

FINAL
CHARTER TOWNSHIP OF COMMERCE
ZONING BOARD OF APPEALS MEETING
Thursday, July 25, 2024
2009 Township Drive
Commerce Township, Michigan 48390

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

ROLL CALL:
Present: Rusty Rosman, Chairperson
Clarence Mills, Vice Chairperson
Rick Sovel
Bill McKeever
Sarah Grever, ZBA Alternate Member
Absent: Robert Mistele, Secretary (excused)
Also Present: Paula Lankford, Senior Planner

Chairperson Rosman introduced the Members of the Board to those present, as well as Paula Lankford. She explained that Sarah Grever would be sitting in for Robert Mistele tonight. She reviewed the requirements for receiving 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.

Sovel – In honor of Rusty, when you were gone and Clarence led the meeting, he even used your example that you use.

Chairperson Rosman – Good, I've said it all these years. Good memory.

B. APPROVAL OF MEETING AGENDA

MOTION by McKeever, supported by Mills, to approve the Zoning Board of Appeals Regular Meeting Agenda for July 25, 2024, as presented.

ROLL CALL VOTE:

AYES: McKeever, Mills, Grever, Rosman, Sovel

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MEETING MINUTES:

MOTION by Sovel, supported by Mills, to approve the Zoning Board of Appeals Regular Meeting minutes of May 16, 2024, as written.

ROLL CALL VOTE:

AYES: Sovel, Mills, Grever, McKeever

NAYS: None

ABSENT: Mistele

ABSTAIN: Rosman

MOTION CARRIED

D. PUBLIC DISCUSSION (on matters for which there is no public hearing scheduled)

None.

E. UPDATE OF ACTIVITIES IN COMMERCE TOWNSHIP:

Rick Sovel – Township Board

- As I'm sure everyone is aware, when we went from GLF to Priority Waste, because GFL sold the residential service to Priority, there have been a few issues, but Commerce is doing much better than most other communities. It depends upon whether the truck for your route was still in good working condition I guess. They're having regular meetings. They're saying sometime in the next two weeks, they expect to be back to normal. They had numerous trucks that were broken down when they inherited them. I think Tuesday we were told that they got five more trucks in service. Be a little patient; it should be getting better.

Chairperson Rosman – I did want to put in a plug for Commerce. Our Supervisor pushed for and got several extra trucks to run around Commerce because of the issue.

Sovel – And the Supervisor is also working to see if we can get a reduction of billing because of the service issue. We will find out in the near future.

- The other thing is that on Saturday, we had the first ever Open House at the Sheriff's Department Substation, located right behind us here. They had a great response with over 1,000 people showing up.

Chairperson Rosman – I was told over 2,000.

Sovel – We did not count so we don't know the exact number, but it's a guesstimate. The public was very supportive of it.

Chairperson Rosman – And the weather was very nice. It was lovely. I had a wonderful tour.

Bill McKeever – Planning Commission

- At our June 3rd meeting, we had Lowe's come before us. They wanted to update their site plan and do something similar to what Home Depot had done last year with seasonal sales and outdoor storage. You might notice a change around Lowes.
- At the July 1st meeting, Costco was in front of us. They are going to be making alterations to their fuel station. It's going to be located in the location where the Ghost Taco is now.

F. OLD BUSINESS:

None.

G. NEW BUSINESS:

ITEM G1. PA24-03 – OAKLEY COMMERCE LLC – PUBLIC HEARING

Oakley Commerce LLC of Commerce Township Michigan is requesting a variance from Article 30 of the Commerce Township Zoning Ordinance to construct a freestanding monument sign that will encroach into the required front yard setback located at 2000 Oakley Park Road. PIN#: 17-24-126-007

Chairperson Rosman opened the public hearing.

The petitioner, Steve Crute, was present and spoke to the variance.

Steve Crute – I am one of the owners of the property at 2000 Oakley Park. First off, I would like to thank Paula and Dave. They helped me at the beginning, and so I'm here today. I appreciate all of your time too.

Chairperson Rosman – I want to note that each one of us has physically been to your property. We have seen where you staked it out and you did a great job. We could physically see where you want to put your sign.

Steve Crute – We're new to the community. We purchased the property at the end of August last year. Since then, early spring, we pulled a permit to build out some more space that had been vacant in the building for over 10 years. It had not been leased, so we have remodeled it and went through the Building Department with that. We're almost done.

We've been working with you guys on other projects, hopefully to expand the presence in that building; make sure it's filled back up and so that the community knows it's a place to call home for their business, versus driving to Bloomfield Hills or Novi, or another place. There are so many homes built up right here and so many people are just driving right by it and not utilizing the buildings.

One thing we have learned from several tenants in the back part of the building, as well as the side, is that there are people who drive by the building who don't see it. They don't know that they are there. Even with an online presence, there are so many people passing by who don't know that there is an Ivy Rehab, which is ABA, or applied behavioral analysis. So, if you have an autistic child, you may go right by it and not know this is a place you can go, right in your backyard.

There's Health Quest which is a physical therapy tenant in the back of building, and then Athletic Republic. So, if your child is in any sort of sport, they try to take your child to the next level so they compete at the college level once they're through high school.

All of these tenants would benefit from a sign off of Oakley Park.

Once we started talking about it, they had first tried to do this with the previous landlord. So I said I would take this and run with it, and try to make it happen. They said they just can't get customers in there. That was the main concern. Customers would come in and say, we didn't even know you were here. The facilities are beautiful and it's really quite impressive. The previous owner did a great job of building out these suites for them. It's a 10,000 square foot facility with state-of-the-art turf, ice skating training, and all sorts of great facilities. But, not many people in the community know about it.

When we started looking at where the sign would be, I spoke with Paula. She said, you're going to be in your parking lot. I said, that's not an ideal spot to be, especially

when we have a berm in front of it to get to Oakley Park. We would have to put a sign on stilts.

Then we have to compete with the pine trees in front. The name of our building is Pinewood II. I don't think anyone wants to remove pine trees. I like the trees and we would rather keep those. But, they would definitely be an obstruction if you're heading east on Oakley Park.

So, I said Paula, what's the next step? She said, well, I'm going to deny anything that comes north of that line we have for the 75 feet. I said, I understand, but we started looking around and saw other signs, heading north on Martin Parkway, that they have setback 50 feet. I asked where we need to be and they said 50 feet. So we basically need a 25 foot variance. We saw it to the east and west of us at the Teddy Bear Playhouse, there's two of them, and they both have signs that are well within the 75 foot setback. I wrote down a few more; Sedona Stone, BBA, and then American Allstar on Dallavo Drive.

With all that said, we decided we would put together a nice quality sign. We're not going to go halfway. We will go all the way and make this a nice sign to complement the building. I think that's in the proposal as well and hopefully you have seen that. It's going to be a concrete foundation underneath, and then built up, we'll have a brick veneer to complement the building, a limestone cap, and then right above that would be the sign.

We want the building to look good. We want tenants to come into our building. We want to attract tenants that think the sign and the building are nice, and it's high quality. We're not looking to make a cheap sign. We are requesting the 25 foot variance so we can erect the sign. The sight lines will be great. We think the tenants will highly benefit from it as well, and it will continue to keep the same aesthetic to the surrounding community. Appreciate your time.

Chairperson Rosman – Thank you very much. Is there anyone here from the public who would like to address this this evening?

No comments.

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

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

Board Comments:

Grever – Thank you for your persuasive presentation. I think you covered all of the bases and the permit was pulled, so that's really good. I don't see anything wrong with this variance. There's nothing that you created as a barrier to obstruct the vision. You didn't cause this problem with having the setback. I think your building was built in '88, so that was long before the ordinance was put in. I don't think anything was caused by the owner or anybody in the area, so I don't see anything wrong with this variance.

Vice Chairperson Mills – Likewise, as I went through and walked the property on both sides, looking to see if there were any obstructions from a view, I didn't see any problems. The only question I have is, will this sign be illuminated?

Steve Crote – Currently, it is not planned for illumination.

Vice Chairperson Mills – Okay, that was the only question I had. Other than that, I don't see any problems.

Chairperson Rosman – I have a question. It showed us on the plans that there would be four names. How many tenants do you have?

Steve Crote – Currently we have three that are 100% onboard. We have a new sublease tenant coming in at the rear of the building. I asked if they were interested. They are a Pilates company called Interverse and they said, yes, we would love to participate, please let us know how it goes with the ZBA.

Chairperson Rosman – So you only have four spaces?

Steve Crote – Four, yes, and currently three are taken and they're onboard. The tenants are committed.

Chairperson Rosman – Are there any other spaces in your building that are rentable after these four?

Steve Crote – Not in a size wise where we would even consider them, no.

Chairperson Rosman – So four spaces, four on the sign. That's what I wanted to know. I'm also going to tell you, when your building was built, the trees that were put in were required by the ordinance, but we never thought about them growing, and they have grown. I want you to know that has been addressed because trees have become an issue that you did not cause. So, the Planning Commission has taken that under advisement and addressed it, so I see what you're saying. The ones you talked about on Martin Road, their sign would have been in their bathroom. They also came to the ZBA so we understand what you're asking for.

Sovel – Is the sign going to show the address also?

Steve Crote – Yes.

Sovel – And it's a two-sided sign so really you'll have a place for eight tenants, in theory.

Steve Crote – In theory, yes.

Sovel – I have no problems. You're already aware that if we do grant you the variance, if for some reason the sign has to be removed for any reason, underground work or whatever, it will be at your expense to remove it. Did you know that?

Steve Crote – I think we talked about it. It's a friendly reminder.

McKeever – I have nothing more to add.

Chairperson Rosman – Paula, anything to add?

Paula Lankford – No, I think you have covered it.

Chairperson Rosman – The chair will entertain a motion.

MOTION by Mills, seconded by Grever, **to approve, with a condition**, the request by Oakley Commerce LLC of Commerce Township Michigan for a variance from Article 30 of the Commerce Township Zoning Ordinance to construct a freestanding monument sign that will encroach into the required front yard setback located at 2000 Oakley Park Road. PIN#: 17-24-126-007

Based on the presentation and comments we have heard, I believe the applicant – Mr. Steve Crute of Oakley Commerce LLC, owner of 2000 Oakley Park Road - has satisfied the standards of Section 30.08 of the Township Zoning Ordinance for granting a Sign Variance relative to the required minimum front yard setback for a freestanding sign along Oakley Park Road, and therefore I make a motion to approve the request for a variance of 25 feet relative to the front setback requirement of Section 30.02.F of the Zoning Ordinance.

Approval is conditional upon the sign being removed and replaced at the owner's expense if and when necessary for work within the planned 60-foot right-of-way along the south side of Oakley Park Road.

ROLL CALL VOTE:

AYES: Mills, Grever, Rosman, McKeever, Sovel

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY

H. OTHER MATTERS:

Rick Sovel discussed past decisions made by the ZBA as it relates to the Zoning Ordinance. The Township Board is looking at the ZBA's decision making process, which has changed over the years. He discussed the potential for flexibility. Rick also discussed past ZBA cases that went to court. In the past, the ZBA did not have to ensure that a variance request met all of the criteria, only most of the criteria, and they were somewhat subjective. Then it changed and all of the criteria had to be met. If the Township Board is to consider changes to the Zoning Ordinance, they have to have an informal hearing at a quarterly discussion meeting to decide if something should be changed. That is where the matter is at right now, so it is moving forward. There will be some kind of modification to how the ZBA operates.

There are four main categories of issues that come before the ZBA.

1. People who ask for a variance that have not started their project yet. Their plans are only on paper. They come before the ZBA with a variance request before they start.
2. They have started or finished without a permit and got caught, and they needed a variance for their project. (Numerous decks have occurred this way.)
3. A new owner that purchased the home with non-compliance and no permit from a previous owner.
4. As built does not match the submitted plans.

Item 4. initiated conversation with McKeever and Sovel regarding a past case that went to court.

Sovel discussed the use of technology to investigate issues. He discussed builders maximizing the building footprint and incidents of encroachment into the setback. He noted that strict adherence to the Zoning Ordinance would mean that some houses would have to be torn down if they were built even one inch over what the plans showed, as an extreme example.

Sovel discussed additional examples of issues and past variances granted. He is seeking individual feedback from the Board members regarding the ZBA decision making process and suggestions for flexibility and improvement. The attorneys won't get involved until he writes up a rough draft of the proposed modifications. Sovel requested phone calls and/or emails over the next 30 days to start the process. He also explained that staff is kind of against making any changes because they don't want to reward someone for doing something wrong, and then asking for forgiveness.

Chairperson Rosman thinks it is important to sit down as a group for a meeting. Sovel reiterated that he is looking for individual commentary. They discussed previous cases and ordinance violations. Chairperson Rosman asked Sovel to send out each of the categories to the Board members. Sovel explained that those are generic categories, but he could distribute them. He also discussed examples of suggestions he has already received, such as listing several potential variances in a case from least to greatest and voting on them until one of them passes.

McKeever feels that the ZBA was pretty level-headed prior to the attorney's mandate requiring that all criteria be met. Things were based upon practicality and common sense. Paula noted that the criteria originates from the Michigan Zoning Enabling Act.

Sovel further explained that this is a technical legal issue that we have non-legal people trying to interpret and decide how to enforce. The law is very specific, however, very few communities uphold it and follow it exactly the way it is. If the attorney has a challenge in court, it would be helpful to have some form of consistency as to how the Board arrived at a decision.

Discussion continued regarding the criteria, making judgments, enforcement of the Zoning Ordinance, and court cases that involved ZBA decisions.

Paula Lankford – Rick, why don't you email the board members and give them the criteria. Then, if they choose to email you back, great. You can blind copy them.

Sovel – Just one on one, call me or send me an email.

Grever discussed decision making for variances and the impacts they may have on the Township's overall mission and planning. Sovel explained that the Master Plan addresses those issues. Chairperson Rosman added that if somebody wants to do something that is not allowed in the Zoning Ordinance, they have the right to go to the ZBA. The decision making isn't up to the personal feelings of the Board members; the job is to uphold the Zoning Ordinance of Commerce Township.

Chairperson Rosman – When you send us the email, please let us know that our responses must be sent to Rick by a certain date, and give his phone number.

Discussion continued regarding the four categories of requests and past decisions made by the ZBA. Paula discussed the prior approval percentages. McKeever discussed that requests are also filtered out at the counter, before they get to the Board.

Paula and Rick Sovel again encouraged individual input on this topic from the Board members.

I. CORRESPONDENCE:

None.

J. PLANNING DIRECTOR'S REPORT:

The report was included in the packet.

K. ADJOURNMENT:

- **NEXT REGULAR MEETING DATE: THURSDAY, SEPTEMBER 26, 2024 AT 7:00PM.**

MOTION by Mills, supported by Rosman, to adjourn the meeting at 8:04pm.

ROLL CALL VOTE:

AYES: Mills, Rosman, McKeever, Sovel, Grever

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY

Robert Mistele, Secretary