Campbell – In the last few weeks, they poured their sidewalk along Maple Road. That was nice to see. I know their drywall is up on the inside.

Jay James – They're moving along.

Chairperson Rosman – Any news on the Hiller's piece?

Dave Campbell – We consistently get questions on that parcel, but nothing substantial. Kroger still owns the ground lease on it, which is pretty expensive.

Mills – On Carroll Lake Road, there are two new houses being built. One went up at a rapid rate, and the other is moving slowly. It's been being built for about a year and a half now.

Jay James – He’s doing it himself after work, so it’s taking a while. The other house was contracted out to a builder who put it up quickly.

Mills – I just wondered because I drive by it all the time.

Jay James – There's another one down Carroll Lake Road that burnt in a fire. We are holding a dangerous building hearing for that one. We will go through the process and take it down ourselves if we have to. It’s my understanding that the insurance company did not cover the claim on the house.

McKeever – What about the damage to the neighbor’s houses caused by that fire?

Jay James – I believe that’s a civil matter between property owners.

**K. ADJOURNMENT:**

- **NEXT REGULAR MEETING DATE: THURSDAY, SEPTEMBER 26, 2019  
@7:00PM**

**MOTION** by Mills, supported by Mistele, to adjourn the meeting at 6:18pm.

**MOTION CARRIED UNANIMOUSLY**

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Robert Mistele, Secretary