

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

Thursday, November 17, 2022

2009 Township Drive

Commerce Township, Michigan 48390

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

ROLL CALL: Present:

Rusty Rosman, Chairperson
Clarence Mills, Vice Chairperson
Bill McKeever
Rick Sovel
Sarah Grever, ZBA Alternate Member
Robert Mistele, Secretary (excused)
Paula Lankford, Planner
Jay James, Engineer/Building Official

Absent:

Also Present:

Chairperson Rosman introduced the Members of the Board to those present, as well as Jay James and Paula Lankford. She explained that Sarah Grever would be sitting in for Robert Mistele tonight. She reviewed the requirements for receiving either a dimensional and/or sign variance from the Zoning Board of Appeals, including the fact that all standards are to be met by the applicant. She assured the applicants present that the sites of the proposed variances have been visited by the members of the Zoning Board. She also explained that if a petitioner's variance request is granted, they will receive their letter of approval by mail. It is imperative that the letter be presented when applying for a building permit. A variance is valid for 365 days from the date of the approval letter. If the variance is used, it runs with the land; however, if it is not used, it expires.

B. APPROVAL OF MEETING AGENDA

MOTION by Sovel, supported by Mills, to approve the Zoning Board of Appeals Regular Meeting Agenda for November 17, 2022, as presented.

ROLL CALL VOTE:

AYES: Sovel, Mills, McKeever, Grever, Rosman

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MEETING MINUTES:

MOTION by McKeever, supported by Mills, to approve the Zoning Board of Appeals Regular Meeting minutes of September 22, 2022, as written.

ROLL CALL VOTE:

AYES: McKeever, Mills, Grever, Rosman, Sovel

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY

D. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA:

Ray Golota, 1595 Vanstone Dr, Commerce Township – I don't want to talk about what's going to happen with these two agenda items, but I do have a question. Number 1, as you go through these, is anybody going to review exactly what's in Article 33? Number 2, is there such a thing as structures being grandfathered in? In other words, they built a gazebo in 1985, and if someone wanted to build a gazebo now, they can't do it unless

it's attached to the house. I'm kind of curious if that's going to be discussed. Also, when was the break point of when it was grandfathered in?

Jay James – I can speak to the grandfathering in. If there's an existing structure that was in place prior to our ordinance taking effect, if they built the gazebo before we had an ordinance that didn't allow it, and I'm assuming you're talking on the lakeside ...

Ray Golota – Yes.

Jay James – That gazebo is considered legally nonconforming, which means it can stay there, they can do repairs to it, but if it burns down or falls down, where more than 50% of it is damaged, they cannot replace it exactly where it was. It then has to be brought into today's ordinance.

Ray Golota – When did that ordinance take effect? The reason why I'm asking, and I'm going back a few years, it seems like I get different responses, and not from Jay or Paula, but that it was never in there.

Jay James – I would have to go back and look that up.

Ray Golota – I'm just curious.

Paula Lankford – It has been in the ordinances for quite some time. I think it was in our 1971 ordinance, and our 1985 ordinance, and it carried through to our 2010 ordinance that we're on now. You've never been able to have a structure on the lakeside since 1970. That's taking a good guess.

E. UPDATE OF ACTIVITIES IN COMMERCE TOWNSHIP:

Bill McKeever – Planning Commission

- We are still updating the Master Plan.
- At Monday's meeting we approved a parking lot expansion for Costco. Their ultimate goal is to redesign their fueling station and make it larger, with wider bypass lanes.

Chairperson Rosman – When you drive into Costco and you're facing the pumps, are they going to the left, or in front of where the pumps are?

McKeever – If you're facing the pumps, the new gas station will be to your left.

Paula Lankford – It will be moved to the east, so it runs along Commerce Crossing. That will come next year. Right now, it's just the parking lot.

Chairperson Rosman – Okay, thank you. Was there a good turnout for the Master Plan discussion?

McKeever – It seemed busy. I was getting here as it was ending.

Paula Lankford – We had a good turnout, yes.

Chairperson Rosman – I'm so glad to hear that. Thank you very much.

Rick Sovel – Township Board

- We are working on our budget and we hope to have that passed in a couple of weeks.
- You may have noticed; the blue wave panels are finally back on the bridge. That has been a long time coming.

F. OLD BUSINESS:

None.

G. NEW BUSINESS:

ITEM G1. PA22-08 – ANNA HOUSE – PUBLIC HEARING

Anna House of Washington Township MI is requesting a variance from Article 33 of the Commerce Township Zoning Ordinance to construct a detached garage (to replace an existing damaged garage) that is located in the lake side front yard at 1502 W. Oakley Park Road. Sidwell No.: 17-16-479-010

Chairperson Rosman opened the public hearing.

Anna House, 1502 W. Oakley Park Road, Commerce Township, was present along with her daughter, Angelina Aeck, her husband, Mr. House, and other supporters.

Chairperson Rosman asked the petitioners where they park. Anna House stated that the driveway is located to the left of the house.

Angelina Aeck – We are requesting to rebuild the garage that was located there. A willow tree fell on top of it and totally destroyed it after a storm. We just want to replace what was already there. I saw in the paperwork it said something about increasing the size of it, and we're not. The whole garage itself went beyond the cement pad, if that was what you were considering the original structure. It is maybe two feet wider. The back half there, you can't really see it very well, but it was up on decking, where the dirt is at.

Chairperson Rosman – And you want to go as far as the decking was?

Angelina Aeck – Right, with cement and not with decking anymore.

Chairperson Rosman – Is there anything else you'd like to tell us?

Angelina Aeck – No, I guess that's it, unless you have any questions.

Anna House – It's important so we can store all of our stuff. There's no other storage.

Chairperson Rosman – Thank you.

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

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

Board Comments:

McKeever – I don't have any issues with request.

Sovel – Where did the difference in the dimensions come from?

Paula Lankford – The 241 square feet that I came up with, I got that from our Assessing Department.

Sovel – So do we know what the correct number really is?

Paula Lankford – I'm assuming it's the 241, but I did not go out there to measure it.

Sovel – Did it have a cement floor for the entire garage?

Anna House – The back of the garage did not.

Mr. House – It was an enclosed covered deck.

Anna House – We used it as part of the garage.

Sovel – Was it enclosed?

Anna House – Yes, it had a roof and it was enclosed. It was attached, where the dirt is, it was built up on a platform.

Chairperson Rosman – So it was added on after?

Anna House – Yes, it was there for years.

Sovel – So was it a garage and a deck?

Angelina Aeck – It was like a boathouse.

Sovel – Are you looking to replace exactly what it was, or you want it all to be enclosed garage?

Anna House – We want to do an enclosed garage. We don't want to do the wooden deck.

Chairperson Rosman – They want the same size they had before, but all enclosed.

Sovel – I'm just not sure if the square footage is right.

Jay James – It looks like the slab is about 190 square feet. If I go to the aerial of the structure, the structure itself looks like it overhung the slab on the lakeside. It's about 246 square feet.

Sovel – Okay, so is the smaller dimension the slab?

Jay James – I think the smaller dimension is the slab. I think the building itself was about 241 square feet. I'm getting 245 off the aerial.

Sovel – What did we post for?

Paula Lankford – We don't post for size.

Sovel – Okay, I'm comfortable with it as long as you're not making it bigger.

Mills – Are you going to put a new slab in there that the garage is going to sit on?

Anna House – Yes.

Mills – Is this new slab going to have a rat wall?

Mr. House – Yes.

Mills – Okay. I really don't have any problems with it either, based upon your answers to the questions I had.

Grever – I don't have any problems. We had quite the storms last year. I'm glad no one was hurt.

Chairperson Rosman – I really don't want to put it there, but you have no other place to put it. I counted everybody around you and everybody has something. I don't have a problem with it and you certainly are not making it too big. We understand what you want. Paula and Jay, is there anything you would like to add?

Jay James – Just that we were just discussing the size. We show it being around 245 originally, but on the site plan it says 14x28, which is 392, so it is getting bigger. That was your question, Rick.

Sovel – I thought I saw that someplace.

Jay James – So you are proposing that it be larger than it was before?

Mr. House – A little bit with the way the grade is.

Angelina Aeck – The structure itself is the same size, but the back half of it was not on cement. It was on the wooden deck, but it was all garage. There was a wall in between those two sections, but it was all used as garage.

Chairperson Rosman – In other words, it's going to be under 400 square feet?

Jay James – Yes, it's going to be under 400 square feet. This is the aerial from the year 2000, and you can definitely see the roof of the structure. Are you saying there was more that wasn't covered by a roof?

Angelina Aeck – Yes, and it was covered by a separate roof.

Mr. House – The trees cover it.

Sovel – Jay, can you try to calculate that?

Jay James – I can't see it.

Sovel – You can kind of see where there is a different outline in the grass.

Chairperson Rosman – You can see where it is.

Mr. House – The walls weren't on the concrete; they went forward a little bit.

Jay James – So if you're proposing 14x28 ...

Angelina Aeck – I have a picture of it.

Jay James – That rectangle I just drew is 14x28.

Sovel – That's too far forward.

Grever – I think there's a fence right there at the corner, on an angle.

Angelina Aeck – Yes, there's a fence.

Mr. House – I think the stakes didn't go past the fence line.

Grever – Previously, it was like a stilted building, also with a slab foundation. It is mentioned in your letter that you wanted to address the grading issue, so you could avoid a wall. That is a great budget saver and less for the Township to worry about.

Chairperson Rosman – Rick, if the number is under 400, are you comfortable with that? I know you want it exact, but the tree isn't helping.

Sovel – I just don't want it to change the view.

Chairperson Rosman – They're going over the exact same area. The difference is that part of it had cement, and part of it had decking. Now, instead of decking, that area will be cemented, but they're not going bigger than that.

Paula Lankford – It's going to be about 134 feet from the water.

Chairperson Rosman – Are there any other questions? Any other input anybody would like to make? Jay, are you comfortable with what we're talking about?

Jay James – Yes.

Chairperson Rosman – Thank you. Then the Chair will call for a motion.

MOTION by Mills, seconded by Grever, to approve Item PA22-08, the request by Anna House of Washington Township MI for a variance from Article 33 of the Commerce Township Zoning Ordinance to construct a detached garage (to replace an existing damaged garage) that is located in the lake side front yard at 1502 W. Oakley Park Road. Sidwell No.: 17-16-479-010

Based on the presentation and comments we have heard; I believe the applicant has satisfied the criteria of Section 41.09 of the Township Zoning Ordinance for granting dimensional variances and therefore I make a motion to approve the request. **The structure will be under 400 square feet as discussed herein.**

Approval is for the following reasons:

1. Approving the request does not change the character of the property or the neighborhood; and,
2. This is a unique piece of land, being narrow, and there is no other place to locate the garage.

ROLL CALL VOTE:

AYES: Mills, Grever, Sovel, Rosman, McKeever

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY

ITEM G2. PA22-09 – TREVOR HULLINGER – PUBLIC HEARING

Trevor Hullinger of Commerce Township MI is requesting a variance from Article 33 of the Commerce Township Zoning Ordinance to replace an existing legal non-conforming shed that is located in a front yard at 1041 Superior. Sidwell No.: 17-22-154-031

Chairperson Rosman opened the public hearing.

Trevor Hullinger, 1041 Superior, Commerce Township, was present to address the request.

Trevor Hullinger – The current 8x8 has been there as long as we've been there, 11 or 12 years. The building is starting to rot on the trim. It doesn't leak or anything. It basically holds my lawn mower in the current 8x8 configuration. As my family grows, I need my shed to grow. It will be exactly where the corner is, and come out 12 instead of 8, and 20 instead of 8. That whole section would just be rocks and shed.

Chairperson Rosman – Is there anything else you'd like to add?

Trevor Hullinger – No.

There were -0- returns and -1- letter.

Chairperson Rosman read the letter into the record.

*Dear Mr. Campbell and the Board,
I was contacted by mail with the opportunity to comment on the proposed Zoning Ordinance variance for one of my neighbors, so I am writing to comment on the proposed variance for an existing shed, that is located in the front yard at 1041 Superior Street, and I would like the contents of this letter to be recorded as "public comment".*

After reviewing the zoning map and Article 33 describing the requirements and standards for residential accessory structures, I recommend and support allowing this variance to be approved. Although the existing shed is in the area between their house and Superior, the front of their house actually faces the private access drive, shared by the Hullinger's, myself and one other resident. The existing shed may be legally considered to be in their front yard, but in my perspective, that shed and the proposed replacement in a similar location does not violate the intent of the ordinance, because their house does not face Superior. So, I believe the waiver should be granted. If you have any questions, please feel free to contact me.

*Melissa E. Smith
1109 Superior Street
Commerce Township*

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

Board Comments:

Grever – My biggest concern was your neighbors, and it seems like you have a supportive neighbor. You do have a unique lot. I've heard that they are sometimes called a hockey stick. I do not have any issues, because you don't have issues with your neighbors, you will be under 400 square feet, and you're replacing in a similar spot of your existing shed.

Mills – I really don't have any concerns. I just wanted to comment that I thought you did a good job of staking out where you wanted the proposed shed to be.

Trevor Hullinger – And I was able to get my three-year-old to leave them there.

Chairperson Rosman – That was hard. She was so cute.

McKeever – No issues.

Sovel – No issues.

Chairperson Rosman – I have no issues either. Jay and Paula, anything to add?

Jay James – No.

Paula Lankford – No.

Trevor Hullinger – Jay, we'll probably come see you on Monday.

MOTION by Rosman, seconded by Mills, to approve Item PA22-09, the request by Trevor Hullinger of Commerce Township MI for a variance from Article 33 of the Commerce Township Zoning Ordinance to replace an existing legal non-conforming shed that is located in a front yard at 1041 Superior. Sidwell No.: 17-22-154-031. **The shed will not exceed the dimensions specified on the building permit, which will be less than 400 square feet as discussed herein.**

Based on the presentation and comments we have heard; I believe the applicant has satisfied the criteria of Section 41.09 of the Township Zoning Ordinance for granting dimensional variances and therefore I make a motion to approve the request.

Approval is for the following reasons:

1. The variance will put the applicant on equal footing with others in the same zoning district; and,
2. The neighbors have commented and do not have any issues with it; and,
3. It will not cause any significant adverse effects in the area.

ROLL CALL VOTE:

AYES: Rosman, Mills, Grever, Sovel, McKeever

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY

ITEM G3. ZONING BOARD OF APPEALS 2023 MEETING SCHEDULE

Paula Lankford – I just wanted to make sure you realized that I moved the May meeting. We have never done that, but this will avoid holding the meeting on the Thursday before Memorial weekend.

Chairperson Rosman – That’s fine.

MOTION by McKeever, supported by Mills, to recommend approval of the 2023 Zoning Board of Appeals Meeting Schedule.

ROLL CALL VOTE:

AYES: McKeever, Mills, Sovel, Rosman, Grever

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY

H. OTHER MATTERS:

Sovel – At our last Township Board meeting, George Weber and I discussed an idea to try to make the ZBA and the Planning Commission have more similarities in their procedures and operations. It has been suggested that both boards adopt the following changes:

1. Both boards should go visit every property.
2. Anytime there's a new member, they have to go through one of two different training programs before they can actually start.

Paula Lankford – I talked to Dave about it and I thought they were giving them 6 months from the date of their appointment to do a basic training.

Sovel – Hans also spoke up and he said he tries to come in once a year.

Paula Lankford – We missed it last year.

Sovel – 2020 was probably the last time we had him come in.

Chairperson Rosman – He usually comes to the January meeting.

Sovel – But that’s not training for a new member.

Chairperson Rosman – No, but we have always done it as an educational meeting, and he has always been at that meeting.

Paula Lankford – But Bob, being your newest member other than Sarah, went to the Zoning Essentials class, and I went to it with him, and so did Missy, the Township Clerk. I just need to get Sarah engaged in a class. You have all been to it, and I think the ZBA is staying on top of things.

Discussion continued regarding training programs with the Michigan Association of Planning.

Chairperson Rosman – I am happy with our garbage service and I love my Library drive-through window.

I. CORRESPONDENCE:

None.

J. PLANNING DIRECTOR'S REPORT:

Chairperson Rosman – The report was in our packet. I enjoyed that. You said you had a nice turnout for the Master Plan Open House you held on Monday. Were there interesting comments?

Paula Lankford – It was a good turnout. There were interesting comments. They put a tool on the laptop, which asked residents to put in up to 5 words as to what they want in their place to live. The answers were projected on the overhead, and the more a response was repeated, the bigger those words were displayed. Interestingly, the words “less traffic congestion” were in the smallest print. I was shocked. It was a great turnout. We had a lot of developers and property owners for the first meeting.

Chairperson Rosman – I was delighted to see that. I was also happy to see on the website the direction to get boats and RV's into their proper places. My subdivision looks better than it did last year.

K. ADJOURNMENT:

- **NEXT REGULAR MEETING DATE: TENTATIVELY; THURSDAY, JANUARY 26, 2023 AT 7:00PM.**

MOTION by Mills, supported by Grever, to adjourn the meeting at 7:37pm.

AYES: Mills, Grever, McKeever, Sovel, Rosman

NAYS: None

ABSENT: Mistele

MOTION CARRIED UNANIMOUSLY