

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

*Thursday, March 22, 2018*

2009 Township Drive  
Commerce Township, Michigan 48390

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

**ROLL CALL:** Present: Rusty Rosman, Chairperson  
Jorge Pacheco, Secretary  
Rick Sovel  
Bill McKeever  
Clarence Mills  
Robert Mistele, Alternate ZBA Member  
Absent: Dave Campbell, Planning Director (excused)  
**Also Present:** 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 Paula Lankford and Jay James. 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.

**B. APPROVAL OF MEETING AGENDA**

**MOTION** by Mills, supported by Pacheco, to approve the Zoning Board of Appeals Meeting Agenda for March 22, 2018. **MOTION CARRIED UNANIMOUSLY**

**C. APPROVAL OF MEETING MINUTES**

**MOTION** by Mills, supported by Pacheco, to approve the Zoning Board of Appeals Regular Meeting minutes and Special Meeting Minutes of January 25, 2018 as presented. **MOTION CARRIED UNANIMOUSLY**

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

None.

**E. UPDATE OF ACTIVITIES**

Rick Sovel – Township Board & Library

- The new fire truck was ordered. It will be a lease vehicle.
- I'm sure you're all aware that the pedestrian bridge is under construction. With the incident in Florida, we've had phone calls asking if our bridge is safe. First, we hired a different contractor than the one in Florida, and secondly, it's a different design. They are about two weeks behind schedule, right Jay?

Jay James – Roughly.

Chairperson Rosman – It got delivered.

Jay James – Yes, you're starting to see the sections come into shape.

Mills discussed the type of fire truck that was ordered with Sovel.

Bill McKeever – Planning Commission

- We had a special meeting this past Monday to review a PUD proposal for the Aikens property, at the corner of Pontiac Trail and Martin Parkway.
- They're calling the development Five & Main.

Chairperson Rosman – We're talking about the parcel of land that includes the old Library and goes east toward Walmart.

McKeever – Yes, and that was recommended for approval and it will go onto the Township Board.

Chairperson Rosman – Nice, exciting. Thank you.

#### **F. OLD BUSINESS:**

**MOTION** by Sovel, supported by Mills, to remove Item PA17-0015 from the table.

**MOTION CARRIED UNANIMOUSLY**

#### **ITEM F1: PA17-0015 – DEREK MUDGE – Tabled from 1-25-18**

Derek Mudge of Commerce MI is requesting a variance from Article 6 of the Commerce Township Zoning Ordinance to construct a deck that will encroach into the required rear yard setback located at 5860 Waycroft Court. Sidwell No.: 17-04-226-296

Derek Mudge, 5860 Waycroft Ct, Commerce Township, was present to address the request, along with Jamie Ruddy, Builder, Cedar Works, 3050 Union Lake Rd, Ste 8-F, Commerce Township.

Derek Mudge – Thank you for tabling my variance request to this month. I think my builder, Cedar Works, has submitted the revised plans to the Building Department. As we discussed at the last meeting, we are allowed to put the stairs in the setback, but then hold back that extra footage that was I originally asking for.

Jamie Ruddy – I'm here to answer any questions. Cedar Works was contracted to do the deck and design the plans. I did the plan submission.

Chairperson Rosman – Jay, would you update us please?

Jay James – Yes. Unfortunately, I missed this at your last meeting. It was my understanding it was tabled to give the applicant a chance to resubmit a revised plan that would shorten the deck that was going to extend into the required rear yard, which

they did. I've reviewed the plans. I added a couple comments, and Jamie took care of those. I have everything approved, with the exception of this variance.

**Board Comments:**

Mills – I have no questions.

Pacheco – I'm sorry Jay, but I missed the last statement you made.

Jay James – They submitted everything to me with the revised plan. The only thing stopping me from final approval is this variance. If this variance were to be granted tonight, I can approve this tomorrow.

Pacheco – They have reduced as much as they could to minimize the variance request, correct?

Jay James – I think they've reduced it as much as you had discussed.

Jamie Ruddy offered to elaborate and approached the overhead. He explained the 35' setback line, shown as a dashed line. The house is tilted on a pie shaped lot, and the variance request is actually for a small triangle. Without that portion, the deck would be on a 50-degree angle and it would look odd. He explained the location of the staircase and the overall deck design.

Chairperson Rosman – What is the length of what you're asking for?

Jamie Ruddy – We're asking for 3'. It tapers into a pie shape that goes down about 17'. It's a 3'x17' pie.

Pacheco – Thank you. I don't have a problem.

McKeever – Is there any reason why you couldn't just have a landing at the top of the stairs, and keep the deck within the setback?

Jamie Ruddy – Yes. If it went here, all the way across, then you'd have an 11' deck, at 4' wide. At that point, if you have a table, you will touch the rail when you push a chair back. There's a massive yard, a big lot. The way the house sits on there, we're talking 3', give or take a few inches, to make something look normal. I could angle it, or do a platform, but then it would be an 18'x11' deck. The rails are about 6" on the inside, so when you subtract that out, it's really 10.5'.

McKeever – I have nothing else.

Sovel – You said 3', give or take a few inches. In my packet, it shows 3.0'. There is no give or take.

Jamie Ruddy – I'm sorry.

Sovel – I just wanted to make sure you know it's three (3) feet, zero (0) inches.

Jamie Ruddy – It is 3'. I misspoke, I'm sorry.

Jay James – I think where Jamie was getting that is the 32' that you see, it's actually measured from the property line which is angled, from where the actual deck is. That's 32', but when you measure the actual distance sticking out, you would have to do the geometry, so we all just called it 3'. If you do the geometry, it might be 2'11".

Sovel – What was the original request advertised for?

Jay James – I think it was 17'.

Sovel – In the Planning Department report, on Page 3, it reads, *Should the ZBA opt to grant the dimensional variance for the deck, Staff recommends it should be on the condition that the deck remain unenclosed.*

Jay James – Oftentimes, we'll see where people will build a deck and then in a few years, they make it a screened in porch and put a roof on it. It then becomes what we call a 3-season room. Dave put that in there to prevent that from happening, because then you're actually extending the roofline.

Sovel – Dave put that in?

Jay James – Yes, Dave put that in there.

Derek Mudge – I didn't understand if you meant above or below, but I don't want to do either.

Jay James – You're saying you don't want either, no enclosure of the deck at all?

Derek Mudge – Right, I don't want to enclose it.

Chairperson Rosman – That doesn't mean an owner down the road may not, so it has to be included.

Sovel – In essence, you understand, there can't be any additional variances.

Jay James – They wouldn't need a variance for that, but we are saying that they're agreeing that they will never enclose this deck.

Sovel – If they didn't have to have a variance, they'd be able to enclose?

Jay James – Yes.

Sovel – Because of the 3', we're saying no enclosure?

Jay James – Right. We're saying that if you enclose it, it will potentially damage the site lines for the neighbors.

Sovel and Jay James discussed the elevation of the roof.

Chairperson Rosman – No matter how you look at it, this 3' is self-created. I see that you added on a sunroom to your house? The space that is 11'x13'?

Derek Mudge – That is a kitchen nook that was part of the house design.

Chairperson Rosman – What was added on to your house?

Derek Mudge – Nothing. When I bought this, it was a blank lot. I bought the lot, then told the builder the model of the house. I had a couple choices, and I said I like this model. I haven't added anything to the house. That's the way the builder built it.

Chairperson Rosman – Okay, I get that. My real issue is this, to the very best of my knowledge and remembrance, this is the first variance I've been asked for in this subdivision, in the back yard.

My deck is 16'x10'. I have a table and 8 chairs, a barbecue, rocking chairs, and I can do that. It's not the biggest deck in the world, but I have it and it works. I just don't see why we need to give a variance for something you could make work. It may not be perfect to you, but I don't see why we have to give a variance when it's workable.

I feel this does not follow what our charge is, which is to determine, *does the applicant have a choice within the Zoning Ordinance to be compliant?* I see this as self-created as opposed to a situation where there's like a gas line running underneath, and of course you wouldn't put a stanchion there. I know what you want. I know what I wanted, and I couldn't have it, didn't have it and I don't have it. I do not believe it is the function of this Board to do self-creation when there is no specific issue I can point to that would allow this variance. I will vote no on that, and I hope my fellow Board members also think about what our charge is, as ZBA members, to follow the guidelines.

**MOTION** by Pacheco, seconded by Mills, to **approve, with conditions**, Item PA17-0015, the request by Derek Mudge of Commerce MI for a variance from Article 6 of the Commerce Township Zoning Ordinance to construct a deck that will encroach into the required rear yard setback located at 5860 Waycroft Court.

Sidwell No.: 17-04-226-296

Based on the presentation and comments we have heard, I believe the applicant has satisfied the criteria of Section 41.09 of the Township Zoning Ordinance for granting dimensional variances and therefore I make a motion to approve the request for a 3.0' (3-foot, 0-inches) variance from the requirements of Zoning Ordinance Section 6.01.

**Approval is conditional upon the following:**

1. The deck will not be enclosed at any time in the future.

**Discussion –**

**Rosman –**

- *Without the variance, can the applicant use their property in the same manner that others in that zoning district can use their property? What makes this property different from anyone else who does not require a variance? I don't know.*
- *This variance request is the least amount of variance that will put the applicant on an equal footing with others in the same district. Will a lesser variance work? In my opinion, yes.*

- *This variance is needed because of some unique feature of the applicant's land that does not apply to other land in the zoning district.* What is unique about this property? I don't see it. I think it's more of a personal choice.
- *This problem was not self-created by the applicant or predecessors.* Did you or previous owners of this property create this situation? I'm going to say the builder did, but there is still the opportunity to put a usable deck on there.
- *Granting this variance will not cause significant adverse impacts.* Did the applicant persuade us that he wouldn't cause adverse problems for others, such as other people coming and asking for the same variance?
- *And, the practical difficulty and hardship that the applicant is seeking to cure by the variance request is not just a minor inconvenience or a desire.* Why can't you manage without this variance, and why is this a significant issue for you?

These are the dimensional questions that we must satisfy according to the Zoning Ordinance, which is why I am not going to vote for this. I wanted to point that out to all of you.

Sovel – I don't disagree with you, but to me, the overriding factor is the angle that the house was built on. It's turned.

Rosman – I get it, and it's only 3'.

Sovel – Right, so go back to, *Is this the minimum variance request?* Yes. If we made it 2' or 1', would it really be practical?

Rosman – They can't meet them all, and that's what we're supposed to do. I'm not disagreeing with you, I'm just saying I can't.

Pacheco – I'm not sure. We had a bigger discussion on that statement, yet you've just said that all the requirements should be met. My last understanding was that the applicant should meet the most that they can.

Rosman – Many.

Pacheco – I still stand by my proposal to approve.

Sovel – What Jorge is saying is that, all of them apply for the ones that he thinks should apply.

#### **ROLL CALL VOTE**

**AYES:** Pacheco, Mills, Sovel

**NAYS:** Rosman, McKeever

**ABSENT:** None

#### **MOTION CARRIED**

Chairperson Rosman – It's 3-2. You have received your variance request so you will get a letter from the Planning Department within 10 days. You need to bring that when you come in to get the building permit.

Derek Mudge – Thank you all very much and thank you for your time.

#### **G. NEW BUSINESS:**

##### **ITEM G1: PA18-0002 – BRIAN ADWELL – PUBLIC HEARING**

Brian Adwell of Commerce MI is requesting a variance from Article 33 of the Commerce Township Zoning Ordinance to allow an ornamental fence to encroach into the required front yard setback and will exceed the maximum height allowed located at 4980 S. Duck Lake Road. Sidwell No.: 17-07-151-027

**Chairperson Rosman opened the public hearing.**

The petitioners, Brian and Bernadette Adwell, 4980 S. Duck Lake Road, Commerce Township, were present, along with their Realtor, Bruce Clute, Real Estate One, 8430 Richardson Road, Commerce Township, to address the variance request.

Brian Adwell – A couple years ago, we found this house and we fell in love with it, and it was in large part because of this fence that was in the listing. We contacted our Realtor, Bruce, to see it. It was a beautiful home for sale with the gate and everything. Everything was fine. Six months go by and we get a letter in the mail. It was addressed to me, but I opened the letter and it was talking to the previous owner, *As previously discussed, this illegal fence...* I didn't know the seller was subject to losing his fence. That's why we bought the house.

Bruce Clute – The fence had been constructed by the previous owner, and to our knowledge, it was a legal fence because he said that nothing was built without a permit and he swore to that at the closing, which I attended. I had asked him initially, why the high fence? The owner told me that there is a circular drive in front, and so that people wouldn't have to go all the way into the school to drop their kids off, they'd pull into the driveway at Brian's house and drop the kids there. They would run through the yard and they'd go out the other side of the drive. He claimed on school days, this would happen maybe a half dozen times. There were little children in the yard and a dog, and it just wasn't working so he put up the fence. I had no idea that the fence was a problem because it had been there for a long time. There was no lien on the house when we went to purchase it, and everything seemed fine. I can see where that would be a safety issue, having somebody pull in your drive and then back onto a busy road, Duck Lake Road. I see why they put it up. I didn't know there was a problem here.

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

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

Jay James – As Dave noted in his report, this house was previously built around 2002. The previous owner of the house, at some point unbeknownst to us, installed this fence as it stands today. We received several complaints through our ordinance system. We did send letters to the owner informing him it was illegal. I think we might have even sent him a ticket. At the time when he installed the fence, as they indicated, a permit was not required to install a fence. The only requirement is that you meet the requirements of the fence ordinance in the Township, but you did not have to pull a permit. That has since changed, and we do now require you to come in and get a permit when you want to put in a fence. So, when the seller said at closing that he did everything that required a permit with a permit, he was probably telling the truth. We had notified him that the fence did not meet our ordinance and we were going through the process of our ordinance. At some point, he put the house up for sale and sold it to the current owner, Mr. Adwell. In our ordinance process, we continued to follow up by sending another letter and that's what he was referring to. He got the letter in the mail saying that the fence is not legal, please take care of it. Our ordinance process continued to follow. We sent another notice. Obviously, nothing was done. We issued a ticket. That ticket has gone into the court system. I believe it has been adjourned, because the homeowner indicated that he would like to attempt to get a variance. The

court has adjourned the ordinance violation that was going through the system, and that is now pending, awaiting the outcome of tonight's meeting.

**Board Comments:**

Sovel – What was the date you were first made aware of the issue?

Jay James – Around June of 2015.

Sovel – When did we officially notify the homeowner?

Jay James – I can find the dates.

Sovel – The date is kind of important to me on this. While you're looking for that, was anything put into the disclosure?

Brian Adwell – No.

Chairperson Rosman – The homeowner didn't say a word.

Brian Adwell – They told me how much they spent on it and how much they loved it. They paid \$12,000 to have it installed. It's like taking money out of my pocket now.

Sovel – When did you close on the house?

Brian Adwell – It was November 21<sup>st</sup> of 2015.

Rosman – 2015?

Sovel – It has taken two years to get to this point?

Brian Adwell – Yes.

Jay James – Yes.

Chairperson Rosman – Are you saying the fence was installed in June of 2015, and they sold it in November of 2015?

Brian Adwell – 2016.

Chairperson Rosman – It closed in 2016?

Brian Adwell – Yeah.

Chairperson Rosman – So the fence was up for a year and a half.

Sovel – Did you make an offer right away? Was this a short period of time that you went through the process?

Brian Adwell – It was normal. I mean I don't buy a lot of houses.

Sovel – Like a month or two months?

Brian Adwell – It was about 45 days.

Sovel – So just the normal, okay. And nothing was ever said about the issue. Why has it taken so long for us to address this? The first notice was in June of 2015.

Jay James – That's when we believe the fence was actually constructed, June of 2015.

Sovel – When did you first learn of it and notify the homeowner?

Jay James – That's what I'm trying to find. We notified them in May of 2016.

Chairperson Rosman – No.

Jay James – I'm just looking at our letter.

Sovel – You notified the previous owner in May of 2016?

Jay James – Yes, that's the first one I saw. The letter reads, ... *as we previously discussed*, so we must have spoken by phone prior to that.

Sovel – That's not directed to Brian Adwell?

Jay James – That's correct.

Sovel – Then what was the next step taken after that? So, we've got like 6 months from this letter to the time they close. Was there any other action taken, or letters sent during that time?

Jay James – We sent a letter to Mr. Adwell July 7, 2016. I'm pretty sure this one originally went to the attorneys, and somehow did not get put in the process, so we redid it again.

Sovel – You said you sent it to Mr. Adwell in July of 2016.

Jay James – Yes, July 2016. That is the first letter that went to Mr. Adwell.

Sovel – They closed in November 2016?

The Planning Director's report was noted to reflect, *The home was ... sold to Mr. Adwell in December 2015.*

Bruce Clute – Yes, I'm just looking that up right now.

Chairperson Rosman – When did you buy the house? 2015 or 2016?

Brian Adwell – 2015, sorry.

Chairperson Rosman – So he put up the fence in June, and you bought in December.

Brian Adwell – No, he had a listing from 2014 where it has a picture of the fence in the listing.

Chairperson Rosman – So the fence was already there in 2014.

Jay James – I don't see letters that reflect that.

Sovel – Well, we may not have known about it. I get that.

Paula Lankford – The earliest we knew about the fence was June 2015.

Jay James – Yes, June 2015 is the earliest we knew about it.

Sovel – The first letter is May of 2016?

Brian Adwell – I do have some letters.

Jay James – The first letter to this homeowner was July 2016.

Sovel – What was the first letter sent?

Jay James – I see a picture of the fence in July of 2015. That must have been the first notification we had.

Sovel – I'm trying to ascertain this. How many notices went to the previous owner?

Jay James – I think there were two, but there were also conversations. I recall speaking to the previous owner about it. The actual written correspondence, the first was in July of 2015.

Sovel – Rusty, can you put on your real estate hat?

Chairperson Rosman – I'm listening, okay.

Sovel – Is the previous homeowner responsible for any costs involved in removing the fence because he did not tell the buyer about the issue?

Chairperson Rosman – Yes. That's a legal issue which we don't touch, but that certainly is an option for the new owner. He did not disclose and that's not kosher.

Sovel – So technically, the fence can't stay where it's at.

Chairperson Rosman – Could you please speak to us about the RCOC? That's an important factor in the location of the fence.

Jay James – Duck Lake Road has a 33' right-of-way on that side of the road.

Jay pulled up the aerial view on the overhead to further explain the right-of-way. The fence was shown to be sitting partially in the road right-of-way.

Chairperson Rosman – What has the RCOC said about that?

Jay James – I don't know if Dave has contacted the RCOC.

Paula Lankford – Dave did speak to the RCOC. They stated that if the fence were to remain, they would have to get approval from the RCOC to keep it. Any variance, if you so choose to grant, would have to be conditional upon approval by the RCOC.

Sovel – Jay, is there any conflict between where the RCOC would allow it to be, and where we would allow it to be, or are they in sync?

Jay James – No, per our ordinance, it would have to be setback 60' from the centerline.

Sovel – And what is the RCOC?

Jay James – The RCOC line is just 33'. Right now, it's 27.8' at the closest part from the centerline, so it's actually 5.2' into the road right-of-way, off their property. By our ordinance, the fence has to be moved back close to the house.

Sovel – The RCOC doesn't care once it's beyond the 33'?

Jay James – Right, they don't care beyond that, once it's out of the right-of-way.

McKeever – Even if that fence was moved back to meet the ordinance, isn't it still too high?

Jay James – Yes. He's allowed to have a 6' high fence, only from the front face of the house back. He could have a 4' fence that extends out in front of the face of the house, but not a 6' fence.

McKeever – I agree with Rusty. It's something that should have been disclosed. It is a problem with the property. The fact that they used it as marketing may be considered fraud, but I'm not a lawyer. Unfortunately, I just don't see any way, shape or form where I could vote to approve this variance. It doesn't meet any of the criteria. As badly as I feel for your situation, it just doesn't fit.

Brian Adwell – The difference is that I'm not asking to build it.

McKeever – That doesn't matter. The fact is, it's illegal. There is nothing in what we have the ability to make a decision on that would allow us to grant a variance. It just doesn't meet any of the criteria, period. I feel bad, but I hope the other members vote as I do.

Discussion took place regarding Mr. Gatewood, the previous owner.

Chairperson Rosman – That is a lawyer thing. We can't go there and that's not something we can deal with. You have all of our sympathy, and in the past we have made motions with regret, but we can't deal with this.

Mills – When I went to the property to look at it, the first thing that came to my mind was disclosure. How could this house have been sold without the property owner disclosing it, or the real estate company challenging this or asking some questions? I personally can't vote in favor of either one of these requests for a variance.

Pacheco – I cannot understand why it was not disclosed to the buyer of the property when the seller knew it was illegal. Why didn't it get cleared up at that time? Why has this lasted so long? It doesn't make sense, but we don't have any choice. We are not capable of changing this.

Chairperson Rosman – You have all my sympathy. I know you did not create it, but there are two big issues here. One, it's in the road right-of-way, and I can't sanction that. Two, it's too high. I know you didn't build it, but it came with the property and it's an issue that you need to deal with. I wish you good luck finding an excellent attorney to go find the seller. This is a legal issue and it's not something that we touch. I'm not able to vote for this, particularly because it is in the road right-of-way.

**MOTION** by Rosman, seconded by Mills, to **deny** Item PA18-0002, the request by Brian Adwell of Commerce MI for a variance from Article 33 of the Commerce Township Zoning Ordinance for an ornamental fence that encroaches into the required front yard setback and that exceeds the maximum height allowable, located at 4980 S. Duck Lake Road. Sidwell No.: 17-07-151-027

Based on the applicant's presentation and the comments I have heard, I do not believe the applicant has met the criteria of Section 41.09 of the Township Zoning Ordinance and therefore I move to deny the request for a variance from Section 33.02 of the Township Zoning Ordinance.

**Denial is based upon the following:**

1. This property can be used in the manner that others in the zoning district can use their property without a proposed variance;
  2. There is no unique feature of the applicant's land that does not apply to other land in the zoning district, (even though it's near a school, the school was there when they bought the house);
  3. The problem was self-created, and not by the applicant, but by the predecessors;
  4. The practical difficulty and hardship sought to be cured is merely an inconvenience for the homeowner.
- MOTION CARRIED UNANIMOUSLY**

**ITEM G2: PA18-0003 – WELCH TECH CENTER – PUBLIC HEARING**

Euko Design-Signs, Inc. of Farmington Hills MI representing the Welch Tech Center is requesting an exception from Article 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback and exceed the maximum height and square footage allowed located at 700-810 Welch Road. Sidwell No.: 17-36-400-044

Paula Lankford – I apologize for the error in the report. The sign is not 72' in height. It will be a 6' sign. After the notice was published in the paper, Mr. Diachenko and I talked

quite a bit about the square footage and the height of the sign, and we also talked with Jay on these matters. We were able to reduce both the height, and the square footage of the sign, and narrowed the variance request down to just the setback.

Chairperson Rosman – So he is now complying on the size of the sign and the height. Therefore, those two items are off the discussion, and we're only talking about the location.

Paula Lankford – That's correct, and the location is the same one that the other sign was in.

Mills – On the print, it shows the existing sign and the proposed. There's two different lines with two different locations.

Jay James and Paula Lankford clarified that the location will not change. Paula had enlarged the dimension with reference to 55' on the plans, but the location remains the same. Jay also reviewed the plans on the overhead for the Board.

**Chairperson Rosman opened the public hearing.**

Gene Diachenko, Euko Design-Signs, 24849 Hathaway, Farmington Hills, MI, was present on behalf of the Welch Tech Center, along with Mark Lusky, Property Manager, to address the variance request.

Gene Diachenko – We're asking for a variance on the setback because there are issues with the site itself. If we bring the sign back further, it creates a hardship with respect to vision of the sign, but also the sign would wind up being a retention area, a swale that elevates back away from the sign. There's large stones through there. We are requesting the setback to be where the sign is currently. It will be a solar-powered sign as far as illumination.

**There were -7- returns and -0- letters.**

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

**Board Comments:**

Pacheco – I have no problems with the request.

Mills – I made a phone call a few days ago and my questions were answered.

Sovel – Where are the solar panels going to be?

Gene Diachenko – Behind the sign, not very far away, but away from the road before the swale.

Sovel – Is that an issue for us?

Jay James – What size are the panels?

Gene Diachenko – They're a little big large. They're 18"x24".

Jay James – They typically sit to the side. Are these going to be attached to the sign, or will they just lay on the ground?

Gene Diachenko – No, they'll be back 4 to 8' from the sign, so that visually it doesn't ...

Jay James – How high up do they sit?

Gene Diachenko – We can put them anywhere basically. I think 6 to 8'.

Jay James – 6 to 8' off the ground?

Gene Diachenko – Correct, so kids don't play with them.

Chairperson Rosman – That's a problem.

Sovel – I have a feeling we're touching on something that we haven't dealt with before.

Jay James – I was not aware of that. It was my understanding that the sign was not going to be illuminated.

Paula Lankford – That's what it says in the submission.

Jay James – That's what we believed and that's what the letter said; that the sign was not going to be illuminated. So, what is before the Board tonight is a non-illuminated sign.

Sovel – Does that make any difference?

Jay James – It does if there's going to be solar panels.

Sovel – Well, as part of the height, size ...

Jay James – It doesn't affect the sign itself, but if there's going to be, in essence, another structure ...

Sovel – Is that considered part of the sign?

Jay James – I would have to look into that.

Gene Diachenko – We can lower the panel down, we were just trying to prevent vandalism.

Chairperson Rosman – I'm confused. I don't understand what you're talking about.

Jay James – The solar powered lights have solar panels that collect energy. These are 18"x24".

Chairperson Rosman – He's going to have about 8' on either side of the sign, so it can be ...

Jay James – No these are just the panels, not the light itself. You're planning to put them 7' in the air?

Gene Diachenko – That was my hope.

Sovel – You said again, how high?

Gene Diachenko – The solar panels themselves would be anywhere from 4' to 8'. The batteries are actually within the casing of the sign.

Chairperson Rosman – Why does it have to use solar-panels to light the sign?

Gene Diachenko – Because it's about 100 plus feet away from the building. To run electricity, they'd have to bore underneath the parking lot to draw electricity from one of the units. There's no closed electrical box.

Jay James – Currently, the existing sign is not illuminated?

Gene Diachenko – Correct.

Jay James – Again, it was my understanding that it was not going to be illuminated. This is news to me.

Sovel – My gut reaction is, we're dealing with a sign. The power to the unit is not subject to a variance. It's something that you have to figure out.

Jay James – Correct. I would say the Board is considering the variance on the sign dimensions.

Sovel – Right.

Jay James – If he had submitted an illuminated sign and electricity was being run from the building, it wouldn't have even come up.

Sovel – Does the application ask how a sign is powered?

Jay James – No, it was our understanding that it wasn't going to be illuminated.

Sovel – I'm speaking generally, is that something that we don't ask on the application, is it solar or electric?

Jay James – We do ask on the plans to show the electrical.

Sovel – There's still electrical.

Jay James – Yes, I would typically see it on the plans, but it wasn't submitted that way. I guess what we can do tonight is that the Board can vote on the dimensional variance, and the applicant will have to come back to the Building Department for approval on the illumination and how it's powered. I'll have to check the ordinance as the solar panels could be construed as a separate structure, especially if they're going that high in the air. But, I agree with Rick, that's not an issue for the ZBA tonight.

Chairperson Rosman – It doesn't say anything in here about electrical or illumination.

Sovel – I have no issues.

Chairperson Rosman – You just created one.

Jay James – If you approve the variance tonight, the applicant still has to come see me about how it will be powered for illumination, and I'm not saying it will be allowed. That will not necessarily be allowed. You can move forward.

Chairperson Rosman – Thank you, sir. Gentlemen, we are not discussing illumination. We are only discussing location.

Sovel – I'm good with the location.

McKeever – I am fine with the sign itself, but I'd be very disappointed if we have solar panels sticking up 8' in the air. I would really hate to grant a variance for the sign, and then find out that they put the solar panels 5' back, 8' high in the air. That's not what I envision.

Jay James – My gut feeling is that this wouldn't be allowed, but I need to check the ordinance.

McKeever – I don't know that the ordinance even deals with solar powered signs.

Jay James – It's not necessarily to the type of power, but as to whether or not that is considered another structure, or part of the sign. That's what I'll look at.

Chairperson Rosman – Should we give Jay time to research this? The location of the sign, because of where it is from the distance of the building and the ditch there, it's a problem to get electricity. At this moment, I'm not inclined to deal with the sign until I know how it's going to be illuminated. If there are going to be solar panels, then I would want to move the sign closer to the building so they could use electricity, because I don't want things 8' in the air. That doesn't fit with everything else aesthetically.

**MOTION** by Rosman, supported by Pacheco, to **table** Item PA18-0003, Welch Tech Center, the request by Euko Design-Signs, Inc. of Farmington Hills MI, representing the Welch Tech Center, for an exception from Article 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback and exceed the maximum height and square footage allowed located at 700-810 Welch Road. Sidwell No.: 17-36-400-044

**The item is tabled for the following reasons:**

1. To allow time for the Building Official to investigate the power source for illumination;
2. If the sign has to be powered by solar panels, an alternative location should be considered that would be in an area accessible to electricity.

**ROLL CALL VOTE**

**AYES:** Rosman, Pacheco, Mills, McKeever

**NAYS:** Sovel

**ABSENT:** None

**MOTION CARRIED**

Chairperson Rosman – We have tabled your request until our next meeting. I, for one, do not want to vote on the location of the sign, based upon how you’re going to illuminate it, because I do not want to see solar panels 8’ high in the air. If it has to be solar panels, then I would want to entertain another location for the sign where electricity would be accessible from the building.

Our next meeting is May 24<sup>th</sup>, unless you want to have a special meeting. Please talk to Paula about that.

Gene Diachenko inquired about location of the solar panels, and screening with landscaping. The Board members explained that this was not in their purview, and the applicant would have to work through the Building Department on those details. Discussion continued as Mills suggested they explore boring from the sign to the building to run electrical. Mark Lusky approached and explained the main reason for solar was going green. He elaborated on saving natural resources. In closing the discussion, Jay James noted that the sign is 16” wide, and he suggested that it might be possible to have solar panels lying flat on the very top of the sign. The applicants would contact Jay to review and discuss the dimensions and their options.

**H: OTHER MATTERS TO COME BEFORE THE BOARD:**

- Potential agenda items for the May 24<sup>th</sup> meeting were discussed.
- It was noted that the tabled item could not be discussed until the next meeting; however, it was also indicated that the use of solar power would be more of a Planning issue, than a Zoning matter.
- Sovel, Jay James and McKeever discussed proactive measures that might be taken during the building phase of a home with regard to decks and setbacks, to help prevent future variance requests for decks. The builder’s need to also consider the rear setbacks when they’re placing the house on the lot. Everyone wants to maximize the house, but the future deck is not considered initially.
- Jay James stated that an extremely tall DTE utility pole was installed at Commerce and Union Lake Roads, at the entrance to the former Hiller’s store. It’s 95’ tall. DTE put it up, and this utility pole is an attempt by small cellular companies to circumvent the need for cell towers. A box was mounted on the bottom of the pole, and it is part of the power system. They plan on doing these all over the place to provide cellular services. Per the ordinance, this cannot be done. This will be looked into to determine what can be done to get it removed and prevent additional installations.

**I. CORRESPONDENCE:**

None.

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

None.

**K. ADJOURNMENT:**

- **NEXT REGULAR MEETING DATE: THURSDAY, MAY 24, 2018**

**MOTION** by Mills, supported by Pacheco, to adjourn the meeting at 8:18pm.

**MOTION CARRIED UNANIMOUSLY**

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**Jorge Pacheco, Secretary**