

CHARTER TOWNSHIP OF MONITOR
REGULAR PLANNING COMMISSION MEETING

June 5, 2018

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

The Pledge of Allegiance was recited by all present.

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

Motion by D. Darland seconded by T. Miller to adopt the agenda with the addition to review Section 3.27 of proposed Zoning Ordinance #66.

Motion carried.

Motion by R. Campbell seconded by T. Miller to approve the minutes of the May 22, 2018 meeting as corrected amending the title from Regular to Special Planning Commission Meeting.

Motion carried.

Public Input

Chairman J. Bellor opened public comment at 7:03 p.m.

Ron Schauman, P.O. Box 522, Freeland, Michigan inquired about the possibility of Monitor Township adopting a wind energy ordinance and wanted additional information.

J. Bellor answered stating that before the close of the meeting they would be discussing wind energy as there are additional amendments that will be made to the existing ordinance that is already in effect.

Richard Herzberger, 673 E. Hotchkiss Road, is concerned with the ordinance review as Trinity Lutheran School has been trying to get an electronic sign since 2014. He understands that the zoning ordinance is currently being amended and would like to know if that section will be amended to allow for Trinity Lutheran School to obtain a permit to erect a digital sign.

J. Bellor explained that the entire ordinance has been under review with sections amended which have been submitted to the Township Board. Certain sections have been referred back to the Planning Commission which has slowed down the process.

R. Herzberger continued asking as to why Trinity Lutheran School is zoned agricultural.

D. Darland responded that schools and churches do not necessarily have zoning.

R. Sheppard explained spot zoning to Mr. Herzberger and also the zoning of the surrounding properties which are agricultural. He also confirmed that an amendment has been made in the updated zoning ordinance that will allow Trinity Lutheran School to apply for a digital sign.

There was discussion with regard to obtaining special use approval for any expansion of use. Churches are allowed by special use approval in any zoning district.

Mike Loomis, MDL Realty, 310 Center Avenue, Bay City, inquired about a property that he owns in partnership located at 110 Grove Street off of M13 in Monitor Township. It is currently listed for sale and there seems to be some interest on the property for use in an industrial capacity for a Medical Marijuana facility. We would like to know if rezoning this parcel from C-Commercial to I-Industrial is feasible and compatible with the Master Plan.

D. Darland asked Mr. Loomis if he was aware that a portion of the parking lot is part of the state highway.

R. Sheppard commented stating that indeed a portion of that lot is in the state owned right-of-way which has been part of the problem in revitalizing the building. If rezoning to industrial was legally obtained which is doubtful it would be difficult because of the parking.

M. Loomis stated that there is a fair amount of parking in the rear on a lot which has common ownership.

R. Sheppard commented on the zoning stating that the building is currently zoned in an area with similar uses. Zoning is typically changed in sections, not individual parcels.

Tom Ciaciuch, MDL Realty, 310 Center Avenue, Bay City commented offering a comparison of the industries in the area which he believes appear to be industrial in nature.

R. Sheppard stated that in order for this property to go from commercial to industrial the Master Plan would need to be amended in addition a large portion of that area would also be considered for a change in zoning. He did not feel this was a viable option.

P. Lippens concurred, stating that any recommendation he would give would be consistent with the Master Plan which represents C-Commercial however, application can be made and a review given.

Mark Wahl, 1397 W. Linwood Road, inquired if public comment was only at this time or after the ordinances are discussed.

J. Bellor stated that public comment would be opened up again after they discuss the ordinance review.

Chairman J. Bellor closed public comment at 7:22 p.m.

Items for Consideration

J. Bellor opened the Public Hearing for Site Sketch Review and Special Use Permit approval for TNT Fireworks, of Traverse City, MI to sell Fireworks from June 22 through July 6, 2018 in the parking lot of Meijer at 2980 E. Wilder Road.

P. Lippens, Planner recommends approval of the Special Land Use Permit at the Meijer lot upon receiving a Sketch Plan that showed the location of the generator, provide a sign less than 50 sq feet that would comply with the ordinance, and indicate the number of employees that would be working there. He is aware that two (2) would be required to be onsite at all times while a total of six (6) would be required to work the tent during sales hours. Revisions were received on Monday, June 4, 2018 via email from the applicant but have not been reviewed.

With no one present to offer comment, J. Bellor closed the public hearing for TNT Fireworks.

T. Miller made a motion supported by B. Reder to approve the Special Land Use Permit with the condition that the applicant, TNT Fireworks, provide the necessary documents that McKenna & Associates Inc. had requested in their May 30, 2018 written review.

Roll Call Vote:

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

No: None

Absent: None

Motion carried.

J. Bellor made a motion supported by J. Frank to have P. Lippens, Planner review the revised Site Sketch for TNT Fireworks and approve administratively.

Roll Call Vote:

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

No: None

Absent: None

Motion carried.

J. Bellor reconvened the Public Hearing for amending the Special Land Use approval for Jam Ventures of Bay City, LLC. d/b/a: Westside Storage of 5964 2 Mile Road.

Joseph Mulders of 5700 N. 4 Mile Road voiced his concern with the length of time his case has taken and how overwhelming the entire process to amend his special use approval has been. He continued, giving everyone present a brief overview of his operation and what has ultimately brought him in front of the Planning Commission.

J. Mulders addressed the Planner's May 25, 2018, Site Plan Review #2 and May 30, 2018 Special Land Use #2 review letters. He opposes any restriction on tenant hours of operation and believes that his use harmonizes with adjoining properties.

J. Mulders and P. Lippens discussed the Site Plan Review #2, #4. Setbacks and Dimensional Requirements. In 2002, in order to accommodate the Fire Department setback, the minimum setback on the side yard to the north is not in compliance. As noted on the Site Plan, the

property is owned by developer which is J. Mulders. J. Mulders stated that the parcels can also be combined, which would eliminate the problem, if the Planning Commission deems necessary.

J. Bellor inquired about the letter that R. Sheppard had sent to J. Mulders which states that this matter could be handled administratively.

R. Sheppard stated realistically what the applicant [J. Mulders/Westside Storage] is asking for is not a Special Use Permit to have a commercial business on a commercially zoned property, but to remove the Special Use Permit for mini-storage on the third building in order for it to revert back to a commercial building.

D. Darland confirmed with J. Mulders that both adjoining properties have common ownership.

J. Mulders announced to the Planning Commission that he would never sell the adjoining north property as he would be limiting Westside Storage ability to meet the required setback. He would need to make sure there was property added to the Westside Storage parcel if he ever decided to sell, but there should be no concern as he would not do it. A 10' foot setback on the side of that building is not adequate even from an operational perspective. He would make sure that there was 30' to 40' feet.

P. Lippens, Planner reminded everyone that the existence of the Auto Repair-Major lessee would require amending the Special Land Use approval for the business to be allowed to continue operating at that location. It is not sufficient to just remove the Special Land Use approval for that third building.

R. Sheppard recommended revoking the mini-storage for the third building. It would be then up to Alma Tire, the Lessee, to then apply for a Special Use Permit as their classification is only allowed by special use approval.

There was discussion regarding the parking requirement.

K. Malkin pointed out that he recalls a section in the ordinance which has flexibility on requiring parking islands and inquired if allowing J. Mulders to defer parking was appropriate in this case.

P. Lippens inquired as to how intense the site would be and how the uses will be controlled.

There was much discussion with regard to the potential uses of the three suites, the current landscaping and waste management plan.

B. Reder expressed his opinion stating that several of the recommendations seem to be difficult requests and unnecessary in order to achieve compliance.

J. Bellor closed the public hearing for Jam Ventures of Bay City, LLC. d/b/a: Westside Storage.

D. Darland made a motion supported by B. Reder to amend the Special Land Use Permit for Jam Ventures of Bay City, LLC. d/b/a: Westside Storage, removing the 50' X 150' third unit building

(Suite A, B & C) from the existing Special Land Use Permit approval for mini-storage contingent that the following conditions be met: applicant to submit a revised site plan to be reviewed and approved by the Planner, P. Lippens depicting a total of sixteen (16) parking spots with eight (8) deferred parking on the north parcel, an enclosure for a future dumpster, the two adjoining properties with common ownership would need to be combined in order to satisfy the setbacks for the building and parking area and any additional landscaping that was recommended, is hereby waived.

Roll Call Vote:

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

No: None

Absent: None

Motion carried.

Motion by T. Miller supported by J. Frank to schedule the public hearing for the July 10, 2018 Planning Commission meeting for the following applicant: Alma Tire of 5964 2 Mile Rd Unit C, Bay City, MI 48706 for review of a Special Land Use Permit and Site Sketch Review for a pending Lease at 1221 E. Salzburg Avenue. Owner: Salzburg Development LLC. Use: Auto Repair – (Major) Zoning: Commercial

Roll Call Vote:

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

No: None

Absent: None

Motion carried.

Zoning Ordinance #66 Review

On May 21, 2018 the Board of Trustees referred the Zoning Ordinance #66 back to the Planning Commission so they could review the ground clearance and setback requirements of Section 3.48 (5). Minimum Ground Clearance, the 20 foot minimum height requirement would need to be amended.

J. Frank submitted information that he felt would also need to be discussed regarding the wind ordinance in order for our general provisions to be compatible with neighboring townships. Much of this information was from Williams Township. Decommissioning of any turbine should also include the complete removal of the foundations.

T. Miller asked Paul Funk, the DTE Representative in attendance to comment.

P. Funk, DTE Energy stated that the submitted provisions would completely restrict wind development in the township. Although there are slight differences between the Williams Township and Beaver Township ordinance, they are effectively the same.

J. Frank made a motion to make the amendments he proposes in order to be compatible with Williams Township.

M. Wahl considers this to be a hostile issue that divides residents and should be decided upon by the people and not DTE Energy. He feels there has been no public input and is concerned with

Monitor Township's obligation to the health, safety, and welfare of all the citizens. Beaver Township employed four different attorneys and two separate planners to review their ordinance which took one and a half (1-1/2) years to develop. As residents become aware of this they will come out [to voice their opinion] and there will be news media involvement. There are other townships that have done a tremendous amount of homework. Beaver Township hired consultants including professors of renewable energy, the head of the state of policy from the State of Michigan, many experts, many opinions. Monitor Township is premature for an ordinance, but certainly accepting someone's like Beaver or Williams Township that put a lot of time and due diligence into developing theirs seems more reasonable. Beaver Township's ordinance was passed unanimously by their Planning Commission and Township Board. It is being adopted by other townships as we speak.

P. Lippens, Planner reminded everyone present that Monitor Township has had an ordinance regarding wind and wind energy conservation systems regulations since 2009. This discussion is an amendment to language that has been permitted here for quite some time.

Gary Brandt, 3810 3 Mile Road, stated he was present when the ordinance was passed in 2009. At that time "we" were told that there would never be any major wind turbine development in Monitor Township because there is not enough wind. The 2009 ordinance was designed for backyard or roof mounted systems for an individual and not for a public utility. He feels the ordinance is lacking items that should be in there.

There was general discussion regarding the various changes that were made to the existing ordinance. There was concern with regard to the minimum distance between turbines which is three times the turbine diameter which would be 600 feet.

J. Bellor spoke, calling attention to the motion on the table that has received support with a second from D. Darland.

J. Frank made a motion seconded by D. Darland to amend the Monitor Township Wind Ordinance to include the Williams Township information submitted by J. Frank: 2000' ft minimum setback, minimum of 1250' ft from other structures, a maximum sound level of 40 decibels, a separation of 1500 ft between turbine towers, with allowed shadow flicker of no more than 30 hours, and turbine blade to maintain minimum ground clearance of 75' ft from the ground.

Roll Call Vote:

Yes: Darland, Frank, Hoyle
No: Reder, Campbell, Miller, Bellor
Absent: None

Motion failed.

K. Malkin, Supervisor updated everyone with regard to why the wind ordinance had been referred back to the Planning Commission. One issue was the minimum clearance height and the second was for setbacks. He feels G. Brandt makes a good point about the 2009 ordinance currently in effect. He appeals to the Planning Commission to come up with standards that will protect the residents but doesn't engage in exclusionary zoning. Monitor Township should not

engage in unlawful conduct. Breckenridge had some good examples such as the setback could be increased to 200% to the home or residence. There are some things that can be done.

J. Frank is concerned with shadow flicker.

K. Malkin mentioned that there are additional restrictions that can be placed during the planning application process.

There was discussion on the planning approval process which includes provisions for regulating shadow flicker. An impact analysis study is required according to the application process.

The setback currently reads 150% of the height of the structure, or 750 feet. This is similar to the Breckenridge ordinance but they also regulate the setback for occupied buildings at 200% of the height of the structure, or 1000 feet. Occupied buildings = residence, school, church or library.

P. Funk commented stating that Breckenridge has mandated that 200% of the hub height or a minimum of 1000 feet setback is required. The hub is approximately 330 feet tall which would be 660 feet, or 1000 foot setback at a minimum. There are some voids in the Monitor Township requirement and on a personal level and not as a DTE Representative would offer comments. A 1000 feet is good practice for a participant but would suggest what is common for a non-participant, residence is 1320 feet, which is a greater distance and a much better standard.

M. Wahl stated that the applicant [DTE] should not be involved in the process of writing the zoning regulations and is curious as to why no other professionals were consulted. Continuing, he remarked that the wind tour they took was during the time when the turbines are the quietest.

Ron Schauman of P.O. Box 522, Freeland, MI addressed the Planning Commission stating that he has an investment in Monitor Township and is the first meeting that he has attended and feels this issue is very important to the residents. Every decision regarding this matter should not be made in haste and will need to be looked at carefully before a final ruling is made. He feels that the public should also be consulted for an opinion.

P. Funk submitted a handout comparing four (4) other townships for three (3) different counties. Wheeler Township, Chandler Township, Oliver Township, which incidentally had the first wind farm in Michigan, and Minden Township, which is located in Sanilac County. He feels that these will give the Planning Commission an idea as to how consistent these ordinance recommendations are in four (4) other communities that host wind which provide for the health, safety and welfare of residents. These are examples of good zoning.

J. Frank noted that these townships are in the east and thumb area with wide open terrain. He recommends a public forum and is obviously upset and highly against allowing any wind development in Monitor Township.

M. Wahl offered additional input mentioning that population in areas with current wind developments have an average of 800 residents. Monitor Township has 10,000 residents. He contends that property value decreases in areas of wind development.

T. Miller believes that the opposition to wind developments has an enormous amount of financial backing from the fossil fuel industry and has scared residents with false information. He supports alternative energy and the preservation of farm land.

M. Loomis spoke to go on record stating that it does not seem to be a wise, long-term plan for Monitor Township residents.

P. Lippens addressed the public that were present explaining to them that the Planning Commission is transparent, allowing for the public to openly address the Commissioners in meetings and that many municipalities do not allow for this. The township has been going through this issue and the entire ordinance amendment for quite some time. Monitor Township has regulated wind development since 2009 and the decision to amend this section was to make some reasonable changes to secure the public health and welfare. The Commissioners have all offered recommendations for amending wind energy, and what was brought forth this evening has been talked about in the past. There have been several arguments that have been made good or bad. It has been given a serious review and a lot of research has been put into this.

There was additional discussion among the Commission and the public attendees.

B. Reder made a motion seconded by J. Frank to table the wind energy amendment until the next regular Planning Commission meeting scheduled to be held July 10, 2018 at 7:00 p.m.

Roll Call Vote:

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

No: None

Absent: None

Motion carried.

R. Sheppard mentioned that the height and location of solar panels as a residential accessory use has been addressed in the draft amended ordinance however there is nothing in the current ordinance which regulates height and location.

R. Sheppard commented on the current ordinance with regard to signs in the (I) Industrial district. This section will need to be amended to bring clarity to the language on the maximum size allowed. The consensus agreed one sign, a maximum of 100'sq ft placed anywhere on the premises, including a wall sign, could be reasonably allowed in that district.

Review of Section 3.27 of proposed Zoning Ordinance #66. The Table, Condition #2 will be removed completely. The general language prohibiting a detached accessory building in the front and side yards will remain the same.

K. Malkin stated that he would like to see the amended Zoning Ordinance go forward for approval as the length of time it has taken to amend these regulations is having an adverse effect on residents.

There was additional discussion with regard to handling further amendments to the current wind ordinance.

R. Sheppard recommended waiting until the July meeting to take the wind energy section off the table. It can also be given a two to three month hiatus and revisited in August or September. This matter can be worked on separately in order not to cause further delay on passing the remainder of Zoning Ordinance #66.

R. Sheppard recommends leaving the wind ordinance as is at this time but change the typographical error for ground minimum clearance height from 20' feet to 75' feet. This would allow the Planning Commission to forward the revised Zoning Ordinance #66 to the Township Board with the recommendation to approve.

J. Bellor made a motion seconded by B. Reder to take the previously tabled wind energy ordinance off the table in order to a minor change to minimum clearance height.

Motion carried.

D. Darland made a motion seconded by T. Miller to amend the proposed large-scale wind ordinance to provide for minimum ground clearance of 75' ft from 20' ft, to remove Condition #2. from Section 3.27 Detached Accessory Building Table, and to clarify by correcting Section 15.09 to allow for a single 100' ft maximum sign anywhere on the premises in the I-Industrial District.

Roll Call Vote:

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

No: Frank

Absent: None

Motion carried.

There was discussion regarding Culver's non-conforming driveway aisle access.

J. Mulders announced that Chad Adams, owner of the previously approved site plan for the Pines Self Storage of Bay City LLC., has agreed to sell the property to him. J. Mulders will purchase the property subject to the Planning Commission's willingness to approving a modified site plan from Westside Storage. C. Adams is unable to tie in to the sewer drain as there is no approved access to J. Mulders property. A modified plan will only include storage units and no office building.

The Planning Commission advised J. Mulders to go through the formal application process as that would be required to modify the approved site plan and special use approval. They suggested that J. Mulders obtain the review letters from the Pines Self Storage of Bay City LLC. in order to get a better understanding of what would be required.

Communications

**Chairman J. Bellor acknowledged receipt of Communications.
Motion carried.**

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

Meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Dan Darland
Secretary

DD/blfp