

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

Tuesday, February 5, 2019

2009 Township Drive
Commerce Township, Michigan 48390

A. CALL TO ORDER: Rusty Rosman, Chairperson called the special meeting to order at 7:05pm.

<u>ROLL CALL:</u> <u>Present:</u>	Rusty Rosman, Chairperson Rick Sovel Bill McKeever
<u>Absent:</u>	Jorge Pacheco, Secretary Clarence Mills Robert Mistele, Alternate ZBA Member
<u>Also Present:</u>	Paula Lankford, Assistant to the Planning Director

Chairperson Rosman introduced the Members of the Board to those present, as well as Paula Lankford. She reviewed the requirements for receiving a dimensional variance from the Zoning Board of Appeals, including the fact that all standards are to be met by the applicant. She assured the applicant present that the site of the proposed variances has 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. Lastly, she noted that any documents, photos or other items presented to the ZBA by the petitioner to assist Board members in making a decision will be copied and retained for the permanent record.

Chairperson Rosman added that in order to have a variance approved this evening; applicants would need the approval of 3 out of the 3 ZBA members present.

B. APPROVAL OF MEETING AGENDA

MOTION by McKeever, supported by Rosman, to approve the Zoning Board of Appeals Special Meeting Agenda for February 5, 2019, as presented.

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MEETING MINUTES: None.

D. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA: None.

E. UPDATE OF ACTIVITIES IN COMMERCE TOWNSHIP: None.

F. OLD BUSINESS: None.

G. NEW BUSINESS:

ITEM G1: PA19-0001 – STEVE HUYNH – PUBLIC HEARING

Steve Huynh of West Bloomfield MI is requesting variances from Article 6 of the Commerce Township Zoning Ordinance to construct a single-family home that will

encroach into the minimum side yard and total side yard setbacks and the minimum distance to adjacent structures located at 8463 Arlis. Sidwell No.: 17-12-452-004

Chairperson Rosman opened the public hearing.

Steve Huynh, 1521 Stauch, West Bloomfield, MI, was present along with his builder, Matt Landino, 1020 S. Elizabeth Lake Road, White Lake, MI, to speak to the variance.

Matt Landino – We are asking for side yard setbacks. We're staying in the same footprint, but we're getting more elongated. It's almost exactly the same as what the neighboring house is, the adjacent house to the west, and their square footage. We're not asking for anything longer or larger.

Steve acquired the property and he was under the assumption – we hate to use that word, but the assumption that everything was okay. I came in to get a permit for something, and it came up that the variances for the property were already expired. When he bought the property, he only had one month to take care of everything; get a builder and a house plan. It was misrepresented to him how much time he actually had to use these variances.

Chairperson Rosman – Oh, you're saying that when he purchased the house, he was under the assumption that there was one month left on the variance?

Matt Landino – No, we didn't know there was one month left on the variance.

Chairperson Rosman – Oh, he did not know it. Am I correct that the seller did not share with you that variances were granted, and there was 365 days to use it?

Steve Huynh – Yes.

Matt Landino – Correct. We are here today asking for these variances. I talked to the Building Department, and we have the house they're going to approve. We've already shown it to them, and there's no situation with that, other than the stipulations that they put on us, which we've agreed to obviously. We want to get a house in this footprint. Basically, we're asking this because he was under the assumption that he was allowed to do this, and otherwise, he probably never would have bought this property.

Chairperson Rosman – Steve, is there anything you'd like to add?

Steve Huynh – No.

Chairperson Rosman – Sir, is there anything you would like to speak to this evening?

Ray Golota, 1595 Vanstone Drive, Commerce Township – No, thank you.

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

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

Board Comments:

Sovel – No comments.

McKeever – No comments.

Chairperson Rosman – We understand the variances you're asking for, are as follows:

1. A variance of 2.4 feet relative to the requirement of Section 6.02.C;
2. A variance of 7.42 feet relative to Section 6.01;
3. A variance of 1.0 foot relative to Section 6.01;
4. A variance of 0.42 feet relative to Section 6.01.

These are the exact same variances requested by the previous owner of this property.

Matt Landino – That's correct.

Chairperson Rosman – While that owner received the variances, they did not use them within the time period, so you're asking for us to give you the same thing.

Matt Landino – Correct.

Chairperson Rosman – Okay, is there anything else that anybody would like to add?
Paula?

Paula Lankford – They've covered it.

McKeever – The motion should be the same as the previous.

MOTION by Sovel, seconded by McKeever to approve with a condition, Item PA19-0001, the request by Steve Huynh of West Bloomfield for variances from Article 6 of the Commerce Township Zoning Ordinance to construct a single family home that will encroach into the minimum side yard and total side yard setbacks and the minimum distance to adjacent structures located at 8463 Arlis. Sidwell No.: 17-12-452-004 Based on the presentation and comments we have heard, we believe the applicant, Steve Huynh of West Bloomfield MI, has satisfied all the criteria of Section 41.09 of the Township Zoning Ordinance for granting a dimensional variance; therefore, I make a motion to approve the request for variances from the following Zoning Sections:

1. A variance of 2.4 feet relative to the requirement of Section 6.02.C, for a minimum of 10 feet of separation between adjacent structures;
2. A variance of 7.42 feet relative to Section 6.01 for the minimum 14 foot of combined side yard;
3. A variance of 1.0 foot relative to Section 6.01 for the minimum side yard setback of 4 feet on the east side;
4. A variance of 0.42 feet relative to Section 6.01 for minimum side yard setback of 4 feet on the west side.

Approval is for the following reasons:

- A. Without the requested variances, the property cannot be used in the same manner as others in that zoning district use their property;
- B. The variances requested will at least allow the applicant to be put on the same equal footing as others in the same zoning district;

- C. The variances needed are due to the unique features, size and shape of the property;
- D. The problem was not self-created due to the size of the property;
- E. Granting of this variance will not cause significant adverse impacts;
- F. The practical difficulty and the hardship sought to be cured by the variance requests are not just a minor inconvenience, or a desire for a higher financial return.

Approval is subject to the following condition:

1. ~~Fire retardant materials will be used on both the east and west side walls, including 5/8" double-thickness drywall on the interior, and the use of brick, aluminum trim, fascia, soffit and gutter on the exterior.~~ Fire retardant materials will be used on the east and west walls, with a one-hour fire rating, as approved by the Building Official.

Discussion –

McKeever – On the variance, #3, it's a variance of 1.0 foot, not .01 foot. (*corrected above*)

Chairperson Rosman – Did I say it backwards? I apologize.

Matt Landino – Can I make a correction also? The part that says fire retardant materials, east and west side walls, including 5/8" double-thickness. I talked to the Building Department and we figured something else out. I don't want to be bound to this.

Paula Lankford – I talked to Jay tonight. He said they had it all figured out.

Chairperson Rosman – Let's do it this way. "Fire retardant materials will be used on the east and west walls, with a one-hour fire rating, as approved by the Building Official."
(*stricken and corrected above*)

Matt Landino – Yes, thank you.

MOTION CARRIED UNANIMOUSLY

H. OTHER MATTERS: None.

I. CORRESPONDENCE: None.

J. PLANNING DIRECTOR'S REPORT: None.

K. ADJOURNMENT:

- **NEXT REGULAR MEETING DATE: THURSDAY, MARCH 28, 2019 @5:30PM**

MOTION by McKeever, supported by Sovel, to adjourn the meeting at 7:23pm.

MOTION CARRIED UNANIMOUSLY

Jorge Pacheco, Secretary