

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

Thursday, April 28, 2011
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
Bill McKeever
David Law
Clarence Mills
Also Present: Kathleen Jackson, Township Planner
Rick Sovel

Chairperson Rosman introduced the Members of the Board to those present, as well as Kathleen Jackson. She welcomed David Law to the Board. He will be replacing Rick Sovel who recently resigned and was also in attendance for the transition. 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, applicants would need the approval of 3 out of the 5 Zoning Board of Appeals members present.

APPROVAL OF MEETING MINUTES

MOTION by Jorge, supported by Mills, to approve the Zoning Board of Appeals Meeting minutes of January 27, 2011, as presented.

MOTION CARRIED UNANIMOUSLY

UPDATE OF ACTIVITIES

Rick Sovel – Township Board & Library

- We have a new Clerk, Dan Munro, and therefore he is no longer a Trustee.
- David Law was appointed to fill Dan's position. David has quite a few years experience in the Township, and was previously a State Representative in Lansing. We are proud to have him as a member of our team.
- The long awaited M5 Martin Parkway connection is going to happen. It went out for bids in April and will be awarded next month. Construction is scheduled to begin mid June, and completion is expected in November. This will include the roundabout at Pontiac Trail, Martin Parkway and M5. The bad news is that there will be traffic disruptions and road closures. Details are still uncertain, but the Township and Library web sites will have updated information posted as it becomes available. (Open discussions took place regarding Library entrances.)
- In closing, I have been on the ZBA for about 18-20 years and it has been great working with everyone. David Law will take over my position, and I do plan to visit.

Bill McKeever – Planning Commission

- Approved site plan for 3433 East West Maple Road, at Haggerty, for a Dunkin Donuts. This used to be a drive-thru Burger King.
- Approved site plan for Comcast to put an addition on the existing facility at 1122 N Commerce Road.

PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None

ITEM I: A11-01 – MICHAEL SMITH – PUBLIC HEARING

Michael Smith of Commerce MI representing Commerce Lake Estates is requesting a variance from Article 10 of the Commerce Township Zoning Ordinance to allow an accessory structure on a parcel without a principal structure located on Lot 109 (beach property) in the Commerce Lake Estates Subdivision off Vollmers Road. Sidwell No.: 17-15-302-015

Chairperson Rosman opened the public hearing.

Michael Smith, Petitioner, 3336 Buss Dr, Commerce, MI, was present and spoke to the variance.

Michael Smith – I have been in the sub for 22 years and have been on the board. Everyone wants a pavilion for meetings, parties and community activities. We have always taken care of this private area and there have been no problems with maintenance. There is no existing building on the site; therefore, we need the variance to build a pavilion. It will be a 22'x30' pavilion, open on all sides, and usable by all residents of Commerce Lake Estates.

Annette Brown, 1082 Clara St, Commerce, MI, opposed the request. She stated that she lives across from the beach area. She has been on beach patrol during the 28 years she has lived there and she's opposed to the pavilion for several reasons. She is concerned that it will obscure the view of the beach, which is the reason she bought the home. Another concern is security as the beach area is not fenced so it is open to anyone whether they live there or not. There have been problems in the past with lots of teenagers gathering there at night and the sound carries on the water so she hears it all. There is no parking on the beach so cars park all around the homes. The pavilion will create excess traffic and add to these issues.

Paul Carlisle, 3351 Buss Dr, Commerce, MI was in support of the proposal. He has lived in the sub in the home he built there for 8 years now. He is the current president of the association and has been for 6 years. He explained that the association accumulated funds over the years for projects. To obtain feedback from residents on how to use the property, they do a mail vote as the participation at normal sub meetings is limited. The mailing of the pavilion ballots received a very good response – about 50% replied, and about 50% of those were in favor of moving forward with building a pavilion.

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The association is funded and continues to receive dues annually. The club was created to maintain the area, cut the grass, add lighting, etc. to keep it secure. The pavilion will be see-through and essentially will not change the views as it will be behind the existing play structure on the playgrounds which were installed a few years ago. Tents have been used in the past for holiday gatherings and activities, however it would be better to have something permanent to allow everyone to enjoy the area more and keep it secure. The Richardson Center has been used for events but it does not generate the same turnout as having a meeting or an activity at the beach. In addition, people are asked not to park there.

Ed Szmatala, 1045 Clara St, Commerce, MI, expressed his opposition. He said that his home is kitty-corner from the park, 45 or 50 yards from the beach, and he has a view of the water out his picture windows. They can argue that the swing set is there already and will be replaced by the pavilion but it may obstruct the view. He does not feel that the pavilion is necessary for activities. And, if there is a structure there, it may bring additional people from the south side of the lake. There's no real policing of the site. Annette Brown and her family are the police as she can see who comes and goes, but it should not be their responsibility to monitor this. In the winter, lots of people come to ice fish and no one polices them. Young people will hangout there. From an economical stand point, a tent may cost \$1,000 to put up, but the pavilion costs \$23,000, so the return on investment is 23 years. It's not fiscally responsible. The other aspect is a lack of security – anyone can come there. Does the Township want to pay every time someone has to call the police? What is the value added and who will gain from it?

Steve Bardocz, 3314 Buss Dr, Commerce, MI, was a proponent. He promoted the community feel of the neighborhood, the lake atmosphere and the people enjoying being out on the lake. There have been some problems with the beach, but most people move to a lake area for the community – to socialize with friends and enjoy the lakefront. Those who are complaining are addressing bigger problems that don't have anything to do with the variance itself. And for those near the beach, you knew when you bought the home that this was a common access area shared by the neighborhood. From my perspective, the majority would find this to be a benefit to the neighborhood for community meetings and parties. This will allow for meeting and events to be held despite the weather. Some also addressed an obstruction of their view. I did speak directly with Bob Brodeur who lives right across the street from the beach. He submitted a letter. Overall, he is in favor of the younger crowd in the neighborhood getting involved. He's not concerned with views or noise, only with maintenance. (He presented the letter to Chairperson Rosman for the record.)

Fred Mannix, 3495 Buss Dr, Commerce, MI. He said that the groups of people present in favor of the request are not the same ones who maintain the site. The beach has been a disaster.

Chairperson Rosman then closed the public hearing as there were no additional questions or comments. She also explained to those present that an official notification

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of this meeting and public hearing had been made for those residents living within 300' of the site.

There were -3- returns and -1- letter.

Chairperson Rosman read the letter into the record from Bob Brodeur, 1100 Vollmers St, Commerce, MI. Mr. Brodeur voted in favor of the pavilion, but he expressed concerns with maintenance. There is generally a shortage of volunteers and the work has gone incomplete on several occasions.

Board Comments:

Pacheco –

- Can you clarify exactly how much support there was?

Mr. Carlisle stated that there are 132 homes in the sub. Over 50% responded. The vote actually passed by 6 over the 50% mark.

Pacheco –

- So it was a pretty good reply.
- There are no “No Parking” signs in front of the park, and it has been that way since the sub created it.
- That park was established at the time the sub was built I assume, and everyone who bought homes there had the understanding that it was a shared park, correct? (Yes.)
- Patrolling issues may need to be addressed by the sub group.
- It's not much different than other places and it's tough to enforce.

McKeever –

- While I do think something like this is an asset to the neighborhood community, I also think things should be kept as simple as possible when it comes to meeting the criteria to qualify for a variance.
- Based upon your own testimony, the beach is used in all sorts of ways. The pavilion would be an asset; however it is not a necessity as you don't require it in order to enjoy the property. The site is of great use currently without a variance.
- In consideration of the criteria required, I would have a hard time voting in favor.

Mills – Is there an established association with a president and a maintenance committee to handle everything?

Chairperson Rosman – It is informal.

Mills –

- So it's not established.
- Is tax paid on the parcel?

Chairperson Rosman – It is deeded to each homeowner and donated as a beach, similar to the boat launch site. The developer dedicated the land with the subdivision.

Kathleen Jackson – (To Mills) This is different than your neighborhood where you have a homeowner's association for the site condominium with common elements.

Mills –

- I do agree with McKeever. The beach can be used as it is and therefore I would have trouble voting in favor.

Law – What events have you had there that you needed to pay for a tent?

Mr. Carlisle – For any event, it is better to keep the food in a covered area. It is also dangerous and inappropriate for the elderly in wheelchairs to be around the tent stakes or out in inclement weather. They need a safe, shaded covered area.

Law –

- “Why is it necessary?”

Rosman –

- Where I live in Mount Royal, we have a pavilion. I inquired with our board – “If the pavilion were destroyed, would you put it up again?” They replied, “Absolutely not.”
- There were concerns with many people gathering there who did not belong, especially during inclement weather, and it presents a policing problem. It is a problem 12 months out of the year.
- Also, the maintenance dues are voluntary. If the money is not received, what is the system for repairs, where does the money come from and who does it?
- Mount Royal also has a locked gate, but kids still manage to get in. It's a lovely property, but there is no way to keep them out.
- There is no principle building for this to be attached to, and I cannot find in favor of this based upon the criteria.

Pacheco –

- I was debating as to my views on this proposal.
- I visited the property and saw the markings for the layout. What was there didn't seem to affect anything; however, the members of this Board have brought to light several things to consider.

MOTION by McKeever, supported by Mills, to deny Item A11-01, the request by Michael Smith of Commerce MI, representing Commerce Lake Estates, for a variance from Article 10 of the Commerce Township Zoning Ordinance to allow an accessory structure on a parcel without a principal structure located on Lot 109 (beach property) in the Commerce Lake Estates Subdivision off Vollmers Road. Sidwell No.: 17-15-302-015. Denial is for the simple fact that the request does not meet the criteria as set forth in the Commerce Township Zoning Ordinance, nor does it meet the Michigan State Statute as adopted.

MOTION CARRIED UNANIMOUSLY

ITEM II: A11-02 – JAMES CORAM – PUBLIC HEARING

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James Coram of Commerce MI is requesting a variance from Article 33 of the Commerce Township Zoning Ordinance to exceed the maximum square footage and height allowed for an accessory structure located at 170 Marci Lane.
Sidwell No.: 17-02-352-059

Chairperson Rosman opened the public hearing.

James Coram, Petitioner, 170 Marci Lane, Commerce Township, MI, was present and spoke to the variance.

James Coram – Our number one reason for the request is safety. I am a contractor so I have a trailer on my vehicle, gardening equipment, etc. and it all takes up quite a bit of space. Other homes are distant – it's about 300' from anything. There is an old barn at the church on one side, and to the left is a retention pond and two homes. My lot is almost 2 acres at the end of a cul-de-sac. This building will allow for all vehicles to be put inside which is a plus. I don't believe that any of my neighbors would have complaints. They've approved of the landscaping I've done in the past. It provides security by putting everything inside, and I will landscape the area and complete it with brick.

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

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

Board Comments:

Mills – What is the current height from peak to ground, and what will be the increase?

Mr. Coram – It will be 4' higher and 10' wider than the existing.

Law – Although I understand what you want to do, and it will look nicer and be helpful, my concern is with the word *hardship*. Why is this necessary?

Mr. Coram – I do agree, and that is why I am hoping for flexibility. My neighbors did come to me to discuss it. I explained that if I am approved, they will no longer have to look at my belongings. However, if denied, I would just have to forget about it.

McKeever –

- I had the same concerns as David.
- It's a beautiful place but I think that this is enormous. It doesn't just exceed by a little – it destroys the limit.
- I don't see where it meets the hardship or where I could be comfortable voting in favor of it.

Rosman –

- I do understand that this is big.

- My other concern though is with having everything all over the place.
- You are a sole proprietor with equipment, and a boat, etc. so it is an issue. Do we contain this, or leave it all over?
- I know that you are a bit shy of 2 acres, and if it were 2 acres, you wouldn't be here at all. This is really a judgment call.
- Are you willing to landscape around the barn and put trees all around to "make it disappear"?

Mr. Coram – Absolutely. And the neighbors are distant. In a normal sub, I understand that this would be too large. It is 20' longer, 4' higher and 10' wider. I will be paving all around and including a walkway. The deck will be redone and it will all be surrounded by trees. I did go to the neighbors prior to applying to ask about any opposition.

Rosman – I do understand that you are awfully close to the 2 acres and personally, I would rather see the stuff put away.

Pacheco – Have you tried to work with the Building Department to reduce the variance request? You could work toward something that meets the ordinance more closely and be able to take care of the problem.

Mr. Coram – It is cost wise. I did think about making the existing garage bigger on the house, but that cannot be done without a variance either. I could add on, but it would not look good. It is cheaper to just build new and this size allows for the van and trailer to be enclosed.

Kathleen Jackson –The design is not of concern – it is the scale. As Bill McKeever knows, scale is a topic discussed at nearly every Planning Commission meeting. We would like to have the opportunity to meet and work toward a compromise.

Mr. Coram stated that he would be willing to work with the staff in this capacity.

Kathleen Jackson noted that there is a special Zoning Board of Appeals meeting on May 19th at which the item may be reviewed again.

MOTION by McKeever, supported by Mills, to table Item A11-02, the request by James Coram for a variance from Article 33 of the Commerce Township Zoning Ordinance to exceed the maximum square footage and height allowed for an accessory structure located at 170 Marci Lane. Sidwell No.: 17-02-352-059. The request is tabled while the petitioner works with Administration to determine if further modifications can be made toward bringing the proposed closer to meeting ordinance requirements, thereby possibly reducing the variance request. **MOTION CARRIED UNANIMOUSLY**

OTHER MATTERS TO COME BEFORE THE BOARD

Kathleen Jackson distributed information provided by Supervisor Zoner to the Board members regarding terms of appointment to the Zoning Board of Appeals, Library Advisory Board, and the Planning Commission. In the past, these appointments have

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been for 3 year terms. In the future, these terms will need to be staggered (as indicated by the diagonal lines on the handout) per the Township Attorney's advice.

NEXT SPECIAL MEETING DATE: MAY 19, 2011.

NEXT REGULAR MEETING DATE: THURSDAY, JULY 28, 2011.

ADJOURNMENT

MOTION by Mills, supported by Law, to adjourn the meeting at 7:58pm.

MOTION CARRIED UNANIMOUSLY

Jorge Pacheco, Secretary