City of Boyne City
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AGENDA

BOYNE CITY PLANNING COMMISSION

Monday August 15, 2016, 5:00 p.m.

Boyne City Hall

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1. Call to Order
2. Roll Call - Excused Absences
3. Consent Agenda

   The purpose of the consent agenda is to expedite business by grouping non-controversial items together to be acted upon by one Commission motion without discussion. Any member of the Commission, staff, or the public may ask that any item(s) on the consent agenda be removed to be addressed immediately following action on the remaining consent agenda items. Such requests will be respected.

   Approval of minutes from July 18, 2016, Boyne City Planning Commission meeting.

4. Hearing Citizens Present *(Non-Agenda Items)*
5. Reports of Officers, Boards, Standing Committees
6. Unfinished Business
7. New Business
   A. Group Child Care Homes – zoning ordinance requirements and associated discussion
   B. Potential Zoning Ordinance Amendments
8. Staff Report
9. Good of the Order
10. Adjournment – Next Meeting September 19, 2016

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Approved: _____

Meeting of July 18, 2016

Record of the proceedings of the Boyne City Planning Commission regular meeting held at Boyne City Hall, 364 North Lake Street, on Monday, July 18, 2016 at 5:00 pm.

Call to Order

Chair MacKenzie called the meeting to order at 5:00 p.m.

Roll Call

Present: Ken Allen, Jason Biskner, Chris Frasz, Jim Kozlowski, Jane MacKenzie, Tom Neidhamer and Aaron Place
Absent: George Ellwanger and Joe St. Dennis (Arrived at 5:04 pm)

Excused Absence(s)
****MOTION**

2016-07-18-02
Neidhamer moved, Kozlowski seconded, PASSED UNANIMOUSLY, a motion to excuse the absence(s) of George Ellwanger

Meeting Attendance

City Officials/Staff: Planning and Zoning Administrator Scott McPherson and Recording Secretary Pat Haver
Public Present: Eight

Consent Agenda
****MOTION**

2016-07-18-03
Neidhamer moved, Allen seconded, PASSED UNANIMOUSLY, a motion to approve the consent agenda; approval of the Planning Commission minutes from May 16, 2016 as presented.

Citizen comments on Non-Agenda Items

None

Reports of Officers, Boards and Standing Committees

None

Unfinished Business

New Business

Public Hearing – Conditional Use approval request from Katherine Heiny for a detached accessory apartment at 117 W. Cedar St.

Planning Director McPherson reviewed the staff report that was included in the agenda packet. The applicant is requesting conditional use approval for a detached accessory dwelling at 117 W. Cedar St. The property has an existing home that is occupied by the property owners and an existing detached garage. The proposal is to convert the existing garage structure into a one bedroom apartment. All of the improvements of the structure will be on the interior with some minor improvements/repairs to the exterior. In the TRD (Traditional Residential District) a detached accessory dwelling is a Conditional Use and must meet criteria Section 4.30 A which is as follows: *Attached or detached accessory apartments, provided the site contains an owner occupied single family dwelling, limited to one (1) accessory apartment per site. Accessory apartments can be attached to either a single family dwelling or a detached garage. Detached accessory apartments shall have a minimum side yard and rear yard setback of ten (10) feet. Off-street parking shall be in accordance with D.1.a of this subsection.* This would be 2 parking spots per dwelling unit, for a total of 4 spots, and it appears as if there is plenty of room for those. In addition, criteria for the Development Site Plan Standards and Conditional Use Findings must be reviewed by this board. Staff has received several responses in opposition to the request which have been made available to the board.

Ian McCredie: applicant – We intend to convert the garage into a 4th bedroom for our family and guests, private use not for rental. The main house is occupied by us during the summer when we are here. We don't use the garage for anything at this time, so would like to convert. The main house is not used for a summer rental

now. In the past the house was a rental, we rented it prior to purchasing it. The garage space is approximately 22' x 34', we don't intend to change the outside dimensions.

McPherson – For clarification, the use of the garage to convert for guests can be done without this approval. What this approval would do is allow the ability to rent out as a separate dwelling unit. What makes it a dwelling unit is the bedroom, bathroom and kitchen.

Frasz – Does the combination of the bedroom, bath, and kitchen make it an independent dwelling unit?

McPherson – Combination of the three, the applicant specifically is asking for an accessory apartment, owner must occupy one.

Place – Eventually down the road, can this independent unit be separated from the original house?

McPherson – No, it is approved as an accessory unit, accessory to the primary dwelling and the garage does not meet the required standards. Minimum building requirements must be adhered to.

Public Hearing Opened at 5:14 pm

Sid Decou: 424 S. Lake St. – We are opposed to rentals in the area, it was previously rented, so will that continue?

Jerry Swift: 508 S. Lake St. - If the Conditional Use approval is granted, what happens to it when/if the house is sold? **McPherson** – It is attached to the property. **Swift** – So they could rent one or both properties, even with the owner occupied requirement. Who would keep an eye on the tenants if the owner were not there? In the past, due to fireworks being set off, I have had to stay home, to protect my house. The owner is there only 6 weeks out of the year. The Conditional Use has a minimum requirement of 10 feet for setbacks, and it appears to be 8 foot or less. What about the setbacks?

Sue Rainey: 201 W. Cedar St. - We are very concerned about the owners not being in the residence if it were to be rented out, we have had horrible experiences in the past with no one being around to handle issues, and we are very concerned.

Dick Szabo: 207 W. Cedar St. – I have no problem with an extra bedroom and bath, is there any way to do this without the kitchen? I also agree with Jerry Swift that the setbacks are not sufficient. What could be a good compromise?

McCredie – We understand all of the concerns. It is not our intention to convert this into a rental unit; we only want a 4th bedroom for family and guests. We don't rent our place when we are not here; we want it available for our use, when we want to come up. The setback questions are very hard to measure; the distance with Spruce Street being undeveloped is hard to determine.

Sheryl Decou: 424 S. Lake St. – We have noticed trucks driving up to the garage when you are not there, they take things in and out of the garage. We've been under the impression that it must be rented.

Katherine Heiny: owner –Two years ago we had rented out the garage, but no longer do that, it was being used for storage then, there is nothing in it now so no trucks should be showing up.

With no further comments, public hearing closed at 5:26 pm

Board discussion

Kozlowski – If he just uses as overflow with the house, he doesn't need to come and get our approval, only if he wants to convert for rental. McPherson – that's correct.

MacKenzie – If there is a question about setbacks? We can't waive them?

McPherson – It is something that has to be met, it is prudent to have a survey done, and you can make that a requirement of approval.

MacKenzie – Even if it doesn't meet the setbacks, he can still make it a bedroom?

McPherson – Yes,
Neidhamer – Even if it is a pre-existing building? **McPherson** – even if it is a pre-existing building.
St. Dennis – Would the setback go to the corner of the building or at the drip edge?
McPherson – Closest point to the structure
Neidhamer – To give a bit of history, I remember when we developed the owner occupied rule it gave the homeowners the ability to take care of family on their own property or create a rental unit on their own property; key was that the homeowner needs to live on the property. It is a good rule, does it meet the spirit of the ordinance, yes when the homeowner will lives there. What determines time frame of owner occupied.
McPherson – Owner occupied could be better defined, the Planning Commission may want to look at that as a future point of discussion.
MacKenzie – I think the owner needs to get a survey before we proceed any further into deliberation.
Neidhamer – If they just want to create a 4th bedroom, they don't need to come back before us right? **McPherson** - right.

****MOTION**

With no further board discussion, **motion by Kozlowski, seconded by Place, PASSED UNANIMOUSLY,** to table for further clarification of the boundary lines with the owner getting a survey.

Staff Report

- Mac McClelland has the survey results on the goal setting session. Results will go to the City commission for their review and then probably to the Planning Commission for review.
- The sidewalk work has begun for Safe Routes to Schools, and it is anticipated that they will be completed prior to school opening this fall.
- Staff was commended by the board for the hard work that has been done on this project that began in 2012.

Good of the Order

- The Catt Development cottage project is moving right along. They are looking at the fishing pier and possible grant opportunities to help defray the costs.
- Window Signage – what is the status of that? Patrick was going to take pictures of the windows in the downtown and we were going to look at them for ordinance criteria, staff had completed the pictures and it will be a future agenda item
- The summer season seems to bring out fireworks at all times; and not just for the stated time frame with larger and larger ordinances being set off; is there anything that can be done?

Adjournment

The next regular meeting of the Boyne City Planning Commission is scheduled for Monday, August 15, 2016 at 5:00 pm in the Honeywell Meeting Room.

****MOTION**

2016-07-18-10
St. Dennis moved, Biskner seconded, PASSED UNANIMOUSLY a motion to adjourn the July 18, 2016 meeting at 5:50 p.m.

Chair Jane MacKenzie

Pat Haver, Recording Secretary

CITY OF BOYNE CITY

To: Jane MacKenzie, Chairman Planning Commission

From: Patrick Kilkenny, Assistant Planning Director

Date: August 15, 2016

Subject: Group Child Care Homes

Background: As the need for day care facilities and options continues to grow in the Boyne City area, it has become more and more difficult to locate and secure services for many families. During the City's recent 2016 goal setting sessions, affordable housing, child care, and their lack of availability in our area were at the forefront of conversation. Some of Boyne City's major employers have cited recent concerns regarding affordable housing and day care options as reasons they are understaffed and unable to locate quality members to fill their workforce.

Over the course of the last few months, the planning office has received two applications for zoning approval for "group child care homes" as required by the Michigan Department of Licensing and Regulatory Affairs. Although group child care homes are an allowable conditional use per the ordinance, both applications were immediately disapproved due to the fact that the applicant's lot area did not meet the 20,000 sq. ft. minimum, among additional requirements.

The Boyne City Zoning Ordinance (BCZO) defines Group Day Care Homes as: "a private home in which more than six (6) but not more than twelve (12) children are given care and supervision for periods of less than twenty four (24) hours a day unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year."

The vast majority of residentially zoned lots in the City are less than 20,000 sq. ft. The zoning ordinance requires a minimum lot size in the Traditional and Waterfront Residential Districts of 5,445 sq. ft. and the Rural Estate District of 10,980 sq. ft. Although there are a number of residentially zoned lots that exceed the 20,000 sq. ft. requirement for group day care homes, residents wishing to operate a Group Day Care Home on a lot less than is required by the BCZO are unable to do so.

A Family Day Care home (1-6 children) is considered a principal permitted use in the Traditional Residential, Waterfront Residential and Rural Estate Districts, and do not carry the same added regulation, including site plan review, as a Group Day care Home (7-12 children).

Following the most recent Group Day Care Home application denial, Staff began researching requirements from the cities of Charlevoix and East Jordan for Group Day Care Homes as a comparison. Please see the following information for your review.

City of Charlevoix Zoning Ordinance – Group Day Care Home in Residential Districts (Special Use requires Site Plan Review and Public Hearing)

Day Care: Group Day Care Home. Special land use approval for a group day care home shall be subject to the following:

(a) A group day care home shall not be located within a five hundred (500) foot radius of any of the following:

1. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
2. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the department of corrections. (b) The outdoor recreation area shall be fenced and screened from any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent. (c) The applicant shall provide evidence of the ability to comply with all applicable State licensing requirements.

A special land use shall only be approved if all the following general standards are satisfied, in addition to any applicable requirements for specific special land uses, as found in Article 7:

(1) The use is designed and constructed, and will be operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; will be compatible with adjacent uses of land; and will not change the essential character of the area in which it is proposed.
(2) The use is, or as a result of the special land use approval, will be served adequately by public services and facilities, including, but not limited to, streets, police and fire protection, drainage structures, refuse disposal, water and sewer facilities, and schools.
(3) The use will not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
(4) The use will be compatible with the natural environment and will be designed to encourage conservation of natural resources and energy.
(5) The site plan proposed for the use demonstrates compliance with the special land use specific design standards and all other applicable requirements of this ordinance. (6) The special land use will be consistent with the intent and purposes of this ordinance and the most recent updates to the master plan.

City of East Jordan Zoning Ordinance – Group Child Care Homes in Residential Districts
(Special Use requires Site Plan Review, and Public Hearing)

Group child care homes are permitted as special uses in all residential zoned districts providing the following conditions are met:
(1) The group child care home is licensed by the state.
(2) The applicant can provide adequate information and evidence that the special use will be operated, maintained and managed so as to be harmonious with the surrounding neighborhood.

Required standards and findings for making determinations:
The planning commission shall review the particular circumstances and facts of each proposed special use in terms of the following standards and required findings, and shall

find and record adequate data, information and evidence showing that such a special use on the proposed site, lot, or parcel and makes its decision accordingly.
(1)Will be harmonious with and in accordance with the general objectives, intent and purposes of this chapter.
(2)Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
(3)Will be required to be served by public sanitary sewer and water supply systems and served adequately by other essential public facilities and services; such as, highways, streets and drives, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed special use shall be able to provide adequately all such services.
(4)Will not be hazardous or disturbing to existing or future neighboring uses.
(5)Will not create excessive additional requirements at public cost for public facilities, utilities and services.
(6)Shall meet all of the applicable requirements of the zoning district in which a special use is to be located including those specific to each special use.

City of Boyne City Zoning Ordinance – Group Day Care Home (Special/Conditional Use requires Development/Site Plan Review and Public Hearing)

Considered a Conditional Use "Home Occupation" in which customers or patrons visit the site for the delivery of goods and or services. Subject to Development/Site Plan Review.

Article XXV Conditional Use Requirements, Group Day Care Homes "Standards and Requirements "states:

1. Sites shall have a minimum lot area of 20,000 square feet.
2. An on-site drive shall be provided for drop-offs and loading. This drive shall be arranged to allow maneuvers without affecting traffic flow on the public street.
3. There shall be a fenced contiguous open space with a minimum area of 5,000 square feet provided on the same premises as the group day care home. The required open space shall not be located within a required front yard.

The State of Michigan Licensing Rules for Family and Group Child Care Homes (attached) requirements for "outdoor play area and equipment" states: "a child care home shall provide a clean, safe, and hazard free outdoor play area, on the premises or within a reasonable walking distance of the home. Additionally, the play area size shall be the following:

(a) Not less than 400 square feet for a family child care home.
(b) Not less than 600 square feet for a group child care home.

The State of Michigan does not provide additional requirements with regard to lot area, traffic, and/or open space as is required in the City of Boyne City Zoning Ordinance.

Recommendation: Task Staff with developing appropriate zoning ordinance amendment language and associated requirements of Group Day Care Homes as defined to be reviewed by the Planning Commission at a date to be determined.

CITY OF BOYNE CITY

To: Jane MacKenzie, Chairman Planning Commission

From: Patrick Kilkenny, Assistant Planning Director

Date: August 15, 2016

Subject: Zoning Ordinance Amendments

Background: Throughout recent review of the Boyne City Zoning Ordinance (BCZO), Staff noted several sections that may require amendments to clarify intent. Recent discussions stemming from site plan reviews, zoning permit requests, and general ordinance review have brought the following topics and potential amendments to the attention of Staff.

Article XXIV Parking, Loading, and Access Management Requirements

Section 24.30 Minimum Number of Spaces Required – The number of parking spaces required was previously reviewed by the Planning Commission due to the fact that the current ordinance requirements are based on max or peak usage as opposed to conventional day to day. The parking requirements are more than likely overbuilt for day to day usage and could potentially benefit from an overall reduction in the number or percentage of spaces required. Additionally, the uses outlined in Section 24.30 could be simplified to incorporate standardized parking requirements by use.

Another question that arises when discussing parking in the Central Business District (CBD) and other commercial districts, is how to regulate changes in use for existing businesses. Changes in use happen regularly in the CBD and often do not require review by the Planning Commission. If an existing office is converted into restaurant, no zoning approval is necessary for the change in use, however, the number of patron's increases, additional parking is likely needed, hours of operation change, etc.

Currently, there are no tools in place to regulate parking with a change in use in the CBD. However, new development is ultimately held to ordinance standards when proposing a specific use in the same district. These requirements can effectively take away from the intent of the CBD with regard to zero setbacks, and force developments to include parking on site; there is no way to construct additional parking off site in an area that is built out such as the CBD.

During the Planning Commission's previous review of the parking requirements in the BCZO, it was generally agreed that the requirements were excessive and a reduction may be beneficial. The ordinance does currently include tools for the Planning Commission to reduce parking requirements in the CBD. However, more simplified parking requirements may be advantageous to developers and also alleviate the Commission from considering granting relief to projects that requiring additional parking in the CBD.

Section 21.36 Accessory Buildings and Structures

Subsection (A) General Standards (4) states: An accessory building shall not exceed twenty feet in height and may not occupy more than the ground floor area of the principal building. This requirement is interpreted the same in all residential districts and may not be appropriate for the Rural Estate District (RED).

Generally lots in the RED are larger in size (1/4 acre or 10,890 sq. ft. minimum) and, if the lots are 5 acres or larger, agricultural uses are considered a principal permitted use. Given the opportunity for uses that could require larger accessory buildings for animals, crops, equipment, etc., limiting the size of accessory buildings to no more than the ground floor area of the principal building may not be appropriate. For example, if a property owner has a 7acre lot in the RED, with a 1,500 sq. ft. single story home, they would be limited to 1,500 sq. ft. total footprint of accessory buildings, less than 1% of the total lot area.

The ordinance does not currently differentiate between the Traditional Residential and Rural Estate Districts with regard to allowable sizes of accessory buildings, however, minimum lot size in the TRD is half (1/8acre) of what is required in the RED (1/4acre). It may be advantageous for the Planning Commission to explore options for allowable accessory building size in the RED to be regulated using a percentage of the total lot size, or base increases from current ordinance standards on the type of use on the property (i.e. agricultural uses allow for larger accessory buildings).

Sign Ordinance – Article V. – Permitted Signs

Section 42.61 – Signs permitted in all districts
(11) Window signs. A business may display interior sings (in addition to an allowed open sign) that occupy not more than 50 percent of the total window area of each floor level of said business in the commercial and industrial districts.

The Planning Commission stated that it would be interested in reviewing the definition of window signs as well as the interpretation of what constitutes a window sign. There are many examples of window signs in the Central Business District, some of which have been included below for your reference.

Depending on the interpretation of the definition of window sign, it can be looked at in a number of ways.

1. It could be assumed that anything affixed to a window covering 50% or less or the glass window area would be considered allowable.
2. It could also be assumed that if a business has 4 windows on the first floor, 2 of which face Water St. and the other 2 face an alley, 100% of the 2 windows facing Water St. could be covered and the windows on the alley could remain uncovered leaving a total of 50% of the total window area covered.
3. Does something need to be affixed to the window to be considered signage? For instance, does hanging a tee shirt from the window frame inside of a retail store constitute signage?

Please review the following examples of window signage in the CBD and discuss any potential changes to the ordinance that may be necessary. The ordinance is currently enforced assuming that window signage must be affixed to the glass to be considered signage. Merchandise or other display items inside or outside of a business are not considered to be signage regulated by the definition of "window signs."

Recommendation: Consider the above referenced sections of the Boyne City Zoning Ordinance and Section 42 of the City of Boyne City Code (Sign Ordinance) and direct Staff as to any amendments or corrections the Planning Commission deems necessary.

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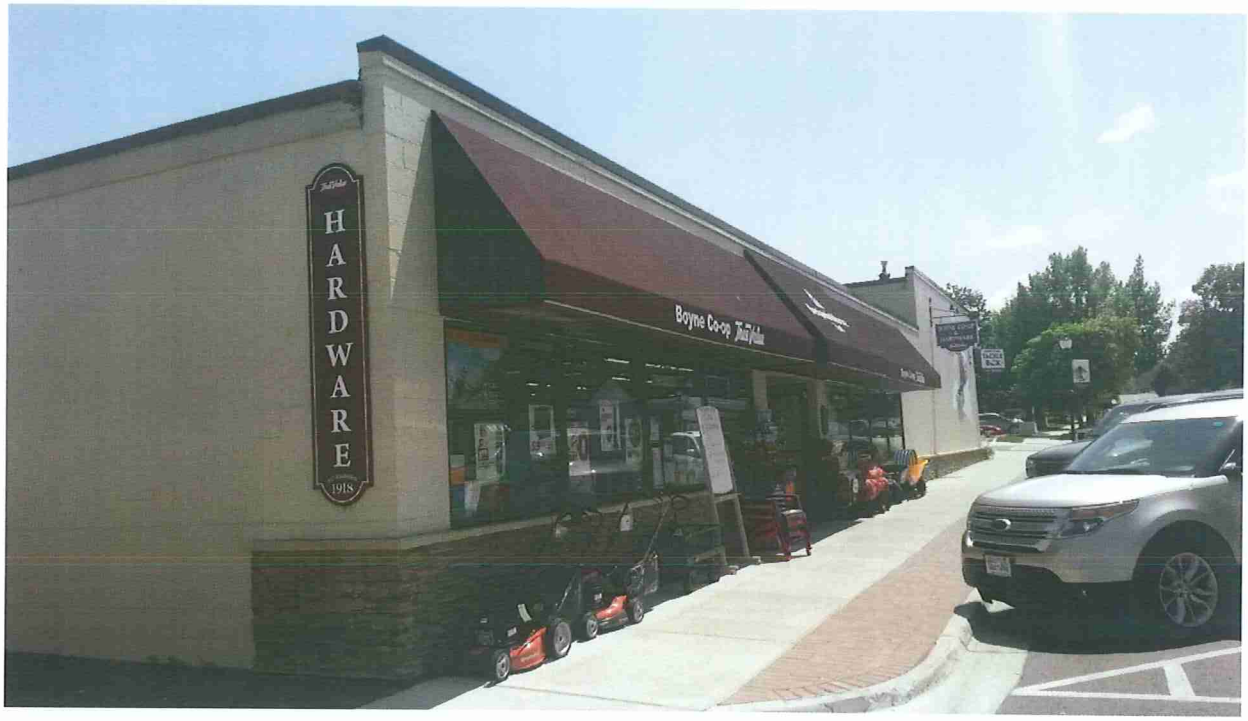
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