

Hayes Township Planning Commission
Regular Meeting
October 17, 2017

The regular meeting of the Hayes Township Planning Commission (PC) was called to order immediately following the Toyboxes, Inc. Special Use Permit hearing at the Hayes Township Hall, 09195 Old US 31, Charlevoix.

Planning Commission members present were Marilyn Morehead, Matt Cunningham, Bob Jess, Cliff Biddick, Ed Bajos and Pat Phillips. Steve Wilson was absent. Also present were Marlene Golovich, secretary and Larry Sullivan, zoning administrator. Audience members signed in were Annie Doyle, Julianne Dreyer, Dave Kemme, Susan Pyke, Frank Shepherd, Matthew Greimel, Ken Koss and William Dreyer.

Public comments unrelated to agenda were taken on meetings in the off season, format of proposed ordinance amendment, beach sand not being allowed, ability to follow changes in proposed ordinance, definition for carpentry.

Larry stated public comment is just for comments, not back and forth debates.

New Business – No

The Planning Commission members reviewed the minutes from the September 19, 2017 regular meeting. Ed Bajos made a motion, supported by Cliff Biddick to approve the minutes as corrected. Motion carried.

Matt reported on Township Board (BOT) activities. The Board updated the fee schedule, discussed employee vacations, discussed future road projects on Burnett Rd, Maple Grove Rd Murray Rd, Bayshore West, and Susan Lake, gave the bid to B&G Enterprises for snow plowing at the hall, and discussed hiring a person to clean the Township Hall. Matt passed out comments from Supervisor VanZee regarding the proposed ordinance amendments (see attached).

Zoning Administrator, Larry Sullivan presented a written report with an oral overview. Larry also stated that a bench warrant to arrest Grady Graham was issued for failure to show up in court. Ed asked what was happening at the Featherly property on US 31. It appeared that it was being used as a staging area. Larry will check on it. Larry also stated that fencing and shrubbery will be installed on the Featherly property.

Next regular meeting of the Planning Commission is November 21, 2017 @ 7:00 p.m.

Planning Commission Comments – Bob asked the Secretary for consistency on stating her job title on documents she prepares.

Ed Bajos made a motion, supported by Pat Phillips to adjourn at 8:42 p.m. Motion carried.

Respectfully submitted

Marlene Golovich, secretary

Marilyn Morehead Planning Commission Secretary

Minutes approved as written November 21, 2017

HAYES TOWNSHIP PLANNING COMMISSION
Toyboxes, Inc.
Special Use Permit
October 17, 2017

Chair Bob Jess called this public hearing of the Planning Commission (PC) to order at 7:00 p.m. at the Hayes Township Hall, 09195 Old US 31, Charlevoix.

Planning Commission members present were Marilyn Morehead, Matt Cunningham, Bob Jess & Cliff Biddick, Ed Bajos and Pat Phillips. Steve Wilson was absent. Also present were Marlene Golovich, secretary and Larry Sullivan, zoning administrator. Audience members signed in were Annie Doyle, Julianne Dreyer, Dave Kemme, Susan Pyke, Frank Shepherd, Matthew Greimel, Ken Koss and William Dreyer.

Chairman Jess asked to be joined in the Pledge of Allegiance.

Review of agenda – remove new business item

The purpose of the hearing is to take public comment on an application from Toyboxes, Inc. (applicant) for a Special Use Permit for carpentry, plumbing, and electrical sales, services and contracting offices per Section 4.11, 3. H. General Commercial District. Property tax numbers 15-007-109-024-30 and 15-007-460-001,002,003,004,005,006,007 located at 09376 & 9384 Watersview, (East of Burgess Rd. on US 31) Charlevoix, MI

Matt Cunningham stated that he was contacted by residents that were upset about the PC going forward with the public hearing on the proposed ordinance amendments when waterfront property owners are not here. They would like to see the meeting moved to June when they have returned for the summer.

Pat Phillips stated that the PC has been working on the amendments for two years and there has been plenty of time to attend meetings and make comments.

Matt stated he had heard from three different people and he was just reporting their concerns.

Matt made a motion to postpone the public hearing for comment on the proposed zoning ordinance amendment scheduled for October 24, 2017 until spring of 2018.

Motion failed with no support.

Chair Jess asked the zoning administrator to explain the draft findings of fact (see attached). Larry read the proposed findings of fact. He also stated that he contacted the Health Dept. regarding the restrictions on their permit. Larry reported that the Health Dept had concerns regarding the type and volume of material going into the septic system. Larry also clarified that the applicant is requesting that the special use be applied to all current and future storage units on this site.

Bob asked the applicant how they have been operating for the past 10 years regarding hours etc.

Applicant Presentation. Ken Koss (applicant) stated that Frontier Classics has been a tenant for 10 years. He stated he believes the existing code allows for boat repair as a special use. There is a way to fix the disconnect via Section 4.11, 3. H. carpentry, plumbing, and electrical sales, services and contracting offices. There was a recession and he did what he had to do to stay in business. In the real world this is sometimes how it happens. In regards to Mike Jones of the Health Dept. Mike does not have the information at his disposal to make a determination on the volume of material going into the septic system. The parking lot is almost always empty. The septic system was built twice the size needed to accommodate both buildings. The capacity is not a problem.

William Dryer (tenant), Annie, his wife, two children and two employees were present. Annie read a prepared statement (see attached).

Public Comment. Matt Greimel, neighbor, stated he shares a driveway with the storage facilities and the volume has been very light. At this point there has been no noise or smell concerns. Frontier Classic has been good, quiet neighbors. He has not noticed spills or any residue or stains that would indicate a spill.

How far from the open water are you and how do you dispose of wastes (chemicals) and hazardous waste. Everything is picked up by the a local garbage disposal company. They are empty cans only. The buildings are 100 yards from the lake and there are large berms between the building and the lake.

Dave Kemme asked how they managed spills. Ken Koss stated there are no floor drains within the buildings. Spills are wiped up. Regarding outside spillage the parking area has 2 drains that lead to basins. Ken stated he is on site often and has never observed dead foliage or grass, nothing to indicate a spill. Ken stated it is a real clean site.

Tenant stated that a couple of ounces might be spilled but it cleaned up immediately.

Chemicals are delivered in quarts & gallons, no large volumes.

The tenant was asked if there was a restriction on storing large volumes would that restrict your business. No

Tenant's employee stated that his hand planes are over 100 years old. There are no CNC machines. Everything is done by hand. This is not a fly by night business. This is a career providing business. We are losing a lot of the old trades.

Susan Pyke applauded craftsman and stated Hayes Township is lucky to have them.

Chair Jess closed public comment.

Chair Jess read Section 6.01 Purpose

Section 6.02 4. 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. **Section 4.11 3. H does allow the proposed use.**

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. **Planning Commission agrees.**
- 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. **Planning Commission agrees.**
- 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. **Current hours of operation are 8:00 a.m. to 5:00 p.m. Marilyn stated she would support hours of operation 8:00 a.m. to 6:00 p.m. Applicant stated there are some variables. No work will be done outside the approved hours but they may need to access the site after hours for tools etc.**

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. **Does not.**
- 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. **It does.**

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. **Not an issue.**

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. **Does not cause problems.**

F. Compliance with Specific Standards

The proposed special land use complies with all applicable specific standards required under this Ordinance. **It does.**

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. **Hours of operation.**

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. **Does not apply.**

Board discussion. Marilyn stated she visited the site and loves old wooden boats. The site was clean, no noise with some odor of fresh varnish inside but no odors outside. She is in favor of granting.

Pat asked if there were plans to expand. They may hire more employees rotating the work in/out there would be five employees max in two units.

Public Comment. Dave asked if the special use was granted to the owner of the land or the business. It is granted to the whole land.

Larry Sullivan stated that the special used would cover all the current and future units and there could be fourteen businesses operating on the site.

Ken Koss replied it is not likely to happen and it is not his intention. How do you control what happens on any property? Owners regulate themselves. Ken will make sure they respect his property. He will assure there is normal use and no abuse. There is an association.

Tenants stated that the zoning ordinance regulates what happens on the property.

Marilyn Morehead made a motion, supported by Cliff Biddick to approve the Special Use Permit for Toyboxes, Inc. based on Section 4.11 3. H., hours of operation to be 8:00 a.m. to 6:00 p.m. and condominium documents must be amended and filed.

Larry Sullivan suggested;

1. The condominium documents files with the register of deeds do not provide for the new use(s) as proposed and new condominium documents should be amended and filed with the register of deeds.
2. The applicant must get Health Dept. approval based on any new uses.

Larry state that the Health Dept. is concerned when uses change. See attached Health Dept. approval for the site in 2007.

Marilyn stated that she is not understanding why this comes into play.

Pat stated that this business might take care but new businesses may not.

Bob stated this is not a concern for this one and it is an undue burden.

Matt stated they fall under office type.

Planning Commission consensus is to add the amendment and recording of the condominium documents to the motion.

Yeas: Matt Cunningham, Cliff Biddick, Bob Jess, Ed Bajos, Marilyn Morehead
Nays: Pat Phillips
Motion carried.

Bob stated that a site plan review was not needed.

Respectfully submitted

Marlene Golovich, secretary

Marilyn Morehead Planning Commission Secretary

Minutes approved as written November 21, 2017

**Hayes Township Planning Commission
Ordinance Amendment Public Hearing
October 24, 2017**

The public hearing of the Hayes Township Planning Commission (PC) was called to order 7:00 p.m. at the Hayes Township Hall, 09195 Old US 31, Charlevoix.

Planning Commission members present were Marilyn Morehead, Matt Cunningham, Bob Jess, Cliff Biddick, Ed Bajos and Pat Phillips. Steve Wilson was absent. Also present were Marlene Golovich, secretary and Larry Sullivan, zoning administrator (ZA). Audience members signed in were Roy Griffiths, Jim & Diane McMahon, Ron VanZee, Robbin Kraft, Jerry Seymour, David Ferris, Frank Shepherd, Mark Snyder, Tom Darnton, Paul Hoadley, David Zipp, MKS Whitehead, Chris Narton, LuAnne Kozma, Ellis Boal, Claire Karner and Bill Henne.

Chair Jess asked to be joined in saying the pledge of allegiance.

Chair Jess thanked everyone for coming and stated the public hearing was to take comment on proposed ordinance amendments. He explained that Claire Karner from Beckett & Raeder would give an overview of the proposed amendment. He asked that public comment be limited to three minutes and requested that comments be made at the microphone and individuals introduce themselves.

Claire Karner stated that she has been working with the PC for approximately a year on Section 3.14 Waterfront Regulation and 3.24 Landscaping. Beckett & Raeder, the firm she works for, sent out a survey to waterfront property owners. She stated that Hayes Township has a long history of water protection. Based on the results from the survey some of the ordinance restrictions were softened, more consistency was added, a site plan review process was added for waterfront properties for new homes or additions, the process was changed to add more transparency and a subcommittee was created with PC members and staff from Tip of the Mitt Watershed Council.

The purpose of the hearing is to get input. The Planning Commission is here to listen and will deliberate after public comment. The proposed ordinance amendment language may be adjusted after public comment and then will be sent to the County for review before being adopted by the Board of Trustees.

Public Comment

Jim McMahon asked if there would be another hearing before the ordinance was adopted. Claire explained that the PC may choose to discuss this again at a future meeting and that all their meetings are public.

Jerry Seymour asked if once the PC has finalized the proposed amendment language and it has been through all the process would the public be notified before the amendment becomes law. The updated proposed ordinance amendment will be on the website.

Jerry stated he had difficulty with the web page. Omar will be notified of the problems. He stated he is chair of the Oyster Bay Club and he notified his members and they were not aware this hearing was taking place.

The hearing notice was posted on the web page and in the newspapers.

The public asked why it was not in a newsletter. The Township newsletter only comes out once a year.

Claire continued with her overview.

She stated that there are two versions of the amendment, one clean and one marked up for easy viewing of new text being proposed. The crossed out text is being removed.

Section 3.24 Landscaping

Claire stated this section has updated lists of invasive and native species. Rather than add the entire list it refers to NW Michigan Invasive Species Network.

Section 3.14 Waterfront Regulations

Claire stated that it has been reorganized and the language has been streamlined. The setback area for all lakes is 100'. Currently Susan Lake is 80'.

Changes for Section 3.14 include

A 200 sq. ft. deck is allowed in the 100' setback.

Walkway size was increased from 4' to 6' to make the standard ADA compliant.

Composting is encouraged.

No septic is allowed.

Trimming is allowed for filtered waterfront views.

One dock per property and allows for shared docks.

Number of boats allowed at docks is unlimited as long as they are owned by the property owner.

Funnel Development remains the same as current.

Marine pump-out added language about service agreements

Waterfront Development Review section was added as a way to enforce the ordinance so it is fair and equitable. Any new waterfront development will be reviewed by the subcommittee. A table has been added to summarize how the review is handled. If it is a remodel no review is necessary. If it is an addition a review will be done by the committee and the zoning administrator. If it is a new home it will be reviewed by the committee, zoning administrator and approved by the Planning Commission. Walkways and retaining walls will be reviewed by the zoning administrator with the committee. A site plan showing the area of the greenbelt being preserved and areas that will be reestablished will be needed.

Public Comment

Roy Griffiths asked for an explanation of 3.14 3 B. Claire read the section.

Ellis Boal asked how the adoption of this amendment affected buildings in the process of being constructed. ZA Sullivan stated that if a permit was pulled prior to adoption they can move forward.

Jim McMahon asked if “drip line” should be defined. Section 3.24 H. is the drip line of the trees not the house. He also asked if “composting” should be defined. Would it be a violation to compost yard waste within the 100’ setback? Is the allowed trimming of trees included in the 20% max total clearing that is allowed? You could end up with tree trunks only. It should be better defined. The Township is not enforcing regulations they currently have. Tip of the Mitt has pictures of Lake MI shoreline. The pictures should be utilized to aid in enforcement. The pictures can be overlaid with GIS addresses. Without enforcement this means less.

Bill Henne stated the rewrite is well done and looks good. What was the reason for increasing the number of boats moored or stored? Currently the ordinance is one boat or mooring per 100’ feet and now you are proposing unlimited boats if they are owned by the property owner. Bill stated he would like to see a restriction on the number of boats allowed. Maybe allow 2 boats per lot or maybe more and restrict the number of moorings.

PC Comments

Cliff Biddick asked what counts as a boat.

Public Comments

Bill Henne asked about limitation of funnel development. He also asked about how many boats can be moored out in the lake. He asked that 3.14.5 D be removed.

LuAnne Kozma asked if 3.14.5D includes guests living on the property. If not it is a problem.

Roy Griffiths stated he appreciated the work the PC has done. The standards are pretty tough and an overreach. The standards are greater than recommended by the DNR to protect the lake. Why is the township exempt from the waterfront standards?

8C states the Committee is appointed by the PC. Should that be not be done by the Board of Trustees? What are the qualifications of the committee? What is the cost of the process? Who can create the plan? What is the cost for the committee? What is the cost for the committee meeting?

The current standards are tough and not being enforced. Why add more?

Jerry Seymour asked if 3.14 3B meant that if someone built an addition and currently does not have a shoreland protection strip would they be required to plant a strip with 80% coverage? Yes. Jerry stated it used to be 25% that could be cleared.

PC Comments

Cliff Biddick stated the goal is to protect the lakes.

ZA Sullivan explained that the purpose of a public hearing is to accept public comment and not debate with the planning commission. The PC will debate after the public comment period is closed.

Mark Snyder asked what the driving force was on the changes. Claire stated to make sure the ordinance is enforceable; with more flexible standards the ordinance is reasonable and enforceable. Mark asked what the qualifications are for the subcommittee? The committee will be made up of two PC members and one staff member from the Tip of the Mitt. Mark stated that all committee members should have some qualifications, true expertise rather than random thoughts. Section 3.14 C prohibits pesticides, herbicides and fertilizers. Why do we need a protection strip? Why isn't government held to the same standard? The proposed park will have a bigger impact on the lake. The only time some lake residents boats are used is when they are delivered to the property owner and then they never leave the dock. Science should be used rather than random thoughts.

Dave Zipp stated that a definition for boat is needed and a definition for stream. In Article 5 Section 5.03 A. states All Districts requires a site plan. Claire explained that it states "except" ... "non- waterfront lots" so only waterfront lots apply.

Ron VanZee stated he wanted to thank the PC, it has been a long process. He stated that it was his idea for the site plan review. He wanted to make sure we are using the proper plants. Currently the ZA can only enforce what is in the ordinance. He stated a case that he was involved in where he was asked to approve a plan for the restoration of a protection strip that included a fireplace. He had to turn it down and the plan was a huge improvement on the existing shoreland protection strip. He had to turn it down because the current ordinance lacks flexibility. With the site plan review it will have flexibility.

Roy Griffitts stated this is black and white and it is not written so they can vary from what is written. Roy stated that a site plan process with the zoning administrator is reasonable. The proposed ordinance changes makes you jump through more hoops. It now requires you to prepare a plan and meet with a review committee.

Ron VanZee stated that the committee is your friend.

Roy stated that hopefully it will be in the new language discussed by the PC.

The planning commission will discuss the reasons and purposes of the committee and make changes if necessary.

Ellis Boal stated that his family has been here for 105 years and he is for preserving the shoreline and trusts these people. This is a democracy. This meeting allows discussion. There is science and emotions on both sides. He stated he does not cut down trees but rather trims the branches to create a view.

Chair Jess closed public comments at 8:18 p.m.

A short break was taken resuming at 8:25 p.m.

Marilyn stated she would like to speak to two questions. The committee will be a way to sit with the property owner and find compromises on both sides. It will allow the township to find ways to better protect the lake and work with the property owner. She stated that Grenetta Thomassey from the Tip of the Mitt has a lot of credentials and she is willing to be a part of the committee without charge. Marilyn Morehead is a waterfront property owner and Ed Bajos has a construction background and hopefully will both serve on the committee. This still needs approval from the PC.

Other Planning Commission Comments

The committee is advisory only and will only be making recommendations. The protection strip protects the lake against runoff from higher properties. The township is trying to be flexible and work with the property owner. Tippet of the Mitt Watershed Council prepared a Gaps Analysis that showed the Township was good on some lake protections but not on others. This is not police force but a way of trying to bring people into compliance to protect the lake. Ron recommends adding additional members to the committee.

Marilyn made some suggested language additions (see attached).

Marilyn stated that she recommends keeping the size of the committee small. A small group can meet easily and quickly. A landscaper could be on call. Grenetta from the Tip of the Mitt is an authority.

Pat stated that the committee would be three people from three different viewpoints.

Claire suggested the PC go through the public suggestions.

Does dripline need to be defined? No.

Does composting need to be defined? No composting in the greenbelt area, not regulating where people blow leaves, compost outside 100' setback.

Define permeable? Tip of the Mitt suggested that permeable material not be required for the deck or walkway in the 100' setback.

Bob stated the word "excavation" should be removed. Some type of excavation would be needed to build a deck or walkway even it was just to dig post holes. Any excavation should be kept minimal.

Language should be added to clarify that selective trimming is part of the 20% allowed but branch trimming is allowed and not included in the 20% total selective trimming.

Should changes be made to Docks & Boats. The number of boats has been discussed repeatedly. It should remain no restriction to the number if owned by property owner.

Larry stated that ordinance enforcement is complaint driven.

Marlene asked if moorings require a DEQ permit. Yes

Should additional members be added to the committee? Clarify that it will be a technical person from the Tip of the Mitt not just a member and change the term of PC committee members to coincide with their terms on the PC.

Should changes be made to Section 3.14 3 regarding pesticides, fertilizers etc? No changes necessary.

Does stream need to be defined? No changes are necessary.

Does boat need to be defined? Claire will check. No

Claire will also add goals and objectives.

Bob stated that 3.14 2 A. states that no structures are allowed but 3C of the same section allows retaining structures. Claire stated that most retaining structures are lakeword. Seawall is different from retaining walls. Claire will make the necessary change to add retaining structures and walkways.

Section 3.14 3 D. II & III change language regarding the most direct route. Take out permeable and allow for paver with spaces. This could be reviewed by the committee.

Matt stated that anything you do to your waterfront property ends up in front of the subcommittee and you will have to replant.

Pat stated the committee is about compromise.

Matt asked if every case is different or do we need a standard.

Marilyn stated it is a process.

Matt asked if you do not have a policy how can fairness be consistent.

Pat stated you will have to trust the committee & the expert on the committee. You will have to trust the process.

Marilyn stated that the ultimate goal is restoring the shoreland protection strip to protect the lake, it may not all happen at once.

Larry asked where the language was that allows the zoning administrator flexibility. The committee only recommends but cannot authorize the zoning administrator to break the law.

Claire stated that the greenbelt is different and it is not black and white. It is a living organism. Cliff asked if language was needed to allow the zoning administrator flexibility.

Larry asked if language inserted below the chart could be added that the zoning administrator has the authority to modify rules to make sure the intent of the ordinance is followed if it is in line with recommendations of the committee.

Claire will summarize the changes. She recommends that the PC wait until the next meeting to act on the proposed ordinance. She will make changes to the proposed ordinance and send full copies to the PC for review.

Public Comments

Will residents see the new changes? It is important to keep the language about filtering pollutants as the reason for a protections strip. Walkways should be constructed so not to increase velocity of runoff to lake.

Mark Snyder stated that you want flexibility but it falls back to black and white. Get legal counsel to review it.

Roy Griffiths stated that progress was made tonight. He asked who decides what a visual barrier is. It is an aesthetic question. What is the standard? How does visual aesthetic affect the quality of the lake? It is discretionary.

Tom Darnton agrees the proposed ordinance update should be run by the Township attorney. The 20% clearing is a complex equation if the zoning administrator is given flexibility to work with the committee.

Ellis Boal scenic or not is how it is viewed from the lake. Maybe you could count up engine horse power to determine the number of boats allowed at a dock. Would that work?

Paul Hoadley stated he commended the PC. The prime function of this section of the ordinance is to protect the lake. It is done with root systems.

Ed Bajos made a motion, supported by Marilyn Morehead to adjourn at 9:41 p.m. Motion carried.

Respectfully submitted

Marlene Golovich, secretary

Marilyn Morehead Planning Commission Secretary