

**MINUTES SILVER CREEK TOWNSHIP
PLANNING COMMISSION MEETING – AUGUST 26, 2020**

Chairman Terry Harris called the Planning Commission meeting to order at 7:00 p.m. on Wednesday, August 26, 2020.

MEMBERS PRESENT: Nick Barnes, Debbie Brown, Tim Feirick, David Grabemeyer, Terry Harris, Jon Tidey, Bill Zuhl

MEMBERS ABSENT: None

OTHERS PRESENT: Building and Zoning Administrator Todd Herter, Recording Secretary Liberty Nevins, Attorney Robert Thall, members from the public

The Pledge of Allegiance to the Flag of the United States of America was recited.

APPROVAL OF AGENDA

Agenda approved by roll call vote.

YES (7): Nick Barnes, Debbie Brown, Tim Feirick, David Grabemeyer, Terry Harris, Jon Tidey, Bill Zuhl

NO (0): None

APPROVAL OF JULY 22, 2020 MINUTES

David Grabemeyer motioned to approve the July 22, 2020 Planning Commission minutes.

Debbie Brown seconded.

Motion passed by roll call vote.

YES (7): Nick Barnes, Debbie Brown, Tim Feirick, David Grabemeyer, Terry Harris, Jon Tidey, Bill Zuhl

NO (0): None

COMMUNICATIONS

Terry Harris stated that all comments must be shared under a reasonable timeframe. He stated that all comments must relate to the topics pertaining to the meeting. He requested that no personal attacks be made. Terry requested that all commenters state their name before speaking.

PUBLIC COMMENT

Member of the public Billie Jean Stasiak requested that a noise ordinance be addressed. She stated that the fireworks being set off from the beginning of summer through Labor Day were becoming a nuisance.

Member of the public Linda Lawless commented that she had sent a letter to the Planning Commission regarding noise pollution, and that she had not gotten a response back. She stated that noise pollution is an ongoing problem. She commented that if a noise ordinance were in effect, the issue would be easier to control. Linda asked if there would be a segment where members of the public could comment again after all the points on the agenda had been discussed.

Terry Harris stated that more public comments could be made toward the end of the meeting. Linda Lawless asked why she had not gotten a response on her letter and asked if her letter could be made a part of the public record.

Terry Harris responded that Linda Lawless' letter could be posted into the minutes.

Vice Chairman Tim Feirick commented that he had noticed issues with noise in the Township in the past. He stated that he would be in favor of discussing the noise issue.

Terry Harris closed public comment.

COMMUNICATIONS CONTINUED

Terry Harris asked if Secretary Debbie Brown had any communications to share.

Debbie Brown commented that a letter had been sent to the Township from Dennis Foote. In the letter, member of the public Dennis Foote stated that he opposed the corner lot setback revision. Dennis Foote stated in the letter that he knew other people who opposed the revision as well, and that he would have them email the Township.

TOWNSHIP ATTORNEY'S REPORT

Attorney Robert Thall stated that he would be there to help out with any questions that anyone may have.

ZONING BOARD OF APPEALS REPORT

David Grabemeyer commented that the Zoning Board of Appeals had denied a five-foot side lot variance at their previous meeting.

BUILDING AND ZONING ADMINISTRATOR'S REPORT

Building and Zoning Administrator Todd Herter had nothing to report.

NEW BUSINESS

Terry Harris commented that the corner lot setback proposed ordinance revision would need to be discussed. He asked Todd Herter to summarize what the proposed change was.

Todd Herter responded that the side yard side road setback would be changed to half of what the required front yard setback is in R1 and Waterfront districts. He stated that in both districts the front yard setback is thirty feet. He stated that for a corner lot the side yard setback would be fifteen feet. Todd commented that there are approximately 115 corner lots in R1 and Waterfront districts in Silver Creek Township. He commented that out of those 115, there were fifty that could cause potential issues. He stated that at least three corner lots had triple frontage, and that several corner lots had been there for decades.

Terry Harris commented that under 155.023 item C Double Frontage Lots; the required setback on the street side yard of a corner lot shall be the same as required for that lot's front yard. He asked Todd if the proposed change would be a required setback on the street side of the corner lot that would be half the distance of the front yard setback.

Todd Herter responded that Terry's statement was accurate, but that he was only proposing the change for R1 and Waterfront districts because in AG, the lots must be a minimum of one acre and have 200 feet of road frontage.

Terry Harris commented that corner lots could cause potential issues with visibility.

Todd Herter commented that corner lots would still allow fifteen feet setback from the road right of way. He commented that in the Waterfront district, many garages are as close as three feet from the rear property line, which abided by the rules of the old ordinance. He stated that the new ordinance proposes them to be eight feet from the property line. Todd stated that there did not seem to be any visibility issues.

Robert Thall commented that it is common in zoning ordinances to have special provisions for corner lots. He commented that if many variances were made up, it would cause issues with the zoning ordinance itself.

David Grabemeyer asked Todd Herter how a corner lot property would be rebuilt if a fire occurred there.

Todd Herter responded that the house could be built in the same footprint. He commented that if a house built in the 50s or 60s was burnt down and was being rebuilt, it may not be able to be put up in the same spot.

David Grabemeyer asked if they would need to get a variance in that instance.

Todd Herter responded that they would need to get a variance.

Robert Thall asked if the discussion had been set for a public hearing in the future.

Terry Harris responded that the Planning Commission members would be voting on whether or not the issue was ready to be discussed at a public hearing.

Board Representative Bill Zuhl asked if the Planning Commission board members were voting on whether or not there should be a public hearing on the issue, and after the public hearing the issue would be sent to the Township board.

Terry Harris responded that Bill Zuhl was correct.

David Grabemeyer motioned to have a public hearing on the issue.

Nick Barnes seconded.

Motion passed by roll call vote.

YES (6): Nick Barnes, Debbie Brown, Tim Feirick, David Grabemeyer, Terry Harris, Jon Tidey

NO (1): Bill Zuhl

UNFINISHED BUSINESS – NEVINS' CAMPGROUND DISCUSSION

Terry Harris stated that the discussion about the Nevins' campground would be about changing it to a Waterfront district property from its current R1 designation. He stated that there had been no formal request made for the change of its district.

Nick Barnes commented that he believed the property owners around the campground wanted to share their thoughts. He stated that he believed the issue should be tabled.

Tim Feirick agreed with Nick Barnes that the issue should be tabled. Tim asked if the Township dealt with the campground as a housekeeping issue, or if someone had to put in a special request to deal with it.

Terry Harris commented that it was a housekeeping issue.

Bill Zuhl commented that the Township or the homeowner could initiate the request. He commented that he believed the issue should be left alone.

MOTION TO TABLE THE NEVINS CAMPGROUND DISTRICT CHANGE

Debbie Brown motioned to table the discussion on the Nevins' campground district change from R1 to Waterfront.

Nick Barnes seconded.

Motion passed by roll call vote.

YES (7): Nick Barnes, Debbie Brown, Tim Feirick, David Grabemeyer, Terry Harris, Jon Tidey, Bill Zuhl

NO (0): None

UNFINISHED BUSINESS – SHORT TERM RENTALS DISCUSSION

Terry Harris proposed that a motion be made to reopen the discussion since it had been tabled in a previous meeting.

Debbie Brown motioned to reopen the discussion on short term rentals.

Jon Tidey seconded.

Motion passed by roll call vote.

YES (7): Nick Barnes, Debbie Brown, Tim Feirick, David Grabemeyer, Terry Harris, Jon Tidey, Bill Zuhl

NO (0): None

Terry Harris commented that it had been suggested to change the name of short term rental ordinance to short term vacation rental ordinance. He stated that the short term rentals range from being rented for two weeks to fourteen weeks.

Robert Thall commented that the ordinance is to address the vacation rental trend. He stated that it is becoming more popular to buy properties on lakes to use them for a commercial purpose. He stated that he knew of an instance in a different municipality in which the ordinance was upheld in the supreme court for the single-family household to be rented for up to fourteen days out of the year without exceeding two rental periods. Robert commented that he believed when he looked at the previous Silver Creek Township ordinance, that it did not allow for short term rentals in the single-family zoning district.

Terry Harris commented that in the Township there have been properties bought specifically for the purpose of being rented out. He stated that some properties on the lakes have the owner listed as an LLC. He asked Robert Thall to expand on what would happen if there were no ordinance in place.

Robert Thall responded that enforcement action would need to be taken against short term rental properties since they would not be in compliance. He stated that some renters may claim their rental had been grandfathered in, but that they would have to prove that it really had been grandfathered.

Debbie Brown commented that she had spoken with some local people on the lakes. She claimed that the people she had spoken with voiced that they did not want an ordinance. Debbie stated that she believed if a renter wanted to rent out their property for fourteen days, they should be able to without having to register. She stated that the Township did not currently have the staff to enforce an ordinance. She stated that she believed the issue should not be pursued.

Todd Herter commented that the problem with not pursuing the issue would be that he would personally have to pursue it. He stated that short term rentals are not a permitted use, therefore they are not allowed. He stated that if nothing is done about the issue, the vacation rentals would be operating illegally. Todd stated that if a short term rental was being operated they would be issued a ticket and would have to appear in court. He stated that the board had to decide whether to allow short term rentals or not.

Robert Thall stated that the ordinance could not be selectively enforced. He stated that if it could not be enforced evenly it could not be enforced at all.

David Grabemeyer commented that he believed the short term rental issue did not need to be addressed or enforced. He stated that he believed that the people causing issues with noise pollution were homeowners that had big parties on the weekend. He stated that he believed a noise ordinance should be addressed. David commented that after talking with many locals he did not find one person who wanted a short term rental ordinance.

Todd Herter stated that the issue must be addressed because not addressing it would not solve the problem.

David Grabemeyer commented that if the board were to allow short term rentals, the issue needed to be addressed in order to go forward. He stated that he believed short term rentals should be allowed.

Todd Herter stated that if the board were in favor of short term rentals they would have to vote to approve them. He stated that the board would also have to discuss what type of guidelines to put in place.

Tim Feirick asked that if short term rentals were approved if they would have to go through registration and inspections or not.

Robert Thall commented that the board could decide what would be necessary of short term rentals. He stated that they could just be listed as a permitted use. He stated that if the board wanted to allow short term rentals along with some regulations in place, they could be listed as a special land use.

Todd Herter stated that a special land use would allow for restrictions to be in place. He stated that a permitted use has no restrictions.

Jon Tidey asked which option would be better for troublemaker type people.

Todd Herter responded that a special land use would be better. He stated that an occupancy load could be an example of a restriction for a short term rental.

Terry Harris asked what the difference between a police issue and a zoning issue would be.

Todd Herter responded that having an occupancy load gave the police something to enforce by.

Bill Zuhl commented that if the board decided on making short term rentals a special use, they would have to go through each rental that came before them. He commented that he thought short-term rentals should be a permitted use, and that the police could take care of anything disturbing the peace.

David Grabemeyer asked that if a short term rental was under a permitted use and there had been multiple complaints about noise, if the rental rights could be taken away.

Robert Thall stated that it would not be possible under a permitted use, but that it would be possible under a special use.

Nick Barnes commented that putting short term rentals under a special use would be the way to go.

Jon Tidey, Debbie Brown, and David Grabemeyer agreed that a special land use would be the better option.

Nick Barnes motioned to proceed with looking into making short term rentals a special land use.

Jon Tidey seconded.

Motion passed by roll call vote.

YES (5): Nick Barnes, Debbie Brown, David Grabemeyer, Terry Harris, Jon Tidey

NO (2): Tim Feirick, Bill Zuhl

Robert Thall commented that he would want to work with Todd Herter to come up with some provisions for the board to look at at the next meeting.

Nick Barnes stated that the members of the public should have a say on how many days would be allowed of short term rentals per year.

David Grabemeyer commented that he was in favor of the special land use, but that there should not be too many restrictions, such as how many days renters could rent out their property per year.

Robert Thall stated that any rental rented for under thirty days at a time is considered a commercial activity. He suggested a ninety day limitation on short term rentals. He stated that based upon public comment adjustments could also be made.

David Grabemeyer asked if short term rentals would have to pay a fee and go through inspections.

Robert Thall responded that he would want to talk with Todd Herter to discuss what would be needed in the special land use.

PUBLIC COMMENT

Billie Jean Stasiak stated that she believed it to be necessary to have some sort of regulations on short term rentals.

Linda Lawless commented that the problems occurring are coming from inconsiderate people. She asked if there should be some type of ordinance put on how many people could be allowed in a house. She stated that a noise ordinance could be addressed, and that people's homes do not need to be regulated.

Member of the public Justin Sebastian asked what was trying to be solved. He asked why anything would need to be changed. Justin asked if short term rentals would just be in the summer or also in the winter period he stated that it would probably be good for business in the winter if short term rentals were allowed during that time.

Member of the public Walter Bobkiewicz commented that he did not believe it was realistic that the police could enforce an ordinance for short term rentals. He stated that he would vote to leave things as they are. Walter stated that he didn't think it would be smart to solve problems by making more ordinances that could not be enforced.

Member of the public Barbara Bobkiewicz asked if the Township had any type of noise ordinance.

Member of the public Jon Fehland stated that the board had decided the rules that apply to individual houses would also apply to campgrounds.

Justin Sebastian asked if the actual issue was a noise problem.

Billie Jean Stasiak asked Justin Sebastian if he bordered the Nevins' campground property.

Justin Sebastian commented that he did not border the Nevins' campground property.

Billie Jean Stasiak commented that she herself and Jon Fehland border the Nevins' campground property.

Justin Sebastian asked if the only problem was the campground. He asked if there were any complaints of other areas.

Terry Harris commented that the campground was not the main area of discussion. He stated that short term vacation rental properties around the lakes were the area of discussion.

Jon Fehland asked what the difference between the campground and a short term rental was.

Todd Herter stated that the campground has been there for ninety years.

Robert Thall stated that if a use existed prior to the zoning ordinance regulating it, it would be a lawful nonconforming use that would be able to continue on in the same manner.

Todd Herter stated that campgrounds are regulated and licensed by the state.

Jon Fehland commented that campgrounds are not completely regulated by the state. He stated that they are also regulated by the Township.

Linda Lawless recommended removing the campground from the discussion. She stated that the law lets the campground throw anyone out who is misbehaving. She stated that the campground is under code and able to enforce issues. She stated that the main issue is the people acting up on properties, whether it be the owners or the people who the property was rented out to. Linda stated that she believed the issue could be solved with a noise ordinance and enforcement from the police.

Member of the public Anastasia Gonzalez asked what would happen to a single family home who partied all the time that was continuously called out. She asked what the police would do.

Member of the public Tony Lazzara commented that he knew of an instance in which troublemakers continued to cause problems in Chicago, and a person wrote down the names of all the people involved and what happened each time the troublemakers were busted. He stated that after about ten incidences the police stated they would send people home in handcuffs and that seemed to solve the issue. Tony stated that physical evidence would help solve noise problems. He asked what Todd Herter meant when he stated that the campground was a done deal.

Walter Bobkiewicz stated that he believed the owners of short term rental properties are not involved in the community. He stated that he believed the owners cared about making money off of their investment.

Member of the public Brian Milovac stated that he is a renter. He stated that he has a great relationship with his neighbors, and that the renters he has had have been good. He stated that he asked to pay \$20,000 a year in rental taxes on the property.

Member of the public Bonnie Stasiak stated that for many of the rental houses in the area, the owner is unknown to the public. She stated that if there is a problem, there is no way for people to contact the owner. She stated that she believed noise complaints are a low priority to the Cass County Sheriff's Department.

Brian Milovac suggested that a way to solve that problem would be to have the rental owner supply who they are so people could contact them if there was ever a problem.

Billie Jean Stasiak asked when the local police were ever available. She asked who the Silver Creek policeman was.

Todd Herter responded that he was not sure if Mike Grice was still the chief or not. He stated that he had not spoken with Mike Grice since February, since there had been no open Township meetings. Todd suggested that Billie Jean Stasiak could contact Supervisor Bill Saunders to get more information from him.

Member of the public Doug Salvatori stated that he believed requiring an occupancy plate for rental homes would drive dollars out of the community.

Member of the public Tallie Covida stated that renters who come into the area support the community by going to restaurants and facilities in the area. She stated that renters support the community by hiring housekeepers and landscapers.

Member of the public Rich Coleman stated that he questions how much money renters are putting into the community. He stated that how rental properties affect property value should also be discussed.

Member of the public Frank Grumeretz stated that he believed the property values in Sister Lakes are the highest they've ever been. He stated that banning rentals would have an effect on the restaurants, marinas, landscapers, and cleaning services in the area.

Member of the public Julie Tavrdes stated that deciding what rules would be implemented on rentals would be the next step to take.

Member of the public Larry Seuryneck commented that addressing the noise problems is important.

Tony Lazzara asked what Todd Herter meant when he stated that the Nevins' campground was a done deal.

Julie Tavrdes commented that she interpreted it to mean that the done deal about the Nevins' campground is that it is just a campground.

Jon Fehland asked for Todd Herter to clarify the issue.

Barbara Bobkiewicz asked that if there is no ordinance for rentals and a rental burns down and somebody dies, if the Township gets blamed or not.

Robert Thall stated that there would be governmental immunity.

Justin Sebastian stated that most homeowner's insurance would cover the issue.

Member of the public Tim Corken asked if the debate on short-term rentals would be settled by the state of Michigan rather than the Township Zoning.

Robert Thall commented that no type of legislation has been passed on the short term rental issue. He stated that legislation has been proposed for years and not been acted on.

Member of the public Dennis Foote stated that he would be against the corner lot setback proposal. He stated that it should be left alone.

Terry Harris ended public comment. He stated that the next Planning Commission meeting was scheduled for September 23, 2020. He stated that short term rentals would be discussed again.

ADJOURNMENT

David Grabemeyer motioned to adjourn the meeting.

Jon Tidey seconded.

Motion passed by roll call vote.

YES (7): Nick Barnes, Debbie Brown, Tim Feirick, David Grabemeyer, Terry Harris, Jon Tidey, Bill Zuhl

NO (0): None

Meeting adjourned at 8:48 p.m.

Liberty Nevins, Recording Secretary

Debbie Brown, Secretary