

**MINUTES SILVER CREEK TOWNSHIP
REGULAR PLANNING COMMISSION MEETING HELD ON MARCH 28, 2019**

The Planning Commission meeting was called to order by Chairman Terry Harris at 7:00 p.m. on Thursday, March 28, 2019. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Nick Barnes, Tim Feirick (7:05p.m.), Bill Zuhl, Terry Harris, Debbie Brown, Dave Grabemeyer

MEMBERS ABSENT: Jon Tidey

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

MOTION TO APPROVE MARCH 28, 2019 REGULAR MEETING AGENDA

Bill Zuhl motioned to approve the March 28, 2019 Planning Commission meeting agenda with the change of swapping items “a” and “b” in New Business. Debbie Brown seconded. Motion passed by voice vote.

MOTION TO APPROVE FEBRUARY 27, 2019 MINUTES

Bill Zuhl motioned to approve the February 27, 2019 Planning Commission minutes. Dave Grabemeyer seconded. Motion passed by voice vote.

COMMUNICATIONS

None.

PUBLIC COMMENT

None.

TOWNSHIP ATTORNEY’S REPORT

None.

ZONING BOARD OF APPEALS REPORT

Jean Rowe introduced herself as the Chair of the Zoning Board of Appeals. Jean stated that there had been two Zoning Board of Appeals hearings, and both were approved.

Dave Grabemeyer questioned if there should be a joint meeting between the Planning Commission and Zoning Board of Appeals. He added that he would bring any problems to the

Planning Commission. Dave also referred to the Five Standards of Review, explaining that the questions have to be asked and are up to interpretation for how they are answered. Bill Zuhl stated that they come from the Zoning Enabling Act, and there is nothing they can really do, the questions have to be read.

Building/Zoning Administrator Todd Herter stated he thought there were more than the five questions and that they could choose which five to review. Bill Zuhl answered that these five you have to go over the way he understands it.

Dave Grabemeyer stated that they can make a list of any issues and address them during a slow period. Discussion followed.

Tim Feirick joined the meeting at 7:05 p.m.

BUILDING/ZONING ADMINISTRATOR'S REPORT

None.

NEW BUSINESS

REVIEW CHAPTER 154: RADIO/TELEPHONE, MICROWAVE/CITY TOWERS, AND ACCESSORY STRUCTURES

Chairman Terry Harris stated that a request was received from Verizon to construct a cell phone tower off of M-51, behind Creative Vinyl Signs. Terry added that townships have some say, but not a lot of leeway as far as rejecting or accepting the towers.

Building/Zoning Administrator Todd Herter stated that the contact person from Verizon sent him a copy of case law that happened in Michigan with West Bloomfield vs. T-Mobile, where the township did not give the cell phone company a permit. He added that T-Mobile won in court when the cell phone service provider brought action against the township for denial of their application to build a cell phone tower, stating it violated the Telecommunications Act.

Chairman Terry Harris read Attorney Roxanne Seeber's response to Todd regarding the communication from Verizon. Roxanne Seeber's response stated that the case law is still good and valid, and it is now very difficult for townships to use spacing requirements. The correspondence stated that all the provider has to show is that they need the coverage. Roxanne Seeber advised clients that spacing requirements are of limited value and unenforceable if the applicant can show the break in coverage. Roxanne's e-mail also stated this is a federal law they are dealing with and there are aggressive timelines with it. The new wireless sitting rules by the FCC, which took effect on April 6, 2015, gives the municipalities 61 days from the date of application for all local approvals for qualifying communication facilities or towers, otherwise they are deemed granted.

Terry explained that basically what this means is the cell tower will go up if they do nothing for 61 days following the application dated March 13, 2019. He added that the other way of doing it

would be to go through their normal process, which they could not accomplish in 61 days anyway.

Todd Herter asked if the Planning Commission was going to revisit this and make any changes in case another request comes along. He asked about taking out the distance and changing the zoning districts where they are allowed, to allow them specifically in Agriculture, Commercial, or Industrial Districts.

Bill Zuhl stated that as a special use, they could take out the minimum distance and leave the tower ordinance as it is, to use if they ever want to fight it. He added that they might have some say in how they screen something if they leave it the way it is. Discussion followed. Bill Zuhl stated that the specific case is roughly $\frac{3}{4}$ of a mile short of the required distance.

Terry Harris stated that he thinks they should keep the topic on their calendar and address it.

**MOTION TO RETURN APPLICANT’S CHECK AND TAKE NO ACTION ON CELL
PHONE TOWER REQUEST**

Dave Grabemeyer motioned to return the applicant’s check and take no action on the cell phone tower request. Bill Zuhl seconded. Motion passed by voice vote.

UNFINISHED BUSINESS

**DISCUSSION TO INCLUDE BANQUET/WEDDING VENUE IN SECTION 155.078 AR
AGRICULTURAL/RURAL RESIDENTIAL DISTRICT (C) SPECIAL LAND USES (11)**

Terry Harris stated that he had sent out a draft of some items for them to review. He added that Berrien Township, by Millburg, incorporated banquet/wedding venues into their regular ordinances rather than creating a full blown ordinance.

Debbie Brown stated that they can prohibit the regulation of noise, traffic, and hours of operation. Tim Feirick stated that he didn’t see anything in the draft about noise, hours, or music after a certain time. Terry answered that those are the kinds of things they need to address, whether it be through the application process or in the ordinance.

Terry Harris asked Jennifer Northrop if she had a draft of her contract or application that she would be giving to anyone requesting use of the facility. Jennifer answered that she had a rough draft. Terry stated that she would probably address those issues as well. Terry stated that he put together the rough draft , and these would be some of the things they would be asking people to have in the contract for renting the facilities, and asked for her feedback.

Terry Harris referred to 155.078 Agricultural Rural Residential District (C) Special Land Uses, Item 11, where they would add “Rental Halls”, 155.150 under Special Land Uses, “Rental Halls”, and 155.185 “Rental Halls” where they could add the following:

- Use shall be located on the property with direct access to a public street, since they would have to have access from a public street for fire and safety purposes, and couldn't have a private road.
- Any outdoor activity areas shall be set back a minimum of 50' from any residential district or use property line.
- Lighting for parking areas or outdoor activity shall be shielded to prevent light from spilling onto neighboring properties
- Access driveways shall be located no less than 50' from any center line of any street or any other driveway.
- Applicants shall secure all necessary permits from local township, county, and state authorities.
- Application to include the following: Expected number of events per year, maximum number of attendees, number of employees or representatives.
- Hours of operation (Terry stated they would give a reasonable timeframe. In this case, they had decided on access hours from noon to midnight)
- Restrooms to be ADA compliant
- Proposed lighting, sound amplification to be used, and whether or not to allow them outside of the barn
- Use of temporary structures or tents
- Proposed signage
- Security to be provided
- Location of trash receptacles
- Parking plans and other documentation as required by township, county, and state officials.

Debbie Brown stated she thinks it should start with the wording that the placement of the structure must comply with local zoning ordinances, including setbacks from property lines and road right-a-ways, as well as parking and driveway requirements must comply with all regulations.

Terry Harris stated that the reason for placing it in the ordinance is they can make a statement that all ordinances governing other properties apply to this.

Debbie Brown stated that Hidden Vineyard in Berrien Springs allows access from 1:00 a.m.- 11:00 p.m., and any event can't be permitted past 11:00 p.m., however post event breakdown can take place from 11:00 p.m. to midnight. Jennifer Northrop stated that their events would end at 11, and drinks would stop 15 minutes prior to that.

Bill Zuhl questioned if they really want to set a time, or just say they're going to address the hours of operation because one venue may need to be 9:00 p.m. due to the location, and the next may be midnight if in a rural area. Bill added that with a special land use, they have the discussion as a board and can change the hours. Bill stated that if they just list "hours of operation" it is a better way to go at it.

Dave Grabemeyer stated that he spoke with the Township Supervisor in Lawton, who told him music is the biggest issue they've had, and he suggested they have an annual review to be able to make any changes.

Terry Harris stated that in Okemos, Michigan their biggest issues with these types of venues are late night music, live bands, light pollution, traffic, inebriated drivers and trespassing on neighboring properties.

Dave Grabemeyer agreed that it should be a case by case situation.

Bill Zuhl stated that they would have to notify property owners within 300', which would give property owners a chance to come to the special zoning use to voice opinions and concerns.

Building/Zoning Administrator Todd Herter stated that where these barns are at, if you go 300' you haven't even left the existing property. Bill Zuhl answered that they would still have to notify the adjacent property owners in that case.

Dave Grabemeyer asked if they want to address fireworks, and Terry Harris questioned if they were regulated by the Fire Marshall. Terry stated that there is a state law that says you can only have fireworks on New Year's Eve, New Year's Day, and the day after, as well as the day before, on, and after the 4th of July. Discussion followed.

Terry Harris stated that they don't have a big objection on allowing this into the township, but they also have the obligation to hold a public hearing once they figure out what to do with the ordinance. He added that he would like to have a public hearing in April to keep this moving along.

Terry Harris questioned Jennifer Northrop if they would only be allowing weddings, or if it would include corporate events, reunions, etc. Todd Herter asked about public dances. Jennifer answered that they would consider other events, but primarily the use is for weddings. Jennifer added that with any event, the renter would have to go through the same contract, license for alcohol, and pay for the rental just as anyone else.

Discussion followed regarding square footage and occupancy. Jennifer stated that the Fire Chief told her the township determines the occupancy. Todd Herter answered that the occupancy is based on the floor layout: permanent seating vs table and chairs, kitchen, etc. Todd explained that a room with non-fixed tables and chairs allows 15 square foot per person, and fixed seating allows 5 square foot per person. He also explained as an example, that the township meeting room has one occupancy rating, the storage room has another, as well as the kitchen, bathroom, etc. and then the numbers are added together.

Discussion followed about building on a lean-to to add on to the occupancy. Bill Zuhl questioned how temporary structures work, and Todd answered that temporary structures require a fire rated seal be used, and they allow less square foot per person.

Chairman Terry Harris asked Todd if the list is something he could work with, or if he'd like it to be more specific. Todd answered that the more specific, the easier it is to follow and doesn't allow for interpretation. Todd suggested applying a specific number wherever they could, with the ability to change it under a plan review.

Terry stated that it is difficult to put specifics into the ordinance, due to differences in each location.

Todd Herter suggested being more specific with hours of operation, whether port-a-john's are allowed or if bathroom facilities in the structure are required, and whether or not fireworks are allowed to be used. Discussion followed.

Todd Herter stated that the health department dictates the septic system. He explained that in a residential setting, the septic system size is based on how many bedrooms there are, and in a commercial setting, they probably go by the occupancy rating. He added that a venue that has an occupancy rating of 200 will probably require a pretty large septic system. Todd stated that when it comes to how many stalls are required, safety lighting, exit lighting, etc., those things will be determined by an architect and the venue will have to provide a stamped engineered print.

Terry Harris stated that he would rather have more flexibility than be too specific in the ordinance. Todd answered that what he means by specifics is what they are and aren't going to allow such as fireworks, exterior speakers, etc.

Discussion followed. Debbie Brown suggested having music shutoff times listed. Todd stated that the wedding venue would have their own regulations, but we may want to include some as well, such as what time the music must end.

Bill Zuhl stated he'd like to see architectural stamped drawing in their list of criteria, and the building must be up to occupancy codes. He added that he likes the idea of the sound system being limited to inside the building. Bill added that he agreed with no fireworks.

Terry asked the members to send him an e-mail if they think of anything else they would like to be included. Bill Zuhl added that they can tweak it at the public hearing if necessary.

Terry Harris asked Jennifer if she anticipates any issues with the overlap of patrons between the wedding venue and BT's Pub, one eighth of a mile from the proposed venue. Jennifer answered that she did not.

Todd Herter questioned if firearms would be allowed on the premises, and Jennifer stated that she wasn't sure of the legalities regarding firearms. Discussion followed. Bill Zuhl stated that you cannot carry anywhere where 50% of the revenue is from alcohol.

Terry Harris stated that he would update the list, and they could hold a public hearing in April.

**MOTION TO SET UP PUBLIC HEARING FOR BANQUET/WEDDING VENUES AT
APRIL 24TH MEETING**

Debbie Brown motioned to set up a public hearing for Banquet/Wedding Venues on April 24th, 2019. Nick seconded. Motion passed by voice vote.

COMMISSION MEMBER DISCUSSION

None.

PUBLIC COMMENT

None.

PLANNING COMMISSION MEETING DATE

Chairman Terry Harris stated the next Planning Commission meeting will be Wednesday, April 24, 2019.

MOTION TO ADJOURN

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

The meeting was adjourned at 8:05 p.m. by Chairman Terry Harris.

Respectfully submitted,

Lindsay Krohne
Planning Commission Secretary

Jon Tidey, Secretary

To be approved at the April 24, 2019 Planning Commission meeting