

**MINUTES SILVER CREEK TOWNSHIP
PLANNING COMMISSION MEETING HELD ON JANUARY 24, 2018**

The Planning Commission meeting was called to order by Chairman Terry Harris at 7:00 p.m. on Wednesday, January 24, 2018. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Dave Grabemeyer, Debbie Brown, Terry Harris, Bill Zuhl, Tim Feirick, Jon Tidey

OTHERS PRESENT: Building/Zoning Administrator Todd Herter, Recording Secretary Lindsay Krohne

ABSENT: Jerry Donley, Attorney John Magyar

MOTION TO APPROVE AGENDA

Bill Zuhl motioned to approve the Wednesday, January 24, 2018 agenda with the correction of Shady Shores in the New Business section. Dave Grabemeyer seconded. Motion passed by voice vote.

MOTION TO APPROVAL OF MINUTES

Tim Feirick motioned to approve the November 29, 2017 minutes. Bill Zuhl seconded. Motion passed by voice vote.

COMMUNICATIONS

None.

PUBLIC COMMENT

None.

TOWNSHIP ATTORNEY'S REPORT

None.

BUILDING/ZONING ADMINISTRATOR'S REPORT

Building/Zoning Administrator Todd Herter stated that he put in a couple stop work orders this week. He explained that he had received a call from a property owner on Downey Street regarding implementing a dog kennel as a business. He stated that he didn't know if she would actually make an application after finding out what steps it entailed.

Discussion also took place regarding the property owner living out of a storage shed on Brush Lake Road. Todd Herter stated that it had been resolved and the shed is gone.

NEW BUSINESS

REVIEW OF SECTION 155.006 DEFINITIONS (BUILDING HEIGHT AND HEIGHT)

Chairman Terry Harris stated that he went back to the old ordinance and could not sort out where there was much of a difference between the two books.

Building/Zoning Administrator Todd Herter stated that on page 64 under "Building Height" it gives a partial explanation. He stated that the two books were not different, but he would like to see it combined on one page, either under "height" or "building height."

Debbie Brown questioned the "Ground Level" definition and Bill Zuhl referred to the definition on page 68.

Chairman Terry Harris asked Todd Herter if combining the definitions would help him. Todd answered yes, and that it is better for him to have everything in one spot, especially with setbacks and height. He stated that if you make a mistake on elevation or setbacks, it is a major mistake.

Terry Harris suggested putting a note to reference the other definition. Todd stated he would just suggest eliminating "Height" and putting the entire description under "Building Height."

Jon Tidey questioned if the natural ground level is prior to construction, and if it is something that can be altered.

Todd stated that in some cases they don't need to add anything to the grade, and in other cases they do. He added that if someone is building in a hole, and the neighbors are raised on both sides, natural grade is natural grade and you can't raise it to be at the neighbors' level.

Todd stated that the building code requires 10% fall within the first 7' for slope, away from construction. He added that sometimes in order to get that, you have to raise the natural grade, which can be a sticky point.

Terry Harris questioned how that relates to the high water mark. Todd Herter answered that it does not play into anything other than front yard setbacks. Todd referred to a home on Inn-D-Inn Drive, off of Forest Beach at the bottom. He stated that some folks bought a house that had been there since the 1960s, on "virgin ground" and the neighbors beside them built their house up a little bit, as well as the neighbors on the other side. He stated that now this couple is in the hole. He added that the grade changes.

Terry Harris then questioned if they get into another issue if they take out "natural" and use the word "average" or "adjacent" or something to that affect.

Todd stated that when you're talking about height of structure, you're talking about the height of structure on that piece of property, and he wouldn't necessarily use the neighbor's grade to set that.

Todd stated that the only time you're required to set a grade stake is for base flood elevation. Discussion followed. Todd explained that a stake would be required with base flood elevation on the north end of Indian Lake, but not on the hills.

Todd stated that he would like to see the "Height" section (p 68) be moved under "Building Height" and leave "Ground Level" alone for the time being.

Debbie Brown stated that "Height" references "Building Height" and questioned why not have "Building Height" reference "Height". Todd answered that in the "Height" definition it also says it's measured from average grade to the highest point of a roof surface for a flat roof, which deals with "Building Height".

Terry suggested leaving "Height" where it is and added that he would rather be redundant and have it in two places.

Todd agreed, and added that architects also go through the ordinance and they don't look at both definitions, which causes issues later on.

Terry stated that he will put something together for the proposed change, which would be followed by a public hearing.

Discussion on the different ways of finding the building height took place. Bill Zuhl referred to Keeler Township's procedure and asked if there is an industry standard where everyone does the same. Todd answered no, and stated that Keeler goes by an average.

DISCUSSION OF TERRACES/DECKS/LANDSCAPING

Chairman Terry Harris stated that he sees Todd's frustration with this issue. He gave an example of a structure possibly 20' above lake level, and then backfilling and terracing out, leaving you with a lawn or block patio 30' out the back of the house with a drop to the lake level. He stated that it's private property, but at the same time, it's a view and safety issue.

Todd Herter stated that he is not concerned with views, because views are property line to property line. Todd stated that a patio does not have to abide by any setbacks, and a deck does. He added that when someone builds up a patio 4-5' and adds a railing, railings are covered by the ordinance, but we do not regulate landscaping. Todd explained that a deck is a structure, whereas landscaping is not.

Dave Grabemeyer asked if someone builds up a stone patio, it is not required to put up a railing, but if it is a deck, a railing is required. Todd answered yes and added that a typical wood or PVC deck 24-32' and higher requires a handrail.

Todd explained that a building permit is not required for landscaping, and he didn't believe there should be. He questioned whether there should be a zoning permit required for setbacks. Todd explained that he is seeing a trend with this issue. He added that he is more concerned about safety, and also needs to know how to handle the situation when a complaint comes in.

Debbie Brown stated that she could see water run-off becoming a problem as well. Todd explained that water run-off is a civil matter.

Todd stated that to him, a handrail is a structure. He added that if he told someone they had to put up a handrail on their terrace, they could ask him to show him the ordinance, and he would not be able to because it does not specify handrails in landscaping. He added that handrails are regulated in the building code.

Jon Tidey asked if safety overrides setbacks, and Todd answered no.

Todd asked if he should be using handrails as a zoning setback, and whether they should comply with setbacks. Terry Harris pointed out that you can encroach on your setback as long as you don't put up a handrail.

Todd Herter stated that anything under 18" is considered a walkway. He added that as a Zoning Administrator, he doesn't care what people do with their landscaping. However, when a handrail goes up, he needs to know whether he is supposed to regulate it.

Discussion followed on writing in the ordinance that handrails on landscaping counts in setbacks, and leaving it up to the property owner, making them responsible for their own landscaping and safety.

Dave Grabemeyer questioned what happens when a kid falls and is injured, and the property owner comes back and says the township wouldn't let them put up a handrail due to the setbacks. Todd Herter answered that landscaping is a choice; they aren't required to have landscaping.

Bill Zuhl gave a scenario of an older gentleman wanting to put up a handrail to help him get out to his boat to go fishing, and questioned if he would be allowed to do so. Todd Herter answered that he would have to request a variance if he was in the setback.

Discussion followed. Dave Grabemeyer questioned the owner being able to put up a handrail to keep their children and grandchildren from falling off the edge. Todd answered that he was asking the Planning Commission that "Whether or not he is to regulate it."

Discussion followed, resulting in tabling the issue until the next meeting in order for the Planning Commission members to think about it.

SPECIAL LAND USE APPLICATION PUBLIC HEARING DATE

Chairman Terry Harris stated that John Magyar was going to set up a Public Hearing notice for the Nevins Special Land Use application for the next meeting, February 28, 2018.

Todd Herter explained that the temporary camper park would no longer be one big campground, as the property is being split up. He added that the campground is being split along the road, and the back camp area and cabins are being split in two. He stated that some buildings will have to be taken down because they will be too close to the proposed property lines. He explained that it is being put in front of the Planning Commission because it's not just a transfer, but the actual property and campground is changing.

Todd stated that the survey shows what is being split/sold/remaining campground, and that they meet the 60' width requirement. He added that some of the individual pieces of property are to be sold, and if they want to turn it into a campground, they will have to come before the board to apply for that.

Terry Harris stated that the change of property is not explained in the application.

Tim asked for clarification that the application was a request to approve the campground, not the splits. Todd answered yes, that Assessor Bill Kays had already made sure they could do the splits. Discussion followed. Todd suggested they talk to Attorney John Magyar to see if they could put limitations on variances. Bill added that they could put limitations on quiet time.

UNFINISHED BUSINESS

None.

COMMISSION MEMBER COMMENTS

None

BUILDING/ZONING ADMINISTRATOR COMMENT

Todd Herter stated that after the handrail issue was taken care of, he would like to ask the board to look into a property rental ordinance for both vacation and regular rentals. Todd referred to a situation by Bill Saunders' residence, where supposedly a landlord who was not local, refused to fix a leak causing residents to have carbon monoxide poisoning, resulting in the gas company turning off their gas until the issue was fixed.

Todd referred to another issue last summer on the corner of Garrett Rd and M-152 at a rental that was overflowing with people. He stated that he received many phone calls, but nothing could be done without an ordinance with an occupancy load. Discussion followed. Terry Harris stated that they would need to get Attorney Magyar involved.

PLANNING COMMISSION MEETING DATE

Terry Harris verified the next meeting date would be Wednesday, February 28, 2018.

ADJOURNMENT

Tim Feirick motioned to adjourn the meeting. Dave Grabemeyer seconded. Motion passed by voice vote. The meeting was adjourned at 8:25 p.m. by Chairman Terry Harris.

Respectfully submitted,

Lindsay Krohne
Planning Commission Secretary

Jon Tidey, Secretary

To be approved at the February 28, 2018 Planning Commission meeting