

**MINUTES SILVER CREEK TOWNSHIP
REGULAR PLANNING COMMISSION MEETING HELD SEPTEMBER 25, 2019**

The Planning Commission meeting was called to order by Chairman Terry Harris at 7:02 p.m. on Wednesday, September 25, 2019. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Dave Grabemeyer, Jon Tidey, Debbie Brown, Terry Harris, Tim Feirick, Nick Barnes

MEMBERS ABSENT: Bill Zuhl

OTHERS PRESENT: Building/Zoning Administrator Todd Herter, Recording Secretary Lindsay Krohne, members from the public

Todd Herter requested to add the discussion of rezoning a 43 acre parcel to New Business, Item 11 (e). Todd stated that the 43 acre parcel off of Haley is mostly swamp, and the owner appears to have a pier out to Cable Lake that you have to go through head-height brush to get to. Todd stated that the owner wants to rezone because the allowable 1,500 square foot for an accessory building is not enough for his buildings.

MOTION TO ADD ITEM 11 (E) REZONING OF A PARCEL TO MEETING AGENDA

Dave Grabemeyer motioned to add item 11 (e) to the September 26, 2019 Agenda. Jon Tidey seconded. Motion passed by voice vote.

MOTION TO APPROVE SEPTEMBER 25, 2019 REGULAR MEETING AGENDA

Dave Grabemeyer motioned to approve the September 25, 2019 Planning Commission meeting agenda. Debbie Brown seconded. Motion passed by voice vote.

APPROVAL OF JULY 24, 2019 PLANNING COMMISSION MINUTES

Nick Barnes motioned to approve the July 24, 2019 Planning Commission minutes. Jon Tidey seconded. Motion passed by voice vote.

COMMUNICATIONS

None.

PUBLIC COMMENT

None.

TOWNSHIP ATTORNEY'S REPORT

None.

ZONING BOARD OF APPEALS REPORT

Dave Grabemeyer reported that there had been two hearings since the Planning Commission last met, and both variances were denied.

BUILDING/ZONING ADMINISTRATOR'S REPORT

Building/Zoning Administrator Todd Herter explained that the woman who had been planning to turn an existing barn on M-152 into a wedding barn venue has decided against it due to the cost, and is now interested in purchasing a vacant 10-acre piece of property on M-152 at the bottom of the hill on Philips Road with plans of obtaining a Special Use Permit for a new wedding barn venue.

Todd stated that he is also dealing with two ongoing situations with fencing.

Chairman Terry Harris asked what district the M-152 property is zoned, and Todd answered Ag.

Debbie Brown stated that they discussed and decided to allow new barns to be built for wedding venues. Dave Grabemeyer added that he asked to revisit this because he doesn't really agree with it after giving it more thought.

Todd commented at how much Ag the township has. He added that there won't be wedding venues on every corner, but Silver Creek Township is probably big enough for three.

Terry stated that they would be taking 10 acres out of Ag and making it Commercial. Todd added that if that business goes out, another commercial business can come in and you are opening up Ag for Commercial. Todd added that it would be essentially a non-conforming structure or non-conforming use.

NEW BUSINESS

REVIEW OF UPDATED CAPITAL PLAN

Chairman Terry Harris referred to the summary he provided listing the projects and costs for the 2019-2023 Capital Improvement Plan. Terry explained that these are wish list items and not necessarily things that will be happening right away. Discussion followed.

MOTION TO APPROVE CAPITAL IMPROVEMENT PLAN

Dave Grabemeyer motioned to approve the Capital Improvement Plan to be submitted to the Township Board. Debbie Brown seconded. Motion passed by voice vote.

FENCE DEFINITION DISCUSSION

Todd Herter explained that he is dealing with two different issues with fences, stating that the first one is on Cable Lake, where to property owners don't like each other and one put up a tarp over the existing fence so they cannot see each other. He added that this does not meet the 66% solid requirement in the Zoning Ordinance.

Jon Tidey questioned if this was blight, and Todd answered no. Todd explained that as long as the fence is not in the front yard setback, there is nothing to be said about how solid the fence is. Todd stated that the question is whether it is considered fencing material.

Todd explained that the second issue he is dealing with is on Gilmore (Magician Lake) where there is an 18-year ongoing feud. Todd explained that the property owner doing the complaining has an old house that is built right next to the property line, and the outer row of bricks on his chimney is actually on the neighbor's property. Todd stated that the neighbor erected poles on the property line, draped black plastic across them and piled up tires next to it. Todd stated that our Township Attorney Roxanne Seeber sent the homeowner a letter stating that he has to move the tires, and the black plastic doesn't constitute a fence. Todd also stated that the ordinance doesn't say what constitutes a fence, and if it went to court, they would need to have a different definition of what a fence is and some kind of regulation on what you consider to be fencing material – wire, vinyl, wood panels, etc.

Chairman Terry Harris asked if they have to get so detailed as to make sure it doesn't allow barbed wire, and Todd answered that it is already in the ordinance.

Terry stated that this would require a public hearing after discussing it as a commission at the next meeting. He stated they were probably looking at November for a public hearing.

DECK RAILING DISCUSSION

Chairman Terry Harris referred to Item D in New Business, regarding discussion of an 18" railing. Dave Grabemeyer stated he would like to clarify that he was referring to one of their ZBA hearings where the deck was out of compliance. Dave questioned why you can only have a railing if the deck is over 18". He stated it would be easy for people to just stumble off of the deck without a railing.

Todd answered that if the deck is 18" or less it doesn't have to abide by the setbacks, but the minute you put a handrail on it, which must be fastened to the structure, the structure is no longer 18"; it is the height of the handrail. Todd explained that you can have an 18" walking surface, but when you add built in seats, planters, or a handrail it raises the height.

Todd explained that the Building Code doesn't require a handrail unless the deck is 30" off the grade, or three steps.

Dave questioned why they can't have the handrail at 18". Debbie answered that they can, but then the deck has to be in the required setbacks.

Terry Harris asked Todd how he deals with the grade, if there is a slope and the deck goes from 18" to 36". Todd answered that it has to comply with setbacks.

Todd referred to a deck on the Blackmond's property on Indian Lake, which had to comply with the setbacks because it starts at 10" grade and goes to almost 6'. Dave questioned the railing, and Todd answered that the deck had to comply with setbacks.

Todd explained that the side yard setbacks, front yard setback, and rear yard setback are designed to keep any structure inside of those lines. He added that if you want to build outside of those lines, the deck cannot be more than 18” off of the ground. He stated that a deck under 18” is considered a walkway.

Terry questioned if the reasoning is to not block people’s view. Todd answered that you don’t own your neighbor’s view; your view is your property line to property line.

Dave questioned the percentage that can’t be solid. Todd answered that it can’t be more than 66% solid, and can’t be more than 36” high. Dave questioned if there is any reason other than the view. Discussion followed.

Bruce Nevins stated that it was based on visibility – for example, a young boy rides his bike down his driveway and doesn’t know to stop at the end, driver’s need to see him.

Dave stated that he still thinks that a rail would not hurt anything with an 18” deck. He added that he could see kids and older people falling off. Todd stated that he agrees, but with the height of the railing, the deck has to comply. Todd added that if someone wanted to put a railing up, they could build the deck within the setbacks. Terry added that it is all based on the setback requirements, not the structure itself.

COUNTY MASTER PLAN DISCUSSION

Chairman Terry Harris stated that the Planning Commission went through and worked on a Master Plan, which was eventually approved and went into effect on July 1, 2014. Terry explained that they have a responsibility to review it every five years. Terry stated that Silver Creek Township is a part of the Cass County Master Plan, and the Township doesn’t have its own. Terry stated that Supervisor Bill Saunders expressed his opinion that the Commission considers breaking away from the County Master Plan and having their own in order to be in control of their own plan.

Terry stated that he did some research and found that Dowagiac is a part of the Cass County Master Plan, and they have a brand new plan that Wightman completed for them. He added that in reading the Silver Creek Township portion of the County Master Plan, he found that it is not a lot of specific project planning for Silver Creek and it is basically designed to be a part of the planning of Cass County.

Terry added that he doesn’t want to spend a lot of time review the Cass County Master Plan if they are going to turn around and have Wightman write one up for the Township. He also explained that as a commission, they don’t have the ability to revise the statistics of average age, income, and value of property.

Dave stated that he thought the Township always had their own Plan, and Todd answered that they had one previously in the early 2000s. Debbie Brown added that there was originally a Township plan, and then the newer plan was the Cass County Master Plan.

Debbie stated that the Attorney was really stressing the Master Plan at their MTA training last week, and Todd referred to Roxanne's comment that nobody knows your township like you do and what is good for one township may not be good for another because of the difference in the amount of lakes, ag, etc.

Todd stated that he doesn't see anything wrong with the township developing their own Master Plan and thinks all the townships should have their own, with Cass County's being derived from all the township plans.

Dave stated that if there is ever a court case and people go to the Master Plan, and nowhere does it say they can't do this or that, the judge is going to agree. Dave stated that the attorney made it very evident that they should have their own Master Plan.

Jon Tidey stated that it makes sense to him that they have their own Plan.

Terry stated that he would notify Bill Saunders of their opinion to develop a plan for the township.

DISCUSSION FOR REZONING 43 ACRE PARCEL

Terry Harris stated that the 43-acre parcel next to the Township Hall is mostly marsh, and is currently zoned Waterfront District. Terry stated that the owner would like to construct a larger building that what is allowed in Waterfront District.

Nick Barnes questioned if there is any concern with water shed. Todd stated that there are a couple areas that could be built on, but there would be no concern of it ever turning into a subdivision down the road.

Terry stated that the property owner would make a request, followed by scheduling a public hearing and notifying surrounding property owners.

Todd stated that if the sale of the property next to the township hall goes through, the property owner would lose a building that he currently uses.

UNFINISHED BUSINESS

None.

COMMISSION MEMBER DISCUSSION

None.

PUBLIC COMMENT

None.

PLANNING COMMISSION MEETING DATE

Chairman Terry Harris stated the next Planning Commission meeting will be held on Wednesday, October 23, 2019.

MOTION TO ADJOURN

Dave Grabemeyer motioned to adjourn the meeting. Nick Barnes seconded. Motion passed by voice vote.

The meeting was adjourned at 8:02 p.m. by Chairman Terry Harris.

Respectfully submitted,

Lindsay Krohne
Recording Secretary

Jon Tidey, Secretary

To be approved at the September 25, 2019 Planning Commission meeting