

FINAL
CHARTER TOWNSHIP OF COMMERCE
ZONING BOARD OF APPEALS MEETING
Thursday, May 16, 2024
2009 Township Drive
Commerce Township, Michigan 48390

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

ROLL CALL:

Present: Clarence Mills, Vice Chairperson
Robert Mistele, Secretary
Rick Sovel
Bill McKeever
Sarah Grever, ZBA Alternate Member (arrived at 7:02pm)

Absent: Rusty Rosman, Chairperson (excused)

Also Present: Paula Lankford, Senior Planner

Vice Chairperson Mills introduced the Members of the Board to those present, as well as Paula Lankford. He explained that Sarah Grever would be sitting in tonight as the alternate board member.

He reviewed the requirements for receiving a dimensional variance from the Zoning Board of Appeals, including the fact that all standards are to be met by the applicant. He assured the applicants present that the sites of the proposed variances have been visited by the members of the Zoning Board. He 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.

B. APPROVAL OF MEETING AGENDA

MOTION by Sovel, supported by Mistele, to approve the Zoning Board of Appeals Regular Meeting Agenda for May 16, 2024, as presented.

ROLL CALL VOTE:

AYES: Sovel, Mistele, McKeever, Mills, Grever
NAYS: None

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MEETING MINUTES:

MOTION by Sovel, supported by Mistele, to approve the Zoning Board of Appeals Regular and Special Meeting minutes of January 25, 2024, as written.

ROLL CALL VOTE:

AYES: Sovel, Mistele, Mills, McKeever
NAYS: None

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

- The big news is that as of April 15th, Commerce Township has been certified for advanced life support and advanced life support transporting. It's something we've been working on for years. So, we no longer have to wait for outside ambulances that could be coming from 15-20 miles away.
- Now, two of our four stations have certified ambulances and paramedics that we can transport. We also have more going to school right now. The goal is to have all four fire stations certified within the next year or so. This is good for all of us in the Township, and we did it without having to raise any taxes because that's just the way we do things.

Bill McKeever – Planning Commission

- I was absent from the May meeting and I would defer to Paula.

Paula Lankford –

- We approved an offsite parking lot on Pioneer for an existing, adjacent doctor's office.
- We had a pole barn that was retroactively approved for a gentleman who built without a permit. He was on more than 2 acres, so it went to the Planning Commission, and that was approved.
- We had a request from Lowe's to do outdoor displays and storage. That item was tabled and will be heard again in June.
- Costco's request will also be heard in June.

F. OLD BUSINESS:

None.

G. NEW BUSINESS:

ITEM G1. PA24-01 – SAM & CINDY ROBERTSON – PUBLIC HEARING

Sam & Cindy Robertson of Commerce Township MI are requesting a retroactive variance from Article 6 of the Commerce Township Zoning Ordinance to allow a deck that was constructed without building permits to remain in the required canal-side front yard setback located at 6101 Ashland. PIN#: 17-03-229-012

Vice Chairperson Mills opened the public hearing.

Mr. and Mrs. Robertson, 6101 Ashland, Commerce Township, MI, were present along with David P. Smith, Surveyor, 8615 Richardson Road, Commerce Township, MI, to address the variance request.

David P. Smith – We did the survey for the Robertson's. My clients constructed a deck without a permit. They're looking for relief. They have a situation of practical difficulty. The deck is approximately 9.3 feet above the water. They're looking for visibility because they can't get down to the water or get a view. Their enjoyment of the property is their view.

It is an older house built in the 40's. It's a little difficult to see what they did, but obviously they should have pulled a permit. You can see the disparity of the grade

change. As for the neighbors, I don't think there's any disapproval. We have two of the neighbors here in support of what they did.

I think they will require a variance of 9.3 feet. Was there a number on that?

Paula Lankford – It's 9.2 feet.

David P. Smith – Thank you for that. It's lake property with a lake view and a steep slope. I don't think this will be a detriment to any decisions because with as many lakes as the Township has, there are a lot of nonconforming structures that were built way before the ordinance ever existed. I think if they had followed protocol and asked for a deck, with the way your sight line ordinance works ... I have to tell you that you have one of the better sight line ordinances compared to other Townships I deal with.

There is a park on the right hand side, and you can go at least another 150 feet and there isn't a house there. The house to the south I believe wrote a letter in support. The neighborhood is in support of their deck. The Robertsons built that deck by themselves, and they did a pretty decent job without inspection. I can answer any questions.

Sovel – Any idea if it was actually built to code?

Sam and Cindy Robertson both confirmed that the deck was built to code.

Cindy Robertson – The deck has been up for 4 years.

Sam Robertson – I built it extra heavy duty because I want it to last for my kids. They'll probably be the ones taking over my house once I'm no longer around.

Cindy Robertson – This is our second personal deck we have built ourselves.

Vice Chairperson Mills – Excuse me, if you want to speak, would you come to the microphone and give your name please?

David P. Smith – I can attest that they built it as close to code as they could. (To Mr. Robertson) What kind of joists do you have on there? 2x10's?

Sam Robertson – 2x10's, the span is 12-foot.

David P. Smith – What's the width between them?

Sam Robertson – 16 on center.

David P. Smith – That's standard code.

Paula Lankford – They'll have to get a permit from the Building Department and it will be inspected.

Sovel – He will have to open it up.

David P. Smith – We know how thorough Jay is. He'll take care of it. I have nothing more.

Vice Chairperson Mills – Okay. Is there anyone else who wants to speak?

Mike Epley, 6075 Carroll Lake Road, Commerce Township – I'm about two houses south of him and a little to the west, so I'm right on the road there. To the north of Sam and Cindy's, there's conveniently a public access. I think there's like 15 of us who have access to that beach. It's not really used which is actually kind of nice. Then I own the two properties that have no houses on them to the north. From a line of sight perspective, it has no bearing. I'm down there all the time. My in-laws live a little further north from there. Even when you're walking the properties, I would imagine the only negative you would hear from somebody would be regarding the line of sight, but that type of thing is just not the case here. Even if I were to sell it or build it, it's not in a spot where the deck is affecting anything. I have no issues at all with it.

Paul Aftanas, 6089 Ashland, Commerce Township – I live two doors down from Sam and Cindy. Before they bought that place, that area was kind of an eyesore and unusable. Since they fixed it up back there, it has completely changed. It's not only beautiful but you can actually use the property. Everybody in the neighborhood that I have spoken to really thinks the neighborhood is better off because of it. It looks good and you can actually use it now.

There were -0- returns and -1- letter.

Vice Chairperson Mills read a letter of support into the record from Angela Hensley, 6095 Ashland, Commerce Township. The deck does not block her view and she finds the beautiful landscaping and deck a pleasure to look at.

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

Board Comments:

Mistele – I think the property is extremely unique in how fast the backyard drops off. With the elevation changes, I think that ultimately makes it an unusable backyard unless something is done. I don't have any problems with the deck and where it sits. I don't think it's going to cause any issues as far as visibility.

I think it puts them more on an equal footing with the other homes because they can use the backyard, which it does not appear they could have done without the deck. I don't have any issues. I just want to make sure that as a condition, we make sure that the Building Department gives it a good inspection to make sure it's safe.

Grever – Well said. I agree that the property is unique. It's not able to be used like others within its zone. I would have appreciated a permit, and now everybody knows. I think if this deck wasn't built and you asked for a variance for the 9.2-feet, I think that is a reasonable variance request.

I don't see any issues with it causing a hardship for the property owner or adjacent owners, or anybody within the neighborhood, including the park. I think this porch would be acceptable once a permit is pulled and then Building is able to make sure that it is safe and fit for the future for your children.

Sovel – I have no problems.

McKeever – It's been covered.

Mills – I also do not have any problems with this, based on the findings of the Building Official when it comes time to go out there and do the inspection. At this point, we will entertain a motion for this variance.

MOTION by Mistele, supported by McKeever, to approve, **with a condition**, Item PA24-01, the request by Sam & Cindy Robertson of Commerce Township MI for a retroactive variance from Article 6 of the Commerce Township Zoning Ordinance to allow a deck that was constructed without building permits to remain in the required canal-side front yard setback located at 6101 Ashland. PIN#: 17-03-229-012

Based on the presentation and the comments we have heard, I believe the applicant has satisfied all of the criteria of Section 41.09 of the Township Zoning Ordinance for granting a dimensional variance, and therefore make a motion to approve the request for a variance from the requirements of Article 6 of the Commerce Township Zoning Ordinance, for a variance of 9.2-feet, to allow the deck to remain.

Approval is for the reasons discussed here tonight. **Approval is conditional upon the petitioner receiving a building permit for the deck, complying with all applicable building codes and receiving all approvals required by the Township from the Building Officials.**

ROLL CALL VOTE:

AYES: Mistele, McKeever, Sovel, Grever, Mills

NAYS: None

MOTION CARRIED UNANIMOUSLY

Vice Chairperson Mills reiterated that this is contingent upon approvals by the Building Official, and that what is exposed has been done correctly.

ITEM G2. PA24-02 – JOSEPH PHILLIPS ARCHITECT – PUBLIC HEARING

Joseph Phillips Architect of Plymouth MI representing Mark & Christina Hagerty is requesting two variances from Article 6 of the Commerce Township Zoning Ordinance to construct an addition that will encroach into the required minimum side and front yard setbacks located at 509 Sherbrooke. PIN#: 17-10-410-002

Vice Chairperson Mills opened the public hearing.

Mark Hagerty, 509 Sherbrooke, Commerce Township – I'm the property owner. I've lived in the house for many years, and it is becoming increasingly hard to exist without a garage. Even mowing a yard, I have no place to store a lawnmower. I'm sure you saw the trash cans when you came and looked at the property. My neighbors have to look at them every day. That might be why they all agreed to sign a letter in full support of the variance. I also have a couple other neighbors here in the audience that will attest to the increase in the aesthetics of the property once this is done.

Owning a snow blower is out of the question without a garage. I had originally, in my mind, two options for a garage after I got the survey. I noticed two properties across the river from me. Part of their parcel included a section of property on the other side of the river. So, I reached out to the Township to see if I could buy the empty lot across the street and build a garage there, but since I couldn't adjoin it to my property legally, I couldn't have an accessory structure on a property without a primary structure. So, that was not an option. So, I'm back to the only option I had which is to give 140 square feet

of my home as it exists towards the garage and then to go forward where my driveway has been for many years. My driveway is 25 feet long. I understand the setback is 25-feet, and apparently, my driveway and all of my neighbors' driveways encroach upon the road. That road has been there for over 75 years, and I have aerial photos from the Oakland County archive to substantiate that.

Vice Chairperson Mills – Does anybody from the audience have any questions or comments?

Grever – I have a question. Were there different options that were discussed with your architect on this lot?

Mark Hagerty – Because of the required 14-foot setback from the property lines, this is the only place where one would fit.

Grever – So there wasn't maybe an attached, or an addition that would be used for storage in the rear of your house?

Mark Hagerty – No, because of the river. If you look at the back of the property, my property line truly is 9-feet in the middle of the river to the south, and 4-foot in the middle of the river to the north, so I've lost a lot of property there. So, there really is no option, plus I would not be able to drive back there to get in there, even with a riding lawn mower, because I would drive right over my septic tank.

Grever – Okay, it is a riding lawn mower. I was thinking, because when I visited, I did see to the north, right between the large tree you have that's not shown on this site plan, that you could have an addition there, but your intent is to have something that you could drive into is what you're saying.

Mark Hagerty – Yes, and I couldn't put it over the septic tank. I need to have that serviceable for draining, dumping and whatnot. If I put the garage in front, just to the west of the septic tank, it would be encroaching upon the road just as much if not more. If you look, the road is closer to the north side than it is to the south side. Plus, with this I'm able to take a good section of my living room which will be part of the future garage.

Grever – Okay, thank you.

Vice Chairperson Mills – Anybody from the public have any comments?

Brian Moore, 766 Polvadera, Commerce Township – I'm part of the association, one of the board members, and have been for 18 years. I've looked at what he's proposing, and I think it should be done to be honest with you.

Vice Chairperson Mills – Thank you. Anybody else? Hearing none, I'll turn to the file.

There were -0- returns and -3- letters.

Vice Chairperson Mills read the letters into the record.

1. Erica Robinson, 505 Sherbrooke, Commerce Township; We are in full support of this garage. The garage is on their property and will not impact our property/view in any way. We have no objections to the request of adding a garage.
2. Olga Myts, 525 Polvadera, Commerce Township; I support the variance request for the addition of an attached garage. I am in favor and have no concerns.
3. Don & Lisa Morse, 515 Sherbrooke, Commerce Township; We have lived next door to the Hagerty family for over 20 years. For a few years we have discussed their need for a garage and the hardship they have not having one. We fully support the garage design and footprint, and them having the right to build it.

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

Board Comments:

McKeever – I have no issues with the request. I think it's a reasonable size, given the restraints. Any smaller would make it non-functional. They're not asking for an egregious encroachment into the setbacks.

Sovel – I wish they were all this easy. I have no problem.

Grever – I don't believe this is an easy decision, because of the setbacks throughout the neighborhood. I don't see any other option though for you to have storage and safety for your belongings. I saw bikes this morning, so the poor kids' bikes are out. I have to agree that this is the best option for what you need.

Mistele – Ditto everything you've said. I have no problems.

Vice Chairperson Mills – Neither do I. Looking at your property and the limited space that you have there, I don't have any problem with it either.

MOTION by Grever, seconded by McKeever, to approve, **with a condition**, Item PA24-02, the request by Joseph Phillips Architect of Plymouth, representing Mark & Christina Hagerty, for two variances from Article 6 of the Commerce Township Zoning Ordinance to construct an addition that will encroach into the required minimum side and front yard setbacks located at 509 Sherbrooke. PIN#: 17-10-410-002

Based on the presentation and the comments we have heard, I believe the applicant has satisfied all of the criteria of Section 41.09 of the Commerce Township Zoning Ordinance for granting dimensional variances, and therefore, I make a motion to approve the request for the following variances, from the requirements of Zoning Ordinance Section 6.01:

1. A dimensional variance of 14.0 feet relative to the minimum front yard setback requirement; and,
2. A dimensional variance of 0.5 feet relative to the minimum side yard setback requirement.

Approval is for the reasons discussed here tonight. **Approval is subject to the condition that a permit will be pulled.**

ROLL CALL VOTE:

AYES: Grever, McKeever, Sovel, Mistele, Mills

NAYS: None

MOTION CARRIED UNANIMOUSLY

Vice Chairperson Mills – Again, you’ll get a letter within 5-10 days from the Township, and then you have 365 days to pull the building permit and do what you need to do.

Mark Hagerty – Thank you very much.

H. OTHER MATTERS:

None.

I. CORRESPONDENCE:

None.

J. PLANNING DIRECTOR’S REPORT:

- Paula Lankford noted that the report was in the packet.

K. ADJOURNMENT:

- **NEXT REGULAR MEETING DATE: THURSDAY, JULY 25, 2024, AT 7:00PM.**
- Paula Lankford – I'm not sure if we will have any cases for July. We have had no discussions with anybody. I'll keep you posted.

MOTION by Sovel, seconded by McKeever, to adjourn the meeting at 7:38pm.

ROLL CALL VOTE:

AYES: Sovel, McKeever, Mistele, Grever, Mills

NAYS: None

MOTION CARRIED UNANIMOUSLY

Robert Mistele, Secretary