

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

Thursday, January 27, 2022

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
Clarence Mills, Vice Chairperson
Robert Mistele, Secretary
Rick Sovel
Bill McKeever
Sarah Grever, ZBA Alternate Member (arrived 5:33pm)
Also Present: Jay James, Engineer/Building Official
Paula Lankford, Planner

B. APPROVAL OF MEETING AGENDA

MOTION by Mills, supported by Mistele, to approve the Zoning Board of Appeals Regular Meeting Agenda for January 27, 2022, as presented.

AYES: Mills, Mistele, Sovel, McKeever, Rosman

NAYS: None

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MEETING MINUTES:

MOTION by Mistele, supported by Mills, to approve the Zoning Board of Appeals Regular Meeting minutes of September 23, 2021 as presented.

AYES: Mistele, Mills, Rosman, Sovel, McKeever

NAYS: None

MOTION CARRIED UNANIMOUSLY

D. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA:

Sarah Grever's son, Hayden, addressed the Board. He attends Commerce Elementary.

E. UPDATE OF ACTIVITIES IN COMMERCE TOWNSHIP:

Bill McKeever – Planning Commission

- Nothing to report since the last time we met.
- We're working on the Master Plan.

Rick Sovel – Township Board *& Library*

- Tuesday night, the Township Board had a joint meeting with the Planning Commission to review the future Master Plan, along with other items and suggestions. We discussed apartments, senior facilities and traffic.
- We're moving forward with updating the office building at 8585 PGA Drive. The Township bought that a couple years ago. We're in the process of turning that into the new Sheriff's substation.
- Other than that, Rusty loves her garbage service and the Library.

Chairperson Rosman – I do. I am so appreciative that our Library used COVID money to put in that drive-through window.

F. OLD BUSINESS:

None.

G. NEW BUSINESS:

ITEM G1. ELECTION OF OFFICERS

MOTION by McKeever, supported by Sovel, to retain the ZBA Officers, with Rusty Rosman as Chairperson, Clarence Mills as Vice Chairperson, and Robert Mistele as Secretary.

ROLL CALL VOTE:

AYES: McKeever, Sovel, Mills, Rosman, Mistele

NAYS: None

MOTION CARRIED UNANIMOUSLY

ITEM G2: ZONING BOARD OF APPEALS BYLAWS REVIEW

Chairperson Rosman – If you've read the bylaws, you see a lot of red ink. That's because our attorney took care of cleaning these up.

Sovel – Our COVID exceptions expired on December 31st.

Paula Lankford – Yes. Basically, everything that was changed for COVID has now expired, and now the only condition left in the bylaws, or in the Open Meetings Act, is to allow a member of the military to serve on the Board remotely if he or she is called to duty.

Sovel – So now if someone gets COVID, their only option is to not attend the meeting. You can't dial in or do Zoom anymore.

Chairperson Rosman – I visited Paula because I had a question on Page 8. She clarified it for me.

In instances when there only three ZBA members in attendance, the three members must be regular ZBA members, and the vote must be unanimous. When an alternate ZBA member (Sarah) is called to serve, the alternate shall have the same voting rights as a regular member of the ZBA so long as there are at least three regular ZBA members present.

Therefore, if there's only two regular members present, plus Sarah, we cannot hear the appeal.

Paula Lankford – Correct.

Chairperson Rosman – Any other clarifications? Hearing none, the Chair will ask for a motion.

MOTION by McKeever, supported by Mistele, that the Board has reviewed and approved the 2022 Zoning Board of Appeals Bylaws.

AYES: McKeever, Mistele, Mills, Rosman, Sovel

NAYS: None

MOTION CARRIED UNANIMOUSLY

Mistele – If the alternate Zoning Board of Appeals member, Sarah, sat through all of the presentations and we tabled something, when we bring it back up at the following meeting, I'm thinking she should be able to sit in. You don't think so?

Sovel – She's not allowed to.

Chairperson Rosman – It's not allowed.

Sovel – You have to hear it from this side of the table. You can't be in the audience to hear it. Is that correct?

Paula Lankford – That's correct. That's what we're reading from the Zoning Enabling Act; however, we did pose the question to Hans, because Bob asked it. Dave emailed Hans, but more than likely he is going to say ...

Chairperson Rosman – We don't have a response yet?

Paula Lankford – No.

Sovel – That's what Hans said originally.

Paula Lankford – Yes.

Sovel – Bob, I've been doing this for a long time. One thing I've learned; this is government so it doesn't have to make sense.

ITEM G3: ARTICLE 30, SIGNS - DISCUSSION

Chairperson Rosman indicated the items in the packet for review, including a discussion report from Dave Campbell, Article 30, Article 41, and the sign exception review and motion language from the attorney. She also noted that there is a major difference between sign exceptions and dimensional variances.

Paula Lankford – Typically, the ZBA isn't a body that looks at text amendments for the Zoning Ordinance. That is under the purview of the Planning Commission and the Township Board. However, since the ZBA has been getting repeat requests for sign exceptions, we thought it would be prudent to bring it to you and see what direction you want us to take. Would you like us to look into text amendments and present something to the Planning Commission? Maybe Bill can speak to that. Or, we can look more in depth into the sign exception standards that the ZBA reviews.

Something should be done because we are getting many sign exception requests. Two examples are ground signs and wall signs. Most of the ground sign exception requests are for existing businesses, and they've been here for 30 to 40 years. Their buildings are already encroaching into the setbacks, so signs are not able to be put in a spot that complies. At least a couple of those requests come before you each year.

In addition, everybody wants extra wall signs. Again, you have to look at your standards to see if any of those apply in order to approve an exception, but lately we have had requests for additional signage for directional signs, for outlots that have been created, or existing outlots that have changed. They want to advertise behind them for the traffic and other businesses that are back there.

As Dave's report said, we can propose a text amendment to alleviate both of those, and maybe put some language in there that gives the Building Official and the Planning Director authority to administratively approve these. With ground signs, they could potentially look at the major thoroughfares where we are having the most issues, and put into the Ordinance that the Building Official and Planning Director can look at certain conditions, and not grant them a variance or an exception, but allow them to have a sign if the average of the signs on that road are 50' from the centerline. They would have to stay within that average.

The same with the wall signs; maybe we put some conditions or criteria in there that they have to meet in order to get a second wall sign, and not have to bring it to the ZBA every time someone wants a second wall sign. I think the Planning Director and the Building Official are both capable of looking into that.

It's really going to be up to the Planning Commission and the Township Board. If we take this to them and if they don't want to make changes, then the ZBA will need to take a good, long look at the standards for those sign exceptions. Do they stay the same, or do we change them?

Sovel – So if we give Dave and Jay flexibility, then if the applicant wants to appeal it, does that turn into an administrative decision that comes before the ZBA?

Paula Lankford – I would think it would.

Jay James – We have something similar in there, as far as average setbacks. If the average of the other houses in a block are setback a lesser distance, we are allowed administratively to approve that without having to come to the Planning Commission or the ZBA. If they were to appeal our decision, then it would come to you, and I do believe it would be an administrative appeal of our decision of the ordinance.

Chairperson Rosman – By the way, Paula's title has been upgraded to Planner as of Monday. Congratulations, we're very excited for you!

Paula Lankford – Thank you. I'm very excited.

Chairperson Rosman – When I was talking with our new Planner, I was confused when she kept saying directional signs. To me, that's an arrow on the ground. She explained to me, it can also be a sign on a wall. I wanted to make sure that everybody here understands that a directional sign can also be a sign on a wall.

Jay James – For instance, if you go to Meijer in particular, because I think this was one of the first ones that came up; they have "Home" and "Fresh" on the building as wall signs. I originally denied those, and we had a quite a debate about that here, internally. We now consider those directional signs. If you are going to Meijer for groceries, you know you're going to the "Fresh" side.

I think Culver's wanted some extra signage. A lot of them that we see now are on internal drives as well as roads. I think that's what's causing the majority of the requests, because the internal drives are not considered roads, whereas if you are on the corner of two streets, you can get two signs. However, our Ordinance doesn't really speak to internal drives or roads.

Chairperson Rosman – Would it be helpful if we asked the Planning Commission to direct a piece of the Sign Ordinance to the internal drives? If there was a specific set for the internal drives that didn't necessarily apply across the board to everyone?

Paula Lankford – We do have a section in the Ordinance that speaks to wall signs that have multiple exposures to roadways. I suggested to Jay that maybe we should have criteria, not only for roads, but also for internal drives or internal roadways.

Chairperson Rosman – I like that idea for internal drives, because I don't want to make a blanket to everybody. What do you think, Bill? Then Culver's would have come under that.

McKeever – Yes, but Culver's just wanted to have Culver's on every side of the building. That's the hard part, they want their name on every side. What they may consider directional is just blatant advertisement. That's where I always have a problem with it.

Chairperson Rosman – We did Jiffy Lube.

McKeever – It was the same thing with Jiffy Lube, and with Zerbo's.

Sovel – I think Zerbo's is completely different.

Jay James – Zerbo's was different.

Sovel – That one should have flexibility.

McKeever – If that's your brand, and that's your trademark, that's your sign. I didn't agree with anything given to Zerbo's.

Sovel – Zerbo's is where I think we should have flexibility, from the standpoint of, if they are entitled to 3 signs overall for example, and they're willing to give up one in one category, then I'm fine with taking it and putting it into a different category. If we're not expanding the overall square footage or the number of signs, to me, it doesn't matter if they want to have 3 on one side and none on the others. That's how I look at it.

Mistele – I do agree. I think maybe some more guidance around outlots, because we have so many. If you look at the Meijer parking lot, there's signs on both sides of those. United Artists has signs on both sides. But, then you get to McDonald's and it doesn't have it. There's not a lot of consistency with outlots in the Township. I think maybe putting something together, saying if your primary entrance is to a back road, maybe you get an extra sign on that to help people identify you. If you're driving by and you pull into a giant parking lot, you may not be able to find that building. I think a section specific to making additional signs for an outlot is probably beneficial. I would be with Rick, too. If they're allowed 3 signs, I don't have a problem if they want to give up their monument for an extra wall sign.

Discussion continued regarding monument signs versus wall signs and how it comes down to each scenario, which is where administrative approval might come in.

Mills – I agree with what has already been discussed at this point.

Chairperson Rosman – I like the idea of having a separate section in the Zoning Ordinance for signs in the internal drives. I will leave that to the Planning Commission, but I would like to see that. I would like to ask Sarah, because you have driven around and you were here for Culver's. Is there anything you'd like to add?

Grever – No, it has been covered. It makes a lot of sense to have different sections, as to what type of road frontage it has, if it is an outlot, and the type of business they're

performing, and having it separate because it is completely different when it comes to specificities of those locations. I would think a grocery store and a restaurant would have similar signage for their internal drives, but if it's manufacturing fabrication in an outlot, it might need less signage.

Paula Lankford – This would only be in the business district. We would not want this in TLM or the industrial district because they have a lot of internal drives where there's fronts and backs to those buildings. I don't think we need to go there for them.

Chairperson Rosman – I think that's fair. The other thing I wanted to point out, and you talked about it, Jay. I remember when Sedona Stone's sign would have been in their bathroom if they complied. That sort of thing does belong administratively. I'm comfortable to have the Planning Commission come up with language. There was another sign request on Haggerty last year, and his building was very close to the road. That could have been handled internally.

McKeever – I don't think there's anything the Planning Commission can do regarding signs. Those setbacks are set by the RCOC.

Sovel – I don't think we need to change the Ordinance.

Paula Lankford – We would do a text amendment to allow administrative review.

Chairperson Rosman – I'm in favor of that. We're all in favor of that.

Sovel – One other potential concern for the future, such as The Home Depot, and all of the big box stores that are set back a quarter mile with wasted parking space in front, they're selling some of their outlots in front. There's one in front of Kroger for Scooter's coffee. I'm anticipating that someone will come back and say, "We want a bigger sign and we want to change because now we have this building in front of us and it's blocking our signs."

Paula Lankford – To me, they self-created that problem by selling that outlot.

Jay James – Correct.

Discussion continued regarding outlots, allotments for wall signage at big box stores, and measuring the square footage for signage.

Jay James – So, I've heard three main things tonight. One, we should address the possibility of allowing signs on internal drives. Two, possible administrative approval of monument signage based on average setbacks on the street, and three, if somebody is willing to forfeit their monument sign, they could get an extra wall sign.

Chairperson Rosman – Are we saying we would like Jay and Paula to take this to the Planning Commission?

The Zoning Board of Appeals members were in agreement.

MOTION by Rosman, supported by Mistele, to send three potential text amendments, for Article 30 – Signs, to the Planning Director and the Planning Commission to discuss, to solve issues that are continually coming before the Zoning Board of Appeals; 1) address possibility of allowing signs on internal drives, 2) possible administrative approval of monument signage location based on the average setback on the street, 3) allowing a petitioner a wall sign in exchange for forfeiting a monument sign.

ROLL CALL VOTE:

AYES: Rosman, Mistele, Sovel, McKeever, Mills

NAYS: None

MOTION CARRIED UNANIMOUSLY

H. OTHER MATTERS:

- Paula Lankford initiated discussion regarding motion criteria and language for dimensional variances and sign exceptions. She would reprint the reference pages with the current date and provide updated copies to the Board members.
- Jay James discussed struggling businesses in the Township and how difficult it is for them to find employees. Sovel encouraged having no limit on the number of “help wanted” signs. He added that, other than “help wanted” signs, code enforcement removed 65 illegal signs in the month of December.
- Discussion took place regarding the reopening of the movie theater.
- Chairperson Rosman inquired about maintenance of parking lots. Jay James stated that there is nothing in the Ordinance addressing this, however they have their own liability issues if someone were to step in a pothole and get injured. Chairperson Rosman added that the movie theater parking lot looks awful and people could get hurt. Sovel noted that he did not think this could be enforced based upon aesthetics. Jay James agreed. McKeever noted that municipalities have maintenance items in their Ordinance, whether it’s upkeep of their landscaping, or unsafe walkways. Jay explained that landscaping has an approved landscape plan and can be enforced. He would review the property maintenance code. Discussion continued regarding maintenance of internal drives. McKeever would like to discuss these issues during Master Plan review.
- Chairperson Rosman initiated discussion regarding maintenance, trimming and pruning of landscaping, especially as it relates to visibility of signage. The Ordinance should address these issues.
- Sovel added that trees planted in subdivisions, between the sidewalk and the road, create hazards when the tree roots push the sidewalks up.
- Sovel also noted that trees planted to close to the roadways at ingress/egress points also create visibility hazards in the sightline. Paula Lankford noted that there is a clear sight triangle in the Zoning Ordinance. Sovel felt it was not being enforced as there are many places where it is dangerous to pull out. Piling of snow when plowing also presents sightline issues.
- Grever agreed that overgrown landscaping presents various issues. She added that a lot of plants she sees are not native, and therefore they have random growth habits and tend to grow more robustly. Promoting native plantings could help some of the issues.
- Chairperson Rosman discussed road curvatures, such as at M-5 and 14 Mile Road, where turns are difficult. Jay James thought that maybe those curves were allowed to deter left hand turns. Rosman also inquired about a traffic light at Walnut Lake Road, which is scheduled to be installed when Five & Main is built.

I. CORRESPONDENCE:

None.

J. PLANNING DIRECTOR'S REPORT:

Paula Lankford discussed the following with the Board:

- We're still working with Valvoline, which is proposed on Loop Road. They're coming off the table in February.
- We have a concept plan that will be going in front of the Planning Commission for one of the gravel pits.
- We also have a text amendment.
- Dave Campbell & Larry Gray met with the RCOC at their Beverly Hills office today. I know they were talking about the widening of Union Lake Road and the realignment of Martin. They're trying to start a conversation with County and State officials about potential funding for the project, but it is going to be a long process.

Chairperson Rosman – How many gravel pits do we have?

Paula Lankford – There are three parcels, and this would be the easternmost. The westernmost is the one that has already gone through the approval process.

Chairperson Rosman – At Union Lake and Wise Roads; are they going to be doing that project this year?

Paula Lankford – Yes. We just emailed the Road Commission asking them for timelines. Dave was clear that we did not want two or three roads shut down at once. We want them staggered. We await their reply.

Chairperson Rosman – I was amazed the other day when I was driving east on Commerce Road at the bottleneck in front of Clifford H. Smart elementary school.

McKeever – Yes, when does that qualify as a hazard?

Discussions continued traffic backups caused by students being dropped off and picked up at schools, as very few are riding the bus anymore. COVID has created challenges in this regard, and safety measures create delays at pickup time.

K. ADJOURNMENT:

NEXT REGULAR MEETING DATE: THURSDAY, MARCH 24, 2022 AT 7:00pm.

MOTION by Sovel, supported by Mills, to adjourn the meeting at 6:23pm.

AYES: Sovel, Mills, Rosman, McKeever, Mistele

NAYS: None

MOTION CARRIED UNANIMOUSLY