



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, FEBRUARY 5, 2020 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon, Johnson, Delana
ABSENT: Borowicz
STAFF: Mike Turisk, Jen Merk
GUESTS: Eric Boyd, Carmela Boyd, John F. Brown, Carl Muscott, Cal Gouine, Bob Lyon, Russell Crawford, Cheryl Crawford, John Moore, Jay Beers, Charlie Veneros, Steve Crusoe

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. Kavanaugh, seconded by Mr. Bartlett, to approve the agenda as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon, Johnson, Delana), 0 Nays, 1 Absent (Borowicz)

APPROVAL OF MINUTES

The January 15, 2020 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Ms. Lyon, to approve the meeting minutes as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon, Johnson, Delana), 0 Nays, 1 Absent (Borowicz)

PUBLIC HEARING AND ACTION ON REQUESTS

There were no scheduled public hearings.

UNFINISHED BUSINESS

Continued Discussion Regarding Proposed Amendment #155 Relative To Nonconforming Buildings Or Structures, Properties And Uses.

Mr. Turisk stated that the principle purpose of this amendment is to loosen the standards in Article 22 that govern the completion, restoration, reconstruction, extension or discontinuance of nonconformances. Mr. Turisk stated that this seeks to clarify what a property owner may do to continue with a nonconformance. Mr. Turisk stated that there is language that regulates the expansion of nonconformity but a nonconforming lot, use or structure would be permitted to continue. Mr. Turisk stated that the latest draft of this amendment is more condensed and this is due to trying to provide clarity to disregard classifying nonconformances. Mr. Turisk stated that Section 22.3A allows normal maintenance and incidental repairs for nonconforming uses and structures. Mr. Turisk stated that Section 22.3B speaks to the allowance to make improvements to a nonconforming building or structure that has been deemed unsafe or unlawful by the Building Official. Mr. Turisk stated that such a structure may be restored to a safe and habitable condition without concern regarding losing the nonconforming status. Mr. Turisk referred to Section 22.3.C and stated that rebuilding of a nonconforming structure that is damaged or destroyed can be no greater than its original configuration and on its original foundation or footprint. Mr. Turisk stated that a policy decision will need to be made whether or not it is acceptable or if under these circumstances this would be a good opportunity to gain conformance. Mr. Turisk stated that Section 22.3.D speaks to the enlargement or alteration of a nonconforming building. Mr. Turisk stated that a nonconforming building or structure would be allowed to be expanded, altered or enlarged so long as the creation of any new nonconformity does not occur. Mr. Turisk stated that a nonconforming building or structure would be allowed to expand, altered or enlarged so long as it does not increase the degree of nonconformity. Mr. Turisk stated that in regards to Section 22.3.F, it was decided that variance requests for nonconformities will be reviewed by the Zoning Board of Appeals. Mr. Turisk reviewed the application requirements to replace a nonconformity with another nonconforming use, building or structure. Mr. Turisk reviewed the standards for the Zoning Board of Appeals to review and approve a new nonconforming use, building or structure under Section 22.3.F.3. Mr.

Freese stated that this section is allowing an established nonconformity to be replaced by another nonconformity. Mr. Turisk referred to Section 22.3.G and stated that if a nonconforming use, building or structure that is replaced by another nonconforming use, building or structure then it shall not revert to its original nonconforming status. Mr. Turisk referred to Section 22.3.H and stated that this regards the extension of an existing nonconforming use throughout any part of a building in which said use if applicable is located. Mr. Turisk stated if the building was designed for the use and existed at the time the use became nonconforming it must comply with the regulations that result from such expansion.

Mr. Turisk stated that Section 22.4. addresses what a property owner of a nonconforming lot may do to develop, hold, convey or sell the lots. Mr. Turisk reviewed the two options available to a property owner. Mr. Turisk referred to Section 22.4.B.1 and stated that the owner may hold, develop, and convey the nonconforming lots or parcels as separate nonconforming lots of record. Mr. Turisk stated that each individual nonconforming lot or parcel shall comply with all applicable setback regulations. Mr. Turisk referred to Section 22.4.B.2 and stated that the other option is to record a deed restriction that would combine the lots into an undivided lot for the purposes of adherence to the Zoning Ordinance. Mr. Turisk read from Section 22.4.B.2 "Under this option if combining the lots or parcels, or portions of lots or parcels results in a conforming lot, then that undivided lot may be developed as authorized by the zoning district in which it is located." Mr. Turisk explained that a dimensional variance would not be granted if the nonconformity could be remedied by combining the lots. Ms. Johnson asked if this is discrimination because a property owner owns two lots. Mr. Freese stated no. Mr. Freese stated that the property owner either wants to treat the two lots separately and be able to sell them separately with two houses or he wants to disregard the setback requirements. Ms. Johnson stated that someone owning two lots will be treated differently than someone owning one lot. Mr. Freese stated that the property owner is being allowed to make a choice. Mr. Kavanaugh stated his concerns regarding Sections 22.4.B.1 and 22.4.B.2 not being clear. Ms. Johnson questioned why the Zoning Administrator must approve a deed restriction. Discussion was held. Ms. Johnson referred to section B.1 and read "provided however no dimensional variance shall be granted for such lot or parcel." Mr. Turisk stated that if a dimensional variance were granted there would technically still be a nonconformity. Mr. Turisk stated if the property owner combines the lots and therefore conforms, we have achieved compliance. Mr. Freese explained that this section says that a variance for setbacks would not be granted from the interior property line if they want to treat the lots as separate lots. Mr. Kavanaugh stated that the Planning Commission will have to determine if they want to discontinue nonconforming uses as this amendment is the way to do it. Ms. Johnson stated this is discriminatory against a property owner who owns two lots that are contiguous. Ms. Johnson stated that the property owner will not be able to do the same thing that a person who owns one lot will do. Mr. Kavanaugh stated that B1 and B2 are not clear and stated that it should be easier to understand. Ms. Johnson asked why the Zoning Administrator must approve a deed restriction. Mr. Freese stated that there are others ways that this can be done. Ms. Croft noted that if the two parcels meet the minimum lot requirements for a new dwelling then they should not be required to be combined. Mr. Freese stated that this is referring to nonconforming parcels. Mr. Kavanaugh would like to know if zoning approval is required to combine parcels. Discussion was held. Mr. Freese noted that approximately 85% of the variances regarding nonconforming parcels are in subdivisions along a lake. Mr. Freese stated that he originally considered exempting parcels in subdivisions from this provision. Ms. Croft noted that a lot in a subdivision can't be split. Mr. Freese stated that the proposed amendment is forcing property owners to combine the nonconforming lots. Mr. Freese stated that the amendment is not forcing a property owner to split a lot. Mr. Kavanaugh stated that this is the most controversial part of the proposed amendment and that he would like to hear comments from the public and townships before the Planning Commission makes a decision. Mr. Kavanaugh stated that the rest of the changes are exactly what the Planning Commission had requested.

Mr. Freese stated that there is a provision that allows a nonconforming structure that is nonconforming due to setback infringement, to be expanded along the same setback. Mr. Freese explained that the Zoning Board of Appeals has been allowing this type of variance and he believes it should be included in the amendment. Mr. Freese stated that this would eliminate a significant number of variance requests that are considered by the Zoning Board of Appeals. Mr. Kavanaugh stated that this is something to discuss as the setbacks have been reduced in the Lake and Stream Protection Zoning District. Mr. Kavanaugh stated that he believes this is an error that the Planning Commission made by approving these reduced setbacks so the property owner would not have to request a variance from the Zoning Board of Appeals.

Mr. Turisk referred to Section 22.5 and stated that this is regarding abandonment. Mr. Turisk stated that he discussed this with legal counsel and was advised that we definitely need to have provisions for abandonment of a nonconformity. Mr. Turisk read Section 22.5 "If a property owner has an intent to abandon a nonconforming use, building, or structure and in fact abandons this nonconforming use, building, or structure for a period of one (1) year or more, then any subsequent use of the building, structure or property shall conform to the requirements of this Ordinance." Mr. Turisk reviewed the five factors the Zoning Administrator would consider when determining the intent of a property owner abandoning a nonconforming use. Mr. Freese stated that the abandonment can't be determined by the length of time only. Mr. Kavanaugh noted that there are additional standards.

Mr. Turisk stated that he will look into Section 22.4.B.2. Mr. Freese stated that the Planning Commission should consider after the public hearing whether people should be forced to combine nonconforming lots. Mr. Turisk stated that this is a policy decision. Mr. Turisk referred to Section 22.3.C and noted that a nonconforming building or structure that is destroyed or damaged can't be reconstructed to anything greater than its original footprint. Mr. Freese stated that the Planning Commission needs to decide how much they really want to get rid of nonconforming buildings, structures and uses. Mr. Freese stated that he believes if there is a nonconforming building that is completely destroyed it shouldn't be rebuilt as a nonconforming structure. Mr. Turisk stated that this may be a good opportunity to achieve conformance in this type of situation. Mr. Turisk asked whether the property owner should be compelled to build to the applicable standards or should we allow the property owner to build up to the size of the original footprint. Mr. Freese asked how much does the Planning Commission want to bring this back into conformity with the regulation. Discussion was held. Mr. Freese stated that this amendment may possibly eliminate 25% of the variance requests that are reviewed by the Zoning Board of Appeals. Mr. Freese stated that some of these sections can be taken out, but planning training sessions that he has attended advise to reduce the degree of nonconformity or to eliminate the nonconformity.

NEW BUSINESS

Discussion regarding proposed amendment relative to zoning standards for signs.

Mr. Turisk stated this discussion is to get feedback and direction from the Planning Commission given the direction from the Board of Commissioners to look at amending Section 17.19 regarding signs. Mr. Turisk stated that the Planning Commission is to look at dimensional standards for freestanding and pylon signs in the Commercial Zoning District. Mr. Turisk stated that given the current iteration of Section 17.19 and the work that the Planning Commission put into amending the sign ordinance in 2015 he does not see a need for a great deal of amendment language changes. Mr. Turisk stated that there are new technologies that are currently being employed and new technologies on the horizon. Mr. Turisk stated that this may be an opportunity to confirm that our sign standards achieve our aesthetic values and goals and economic development goals. Mr. Turisk stated that the Planning Commission should consider dimensional standards in the Commercial Development Zoning Districts. Mr. Turisk stated that the Planning Commission should consider height and maximum sign fascia. Mr. Turisk stated that the Planning Commission should have a discussion about basing dimensional standards on linear road frontage distance.

Mr. Turisk stated that Section 17.19 allows for 3 freestanding signs per parcel in the Commercial Development Zoning District. Mr. Turisk stated that in this zoning district 80sf of sign face is allowed. Mr. Turisk if the Planning Commission would prefer to allow an option for an applicant to have 3 smaller signs or one larger sign. Mr. Turisk stated that a more detailed definition for sign should be included in Article 2. Mr. Turisk stated that an objective of the Master Plan is to update ordinance provisions to accommodate more potential recreational trail signage improvements. Mr. Turisk stated that another Master Plan goal is to update sign standards to allow sign size to be proportional to building façade size. Mr. Turisk reviewed Section 17.19.8. Mr. Turisk stated that the Planning Commission should examine whether or not these dimensional standards, particularly in the Commercial Development Zoning District, are appropriate given conditions and anticipated future development. Mr. Turisk asked the Planning Commission if they feel that larger signage than what is currently allowed is appropriate or do they want to keep the Zoning Ordinance as it is currently.

Mr. Freese stated that if a large number of variance requests are received for the same category of variance it is a good indication that a review of the ordinance is warranted. Mr. Freese stated that there have been 19 variance requests pertaining to signage received in the past 15 years, which are broken down into 5 major types, i.e.; 10 freestanding sign requests (3 approved, 7 denied), 6 wall sign requests (4 approved, 2 denied), 2 requests for location in right of way (2 approved), 1 setback request (1 approved) and 1 use variance (1 approved). Mr. Freese stated that the number of requests (6) for variances for larger wall signs resulted in the Zoning Board of Appeals bringing the problem to the attention of the Planning Commission with the result that the size limit for wall signs was increased to a maximum of 300sf in a subsequent amendment to the regulation. Mr. Freese stated that this amendment would have eliminated 5 of the 6 variance requests in this category if it had been in place at the time these requests were received.

Mr. Freese stated the only other category of signage receiving a large number of variance requests (10) is freestanding signs and although this number is the largest category of all sign variance requests received, the limitations on size and height for freestanding signs varies greatly depending on the zoning district in which they are located. Mr. Freese stated that of the 10 variance requests received, 3 were located in the Commercial zoning district (limits of 80sf in size and 25ft. in height) with 1 of these approved and 2 denied, 3 were located in the Agriculture and Forestry Management zoning district (limits of 18sf in size and 12ft. in height) with 1 of these approved and 2 denied, 2 were located in the Light Industrial zoning district (limits of 120sf in size and 25ft. in height) with both denied, and 2 were located in the Residential zoning district (limits of 8sf in size and 6ft. in height) with 1 approved and 1 denied.

Mr. Freese stated that the case which precipitated this review pertains to signs in the Commercial zoning district. Of the 3

requests in this category, 1 was actually for a smaller sign, but required a variance for a larger percentage of the sign face, which could be devoted to its electronic face than is allowed (Indian River Trading Post – approved), one requested a sign 255% of that allowed (Meijer, Inc. – denied), and the third requested a sign 125% of that allowed (Burt Lake Marina –denied).

Mr. Freese noted only three variance requests have been approved by the Zoning Board of Appeals for freestanding signs in all zoning districts in the past 15 years, i.e.; one for a larger sign for a church in Topinabee in the Residential zoning district, one for a smaller sign having a larger portion of the size devoted to its electronic face for the menu board for the Indian River Trading Post (McDonalds) in the Commercial zoning district, and one for a larger sign for a nonconforming business (Ginop Sales) in the Agriculture and Forestry Management zoning district. It should be noted that the Ginop Sales parcels were subsequently conditionally rezoned to Commercial and the signs for which the variance request was approved would have been permitted had the conditional rezoning been approved prior to the variance request having been received.

Mr. Freese questioned whether this history really justified a change in the size allowed for freestanding signs in the Commercial zoning district.

Mr. Kavanaugh stated that there were two variance requests for freestanding signs larger than 80sf in the Commercial Development Zoning District in fifteen years. Mr. Kavanaugh stated that Burt Lake Marina has been in business for a long time and this issue came up because they bought a sign that was too large. Mr. Kavanaugh stated that this is the issue that prompted this request to look at the sign regulation. Mr. Kavanaugh stated that wall signs and electronic signs could be reviewed. Mr. Kavanaugh stated that the Planning Commission should consider what the Cheboygan County Board of Commissioners has requested. Mr. Kavanaugh stated that he would like to look at other sign regulations from other counties. Mr. Turisk stated that Emmet County permits one per parcel and the maximum face size is 56sf and the maximum height is 10ft. Mr. Turisk stated that signs in the right of way are not to exceed 32sf in size and 8ft. in height. Mr. Kavanaugh stated that this is significantly less than what is allowed in Cheboygan County currently. Mr. Kavanaugh stated that there have been two variance requests of this type in fifteen years and the Planning Commission needs to decide if they want to amend the Zoning Ordinance for this situation. Mr. Freese asked what is the maximum allowed in Otsego County. Mr. Muscott stated 56sf. Mr. Turisk stated that Otsego County allows for 100sf for shopping centers and malls. Mr. Turisk stated that Otsego County does not allow individual signs for each tenant. Mr. Turisk stated that they allow one sign with individual placards. Mr. Freese stated that the Planning Commission should not have to review wall signs as there was an amended to allow 300sf.

Ms. Johnson asked why there is a difference in square footage between Commercial, Light Industrial and General Industrial. Mr. Freese stated it is based on the type of businesses and the fact that Light Industrial are small areas separated from the general flow of traffic. Mr. Freese stated that Commercial zoning district is located along and measured from the center line of the roadway. Mr. Freese noted that Tuscarora Township requested that Village Center Indian River continue to require smaller signs. Mr. Turisk noted that this is the same for Village Center Topinabee. Discussion was held.

Ms. Lyon asked if we are considering the speed that people drive when determining sign sizes. Ms. Lyon stated that there is a correlation between the size of the words on the sign for the speed that a person is driving. Mr. Kavanaugh stated that it was considered and provided an example of a sign at a mall. Discussion was held.

Mr. Freese stated that he does not believe that along the stretch South Straits Hwy. south of Indian River, that a 100sf sign is necessary to get an advertising message across and stated that there are no other signs in this area anywhere near 100sf. Mr. Freese stated that most signs are 4ft. x 8ft. Mr. Kavanaugh noted that adjacent counties allow a maximum of 56sf and in Village Center Indian River and Village Center Topinabee it is less. Discussion was held.

Mr. Freese asked if the Planning Commission has a problem with the sign ordinance. Mr. Kavanaugh stated that the Cheboygan County Board of Commissioners will probably have a problem with Planning Commission if something is not done with the sign ordinance. Discussion was held.

Ms. Croft asked if this item should be on the next Planning Commission agenda. Discussion was held. **Motion** by Mr. Kavanaugh, seconded by Mr. Delana, to table this decision until the next Planning Commission meeting. Motion carried unanimously.

STAFF REPORT

Mr. Turisk stated that there will be a Risk Management Decision Making training that will be held on Tuesday, March 31, 2020 at the Littlefield Community Building in Alanson. Mr. Turisk stated that a time has not been determined for this training. Mr. Turisk asked that the Planning Commission members let him know if they will be available for this training.

Mr. Turisk stated that distributed information regarding two workshops that will be help on green infrastructure. Mr. Turisk stated that the first workshop will be held on March 23rd, 24th, 25th or April 8th from 1:00pm-3:30pm or 2:00pm – 4:30pm. Mr. Turisk stated that the second workshop will be held on April 23rd or 24th in the afternoon. Mr. Turisk asked that the Planning Commission members let him know their availability for this training.

Mr. Turisk stated that at the January 15, 2020 meeting the Planning Commission directed staff to provide Mr. Peltier a letter of commendation. Mr. Turisk stated that a certificate of commendation has been put together to officially recognize Mr. Peltier.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Muscott stated that he submitted a letter regarding signs for the Planning Commission to review. Mr. Muscott stated that Mr. LaPrairie usually brings in complete site plans and does not build a pole building and wait to request permission after it is built. Mr. Muscott stated that Mr. LaPrairie went to a dealer show and there was a special on signs. Mr. Muscott stated that Mr. LaPrairie bought the largest sign and saved \$2,000 and the \$12,000 sign has been lying on the side of the parking lot all winter. Mr. Muscott stated that when Mr. LaPrairie applied for permission he was denied permission to install the sign. Mr. Muscott stated that Mr. LaPrairie then sought a variance. Mr. Muscott stated that in December when Mr. LaPrairie's request was to be reviewed by the Zoning Board of Appeals, there was an insufficient quorum. Mr. Muscott stated the meeting was canceled. Mr. Muscott stated that Mr. LaPrairie has to wait another month for the next meeting and the variance request was denied. Mr. Muscott stated that this is a 50 year old business with many employees. Mr. Muscott stated that this is a pylon sign with a 7ft. x 7ft. section on top that is a Bombardier logo and then four brand names below that are 1 1/2ft. x 4ft. Mr. Muscott stated that the Board of Commissioners are requesting the Zoning Ordinance be amended to allow this sign to be installed. Mr. Muscott referred to Section 22.3.F of Amendment #155 and stated his concerns that a nonconforming building or structure is disallowed and then another nonconforming building or structure will be allowed. Mr. Muscott stated that the wording for A, B and C are almost the same statements and just reworded. Mr. Muscott stated that if you want to eliminate nonconforming uses then don't allow nonconforming uses. Mr. Muscott stated that in regards to nonconforming lots of record, he owns 25 platted lots in Topinabee that are 25ft. x 100ft. that were designed as camping lots. Mr. Muscott stated that they can be bought up individually and can be combined into one deed. Mr. Muscott stated that you can split platted lots. Mr. Muscott referred to Hilltop Grocery and Bar on Levering Road, which has been vacant and stripped of its furnishings for several years and is located in the Agriculture and Forestry Management zoning district and is nonconforming and questioned whether this business would have been allowed to reopen under the provisions of this proposed amendment. Mr. Freese stated that the Hilltop Grocery and Bar is a conforming use in Agriculture and Forestry Management zoning district and the provisions of this amendment would not be applicable. Mr. Muscott stated his concerns regarding the criteria used to establish an intent to abandon a nonconforming use.

Mr. Kavanaugh asked for staff to check into splitting subdivision lots. Mr. Kavanaugh stated that there are procedures and approvals that are required to split a subdivision lot. Mr. Kavanaugh asked if it is difficult to combine lots in a subdivision. Mr. Muscott stated that you will create a new legal description with all of the lots in the subdivision that are to be combined.

ADJOURN

Motion by Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 9:21 pm.



Charles Freese
Planning Commission Secretary