

Minutes of the
Hayes Township Planning Commission meeting
May 15, 2018

Members attending: Cliff Biddick, Matt Cunningham, Marilyn Morehead, Ed Bajos, Roy Griffiths and Larry Sullivan Zoning Administrator.

Also present : Sue Meier, Lois Elzinga, Kim Marchewitz, Mike Marchewitz, Jodi Bunting, Michael Shumway, Suzanne Shumway, William Foley, Gene Foley, Ron Shanks, and Julie Collar.

The meeting was called to order by Vice Chairperson Marilyn Morehead at 7:03 pm, and she asked all to join in reciting the Pledge of Allegiance. This was followed by a review of the agenda. It was noted that the first public hearing scheduled was to be continued until such time as the site plan is finished and submitted.

Declaration of Conflict of Interest:

There were no declarations of a conflict of interest.

The regular meeting was suspended at 7:05p and will resume after the conclusion of the Public Hearing.

The regular meeting of the PC reconvened at 7:51p.

Public Comments Unrelated to the Agenda Items:

A question was raised asking about the plans for internet service provided by Great Lakes energy. It is anticipated that service may be offered as early as this fall.

Approval of Minutes:

Mr. Bajos moved to accept the minutes as written, Mr. Cunningham seconded the motion. Motion passed unanimously.

Report of Township Board Representative to the Planning Commission:

Prior to the report Mr. Sullivan distributed the new updated version of the zoning ordinance. Mr. Cunningham reported that there were two special meetings and one regular meeting of the BOT since the April PC meeting. The first held on April 20, 2018 whose purpose was to execute a letter of engagement for Miller Canfield and also to consider the Elliot Falls rezone request. Both Measures passed. On May 7, 2018 a second special meeting was held to consider the grant application for a loan and notice of awarding the contract to MDC construction for work at Camp Seagull. Both actions were passed. On May 14, 2018 the BOT held the regular meeting and appointed Carol Madison to the Library board, reviewed and tabled the road bid for Upper Bay shore road repairs. The board will be seeking a new auditor for the township, the board approved a millage appropriation grant for Camp Seagull which consists of a tent and a boardwalk. Sherriff Vondra presented the Sherriff's report. Marlene Golovich

and Robin Craft signed phase one of the contract for Camp Seagull. Comment was made regarding the form of the approved PC minutes and posting them on the website. The BOT asked that the PC consider adding language to the zoning plan regarding connected structures and accessory buildings and the housing problems in Hayes Township.

Mr. Sullivan expanded on the accessory building issue and specifically how the identification of the kitchen defines a dwelling. When new buildings are added to existing dwellings and a new kitchen is created the kitchen in the old dwelling is decommissioned. It appears that there are instances where after the new dwelling is occupied the old dwelling kitchen is reactivated and the effect becomes two dwellings instead of one. A second concern with attached buildings is that by attaching the accessory building it is possible to exceed the maximum square footage of stand-alone accessory buildings. The BOT asked the PC to consider the issue to with an eye to improving the situation. The issue will be included in the PC master plan discussions.

Mr. Cunningham continued the report by stating that the BOT is looking to approve \$3000 for the use of a professional planner by the PC. The BOT wants to adopt a policy on continuing education for the PC and Zoning board of Appeals. The next regular meeting of the BOT is scheduled for June 11, 2018 at 6pm to discuss the budget. Ms. Morehead asked if there were any specific thoughts on the continuing education issue from the BOT? He responded that the BOT noted that no one on the PC has attended any training this last year and that we needed to insure that our members stayed current with PC related topics to limit exposure to legal/ insurance claims. Discussion on potential strategies to comply with this ensued.

There being no further comments Ms. More head noted that the Zoning Board of Appeals did not meet and that would be no report.

Report of the PC Representative to the ZBA:

There is no report.

Zoning Administrator's report.

Mr. Sullivan reviewed the written report available on the township website. Two permits were issued last month. Two land division requests were received last month. One nuisance complaint was filed in April. The property has been foreclosed and the owner, Di-tech Holdings llc., has been notified by letter of the issue and a notice to clean-up the property. It also appears that the Raby property on Townline Road is again in violation of the nuisance ordinance and has been cited again.

The Grady Graham issue has moved forward as he has secured a landscape architect to develop plans for restoring the shoreline strip. Upon a finding of compliance with the ordinance they will notified to begin plantings.

The violation involving two horses on a residentially zoned parcel has been resolved. Spare Key Winery has been placing signs in violation of the ordinance. The owners have been cited and if the signs reappear the owners will be cited and enforcement action will begin.

The two short term rental applications were inspected and one is awaiting an evaluation from the Health Department regarding the proposed capacity of the dwelling, and the other was missing a few small items to be in compliance. Upon the proof of receipt of those items the license will be able to be issued.

Mr. Sullivan attended three Township meetings and the PC training session in April. He has also been researching an easement question that arose in the Falls SUP initial review and will develop further information on it. There being no questions we moved to new business.

New Business:

A draft budget was presented to give to the BOT for their annual budget considerations. It appears that the BOT has made some preliminary decisions regarding the budget and they decided on a smaller number for the professional planner usage based on discussions with Beckett Raider. Discussion then followed on the topic of the assistant clerk and her work for the PC. IT is to be continued in the next budget cycle. There is no further discussion to be had on the topic until the budget has been adopted.

Old Business:

There is no old business on the agenda

Set Public Hearing Dates:

There are no public hearings to be scheduled at this time.

Set /Conform Date of Next PC Meeting:

The next regular meeting is scheduled for June 19, 2018 at 7 pm.

Planning Commission Comments:

Mr. Bajos asked about the receipt of packets in the mail and the lead time given to PC members to review the contents of SUP and other actionable applications. Mr. Bajos further commented on the issue regarding how the packets are developed and distributed and the timing of the distribution. Ms. Morehead commented on the issue of timing and support. Mr. Griffiths asked that special hearing materials be distributed so that it can be reviewed prior to the meeting. He further asked if Mr. Sullivan would like a decision from the PC to enact a timeline for submission of applications prior to consideration by the PC. Mr. Sullivan replied that he was comfortable instituting that type of deadline on his own.

Public Comments:

There were no public comments.

Adjournment: At 8:37 pm.

Minutes Submitted by: M. Morehead

Compiled by: R Griffiths

Hayes Township Planning Commission

Public hearing on a request for a Special Use Permit

May 15, 2018

Mr. Ron Shanks, 7977 Pincherry Rd. Charlevoix, MI 49720, Property Tax ID 125-009-00, requested a Special Use Permit (SUP) for the establishment of a Fireworks storage magazine on his property. This would serve his Cottage Industry which is conducted outside of the residence. Mr. Sullivan, Zoning Administrator, distributed the packet of information to the PC for review. The chair asked for a five minute period to review the documents. At the conclusion of the review period, Ms. Morehead asked Mr. Sullivan to present an overview of the application and his review of the materials to date.

Mr. Sullivan stated that this request was made to facilitate the Mr. Shanks home based business which takes place in an area that is not attached to the residence and as such it requires a SUP. The property is zoned agricultural and home based businesses are allowed in the district and as a cottage industry it is allowed in this zoning under the SUP provisions. All necessary paperwork was submitted and proper public notice of the meeting was given by the Township as well as letters mailed to those whose property lies within 330 feet of the applicant's property. The applicant also provided a list of responses to the criteria that is used to evaluate the SUP.

Mr. Shanks gave a brief overview of his proposed fireworks storage container and the location of it on his property. He explained the types of fireworks to be stored and the requirements of The Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) for storage facilities. Mr. Shanks has a federal explosives permit issued by the BATFE and has been conducting fireworks displays for over 20 years, he is not engaged in retailing of fireworks. The proposed site was inspected by the BATFE and the 8' x 20' shipping container meets the criteria for a type 4 magazine (storage container). The site meets all the required distances from roads and structures. Given the distance from the wholesale suppliers of the fireworks to Mr. Shanks, the storage facility would greatly ease the burden of maintaining a supply of firework for his shows especially in the event of there being dud or misfired charges which are required to be kept in legal storage containers until such time as they can be returned to the supplier.

Mr. Sullivan commented that he had been contacted by BATFE regarding the application for a magazine and they indicated that they would need approval from the local community and the local fire chief of the department that services the location. He then described the terrain of the proposed location and how it might mitigate damage from an accident should it happen. The Cottage industry classification, that this application is filed under, is an allowed use in the Ag district.

Ms. Morehead next called for public comment from the audience. Gene Foley, neighbor, spoke in favor of the application. Kim Marchewitz, neighbor, spoke in favor of the application. Mike Marchewitz, neighbor, spoke in favor of the application.

Michael Shumway, neighbor, asked about the quantity of the materials to be stored and whether there was a disaster plan prepared in the event of an accident? Mr. Shanks replied that although the container would be licensed to hold up to 10,000 pounds, he does not anticipate keeping that large a supply. He also prepared the site in accordance with BATFE criteria which specifies clear space areas surrounding the magazine to mitigate fire spread. He is also allowed to only keep “low explosive “charges in the magazine with no storage of “bulk salutes”. The container is ¼” corrugated steel and should withstand a fire. Mr. Shumway asked if it was a typical used shipping container and if it was subject to rust issues. Mr. Shanks replied that it was a brand new container and that a maintenance schedule was required for the permit. Mr. Shumway then asked further about the setbacks and the distances from his property? Mr. Shanks replied that the proposed site exceeded all the required setbacks. The other neighbors spoke up claiming that they would all act as a fire brigade to respond in the event of an accident. Jodi Bunting, neighbor, spoke in favor of the application. Mr. Shumway asked again for clarification on the distances from which brush and combustibles are required to be cleared from around the magazine? Mr. Shanks replied that the brush has been cleared back for a 25’ radius of the magazine.

At this point, Ms. Morehead closed the public comments and called for the PC to begin deliberations. Mr. Griffiths asked for clarification on the storage of “salutes”? Mr. Shanks answered that the criteria was based on the size of the salute and the 50 % ratio of other types of fireworks to salutes stored is considered safe as long as they are no greater than 1.3 rated shells. Mr. Biddick asked for clarification on the rating of this type of magazine. Mr. Shanks replied it was a type 4 rating.

Ms. Morehead then explained that there are there groups of standards that must be evaluated in the process to grant a SUP in a cottage industry that is not attached to the residence. The first is on page VI,2 Standards for granting special use permit, number 4 A through H. Ms. Morehead read aloud each of the following and a determination of compliance with the standard was made, decision in **Bold Type**.

Standards for granting Special Use Permit

The Planning Commission shall approve, or approve with conditions an application for a special land use permit only upon finding that the proposed special land use complies with the following standards:

A. Allowed Special Land Use

The property subject to the application is located in a Zoning District in which the proposed special land use is allowed. **Yes this is an allowed use in the Ag zoning.**

B. Compatibility with Adjacent Land Uses

- 1) The proposed use subject to a special use permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
- 2) The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public road or seen from any adjacent land owned by another person.
- 3) If deemed necessary by the Planning Commission, the hours of operation

that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses. **Yes this complies with the standard.**

C. Public Services

- 1) The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
- 2) The proposed special land uses will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services. **Yes this complies with the standard.**

D. Economic Well-Being of the Community

The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole. **Yes this meets the standard.**

E. Compatibility with Natural Environment

The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole. **Yes this meets the standard.**

F. Compliance with Specific Standards

The proposed special land use complies with all applicable specific standards required under this Ordinance. **Yes this meets the standard.**

G. Conditional Approvals

The Planning Commission may impose reasonable conditions with the approval of a special use permit, pursuant to **Section 9.03** of this Ordinance. **No conditions attached.**

H. Performance Guarantee Required

The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a special use permit, pursuant to **Section 9.06** of this Ordinance. **The use does not require a performance guarantee by the Planning Commission.**

Next Ms. Morehead led the PC through the review of the Cottage Industry determination contained in Section III pages 13-14, as follows, decision in **Bold Type**.

Cottage Industries:

A. Cottage industries may be permitted as a special use in any zoning district in which single-family dwellings are permitted, subject to review and approval by the Planning Commission. Cottage industries shall be allowed on the basis of individual merit, a periodic review of each cottage industry shall be performed to ensure the conditions of approval are adhered to. If a premises is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the Zoning Administrator. If any changes are necessary, the request will be reheard by the Planning Commission.

B. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry. **Yes this meets the standard.**

C. The floor area of such buildings used for a Cottage Industry shall not exceed twenty four hundred (2400) square feet. **Yes this meets the standard.**

D. The outdoor storage of goods and/or materials of any kind is prohibited unless screened (by a tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring property and road rights-of-way. If required, the type of screening shall be determined at the discretion of the Planning Commission. **Yes this meets the standard.**

E. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and surrounding zoning district. Any machinery, mechanical devices or equipment employed in the conduct of a Cottage Industry shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition in excess of that typically associated with the use of the premises for residential purposes. **Yes this meets the standard.**

F. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses. **Yes this meets the standard.**

G. Cottage industries shall be conducted only by the person or persons residing on the premises. However, if the Planning Commission finds that additional employees or assistants are necessary to conduct the cottage industry, it may allow up to three such additional employees or assistants. **At most there would be one employee due to Federal licensing requirements, Yes this meets the standard.**

H. To ensure that the cottage industry is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process. **Yes this meets the standard.**

I. To reduce the any adverse impacts from the cottage industry on adjoining properties, the Planning Commission shall approve the hours of operation for the cottage industry. **Yes this meets the standard.**

Ms. Morehead then called for a vote on meeting the approvals of a cottage industry application and the special use permit. Mr. Biddick – yes, Mr. Cunningham – yes, Ms. Morehead – yes, Mr. Bajos – yes, Mr. Griffitts -yes.

Ms. Morehead then directed the PC to the Site Plan Review approval process, Section V pages 4-5 as follows: (Decisions in **Bold Type.**)

5. Standards for Granting Site Plan Approval:

A. The Planning Commission shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards listed below, unless the Planning Commission waives a particular standard upon a finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property. The Planning Commission's decision shall be in writing and shall include findings of fact, based on evidence presented on each standard. These standards are listed in subsections 1-11 listed below.

1) All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development of surrounding property for uses permitted in this Ordinance. **Yes this meets the standard.**

2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas. **Yes this meets the standard.**

3) Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties. **Yes this meets the standard.**

4) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants. **Yes this meets the standard.**

5) All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides. **Yes this meets the standard.**

6) Every structure or dwelling unit shall have access to a public street, private road, walkway or other area dedicated to common use. **Yes this meets the standard.**

7) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height. **Yes this meets the standard.**

8) Exterior lighting shall be arranged as follows: **Not applicable, no lighting planned.**

- a) It is deflected away from adjacent properties.
- b) It does not impede the vision of traffic along adjacent streets.
- c) It does not unnecessarily illuminate night skies.

9) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way. **Not applicable to this project.**

10) All streets shall be developed in accordance with any adopted Township private road standards, or if a public road, the County Road Commission specifications. **Not applicable.**

11) Site plans shall conform to all applicable requirements of state and federal statutes and the Hayes Township Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits before the actual zoning permit authorizing the special land use is granted. **BATFE approval and local Fire Chief approval granted.**

B. The Planning Commission shall seek the recommendations of the Fire Chief, the Charlevoix County Road Commission, the County Health Department, and the Michigan Department of Natural Resources, where applicable. **Yes meets the standard.**

Ms. Morehead then moved for a vote on granting the site plan approval, Mr. Bajos seconded the motion. Mr. Biddick-yes, Mr. Cunningham-yes, Ms. Morehead-yes, Mr. Bajos-yes, Mr. Griffitts-yes. Motion passed. The Public hearing was adjourned at 7:50 pm.