

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

Thursday, January 24, 2013

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
Absent: Bill McKeever (excused)
Also Present: Kathleen Jackson, Township Planning Consultant
Jay James, Engineer/Building Inspector

Chairperson Rosman introduced the Members of the Board to those present, as well as Kathleen Jackson and Jay James. 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. She added that in order to have a variance approved this evening; applicants would need the approval of 3 out of the 4 Zoning Board of Appeals members present.

APPROVAL OF MEETING MINUTES

MOTION by Mills, supported by Pacheco, to approve the Special Zoning Board of Appeals Meeting minutes of October 25, 2012, with the following corrections:

1. Page 4, Item III, in the commentary by Pamela Palecheck, edit all occurrences of references to 680, 620, 660 and 640 to include **Wise Road** to clarify that these were the addresses of the homes she was referring to.
2. Page 3, 5th paragraph, change "as" to "**ask**".

MOTION CARRIED UNANIMOUSLY

UPDATE OF ACTIVITIES

Rick Sovel– Township Board, Library, and Parks & Recreation

- The position of Township Clerk has been posted and the Board has 45 days to appoint the new Clerk.
- The Township Engineers are holding a public hearing on 1/31/13 regarding potential locations for the water tower. Details are available on the web site.
- The budget was approved and there were no layoffs this year.
- Tax revenues are flat but the Township did receive unexpected shared revenue funds.

PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None

Sovel informed the Board that he would abstain from Item A12-13 as he was not present at the previous meeting when the item was first introduced in October. Chairperson Rosman excused Sovel from the discussion. Pacheco asked if that meant that all three of the remaining Board members would have to agree for the variance to be approved. Chairperson Rosman replied yes.

MOTION by Pacheco, supported by Mills, to remove Item A12-13 from the table.
MOTION CARRIED UNANIMOUSLY

ITEM I: A12-13 – STEVE ZUTANTAS

Steve Zutantas of Commerce MI is requesting an interpretation of the definition of yards and also a variance from Article 33 of the Commerce Township Zoning Ordinance to allow existing obscuring vegetation to remain and install new obscuring vegetation in the front yard and also install a split rail fence that will encroach into the required front yard located at 3508 Trentwood. Sidwell No.: 17-07-227-018

Kim Zutantas, 3508 Trentwood, was present to speak to the variance request.

Rosman - We requested a survey and asked for you to return with a letter from the homeowners association.

Kim Zutantas - What I did is I revised it and removed the split rail. (Provided revisions to the Board members.) The portion of the split rail that was encroaching at 25' at the water head was removed so that it is no longer in violation of the Township. Jay James also provided me with a side yard interpretation. Only two of the existing trees are in the side yard, and so the new trees are all I need approved.

Rosman - There were a few other things. We asked for the letter of approval or disapproval from the homeowners association. We have the survey.

Kim Zutantas - I'm not keeping the fence. It is 25' from the water so I don't need their approval or disapproval. The encroaching fence is gone from the water side. On the side, I have every right to do this in compliance with your rules and it only becomes a civil issue with Lake Sherwood.

Jay James - Not exactly.

Jay James reviewed the drawing for the Board which showed the layout of the property and the house. He explained the side and front yard areas and indicated the area where the fence had been removed back to 25' from the water's edge.

Jay James - When I went to the site today, I drew a rough estimate of the fence and the existing landscape along that property line by the fence. The Zutantas' have removed

the railings from the 25' setback from the water's edge, but two posts still remain to be taken out when the ground thaws. I don't necessarily agree with this as it still extends toward the front yard. Do you wish to keep what remains?

Kim Zutantas - I do. The Township rule is that I can have a fence on that portion, 25' from the road and 25' from the water. This complies with the ordinance if I read it correctly, and I do have a copy with me.

Rosman - So it is still in the front yard. You do understand the definition of front yard here? You may call it a side yard, but the Township calls it a front yard.

Kim Zutantas - Yes, I realize I do not have a rear yard. I have two front yards, by definition.

Rosman - Yes, by definition.

Kim Zutantas - This is the interpretation for the dimensions and standards for all sides.

Jay James - I believe she's correct. It meets the 25' from the road.

Rosman - It meets that requirement?

Jay James - Yes. As long as the posts get removed it is allowed to be there as ornamental.

Rosman - Okay, so we are all set with the fence?

Jay James - Yes, with the split rail fence. However, any landscaping that is vision obscuring is also considered fencing. Some of the arborvitaes are quite a bit taller than the others and were probably installed prior to the ordinance, which later prohibited them. Then towards Trentwood, there are smaller arborvitaes and pines that had been installed since the ordinance was changed to prohibit vision obscuring landscape. Those are in violation. Those are what she is looking to get a variance for.

Kim Zutantas - I would like to install a few more as the neighbors park their vehicles there and it is a visual eyesore. In addition, this is an area where their very large dogs walk and they trespass and attack my dog. I've had issues with the neighbors using a large tractor to cut my grass. They cut it down to dirt and destroyed my property. The tree line is dead as they have sprayed poisons. My hardship is the vandalism, the trespassing and their dogs attacking my dogs. I have been basically robbed of my enjoyment of my backyard. I need a tree barrier because we don't get along.

Kim Zutantas reviewed drawings and pictures of her property and adjacent neighboring properties with the Board. She noted landscaping barriers on other properties.

Rosman - Is the Chairman here from Lake Sherwood?

Andy Sarkisian, 3398 Tiquewood - Yes, I'm here from the Lake Sherwood Architectural Control Committee. We have not received plans for the Trentwood Property, therefore we cannot assess whether it meets the deed restrictions or not.

Rosman - Kathleen, which has precedent? The Zoning Ordinance or the deed restrictions within the subdivision?

Kathleen Jackson - Commerce Township does not get involved in enforcing deed restrictions. I will also note that this is not a public hearing. You're welcome to accept input from the public, but you are not required to do so.

Chairperson Rosman opened to the public.

David and Virginia Fett, 3501 Trentwood, were present to address the request.

Virginia Fett - We live next door to Kim. I'm the one with the long driveway.

Virginia Fett - I understand you've been to the house, but I would like to give you a picture of the view we are having to look at from within our home.

Ms. Fett shared photos with the Board depicting their blocked views of the lake. She explained that Ms. Zutas had built the ground up before planting the trees. She reiterated the information she had stated at the previous meeting.

Rosman - Do you have any different information to share with the Board?

Virginia Fett - Even if she is allowed to plant the trees, please just do not allow her to build up the moat before planting.

Ron Anderson, 3542 Trentwood - I owned their property prior to them purchasing it. The reason they purchased it at that time was for the view of the lake and that is being taken away.

Linda Sienkiewicz, 4977 Wavewood Drive - I would like to add that I have lived in Lake Sherwood for 20 some years. We are not permitted to obstruct the lake frontage. We take great pride in the tidiness of our lakefronts and are very conscientious homeowners.

Chairperson Rosman closed to the public.
There were -0- returns and -0- letters.

Rosman - We asked in the minutes and motion that the homeowner bring in a letter of approval or disapproval from the Lake Sherwood Architectural Control Committee. The letter has not been brought in.

MOTION by Mills, supported by Pacheco, to table Item A12-13, the request by Steve Zutas of Commerce MI for an interpretation of the definition of yards and also a variance from Article 33 of the Commerce Township Zoning Ordinance to allow existing obscuring vegetation to remain and install new obscuring vegetation in the front yard and also install a split rail fence that will encroach into the required front yard located at 3508 Trentwood. Sidwell No.: 17-07-227-018

The item is tabled until the petitioner has complied with the requests of the Board in the previous motion as indicated in the minutes of the October 25, 2012 Zoning Board of Appeals meeting.

Roll Call Vote:

Ayes: Mills, Pacheco, Rosman

Nays: None

Absent: McKeever

Abstain: Sovel

MOTION CARRIED

Chairperson Rosman stated that the item is tabled until the next regularly scheduled meeting of the Zoning Board of Appeals which would be held on Thursday, April 25, 2013.

Rosman requested specifics on the trees planted on the driveway side, the heights, where the split rail is located, the sightline for the neighbors to the water, and specifically the ordinance as it relates to all of these items.

ITEM II: A12-12 – DOUGLAS CADARET – PUBLIC HEARING

Douglas Cadaret representing Gayle Geisenhoff of Commerce MI is requesting variances from Articles 32 & 33 of the Commerce Township Zoning Ordinance to allow a shed on the waterfront front yard and within the required front & side yard setback located at 3332 Benstein. Sidwell No.: 17-16-455-012

Chairperson Rosman opened the public hearing.

The petitioners, Douglas Cadaret and Gayle Geisenhoff, were present to speak regarding the variance request.

Doug Cadaret - We had a shed that was falling down. We improved upon it. Our neighbor has a shed. We did not realize that we had to pull a permit. Our property is on the canal. We have two or three structures nearby, including a gazebo. We spoke with several neighbors and they did not have any issues. Once the shed was erected, it was brought up as a violation.

We have nowhere else on the property to put the shed. We keep water toys in the shed during the wintertime. We made a mistake and ask that you forgive us. The shed that was there was torn down and re-erected to improve upon the structure.

Gayle Geisenhoff - As he stated, we were improving the structure and that was the reason that we did not apply for a permit.

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

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

Board Comments:

Sovel - When did you buy the house?

Gayle Geisenhoff - In April 2011.

Sovel - Is the new shed the same size as the old one?

Doug Cadaret - It is slightly bigger.

Sovel - How much?

Doug Cadaret - The previous was 10x12' and this might be 16x12'.

Gayle Geisenhoff - The old shed was a hard resin structure and this one is wood.

Sovel - How did we find out about this?

Jay James - I was doing a building inspection and saw the new shed which was already erected. I sent them a letter and contacted them.

Gayle Geisenhoff - We asked our neighbors if they were offended when we saw the notice on our door.

Doug Cadaret - Also, on the Island Lake side, residents cannot see the shed in the summertime because they can't see through the foliage.

Sovel - Who installed the shed? Was it a kit?

Doug Cadaret - My friend who is a carpenter helped me with it. It was not a kit.

Gayle Geisenhoff - We did intend to put some foliage around the bottom of it but we stopped when we received the notice.

Sovel - Is there water or electricity inside?

Doug Cadaret - No.

Doug Cadaret - It is not cemented into the ground. The footing is wood block.

Pacheco - I was wondering about the foundation and if it was the same as the one that was built there before the ordinance.

Mills - I was wondering about the electricity also. Did the old shed have it?

Doug Cadaret - No. There is an electrical line there that is just because of the water pump in the canal for irrigation, but it is not in the shed.

The old shed was falling apart and falling down. It was barely functional.

Mills - If it is sitting on 4x4 blocks, is that permitted or up to code?

Jay James - It does have to be anchored down to the ground. They can strap it and stake it to the footings so that it does not become airborne in a storm.

Doug Cadaret - If we get the variance, I am fully prepared to do that and I will landscape it too as I feel it is an asset to the house.

Rosman - It is 5' into the floodplain; however, I know that since the dam was installed the water is not likely to rise that high. I recognize the neighboring sheds. Does the last house there have one also?

Doug Cadaret - Yes, but the landscaping protects and shields it.

Rosman - You talked about the landscaping.

Doug Cadaret - Island Lake or Club has several undeveloped lots. In mid-April and summertime they could not see it through the trees.

Rosman -

- Homes may be constructed on those parcels at some point.
- I have several concerns, but I do get it.
- I know as a lakefront owner that I have to pay for storage for things I can't keep in my home so that I am in compliance with the ordinance.
- I know you keep things for your boat in there, but you do have extensive decking around your home. Did you create that?

Doug Cadaret - No.

Rosman - I am wondering if there may not be another location for this so it could be pulled back from the floodplain. I don't know, but there may be other legal places on the property for it.

Open discussion continued regarding the survey, slope of the yard, dimensions of the lot, potential for relocation of the shed, distance from the water, the gazebo and other nonconforming structures, and what may have happened had they applied for the variance before reconstructing. If it had been approved for a variance, they would not have been able to increase the size of the shed.

Kathleen Jackson explained the reason for the variance requirement. If a structure is damaged over 50% and is nonconforming, the petitioner cannot reconstruct it without a variance.

Chairperson Rosman encouraged the petitioners to consider relocation to increase the distance between the location of the shed and the water's edge. This would improve the situation and reduce the variance request. The petitioners were agreeable to this consideration and were willing to work with Administration in an attempt to improve the situation.

MOTION by Sovel, supported by Mills, to table Item A12-12, the request by Douglas Cadaret representing Gayle Geisenhoff of Commerce MI for variances from Articles 32 & 33 of the Commerce Township Zoning Ordinance to allow a shed on the waterfront front yard and within the required front & side yard setback located at 3332 Benstein. Sidwell No.: 17-16-455-012

The item is tabled to allow the petitioner to further review the request and work with Administration to potentially re-locate the shed, thereby improving and reducing the request for a variance.

MOTION CARRIED UNANIMOUSLY

ITEM III: A13-01 – AT&T – PUBLIC HEARING

Viazanko Construction Services of Rochester Hills MI representing AT&T is requesting a variance from Articles 6 & 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback located at 4212 Haggerty Road. Sidwell No.: 17-13-400-010

Chairperson Rosman opened the public hearing.

Scott Hemond, 49410 Monte Rd., Chesterfield Township was present to speak regarding the variance request. He explained that the sign had been erected on the Haggerty Road frontage of the building. It was put in a location that the installers determined was the safest for visibility from the road. There have been a number of close call incidents that came up when people noticed the building and attempted to turn quickly into the driveway. AT&T wanted a sign here for better visibility to allow people ample time to stop and turn. That is why the sign was installed. As for the decision on where to install it, the installers realized that putting it farther back would have caused it to be obstructed by two large trees.

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

There were -2- returns and -0- letters.

Board Comments:

Rosman - Who installed the sign?

Scott Hemond - AT&T had us contact a sign company.

Rosman - And nobody in the company said you needed a permit?

Kathleen Jackson - They did pull the permit but the sign was not placed where it was supposed to be.

Mills - Was there documentation as to where the installers were supposed to install the sign, or did they just decide to do it differently?

Scott Hemond - Yes, but when they read the plot plan with the note of 65' back, they made a determination, by looking at the site line of other signs along the roadway, that this would be the spot for it. They did not run a tape back from the middle of Haggerty Road.

Pacheco - I was wondering where the proper location for the sign would have been. There were no stakes.

Kathleen Jackson - It is 75' from the centerline, so it would be 32' closer to the building.

Jay James - It would almost be on the sidewalk.

Pacheco - I guess they didn't think about it. They should have questioned if moving the location was the right thing to do.

Sovel - In its current location, did someone check to see what utilities may be under the sign or close to it?

Jay James - I went to give final approval and discovered it was in the wrong location. To my knowledge, there are no utilities underneath. If the Board desires to approve the variance, we include a caveat that the owner is required to relocate the sign and bears the costs if any utility work is to be done. I don't know where the gas line is as it was not marked, but I believe it is farther out toward the road.

Sovel - Are there any other objections to this location?

Kathleen Jackson - It is a small sign, not very visible and not harming the welfare of the general public. This is not a customer oriented business or a destination place. It is a garage for workers.

As an aside, in working with AT&T for three months now, I visited the site and consulted with staff. While at the site, I noted that the landscaping has deteriorated around the foundation and in the island. The property manager told me today that if they had a reason to improve it they would. For example, if it were tied into the variance.

Rosman - Are we to understand that in order to help improve the look of Haggerty Road, that anyone looking for a variance can take notice of the appearance of the property along with the need for the variance?

Kathleen Jackson - If you see fit to approve the variance, you can attach conditions. This lessens the impact of the illegal sign.

Scott Hemond - That sounds great.

MOTION by Sovel, supported by Pacheco, approve, with conditions, Item A13-01, AT&T, the request by Viazanko Construction Services of Rochester Hills MI representing AT&T for variances from Articles 6 & 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback located at 4212 Haggerty Road. Sidwell No.: 17-13-400-010

A 32' variance is granted for the front yard setback from Articles 30 and 6. Approval is subject to the following conditions:

1. Administrative approval of the landscaping as discussed herein; and
2. The landscaping is to be installed by May 31, 2013; and
3. The variance being specifically tied to the landscaping improvements; and
4. In the event that Haggerty Road is widened or other utility work takes place, removal and relocation of the sign and all appurtenances will be removed by the owner at the owner's expense.

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.

MOTION CARRIED UNANIMOUSLY

ITEM IV: A13-02 – JAMES MAHER – PUBLIC HEARING

James Maher of Walled Lake 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 side yard and total side yard setbacks located at 2041 Hoeft. Sidwell No.: 17-25-101-023

Chairperson Rosman opened the public hearing.

The petitioner, James Maher, 861 N. Pontiac Trail, Walled Lake, was present to address the variance request. He stated that he was proposing to build an attached garage at 2041 Hoeft and the property would require a variance for the side yard setback to accommodate this.

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

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

Board Comments:

Rosman - Are you planning to do any additional exterior work on the house?

James Maher - Not the siding, but there may be some roofing work performed.

Rosman - May I suggest that you change the street address numbers on the house to something larger and darker? They were hard to see and emergency vehicles may have difficulty finding the house.

Jay James - 6" is the minimum size for the numbers.

Pacheco - I basically don't have any problems with this because it's not really changing the neighborhood. I have no issues.

Mills - First, I could see the plans visually very easily as the site was staked according to the prints. That was very helpful to me. Like Jorge, I have no problems with this. I don't think it will be too close to the house next door and I have no concerns.

Sovel - I like attached garages. I'm good with the request.

Rosman - How big is the garage?

James Maher - It is 22x22'.

Rosman - That is 2-car. Although I know you could make it smaller to fit there without a variance, I do prefer 2-car garages as it prevents stuff from being left all over outside. And for safety, the house numbers should be changed first.

Sovel - They should be contrasting colors.

Rosman - Will this be a rental?

James Maher - It is not at the present time but it may become a rental or home to a family member.

Rosman - I would like to see you include language in your lease that nothing is to be left out in the yard. All belongings should be kept behind closed doors.

MOTION by Mills, supported by Sovel, to approve, with a condition, Item A13-02, The request by James Maher of Walled Lake MI for a **0.9' side yard variance and a 5.3' total side yard variance** from Article 6 of the Commerce Township Zoning Ordinance to construct an attached garage that will encroach into the required side yard and total side yard setbacks located at 2041 Hoeft. Sidwell No.: 17-25-101-023. Approval is subject to the following condition:

- The petitioner will attach appropriate, contrasting street address numbers to the front of the house prior to beginning construction.

Approval is for the reason that a 2-car garage is preferable for storage to prevent things from being left all over outside of the home. 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.

MOTION CARRIED UNANIMOUSLY

ITEM V: A13-03 – TONY SEMAAN – PUBLIC HEARING

Tony Semaan of Walled Lake MI is requesting a variance from Article 6 of the Commerce Township Zoning Ordinance to construct a mixed use building that will encroach into the required front yard setback located on the south side of Commerce Road between Newton & South Commerce Roads. Sidwell No.: 17-11-332-034

Chairperson Rosman opened the public hearing.

The applicant, Tony Semaan, 1353 Delta, Walled Lake, 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 review of the variance request. He explained the unique site, minimal depth and difficulty fitting a structure on the site without a variance. He reviewed the ordinance requirements and the preference and intent to have parking located behind the building. He addressed the layouts of parcels across the street, along with adjacent parcels and potential impacts, including Jerry's Rents with parking in the front, and Commerce Radiator. He felt this design was the least obtrusive considering the uniqueness of the site.

The first floor would be offices with a glass type front and matching awnings on the front and back. The signage would be placed on the awnings and the back entrance would actually be the primary entrance with parking behind the building.

The second floor would be residential apartments with internal stairways and there would also be balconies overlooking Commerce Road.

Kathleen Jackson and Mike Powell discussed communications they had with the RCOC regarding the property. Mike Powell stated that he believes the design is appropriate for their requirements as well.

Chairperson Rosman asked Tony Semaan if he felt that Mike Powell had explained the request appropriately.

Mr. Semaan gave additional history of the attempts to develop the parcel. He then stated that yes, he was satisfied with the explanation provided by Mr. Powell.

(Jeffrey Hansche), 9555 Commerce Road, owner of the property just west of Jerry's Rents stated that he owns the building that was referred to earlier. He disagreed that he would need a variance if he were to construct his building now. It was built this way 35 years ago and he is aware of the setbacks.

He disagreed with the variance request and was not in favor of it. He felt that the large variance was required because of the building size and the second story. He does not

feel this parcel is anymore unique than his. He added that he has considered moving his parking to the back of the building, but that would require moving the sewers. He discussed the parcels across the street and felt they were practical, but did not agree with this design for this side of the street as it would change the nature of the area. He stressed conforming to the ordinance and uniformity. He felt that the proposed would compromise the quality and character of the area. He feels that the building size should be reduced.

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

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

Kathleen Jackson stated that because Bill McKeever could not be at the meeting, she could answer any questions the Board may have regarding the Planning Commission's review of the proposal. She provided a brief review and explained that whether parking was located in front or behind the building, a variance would be necessary due to the depths of the lot. She noted that the second story did not affect the variance request. The Planning Commission encouraged the petitioner to have parking behind the building.

Board Comments:

Sovel - I am fine with the request.

Mills - When I went to the property, I looked over the prints and really didn't see any problems. I also considered the alignment with the accountant's office next door.

Pacheco - This building will be pushed closer to the centerline of Commerce Road.

Rosman - It will be closer to the road than the buildings to the west and the east.

Pacheco - But I'm concerned. Did the Planning Commission consider aligning the buildings so that they are even? If I were to construct something adjacent to this in the future, I would want to pull it closer to the road too. Is it possible to push the parking lot back?

Kathleen Jackson explained that this had certainly been considered. It did not make much of a difference and the problem with pushing it back is the residential area behind this site. A masonry wall is being built to mitigate. The Planning Commission exercised discretion with regard to the rear buffer yard requirements.

Pacheco also inquired about the sizing of the building for retail and residential purposes.

Mike Powell explained the depth is basically the minimum to accommodate the facilities.

Discussion followed regarding the building design and parking location.

Rosman - I am interested first in safety and have concerns with fire. You stated there would be balconies on the apartments? I would like to recommend that there will be no barbecuing on these balconies.

Mike Powell - Certainly. No problem.

Rosman - How is the parking lot lighting shielded from the residential?

Mike Powell - The lighting on the building is under the canopy and directed down. The parking lot poles are 15' high and have a direct cutoff. There will not be any light shining beyond the property line.

Rosman - How many stores are planned?

Mike Powell - There are spots for up to five, but they can be opened up to allow two spaces to accommodate one business.

Rosman inquired about restricting business hours and questioned whether it would really be office, or would it be commercial? Would it be a party store? She was concerned with it being open until midnight or later.

Mike Powell replied that the plans are for retail and residential units.

Kathleen Jackson explained that the parcel is zoned B-1 and this would permit a party store. She added that the Planning Commission had restricted the trash pickup times to reduce noise impact on the residential.

Rosman discussed the site line of the buildings along Commerce Road, and discussed the parking and site options with Kathleen Jackson.

Open discussions continued regarding the difficulties surrounding relocation of the building on this unique and narrow site.

MOTION by Mills, supported by Sovel, to approve Item A13-03, the request by Tony Semaan of Walled Lake MI for a variance 46' front yard variance from Article 6 of the Commerce Township Zoning Ordinance to construct a mixed use building that will encroach into the required front yard setback located on the south side of Commerce Road between Newton & South Commerce Roads. Sidwell No.: 17-11-332-034
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, Rosman

Nays: Pacheco

Absent: McKeever

Abstain: None

MOTION CARRIED

ITEM VI: A13-04 – REAL GREEN – PUBLIC HEARING

Real Green of Commerce MI is requesting a variance from Articles 6 & 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback located at 4375 Pineview.

Sidwell No.: 17-13-300-075

Chairperson Rosman opened the public hearing.

Rick Murphy, Representative for Real Green, was present to address the variance request along (Gary Gephardt), and (Richard) from Signs by Crannie.

Rick Murphy gave a review and apologized for not putting yellow ribbons on the stakes at the site. He added that they prefer not to clear cut the trees to install the sign.

Chairperson Rosman replied that the Board members had seen the stakes.

(Gary Gephardt) explained that they would like to take the opportunity to leave the forestry in place to preserve the look of the area.

Dieter Heinzmann, President of D. Heinzmann Tool & Die, 4335 Pineview Drive, Walled Lake, was present along with Joann Heinzmann to address the request.

Joann Heinzmann questioned the petitioner about enlarging the parking lot and removing trees.

Chairperson Rosman explained that the issue being addressed here was with regard to the sign. The variance has nothing to do with the parking lot, and the variance for the sign is the only thing that the Board can address here this evening.

Joann Heinzmann further addressed the issuing of clear cutting trees, as the representatives had stated they would prefer not to do so.

Rick Murphy replied that they do not want to clear cut trees, but they may have to at some point down the road.

Chairperson Rosman again redirected the comments toward the matter at hand, the sign variance.

Joann Heinzmann was not in favor of the sign as it would present a traffic hazard. She explained the situation there for traffic. The sign will obstruct the view for those turning left and motorists will be unable to see the cars coming. She discussed the size of the sign proposed.

Rick Murphy explained that the sign was in compliance with the ordinance requirements of not more than 32 square feet, and not higher than 6', plus a base of 1 to 1.5' in height.

Joann Heinzmann explained that they were also interested in a sign. She then discussed issues related to the private road, Pineview Drive. She questioned the Township's jurisdiction over their private road in allowing for the sign here.

Chairperson Rosman explained that although it is a private road, that has nothing to do with what goes on with the sign. Oakland County does not maintain the private road, but all building and related requests still come under the jurisdiction of Commerce Township.

Joann Heinzmann also addressed concerns with the water pipes. Chairperson Rosman explained that if any utility work is to be done in the area, it would be the owner's responsibility to move the sign accordingly. That is part of the variance if approved.

Dieter Heinzmann also spoke and reiterated Ms. Heinzmann's concerns with safety and traffic obstructions.

The Heinzmann's had also submitted a letter expressing their concerns and the fact that they were not in favor of the variance.

A second letter was also in the record, submitted by Tom Komendera of NuAir Fluid Power, Inc., 4372 Pineview Drive, Walled Lake. Mr. Komendera was not in favor of the sign as proposed. Chairperson Rosman read the letter into the record.

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

There were -0- returns and -2- letters.

Board Comments:

Pacheco - No comments.

Mills - Is the sign to be illuminated, and if so, will it be internal or spotlights?

Rick Murphy - Yes it is lighted.

(Gary Gephardt) - It will be internally illuminated. The amount of light is mitigated by the plastic lettering on the aluminum face.

Rosman - So there will be no spotlights?

Rick Murphy - No.

Mills - The writers of the letters are concerned about the vision when pulling out onto Oakley Park Road. When I looked at where the stakes were, I see trees that go beyond where the sign will go. Personally, I don't see how it will be an obstruction.

Pacheco - Trees can be moved, but the sign won't be if this is approved.

Open discussions continued regarding potential tree removal. Kathleen Jackson discussed landscaping. Rosman questioned the zoning of the wooded area, which Kathleen stated was the same as that of the building. The possibility of expansion and building of a parking lot was also discussed.

Rosman asked what the purpose was for having two signs on the property. She asked if anyone had had difficulty locating the business before. Rick Murphy explained that it was for the purpose of visibility.

Kathleen Jackson clarified the new language that was incorporated into the Zoning Ordinance for the benefit of Sovel. Sign requirements had changed since he had last been on the Board.

Jay James discussed the Pineview association and the fact that this parcel was separate from it. Rick Murphy explained that an easement had been granted to eliminate the curb cut off of Oakley Park Road. Sovel asked if the curb cut could be moved closer to Oakley Park Road. Jay James replied that they could have originally accessed the property off of Oakley Park, but when Pineview was created, they requested the easement for access. Rosman and Kathleen Jackson discussed RCOC involvement with any changes that may occur to access to the site at this point in time.

MOTION by Rosman to deny Item A13-04, the request by Real Green of Commerce MI for a variance from Articles 6 & 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback located at 4375 Pineview. Sidwell No.: 17-13-300-075
Denial is for the reason that the building is already easily identifiable once a person turns onto the street where the address is based.

Motion died due to lack of support

MOTION by Pacheco, supported by Mills, to approve Item A13-04, the request by Real Green of Commerce MI for a 10' front yard variance from Articles 6 & 30 of the Commerce Township Zoning Ordinance to construct a monument sign that will encroach into the required front yard setback located at 4375 Pineview. Sidwell No.: 17-13-300-075

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 and the picture provided to the Board as part of the record.

MOTION CARRIED UNANIMOUSLY

Roll Call Vote:

Ayes: Pacheco, Mills, Sovel

Nays: Rosman

Absent: McKeever

Abstain: None

ITEM VII: ELECTION OF OFFICERS:

MOTION by Pacheco, supported by Sovel, to re-elect Rusty Rosman as Chairperson of the Zoning Board of Appeals. **MOTION CARRIED UNANIMOUSLY**

MOTION by Rosman, supported by Mills, to re-elect Jorge Pacheco as Secretary of the Zoning Board of Appeals. **MOTION CARRIED UNANIMOUSLY**

OTHER MATTERS TO COME BEFORE THE BOARD

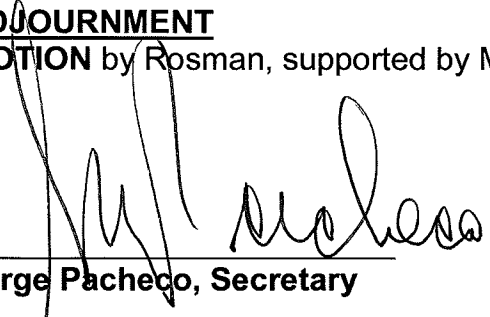
- Sovel requested a copy of the Zoning Board of Appeals meeting rules.
- Mills discussed the Zoning Board of Appeals quarterly meeting dates.
- Open discussions took place regarding the possibility of having additional meeting dates in 2013 and how that would be arranged.
- Jay James updated the Board on the circular drive to be installed, at the home on Newton which was previously before the Board. The petitioner has agreed to comply in the Spring. It will be done by May 1st or she will be in violation.
- Jay James explained a new procedure that is in place. When a variance is approved, the conditions are entered into the computer so that the Building Department will be flagged on these restrictions and contingencies.
- Kathleen Jackson and Jay James provided updates on numerous developments throughout the Township, including the purchase of Sally's, approval for On-The-Dunes which offers a golf simulator, volleyball and a restaurant, along with five potential restaurants, subdivisions and condos that are progressing through phasing.

NEXT REGULAR MEETING DATE: THURSDAY, APRIL 25, 2013.

ADJOURNMENT

MOTION by Rosman, supported by Mills, to adjourn the meeting at 9:32 pm.

MOTION CARRIED UNANIMOUSLY



Jorge Pacheco, Secretary