

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

Thursday, May 28, 2015

2009 Township Drive

Commerce Township, Michigan 48390

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

ROLL CALL: Present: Rusty Rosman, Chairperson
Jorge Pacheco, Secretary
Clarence Mills
Rick Sovel
Bill McKeever

Also Present: Amy Neary, Planning Consultant, McKenna Assoc.

Chairperson Rosman introduced the Members of the Board to those present, as well as Amy Neary. She reviewed the requirements for receiving a variance from the Zoning Board of Appeals including the fact that all the 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.

APPROVAL OF MEETING MINUTES

MOTION by Pacheco, supported by Mills, to approve the Zoning Board of Appeals Meeting minutes of March 26, 2014, with one correction on page 8, 20th line, to read as *...triangular shape*. **MOTION CARRIED UNANIMOUSLY**

PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None.

UPDATE OF ACTIVITIES

Rick Sovel – Township Board

- Kathleen Jackson resigned. The Township Board appointed a new DDA Director and we are in the process of finding a new planning person or company.
- Residents should understand that the Township has nothing to do with the ongoing construction. We get numerous calls and complaints.
- Hiller's is selling out to Kroger and at least one store in Commerce will be closing.
- The Library is moving forward in Dodge Park.

Bill McKeever – Planning Commission

- A lot of items we dealt with were text amendments and housekeeping issues.

Rosman discussed construction at Newton and Oakley Park Roads with McKeever. He stated that it is being cleaned up to sell and he believes it has been listed. Sovel added that it is still zoned residential.

ITEM I: PA15-0001 – JOSEPH LEPAK – PUBLIC HEARING - REMAIN TABLED

Joseph Lepak of Commerce MI is requesting a variance from Articles 6 & 30 of the Commerce Township Zoning Ordinance to construct a ground sign that will encroach into the required front yard setback located at 8910 Commerce Road.

Sidwell No.: 17-12-151-017

ITEM II: PA15-0002 – RYAN ADAMS – TABLED FROM 3-26-15

Ryan Adams of Commerce MI is requesting variances from Articles 6 & 28 of the Commerce Township Zoning Ordinance to construct a new Health Food Market/Restaurant/Spa with a parking lot that will encroach into the required front yard setback and to allow an access drive closer to the side property line than required located on the south side of West Maple, between Haggerty Road and M-5.

Sidwell No.: 17-25-453-012

MOTION by Sovel, supported by Mills, to remove item PA15-0002 from the table
MOTION CARRIED UNANIMOUSLY

Amy Neary, Planning Consultant gave a review, providing an update on changes to the request since the original petition. Only one variance would now be necessary as the property line had been adjusted. She noted that at the April 20th Planning Commission meeting for site plan review, Mike Powell had attempted to address many of the concerns that were previously raised by the Zoning Board of Appeals. The proposal was conditionally approved, contingent upon the variance being received, which is for 28' from the required 30' front yard setback, along with other minor details that need to be finalized. She reviewed the standards and requirements for receiving a variance, discussed parking as it relates to substantial justice, noted the fact that it is a new site, it will not create a nuisance, and that failure to grant the variance would impact the owner's ability to obtain a higher financial return; however, it would present more than a mere inconvenience, and granting of the variance would afford the property owner the same rights as those afforded to the neighboring property owners in terms of the location of the parking.

Ryan Adams, 3100 E. Maple Road, Commerce, MI, was present along with Mike Powell, Powell Engineering & Associates, LLC, 4700 Cornerstone Dr., White Lake, MI, to address the proposal.

Mike Powell gave a detailed review, explaining the improvements that had been made to parking and access to the site. He had worked with staff, the traffic consultant and the RCOC to implement the changes as presented to improve ingress/egress and circulation. The Planning Commission had been in favor of these changes. He also reviewed the adjacent properties in relation to this request and discussed the substantial justice standards.

Chairperson Rosman opened the public hearing.

No comments.

Chairperson Rosman closed the public hearing.

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

Board Comments:

Rosman - I recently visited Zerbos in Livonia. The groceries I understand, along with the pharmacy. Is the restaurant all catering?

Ryan Adams - We are using the foods from the Zerbos health food store and applying those to the full-service restaurant.

Rosman - It's a very nice store.

McKeever - This met all the criteria for site plan at the Planning Commission, however some did express concern about the size. As was pointed out, this really is not dissimilar to everything along that section of roadway.

One thing mentioned at that time was that I would need to recuse myself from voting on this with the ZBA because I approved this project on the Planning Commission.

Amy Neary - That's correct, he will not vote, however he can discuss the item.

Open discussion continued between the Board members regarding McKeever's recusal, and Amy Neary explained the statute in this regard. Chairperson Rosman requested that Amy provide additional information on the statute to the Board at the next meeting. She clarified for the petitioner that in order to have the variance request approved this evening, approval by 3 of the 4 ZBA members would be required as McKeever is recused.

Sovel - Explain to me how this is not self-created.

Mike Powell - It is not self-created because this building can in fact fit on the site as originally submitted. It is strictly because the Zoning Ordinance prohibits this building from being setback and the Planning Commission is requesting that the parking be to the side or to the rear of the building and not in front. Therefore, because of the shape of this site and the wetlands on the side, the Commission has asked that the building be moved forward. The hardship is that the Zoning Ordinance prompted the issue, not the request for the amount of parking.

Sovel - I don't agree with that. What is the size of the building now? How much smaller would it need to be to eliminate the need for the variance?

Discussion took place regarding reductions to the building size from the original design and the current proposed size. The size is 32,000 square feet including the first floor grocery of 14,212, the restaurant of 7,153 and the café of 724, along with mezzanine storage areas which are not specified as they do not require parking. The second floor banquet area is now 1,738 square feet. Sovel reviewed the previous transcript regarding square footages.

Mike Powell - The building would have to be reduced in size by 25% to eliminate the variance request. That would mean that the link between the restaurant and the health food store would not function. This is the minimum size necessary and the architect and owner are present to attest to that.

Amy Neary - There are 29 parking spaces along that front area. This use has different calculations for the different areas, but a simple way to look at this is that the banquet facility requires approximately 26 spaces so essentially they would lose the upstairs if they did not have those spaces.

Sovel - In the conditional approval, there had to be some discussion at the Planning Commission regarding the required variance. Was there discussion of making this fit without requesting a variance?

Amy Neary - There was discussion at the Planning Commission on that topic, however speaking for them based upon their action, they support the plan as presented with this square footage and therefore they recommended approval, knowing it was contingent upon this body granting the variance. If you were to deny the variance, it would have to go back to the Commission with modifications.

Sovel - Did you present Plan C?

Mike Powell - I did not bring Plan C because the owner will not purchase this property if this building can't be built here. I would also point out that the way the Zoning Ordinance was written, not only would the parking not be permitted here, but we couldn't have this drive here either as it would have to be 30' off the property line. No pavement would be allowed in front of the building whatsoever and all the traffic circulation would be around the back of the building.

Sovel continued discussions with Mike Powell regarding additional concerns related to parking and connection to the lot at Uptown Grille. Mike Powell reassured the Board that this had been reviewed for safety by the Fire Department and the Traffic Engineer. He explained the access for emergency vehicles, elaborated on the potential connection of the lots and addressed alternatives for valet parking to prevent issues. Ryan Adams also approached and explained the circulation of traffic, options for valet and noted that the valet people help to control and direct the flow of traffic. Amy Neary added that it may be necessary to move the valet to the other side of the building so that it is not in the main line of traffic. A condition could be made in this regard if the variance is approved. Open discussions continued regarding safety concerns, circulation, joint and separate ownership of the parcels, the parking maintenance and cross access agreements which are to be made part of the deed restriction as a condition of site plan approval, and approval by the MDEQ to allow for connection of the lots.

Rosman - You're asking for a banquet facility. That is my concern. You are already 2 parking spaces over what the Ordinance requires. How many parking spaces are approved for the upstairs? I want valet to be part of any banquets as I don't know where you'll put the cars.

Ryan Adams explained that this restaurant would be different than Uptown, serving lunch and dinner, but dinner would be expected to conclude by 10 or 11pm.

Sovel - Will there be a liquor license?

Amy Neary - Yes.

Rosman - I'm concerned that this will be awfully tight. I wish you'd eliminate the banquet hall and reduce the building size to fit the site.

Ryan Adams - The banquet will be for small events and not for big weddings. It will be available for a 30-person party, or a family event or birthday party. That is part of our niche and it works for us.

Discussion continued regarding the banquet hall, its potential success or failure, other options for the space related to the wellness center, the possibility of minimizing the building size and the parking requirements.

Mills - Mike, you indicated that you met with the RCOC. Did you discuss people coming in off of M5 or Loop Road?

Mike Powell - That was addressed by the traffic consultant. It was 2-lane traffic up until they pass the easterly drive of this site and then it squeezes down to one lane.

Mills - Is it 2-way traffic at the west?

Mike Powell - Yes.

Pacheco - I would like to congratulate you on the way that you have worked with the Township and the Planning Commission. You've done a lot more than I've seen other people do and you've gone out of your way to try to address the concerns. I have no problem with giving this variance.

MOTION by Pacheco, seconded by Mills, to approve Item PA15-0002, the request by Ryan Adams of Commerce MI for a 28' variance from Article 6, Dimensional Standards. Of the Commerce Township Zoning Ordinance to construct a new Health Food Market/Restaurant/Spa with a parking lot that will encroach into the required front yard setback and to allow an access drive closer to the side property line than required located on the south side of West Maple, between Haggerty Road and M-5.

Sidwell No.: 17-25-453-012

Approval is for the reason that the proposed will not be materially detrimental to the public health, safety and welfare, and it will not be materially injurious to the property or improvement in such zone or district in which the property is located. Approval is also in consideration of the Finding of Fact as stated within the Planning Department's report. In addition, it is believed that the petitioner has worked to present something that is good for them, good for the Township and for the surrounding businesses, and their parking is in concurrence with, or is relatively the same as that of the adjacent businesses in the area.

Discussion -

Rosman - Regarding the valet, I did not realize that you were talking a small banquet area and therefore, I will not ask for the valet requirement.

Roll Call Vote:

Ayes: Pacheco, Mills, Sovel, Rosman

Nays: None

Recused: McKeever

MOTION CARRIED

ITEM III: PA15-0004 – MARRIOTT TOWNEPLACE SUITES – PUBLIC HEARING

Allied Signs of Clinton Twp., MI representing The Marriott TownePlace Suites is requesting a variance from Article 30 of the Commerce Township Zoning Ordinance to allow one additional wall sign located at 199 Loop Road.

Sidwell No.: 17-36-400-031

Patrick Stieber, Allied Signs, Inc., 33650 Giftos, Clinton Township, MI, was present along with Basil Bacall, one of the owners of Marriott TownePlace Suites, to address the request.

Patrick Stieber distributed photos to the Board members of the main elevation and gave a review of the request. This is a new project and the application for permits has already been submitted for two of the signs, the ones on the west and east elevations. This request is to add a third sign to the north elevation. What is proposed is to add this third set of TownePlace Suites Marriott letters on the north due to the fact that there are unique circumstances with the building that present issues with lack of identification. Patrick explained the positioning of the building in relation to M5 and Loop Road, elaborated on the significant visibility issues for southbound traffic and explained the hardship due to the traffic flow.

Basil Bacall added that this site is unique because there are two street frontages. Considering that most clients are coming from out of town, and often guests are arriving to the hotel at night, it's important to have the building clearly identified. The traffic on M5 is travelling so fast coming in from the north, if the sign is not there, by the time they're perpendicular to the sign that will be on M5, it's too fast for them to make the turn. This creates a dangerous and inconvenient situation. They would have to pass M5, go to 13 Mile and make the turn to come back if they notice it. In addition, the way that the Marriott rooms are laid out, it limits the area for signage, even perpendicular to M5, and that's why it's only 80 square feet. If the space was available, it would have been the maximum. Safety is a huge factor supporting the request, especially for elderly people driving at night.

Chairperson Rosman opened the public hearing.

No comments.

Chairperson Rosman closed the public hearing.

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

Board Comments:

Pacheco – I have a question for Amy regarding the size of the sign. You mentioned that the signs are larger than allowed by the Ordinance?

Amy Neary - The Ordinance states that they can have 2 signs up to 200 square feet. As he stated, they're only doing 80 square feet each which is 20 less than what's allowed by the Ordinance. What I referred to in the review letter is what you required and allowed for the hotel to the south of this property, which was for 3 signs, but the total signage square footage was limited to 200 square feet. They're not over per se, so when you're granting a variance you can let them have whatever that size sign is, but to

be consistent with what has been allowed for a third sign for others is to limit to the 200. That is the square footage they are exceeding.

Basil Bacall - We currently have 160, and with what we are proposing it exceeds the 200.

Patrick Stieber - What we're asking for is an additional 30 square feet. In addition, I would like to point out that the Marriott sign has a lot of blank space and they're considering all that blank space to be sign square footage. We're kind of at a disadvantage because of the way the logo is stacked, but if you add up the actual square footage of just TownePlace and took away the boxed areas to the right and left, these signs are only 43.75 square feet. That's an extra 26.25 square feet of area that is not signage, but is being considered signage because they draw a big rectangle around the whole thing.

Pacheco - I was wondering if they could design the sign to meet the Ordinance.

Patrick Stieber - We could, but then the signs would be at size that won't be readable and that's an important factor. It has to be large enough to be readable to the traffic flow at these speed limits.

Pacheco - Have you worked with the Township to find out whether you can reduce the sizes of the signs to be in compliance with the Ordinance? You're very strongly in favor of not reducing anything.

Mills - Did you work with them or didn't you?

Patrick Stieber - We've been working with the Township to get to this point for quite some time now.

Pacheco - Amy, did you discuss this proposal with them?

Amy Neary - I personally have not discussed this with the applicant; however, I know they have been in conversations with the building official as they were getting their sign permits originally approved. I don't know what occurred in those discussions.

Rosman - We know they're here because they don't want to reduce the sizes of the signs and they chose to come here.

Basil Bacall - If you look at the Hampton Inn sign, it is large enough and it's not a problem. Because of the way the Marriott sign is designed, there is a lot of lost space. If this sign was reduced, it would be very hard to read with the speeds on M5 and the distance from the building.

Mills - My only comment is that I tend to agree from a safety perspective. When I went there, driving on Loop Road, I felt that drivers, especially those heading south, would be paying attention to that curve and the traffic versus seeing what that building is.

Sovel - I support what you're trying to do. I do have one question. Why doesn't the brick match that of the Hampton?

Basil Bacall - First, I'd like to say that I do business with a lot of municipalities and this is the most professionally run and the friendliest.

The brick is not supposed to match. It is supposed to complement it, but it is not intended to look the same. If you recall, Larry Haber on the Planning Commission stated that the Hampton was looking kind of dull without different variables. Therefore, a couple of weeks ago, we replaced all the soldier brick with limestone to give the building more character, and those aren't the final colors. Other materials, similar to EIFS yet much stronger, will also be painted.

We just opened a TownePlace Suites by Great Lakes Crossing mall. It will look like that, but we did something even better here because the Planning Commission wanted the siding replaced with brick and stone. It was more expensive, but we wanted to accomplish the right look for the Township.

McKeever - I didn't have any issues with the way this was presented.

Rosman - I know Marriott chose to make their sign however they wanted. I just wanted to share with you that once upon a time, it was Meijer Thrifty Acres, and they couldn't fit that into the 200 square feet. Soon after that, they just eliminated the Thrifty Acres. The fact that the Marriott has chosen to put so many words in is their problem. I could live with the 200. My question is, as I drive by the Hampton Inn, the sign over the front door is smaller than the ones on either side. Is it possible to make a front door sign smaller so that it would fit into the 200, with the two signs that you want to be large enough, to come closer to the 200?

Patrick Stieber - Well as you stated, due to the wording here being longer, I really think that downsizing this sign will not give the same benefit as with downsizing Hampton Inn letters. It will definitely give them a lot less visibility.

Rosman - Is there any way to just have Marriott over the door?

Patrick Stieber - It's a corporate standard for TownePlace Suites.

Rosman - I understand.

Basil Bacall - The Hampton frontage has the sign on the canopy, which allowed the space for it. Marriott does not have a canopy, so it has to go in that big space on top.

MOTION by Mills, supported by Sovel, to approve Item PA15-0004, Marriott TownePlace Suites, the request by Allied Signs of Clinton Twp., MI, representing The Marriott TownePlace Suites, for a variance from Article 30 of the Commerce Township Zoning Ordinance to allow one additional wall sign at 70 square feet located at 199 Loop Road. Sidwell No.: 17-36-400-031

Approval is for the reason that the proposed will not be materially detrimental to the public health, safety and welfare, and it will not be materially injurious to the property or improvement in such zone or district in which the property is located. Approval is also in consideration of the Finding of Fact as stated within the Planning Department's report.

Roll Call Vote:

Ayes: Mills, Sovel, McKeever, Pacheco, Rosman

Nays: None

MOTION CARRIED UNANIMOUSLY

ITEM IV: PA15-0005 – ELIZABETH NICOLOSI – PUBLIC HEARING

Elizabeth Nicolosi of Commerce MI is requesting a variance from Article 6 of the Commerce Township Zoning Ordinance to construct an attached garage that will encroach into the required front yard setback located at 4215 Newton Road Sidwell No.: 17-14-400-036

Elizabeth Nicolosi, 4215 Newton Road, was present to address the request. She explained that she is looking to build an attached 2-car garage, 20x20, and she provided the reasoning for the proposed, along with the need for a variance. She reviewed various options for attached and detached, along with the guidelines and requirements; however, the location of the septic, power lines and huge trees on her property determined that the proposed location for an attached garage was the best route to pursue. The garage would be built on the north side of the house for safety reasons and she would pull in from Newton Road. She added that one additional reason for wanting a garage is that there will be less snow to shovel in the wintertime. She also explained the uniqueness of the lot which fronts on two streets

Chairperson Rosman opened the public hearing.

Mike Erickson, 9450 Newton Place Road, stated that he and his family have lived there for 28 years. He has seen this home sit vacant and become an eyesore. He's watched it rented out to many different people. Since Liz has been living there, she has done unbelievable things outside to improve it, and he can only imagine she's done the same on the inside. He believes that the garage she is asking for will address a huge safety concern and he supports her request. He added that he had spoken with all of the neighbors in the 9 homes located in this cul-de-sac and no one has any opposition to the proposed garage.

Chairperson Rosman read a letter into the record received from Sandra Mathia, 4235 Newton Road, in support of Elizabeth's appeal to the ZBA. In addition, a petition was presented for the record in favor of the proposed which included the signatures of all 8 neighbors in the neighborhood.

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

There were -0- returns, -1- letter and -1- petition as noted herein.

Board Comments:

McKeever - I am always in favor of a garage, but my concern is with the distance from the curb to the garage and having cars parked in front of the garage. I would request that a driveway be designed to allow full-length parking, either to the east or to the west, to prevent additional parked cars from hanging out onto Newton road.

Open discussions ensued regarding alternatives on the lot for additional parking spaces. Elizabeth Nicolosi expressed her understanding and confirmed that she would not want to have any parked cars hanging out into the roadway. Amy Neary stated that there is room to create a driveway. Options for placement of the garage and the additional driveway were reviewed at length.

Rosman - The additional parking area could be left to administrative review and approval, as we can't tell you exactly how to lay this out.

Amy Neary - Additional parking can be made part of the motion.

Sovel - I'm fine with the request.

Mills - The paint markings on the grass indicated the approximate area of the garage, correct? And what will happen with the gas meter that is there?

Elizabeth Nicolosi - Yes, the paint outlined the garage. I have plans in place to have the gas company relocate the meter to the east side of the property.

Pacheco - I am concerned about the parking in front of the garage. Cars would need to be parked on one side or the other, and you could put gravel in that area.

Elizabeth Nicolosi - Yes, that can be done very easily.

Sovel - If she changes the orientation of the garage, will it change any of the numbers for the variance?

Amy Neary - No, if the variance is granted to allow for construction of the garage at this location, and providing for additional parking on the property, it would not change the variance request.

McKeever - The garage would still be 20x20.

MOTION by Sovel, supported by Mills, **to approve, with conditions**, Item PA15-0005, the request by Elizabeth Nicolosi of Commerce MI for a variance of 18.86 feet from Article 6 of the Commerce Township Zoning Ordinance to construct an attached garage that will encroach into the required front yard setback located at 4215 Newton Road Sidwell No.: 17-14-400-036

Approval is subject to the requirement of the petitioner providing one additional parking space to prevent cars from being parked in front of the garage that would encroach into the road right-of-way. The final configuration of the garage and the location of the additional parking will be Administratively approved.

Approval is for the reason that the proposed will not be materially detrimental to the public health, safety and welfare, and it will not be materially injurious to the property or improvement in such zone or district in which the property is located. Approval is also in consideration of the Finding of Fact as stated within the Planning Department's report.

Discussion –

Open discussions took place, reiterating the options for additional parking, the orientation of the garage, the trees and tree roots on the property, **relocation of the gas meter and a 25mph sign**. It was noted that the street is private and the neighborhood can therefore choose to relocate the sign accordingly. It was also confirmed that the configuration of the garage and additional parking would be Administratively approved.

MOTION CARRIED UNANIMOUSLY

OTHER MATTERS TO COME BEFORE THE BOARD

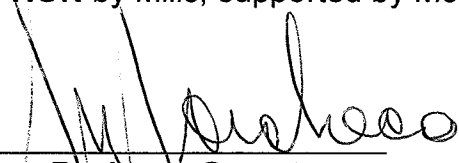
Open discussions took place regarding recycling, staking of properties, necessary updates to the variance application indicating the staking requirements, and templates suggested by counsel to assist the Board members when they are making motions.

NEXT REGULAR MEETING DATE: THURSDAY, JULY 28, 2015

ADJOURNMENT

MOTION by Mills, supported by McKeever, to adjourn the meeting at 8:46pm.

MOTION CARRIED UNANIMOUSLY



Jorge Pacheco, Secretary