

CHARTER TOWNSHIP OF MONITOR
REGULAR PLANNING COMMISSION MEETING

November 8, 2017

The meeting was called to order by Chairman J. Bellor at 7:00 p.m.

The Pledge of Allegiance was recited by all in attendance.

Members present: J. Bellor, R. Campbell, D. Darland, J. Frank, C. Hoyle, T. Miller, B. Reder
Members absent: None
Also present: R. Sheppard, Planning Attorney; P. Lippens, Planner
Others present: Kenneth M. Malkin, Township Supervisor
Public present: Larry Greene, Jennifer Greene, Terry and Diane Bouza

Motion by B. Reder seconded by T. Miller to adopt the agenda as presented.

Motion carried.

Motion by B. Reder seconded by R. Campbell to approve the minutes of the October 3, 2017 regular meeting as presented.

Motion carried.

Public Input

Chairman J. Bellor opened and closed public comment at 7:01 p.m. with no one present wishing to speak.

Items for Consideration

Chairman Bellor opened the Trevor Greene Rezoning Request Public Hearing at 7:01 p.m.

Rezoning Request Commercial (C) to (R-3)

- Greene, Trevor 09-100-001-400-050-00 3329 S. Huron Road
- Bouza, Terry 09-100-001-400-045-00 3345 S. Huron Road
- Hawkins, Rodney 09-100-001-400-035-00 3332 Two Mile Road

Larry C. Greene, 3379 Old Kawkawlin Road, father of Trevor Greene submitted a Limited Power of Attorney to the Commissioners granting himself and Jennifer Lynn Greene, 3329 S. Huron Road, the ability to speak on behalf of Trevor Greene regarding the rezoning matter.

L. Greene began, stating that the current zoning of the three (3) parcels puts the homeowner at a number of disadvantage points. First, it is harder to sell a home that is zoned commercial, yet taxed as residential. Secondly, in order to purchase a residential home zoned commercial in most cases is impossible to secure a mortgage with a local bank. In the long run, this adversely affects the salability of the property. Lastly, property and casualty insurance becomes an issue. You certainly would not like to see someone with a casualty loss not be able to rebuild for an extended period of time.

D. Darland commented, noting that as a previous tax assessor agreed that there are problems getting mortgages on homes that are zoned commercial. In addition, there has been only one commercial building constructed in that corridor over the last thirty (30) year period that he is aware of. There are also a lot of commercial vacancies in that immediate area. The existing businesses are short-lived and spotty and the future land use of that area should definitely be considered.

P. Lippens, Planner discussed his review dated November 1, 2017 stating that for any rezoning request there are certain standards that are taken into consideration. The largest standard is to see if the proposed rezoning is consistent with the Master Plan of the Township. In this case, he did provide a couple of options for the Planning Commission to consider. With respect to the future land use and master plan that was updated in 2013, it is not out of realm of possibility that the Planning Commission make findings which would likely be incorporated into the next update of the Master Plan which is required in 2018. The review is based on the current future land use of that area which is designated as commercial and a recommendation to rezone the parcels would essentially set a precedent for all residential property in the Township that is in the Master Plan under commercial zoning. If recommendations are made that are not consistent with the Master Plan, it is crucial to make findings specific to this area, specific to a change in the desirable future uses of this area, and to distinguish the area from any other region of the Township that currently have residences in commercially zoned districts.

P. Lippens continued, commenting that residences are permitted in the commercial districts, and the Planning Commission can authorize residential uses by special use approval which is associated to the land indefinitely. It is a permanent approval of residential use, which would remove any encumbrances to rebuild if the home was destroyed. It would also address any non-conforming uses.

L. Greene responded, stating that although that sounds appealing, the financial institutions [currently three predominant players he is aware of] will not approve a residential mortgage under any circumstances in this type of situation. Considering taxation, it would be in the best interest of the Township to have the highest valuation when these homes are sold.

P. Lippens acknowledging that a decision tonight would set a precedent, he offered four options to the Commissioners. Option A: The decision could be tabled to a specific date until the Master Plan is reviewed; Option B: Consider for approval and recommendation to the Township Board justifying a revision to the Master Plan; Option C: Table the decision to a specific date to allow petitioners to request a Special Use Permit which is consistent with the current zoning; Option D: Recommend that the Township Board deny the request as it is inconsistent with the current Future Land Use Map contained in the Master Plan and that residential uses are currently permitted in commercial districts.

There was discussion among the Commissioners regarding the options.

B. Reder made a motion seconded by J. Frank to close the public hearing at 7:24 p.m.

Motion Carried.

B. Reder made a motion seconded by J. Frank to grant the request for rezoning for Parcel(s) 09-100-001-400-050-00, 09-100-001-400-045-00, 09-100-001-400-035-00 and forward the recommendation to the Township Board of Trustees for final action. Furthermore, the recommendation meets the intention of the Ordinance and a small deviation from the Master Plan is supported by the current and existing use as well as the economic hardship it would create on these parcels if left to maintain them as existing residential structures in a commercially zoned district.

Roll Call Vote:

Yes: Campbell, Darland, Frank, Hoyle, Miller, Reder, Bellor

No: None

Absent: None

Motion Carried.

Zoning Ordinance

Solar Panels: J. Bellor commented, stating that in a recent visit to Lansing, he noticed that there are several University parking lots that contain solar panels which he considers a great use of the property. It may be in our best interest to amend our portion of the Ordinance to also include alternative areas of the Township.

B. Reder commented, stating that valuable farming land would not be adversely affected.

J. Frank spoke, stating that he spoke to Mr. Arnold the head of Michigan Farmland Preservation Department and they do not allow solar farms on P.A. 116 land. Solar farms are only allowed on commercial property, but would have to derive from farm property and subsequently rezoned. They will not allow a withdrawal of P.A. 116 land to be used for solar panels unless the property was able to be rezoned to commercial or industrial. Seven years of money received from the program would have to be paid back.

K. Malkin commented stating that there is agricultural land that is not part of P.A. 116. In addition, solar is contained in Chapter 3, Section 3.52 and listed in 5.03(k) Agricultural Zone, and it is in two different sections, and would need to be moved from Ag to Chapter 3, and considering it is only allowed by a Special Use Permit, it can be controlled whether or not it is allowed to be in an appropriate location.

J. Frank stated that wind power stations are a different story as it is considered a small footprint at 50' X 50' that is allowed.

K. Malkin continued, stating that a simple solution would be to consolidate the Agricultural section into Chapter 3, as this addresses roof mounted solar. Zoning would not need to be specified. Criteria and language for Special Use would be included. The Commissioners were

in agreement, and K. Malkin was charged with making this change. He will make every attempt to complete in time for the joint meeting.

P. Lippens agrees that if solar is allowed in any zoning district, we would need to permit those uses by Special Land Use approval in the Ordinance.

Ordinance Review: K. Malkin, Supervisor: Substantive Changes to Proposed Ordinance

K. Malkin submitted language with regard to:

Section 3.17 Minimum Grades: K. Malkin consulted with Spicer Engineering and Dave DeGrow, Building Official, in order to develop suitable verbiage and grade requirement. The Commissioners agreed with the amended terminology.

Section 3:18 Surface Water Runoff: Changes include giving the appropriate Township official the discretion not to require perimeter water runoff if no issue exists.

There was much discussion regarding the proposed section of the Ordinance.

J. Bellor stated that a drain tile should be required.

K. Malkin answered, stating that in the case of residential homeowners, the process should be simple and cost-effective. By allowing our building official to thoroughly examine the property, he should be able to tell if any drainage is required.

R. Sheppard commented recommending perimeter drainage and a minimum 4” perimeter drain tile; unless an engineering study is obtained which demonstrates satisfactory drainage. The Commissioners agreed.

K. Malkin will change the language to require perimeter drainage.

Section 17.23 (New) Temporary Uses: K. Malkin submitted the corrected language for discussion. Essentially, if it a temporary use rather than requiring someone to go in front of the Zoning Board of Appeals, it would allow a decision to be made internally by the Supervisor as long as the appropriate documents are signed. The Commissioners agreed with the amended terminology.

Ordinance Review: K. Malkin: Suggestions made on behalf of D. DeGrow, Building Official.

Section 2.02 Accessory Buildings: Change “building” and “structure” to “building(s)” and “structure(s)” and increase the permitted total lot area from 25% to 35%.

Section 3.27 Accessory Buildings:

3.27(d): K. Malkin affirmed to the Commissioners that we currently limit the accessory building to 80%, D. DeGrow suggests this be eliminated or increase the percentage of the floor area for (d) garages.

D. Darland stated that on one acre or smaller parcels, an accessory building should be capped at 100% of the main residence. Percentages should be used.

R. Sheppard suggested for lots up to an acre 90% of the main residence, over one acre lots = 100% of the main residence, and over 3 acres = 200% of the main residence.

After much discussion, the Commissioners maintained their support for the 80% cap on garages.

3.27(j): D. DeGrow suggests that the permitted lot coverage be increased from 25% to 35%. The Commissioners agreed with the amendment.

3.27(k): K. Malkin explained the recommendations Column A, B, Maximum Height, Condition 6, and various requests for increases that D. DeGrow provided.

J. Bellor stated that if the requests are there, he does not have an issue with his recommendations.

D. Darland commented that he was not for eliminating Column B which regulates the size of accessory building compared to the size of the main residence.

K. Malkin suggested that an increase could be made to the first three columns where the size goes from 50% to 90%, either increase the first two columns to 80% - making them consistent with the detached garage - or increase the first three columns to a 100%, so that the first four columns will be a 100%, with the following columns increasing to 125% and 150% respectively.

D. Darland remarked that he does not have an issue with the 80%, but is not in agreement with an increase to 100% in the first columns.

K. Malkin suggested an alternative of only increasing the first two columns to 80%, which could not be considered a major change. D. DeGrow's suggestion was to eliminate it, but if the Planning Commission does not want to eliminate it, the question is...should some type of adjustment be made?

There was continued discussion among the Commissioners. Ultimately, it was agreed to set the following percentage points on the maximum percentage floor area Chapter 3 Pg – 16 [Column B]:

3.27: Lot Size/Square Feet Chart

Up to 11,999	= 75%,
12,000 – 19,999	= 90%,
20,000 – 43,559	= 100%,

43,560 – 87,120 = 125%,
87,121 – 217,800 = 150%,
217,801 and Over = 200%

The Commissioners all agreed with this amendment.

3.27: Maximum Height [Feet] Column: K. Malkin recited D. DeGrow suggestions that the “Peak Height” increase to 22 feet in all categories, and the “Side Wall” height increase to 14 feet in all categories, thus eliminating the difficulty with residents who desire to store their RV or Motor Home inside and accessory building which requires a higher peak and door height. The Commissioners all agreed with the recommended modification.

3.27, Chapter 3 Pg 16: Column 6: The Building Official desires to eliminate or amend the number of accessory buildings per lot; so long as it does not exceed the maximum square footage allowed per lot and is able to maintain a 15 ft setback between other accessory buildings.

The Commissioners discussed increasing the number of accessory buildings, not including garages, but not eliminating this provision.

P. Lippens feels that going from one (1) to a maximum of three (3) allowed is a substantial change.

T. Miller and J. Frank feel that the compromise is allowing a maximum of two (2) allowed, not including an attached garage. There was a consensus in a agreement with this change.

Section 15:06(h)(2): Electronic changeable Sign: Recommendation to change to every five (5) seconds which matches state law from every ten (1) seconds as our Ordinance currently reads. The Commissioners all agreed with the recommended modification.

Added Sections:

3.31=3-24 Parking and Storage of Recreational Vehicles: K. Malkin recommended clarifying the definition of “storage” by replacing the second sentence with “Recreational and utility vehicles shall be permitted to park outside on property used for residential purposes with the Township in accordance with the following table and criteria:” The Commissioners all agreed with the recommended modification.

3.31=3-25 Storage Location: K. Malkin further amended wording to clarify the following the sentence ending in “...front property line,” change to “Storage shall be defined as outside storage not inside storage of any recreational vehicle as defined by Section 2.77, 2.99 and 2.100 on a lot or within a public street or private road not in conformance with subsections (c), (d) and (e) below.” The Commissioners all agreed with the recommended modification.

Chapter 12 Floodplain District. K. Malkin inquired if this needs to be an overlay district, or should other regulations be added in a zoning district such as: Area Regulations. Chapter 12 does not currently define area regulations if it actually a separate zoning district. It would need

to be in the Ordinance, or have introductory language which makes the floodplain district an overlay district.

The Commissioners were in complete agreement that a floodplain FEMA overlay should be developed.

Building Permits – Update

K. Malkin updated the Commissioners regarding a recommendation to charge an additional one-hundred dollars (\$100.00), as an example, or a percentage of fees to be charged when someone begins construction but does not first obtain a permit. After much investigation, and per various recommendations, K. Malkin feels that building fees should not be contained in our Zoning Ordinance. There was much discussion. The Commissioners agreed to eliminate said incompatible verbiage and add a statement to adopt the current approved State of Michigan Construction Code in its entirety.

D. Darland prefers setting a minimum fee and a percentage to charge those who do not obtain a building permit prior beginning construction. The Commissioners discussed the recommended fees, although a majority were in agreement to set a minimum fee or up to 20% under these circumstances. The fee structure will be readdressed upon removal of the inconsistencies from the zoning ordinance.

K. Malkin added that part of the memo to recommend to the Township Board is to also begin to require permits for siding and roofing.

D. Darland questioned the annual permit. K. Malkin stated that an annual permit would have to be agreed to, and cannot be imposed upon a contractor or business. It should be noted that this would not be offered for new construction and only cover customary repairs, or repairs that are considered pre-existing. Applicants for an annual permit are required to keep a log and responsible for obtaining an annual inspection at the end of the year based on that log.

Medical Marihuana Facilities Ordinance: Referred from the Township Board Oct. 23, 2017

K. Malkin explained to the Commission that this will be a free-standing Ordinance, and not a zoning ordinance, however he is approaching the Planning Commission for feedback.

K. Malkin has since suggested eliminating the Agricultural Zoning District from approved locations.

R. Sheppard stated that the Board is seeking the Planning Commission's input before a decision is made.

K. Malkin updated the Planning Commission on several aspects of the proposed Ordinance, including possibly eliminating provisioning centers. The Ordinance however is structured to only issue approvals on a case-by-case basis which would not require provisioning centers to be eliminated. With that said, the Board may be more apt to accept the Ordinance if provisioning

centers was removed. Applicants would have to meet a set of high standards in order to be considered for acceptance by resolution. A proposed addition to this statement would be: acceptance by resolution, on a case-by-case basis. This will allow us to only allow operations that have experience and financial backing.

J. Bellor asked if our restrictions will be more stringent than others.

R. Sheppard believes that the Monitor Township proposed Ordinance on Medical Marihuana Facilities will be more stringent or equal to others therefore promoting well-established operations for the long-term benefit of the Township. It also requires the operation to be licensed by the State of Michigan in order to initially qualify to apply with the Township.

R. Sheppard recommended adding language to the Zoning Ordinance to add the appropriate uses if the free-standing Medical Marihuana Facilities Ordinance is adopted at a later date.

P. Lippens inquired if there should be any provisions for special land use or an incorporation of any traditional zoning regulations attached to those uses such as setbacks or location from schools for example. He supports the approach to have the Ordinance free-standing.

K. Malkin reminded everyone that the business plan would need to be followed. The Planning Commission would ultimately be involved as an approved operation would have to submit an application for site plan review.

P. Lippens feels strongly that some of the criteria should be incorporated into the Zoning Ordinance because it relates to land use. His recommendation is to set-up the framework in a way that is consistent with best practices for planning and zoning which considers it a use, consistent with the Planning and Zoning Enabling Act and the way land uses are approved and recommended to be approved by the Act. So, if it is a special use that has special impacts that are associated with it, those are considered special land uses and are required to have public hearings, and therefore required to be considered by the Planning Commission. How can we look at site plans for uses that have already been approved by Resolution? If this is pursued, it should be looked at from a Planning and Zoning perspective.

There was much discussion regarding this matter. There are several aspects to consider which include community character, job creation, and state equalized value in addition to state-sharing benefits.

T. Miller commended K. Malkin on the work he did developing and preparing the Ordinance.

K. Malkin recapped his four (4) amendments: take out agricultural zoning and provisioning centers, make certain it is clear that approvals are accepted on a case-by-case basis, and to make sure that the submitted business plan by the facility is to be followed in its entirety.

P. Lippens is in agreement with collecting an opinion from the Planning Commission, and believes the zoning issue can be discussed at a later date. He considers the Medical Marihuana Facilities Ordinance to be properly prepared and well-researched.

In order to obtain a consensus of support of the free-standing Medical Marihuana Facilities Ordinance, J. Bellor asked the Commissioners to determine if they would recommend, with discussed amendments, to the Township Board for action. There was much discussion, and the Commissioners seemed split on the recommendation, with D. Darland and R. Campbell preferring to abstain until obtaining an opinion from the Board of Trustees. There was also some apprehension that a recommendation to support or deny would conflict with the passing of the newly revised Zoning Ordinance.

Reports

Menard Inc.: Impervious Drainage Calculations Email Oct. 18, 2017

Menard Inc: Jay Wheeler, PE William A. Kibbe & Assoc, Inc. Email Oct 27, 2017

Communications

**Motion by T. Miller supported by B. Reder to acknowledge receipt of Communications.
Motion carried.**

**Motion by C. Hoyle supported by D. Darland to adjourn.
Motion carried.**

Meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Dan Darland
Secretary

DD/blfp