

Clearwater Township
Planning Commission
Regular Meeting of January 15, 2018
As approved February 5, 2018

Call to Order, Pledge of Allegiance:

Chair Parzych called the meeting to order at 7:03 p.m., and opened with the Pledge of Allegiance.

Roll Call of Members and Recognition of Visitors:

Commissioners present: Backers, Eldridge, Fields, Parzych, Von See.

Zoning Boards of Appeals: Gerlach, Bergman, Gaylord, Lawicki.

Township officials: Acting Zoning Administrator Parzych.

Public: Jule Moore, Carol Backers.

Approval of Agenda:

MOTION by Backers, second by Von See, to accept the agenda as presented. Motion carried.

Call for Disclosure of Conflicts of Interests:

Chair calls for disclosure of any real or potential conflicts of interests. All declared no conflicts.

Approval of Minutes:

MOTION by Backers, second by Von See, to accept the minutes of December 4, 2017 as presented. Motion carried.

Public Comment for Matters Not on the Agenda:

There was none.

Commissioner Comment for Matters Not on the Agenda:

There was none.

Ongoing Permanent Business:

Proposed amended language for Section 4.03 of Ordinance 22, is as follows: (new language is in italics)

4.03 LAKE, RIVER AND STREAM PROTECTION

Activities which are detrimental to the natural quality of watercourses in Clearwater Township are expressly prohibited. Such activities include, but are not limited to, pollution of water by the introduction of chemical or organic pollutants, and/or erosion of *lake, river, or* stream banks.

- A. No Land Use Permit shall be issued for construction on wetlands without PRIOR approval from the DEQ.
- B. There shall be a natural vegetative strip, fifty (50) *feet* in depth, maintained along the water's edge of the *lake, river or stream*.

1. The vegetative strip shall contain native trees, shrub and other vegetation and natural materials. The purpose of this strip is to stabilize *lake, river, and stream* banks, prevent erosion, absorb nutrients in water runoff from adjacent lands, provide shading (eliminate the words “for the stream”) to maintain cool water temperatures and screening of adjacent man-made structures.
2. The Zoning Administrator shall notify each applicant for a Land Use Permit of the purpose of this vegetative strip.

After discussion, the following motion was made:

MOTION by Fields, second by Backers, to adopt the proposed modification to Section 4.03 of Ordinance 22. Motion carried by unanimous roll call vote.

- Roll call vote:
 Backers –yes
 Von See – yes
 Eldridge – yes
 Parzych – yes
 Fields – yes.

Proposed amended language for Section 9.02 of Ordinance 22, is as follows (new language in italics):

9.02 SPECIAL REGULATIONS

Waterfront setbacks: Structural setbacks from rivers, streams and lakes shall be 50 feet from the high water mark. *No man-made structure, above or level with the land, of any material, shall be permitted in the setback with the exception of one walkway to the water. The walkway shall be no more than 4 feet in width and preferably of a penetrable material.*

Discussion ensued on the reason for the setback as a protection for the waterways of the township, whether an additional 5% of coverage should be permitted with a special use permit, and whether it would be wiser to leave deviation from the rules under the authority of the Zoning Board of Appeals as variance consideration.

After discussion, the following motion was made:

MOTION by Eldridge, second by Parzych, to adopt the proposed modification to Section 9.02 of Ordinance 22. Motion carried 4-1.

- Roll call vote:
 Eldridge – yes
 Von See – yes
 Parzych – yes
 Backers – no
 Fields – yes.

Report of Township Representative: There was no report.

Report of ZBA Representative: There was no report.

Report of Zoning Administrator:

Acting Zoning Administrator Parzych – Distributed the November-December 2017 report, which report is hereby incorporated into the record by reference, and a copy of which is attached to the permanent copy of these minutes as [Att A].

New Business

Consideration of a proposed amendment to Section 25.01 of Ordinance 22 – defining who may not be appointed as Zoning Administrator. The document detailing the proposed amendment and its rationale is hereby incorporated into the record by reference and a copy of which is attached to the permanent copy of these minutes as [Att B].

After discussion, focusing particularly on the need for the Zoning Administrator to be wholly independent of all the township governing boards, the following motion was made:

MOTION by Backers, second by Eldridge, to reject the proposed amendment to Section 25.01 of Ordinance 22. Motion carried unanimously.

Fees for Land Use Permits and penalties for failure to obtain them – were discussed. Clerk Eldridge stated that the Township Board would be reviewing these matters at its regular meeting on January 17.

Budgets for the Planning Commission and the Zoning Board of Appeals – both boards agreed that their current fiscal year budgets would be sufficient for the coming fiscal year.

Senate Bill 97 – does it violate Article 10 Section 2 of the Michigan State Constitution, by delegating eminent domain and taxing authority to private entities, and by restricting the rights of affected parties to protest?

Closing Public - Comment:

Jule Moore – asked for, and received, confirmation of meeting dates for the Planning Commission and the Zoning Board of Appeals for 2018 and into 2019.

New website is in place. Thanks to Jule Moore and Joe Gaylord.

Donations will be received by the Township, in memory of Pat Hubble, and donated to Kalkaska High School for the new baseball field.

Township Board will hold a public hearing, January 17, at 6:30 p.m., regarding closing the Old Iron Bridge to vehicular traffic and making it a footpath only.

Adjournment:

MOTION by Von See, second by Backers, to adjourn. Adjournment at 8:19.

Assignments:

- Fields to advise the Township Board of actions taken by the Planning Commission.

- Fields to put on the February 5, 2018, agenda the need to set a date for a public hearing on the proposed amendments to Sections 4.03 and 9.02 of Ordinance 22.

Next Meeting: February 5, 2018, at 7:00 p.m., at the Clearwater Township Community Center (aka The Little Red Schoolhouse).

Respectfully submitted,

A handwritten signature in cursive script that reads "Tina Norris Fields".

Tina Norris Fields
Secretary

Zoning Administration Monthly Report Nov/Dec Clearwater Township

2 Land Use Permits

/ Garages, Sheds

/ Residences

Residences with Attached Garage

Pole Barns

Resident Additions

Decks, Porches, etc.

Miscellaneous, Other Buildings

15 Field Checks

0 Attorney Contacts

1 Planning Commission Meetings

12 Contacts with Public, Home and Land Owners

0 ZBA Meetings and/or Township Board Meetings

0 Training Sessions

5 Zoning Violations


Zoning Administrator

Proposed Amendment for Section 25.01 of Ordinance 22 (Zoning Ordinance)

As presented January 15, 2018

Rationale for limiting who can be appointed Zoning Administrator. No government official should be in the position of occupying two or more *incompatible offices*. *Incompatible offices* are those where one has oversight or superior authority over the other, or one has a reporting obligation to the other.

Given that the Township Board has the authority to employ, appoint, supervise, and instruct the Zoning Administrator, a member of the Township Board who was also the Zoning Administrator would be holding *incompatible offices*. Similarly, since the Zoning Board of Appeals has the authority to reverse a decision made by the Zoning Administrator, a member of the Zoning Board of Appeals who was also the Zoning Administrator would be holding *incompatible offices*.

Rationale for amending Section 25.01. The Planning Commission has no oversight or superior authority over the Zoning Administrator; likewise, the Zoning Administrator has no oversight or superior authority over the Planning Commission. These offices are collegial with no reporting obligation or authority structure between them.

Therefore, the proposal is to strike the words "*the Planning Commission nor*" and insert the words "***or of***" as indicated below, so that the full clause would read: "*provided that the Zoning Administrator shall not be a member of the Township Board or the Zoning Board of Appeals.*"

25.01 ZONING ADMINISTRATOR: APPOINTMENT

A Zoning Administrator shall be appointed by and on such terms as shall be determined by the Township Board; provided that the Zoning Administrator shall not be a member of the Township Board, the Planning Commission nor **or of** the Zoning Board of Appeals. He shall perform such duties as the Township Board may prescribe in addition to any duties of this Ordinance.