

CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, OCTOBER 16, 2013 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Borowicz, Croft, Ostwald, Lyon, Churchill
ABSENT: Kavanaugh, Jazdyk
STAFF: Scott McNeil, Steve Schnell
GUESTS: Bob Lyon, Wendy Loffer, Randy Loffer, Tony Matelski, John Moore, Jim Rutledge, Greg Lee, John F. Brown, Sue Allor

The meeting was called to order by Chairperson Croft at 7:00pm.

PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Borowicz, seconded by Mr. Ostwald, to approve the agenda as presented. Motion carried. 7 Ayes (Bartlett, Freese, Borowicz, Croft, Ostwald, Lyon, Churchill), 0 Nays, 2 Absent (Kavanaugh, Jazdyk)

APPROVAL OF MINUTES

The October 9, 2013 Planning Commission minutes were presented. Ms. Croft stated the time of adjournment is to be changed to 8:30pm. **Motion** by Mr. Churchill, seconded by Mr. Ostwald, to approve the meeting minutes as amended. Motion carried. 7 Ayes (Bartlett, Freese, Borowicz, Croft, Ostwald, Lyon, Churchill), 0 Nays, 2 Absent (Kavanaugh, Jazdyk)

PUBLIC HEARING AND ACTION ON REQUESTS

Jim Rutledge Builder LLC/Ann Arbor YMCA - Requests a Special Use Permit Amendment for replacement of a camp bath house (Section 10.3.2). The property is located at 9728 M-68, Tuscarora Township, Section 16, parcel #161-016-300-001-00. The site is zoned Lake & Stream Protection (P-LS).

Mr. McNeil presented the original site plan that was approved by the Planning Commission in 2006. Mr. McNeil stated this request is for the replacement of a bathhouse and the applicant has submitted a detailed plan showing the location is in the same place as the previous bathhouse. Mr. McNeil stated the increase in the building size is more than 10% and Planning Commission review is required.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

Motion by Mr. Borowicz, seconded by Mr. Ostwald, to grant the topography waiver request. Motion carried. 7 Ayes (Bartlett, Freese, Borowicz, Croft, Ostwald, Lyon, Churchill), 0 Nays, 2 Absent (Kavanaugh, Jazdyk)

The Planning Commission reviewed and approved the General Findings. The Planning Commission reviewed and approved the Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Churchill, to approve the special use permit amendment based on the General Findings, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 with the following conditions:

1. Meet Department of Building Safety requirements
2. Meet Soil and Sedimentation requirements
3. Meet District Health Department #4 requirements

Motion carried. 7 Ayes (Bartlett, Freese, Borowicz, Croft, Ostwald, Lyon, Churchill), 0 Nays, 2 Absent (Kavanaugh, Jazdyk)

Randy Loffer/WLWD Golf Inc. - Requests a Special Use Permit for an addition to an accessory building at a golf course (Section 4.3.6.). The property is located at 3914 Secord Rd., Nunda Township, Section 21, parcel #251-G01-000-142-00 and is zoned Residential Development (D-RS).

Mr. McNeil stated the property owner would like to add on to a maintenance building and there is no special use permit on file. Mr. McNeil stated this is the first special use permit approval for the golf course at Wildwood. Mr. McNeil presented an aerial photo and a detailed site plan for this project. Mr. McNeil explained the location of the site and noted that additional parking is located in the grass area. Mr. McNeil stated parking requirements have been met. Mr. McNeil stated setbacks are met. Mr. McNeil stated there is a restaurant/bar use and the golf course is located to the north.

Ms. Croft asked for public comments. Mr. Moore stated the township supports this request for a special use permit. Public comment closed.

Motion by Mr. Borowicz, seconded by Mr. Ostwald, to grant the topography waiver request. Motion carried. 7 Ayes (Bartlett, Freese, Borowicz, Croft, Ostwald, Lyon, Churchill), 0 Nays, 2 Absent (Kavanaugh, Jazdzzyk)

The Planning Commission reviewed and approved the General Findings. The Planning Commission reviewed and approved the Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Churchill, to approve the special use permit based on the General Findings, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 with the stipulation that Department of Building Safety requirements be met. Motion carried. 7 Ayes (Bartlett, Freese, Borowicz, Croft, Ostwald, Lyon, Churchill), 0 Nays, 2 Absent (Kavanaugh, Jazdzzyk)

UNFINISHED BUSINESS

Ms. Croft stated a copy of an enforcement report from Matt Cronk was distributed to each Planning Commission member to review.

NEW BUSINESS

No comments.

STAFF REPORT

Mr. McNeil stated additional public comments on various matters have been received and are available for the Planning Commission members to review. Mr. McNeil explained that public comments will come to the Planning Commission in this manner when there are no applications before the Planning Commission.

Mr. McNeil stated copies of the draft master plan have been sent out to the various governmental agencies, utilities and libraries. Mr. McNeil stated the draft master plan is also available on the website.

Mr. McNeil stated two amendments were presented to the Cheboygan County Board of Commissioners last week. Mr. McNeil stated the amendment relative to commercial farms and hobby farm buildings was approved but the farm market and farm product stand amendment was not approved. Mr. McNeil stated there was not a lot of feedback but he hopes to get feedback at a future time.

Mr. Ostwald asked if there was an answer from legal counsel regarding sitting in the audience and making public comments when you recuse yourself. Mr. McNeil stated yes the Planning Commission member can sit in the audience and they do not have to relinquish their own personal right to speak on an issue. Mr. McNeil stated the Planning Commission member can not act as a commissioner at that point. Mr. Freese asked if there was a reason as to why there was a change in the criteria for a conflict of interest. Mr. McNeil stated no but legal counsel requested that each case be forwarded to him to allow him time to review and determine if it constitutes a conflict of interest.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Matelski stated he would like something in the amendment that specifically allows grandma to sell cucumbers on her card table in her front yard. Mr. Matelski stated that Brian Graham explained that it is an accessory use and it does not have to be in the amendment. Mr. Matelski stated he built two agricultural barns (one 20 years ago and one 25 years ago) and a zoning permit was not required. Mr. Matelski stated about 1 ½ years ago he was notified by Bill Beethem that he was charged by the square foot for a zoning permit to build an agricultural building. Mr. Matelski stated a permit from the Construction Code

Department is required for an agricultural building. Mr. Borowicz stated that it is a matter of state law that construction code regulations do not apply to agricultural buildings and a permit is not required. Mr. Matelski stated the ordinance needs to state that a property owner can sell vegetables at a stand. Mr. Freese stated the Planning Commission will review this amendment again and put the language in that Mr. Matelski requests. Mr. Freese stated the Planning Commission will keep the language in even if legal counsel indicates that it is not necessary to be in the amendment. Mr. Freese stated the amendment will then be forwarded to the Cheboygan County Board of Commissioners with the suggested language from Mr. Matelski. Mr. McNeil suggested specifying a square footage that would be exempt. Mr. Freese suggested the following language "Individuals selling produce on their own property is exempt." Mr. McNeil stated the farmer could have a very large farm market operation that could have a negative impact on a neighbor. Mr. McNeil stated language should be included to make a distinction between the two. Mr. Freese stated we are not trying to make a distinction as we are trying to make sure that it is clear that it doesn't apply to an individual selling produce on their property. Mr. Borowicz stated there could be a farm market that is half the size of Walmart. Mr. Borowicz provided an example of Pond Hill Farm in Emmet County.

Discussion was held regarding the Cheboygan County Board of Commissioners denying the amendment. Ms. Allor stated that a permit would have been required for someone to sell produce on their property. Ms. Allor noted that this would mean a 90 mile round trip for someone who lives at the southern end of the county. Mr. McNeil explained that many of these are considered accessory uses and a permit is not required. Ms. Allor stated the ordinance is vague on what is considered an accessory use. Ms. Allor questioned what is an accessory use. Mr. McNeil stated an extension of the activity at the home. Ms. Allor stated her concern that there is a potential for someone to believe their use is an accessory use and then it is not considered an accessory use by the Zoning Department. Ms. Allor stated there are gray areas that she is concerned about.

Ms. Croft asked if the Cheboygan County Board of Commissioners made a motion to deny or deny and return. Ms. Allor stated the motion was to approve. Ms. Allor stated the motion was seconded but was then voted down. Ms. Lyon stated the amendment is done and the Planning Commission would have to go through the whole process again. Mr. Borowicz stated the Planning Commission can go through the process again and have a public hearing. Ms. Croft stated that the motion should be reviewed to see where the Planning Commission stands.

Mr. Moore presented pictures of a two story storage building that permitted for 24ft. x 32ft., one story and to be 75ft. off of the road. Mr. Moore stated the building is actually a 24ft. x 24ft. storage building and is 20ft. off of the road. Mr. Moore stated he does not know how this structure can be considered a storage building. Mr. McNeil stated the applicant did come back and correct the placement, size and the story height. Mr. McNeil stated the permit still gives permission for a private storage building. Mr. Moore stated that section of the ordinance should be reviewed. Mr. Moore stated the Department of Building Safety also has issues with this storage building. Discussion was held regarding the structure not being built to meet code requirements.

Mr. Moore believes this is being built as a cottage and that it does not meet the square footing requirement for a residence. Mr. Moore questioned if the Health Department follows the Zoning Ordinance and does not issue permits for well and septic for a property with a storage building on it. Mr. Moore stated all departments should be working on the same page.

Ms. Lyon asked if there is a fine for doing work that is not permitted. Mr. Moore stated the Department of Building Safety is issuing citations every week. Discussion was held regarding the cost of the citations. Mr. Moore stated that once they reach \$1100 there will be a bench warrant issued for the property owner. Discussion was held regarding the applicant not calling to schedule a setback inspection.

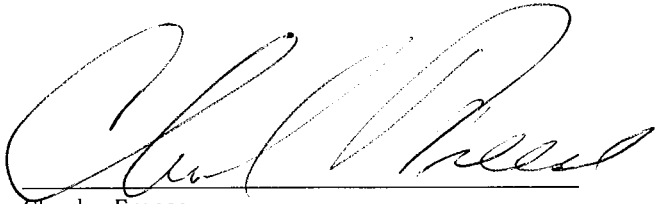
Mr. Freese suggested having this issue reviewed by legal counsel. Mr. McNeil stated permits have been issued for other storage buildings with decks. Mr. McNeil stated the Planning Commission could decide to not allow private storage buildings with porches, second story or windows of a certain size. Mr. McNeil stated that until they move in to the building and use it as a dwelling there is not a lot that can be done from a zoning standpoint. Mr. McNeil stated there appears to be code issues. Mr. Freese stated he built a horse barn with a porch on the second floor to transfer hay from the truck to the porch and into the barn.

Mr. Moore suggested requiring plan review and then revoking the permit if they do not comply. Mr. Moore stated if you wait until the structure is built and the heat, plumbing and electric are in place the judge will not make the property owner tear it down. Mr. Moore stated it has to be stopped before the structure is built. Mr. McNeil stated there are other examples in the county of where a property owner was permitted for a private storage building but it was turned into a cabin. Mr. Borowicz stated the only option is to take this to court when the maximum fines are reached. Mr. Borowicz stated that when the judge refuses to enforce the ordinance we will have to be appeal the decision. Ms. Croft stated there is nothing that the Planning Commission can do for any of this. Mr. Moore believes that the Planning Commission should require a plan review of the

structure and also require compliance to that plan. Mr. Freese and Ms. Croft explained that this is not a request before the Planning Commission. Mr. Moore suggested changing the requirements of the ordinance. Mr. McNeil stated he notifies the Enforcement Officer when a permit is issued similar to this one. Discussion was held regarding citations and fees.

ADJOURN

Motion by Mr. Borowicz to adjourn. Motion carried. Meeting was adjourned at 8:01pm.

A handwritten signature in cursive script, appearing to read "Charles Freese", written over a horizontal line.

Charles Freese
Planning Commission Secretary