

Clearwater Township
Planning Commission
Special Meeting of April 24, 2017
As approved May 8, 2017

Call to Order, Pledge of Allegiance:

Chair Parzych called the meeting to order at 7:07 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.

Township officials: Acting ZA Parzych

Public: Don Smith, Steve Smith, Larry Mitchell, Norm Neuenschwander, Annette Choate, and Robin Choate.

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 commissioners declared none.

Approval of Minutes:

MOTION by Backers, second by Von See, to accept the minutes of April 3, 2017 as presented. Motion carried.

Public Comment for Matters Not on the Agenda:

None.

Commissioner Comment for Matters Not on the Agenda:

None

Scheduled Public Hearing: Application by Don and Steve Smith to expand the existing legal non-conforming Torch Grove Campground, from the current 45 sites to the 54-site limit as approved by the DEQ in 2013. The property is at address 6815 Crystal Beach Road, Rapid City, MI, 49676, being parcel number 004-005-010-00.

Rules of procedure were read to the public. Emphasis was placed on the matter of decorum, in particular that all questions are to be addressed to the Chair, that no conversations are to take place within the public audience, that no personal attacks or arguments will be tolerated, and that once the Commission has begun its deliberations no input is permitted from the public unless the Commission requests additional information.

The sequence is: the Zoning Administrator gives his report, the applicant presents his case, those speaking in support of the application are heard, those speaking in opposition to the application are heard, the public input portion of the hearing is closed, the Commission deliberates the matter and reaches a decision based on the findings of fact and the standards of review.

Acting Zoning Administrator Parzych: reported that during the previous public hearing (April 7, 2014), at which time the expansion sought was to 45 sites, the Smith brothers committed themselves to keeping the noise down and keeping the campground clean. The township has had no complaints regarding the campground to-date. The Smith brothers come now to request completion of the expansion to 54 sites as permitted by the DEQ in December 2013.

Applicant Presentation: Don Smith presented a brief history of the previous application and agreement, and pointed out that they have kept their end of the bargain. They have upgraded things, cleaned things up, planted another dozen pine trees along the road for screening. He reminded the gathering that the township allows 65 sites per five acres, per Ordinance 22, Section 18.03.K.4. The Torch Grove property is ten acres, so technically 130 campsites would be allowable. The requested expansion to 54 sites is well within the ordinance limit.

All of the construction for wells and septic system, was done to code, approved by the Health Department, and permitted by the DEQ to support the total of 54 sites. Don Smith stated that this is the capped total number of sites for the campground.

He reported that they have received compliments from some of the neighbors.

Speaking in support: Norm Neuenschwander supports increasing the number of campsites to 54. His only real concern is to know that the septic system is adequate to the job, that it is being properly maintained, and that records have been kept of the engineering, the installation, the inspection, and the annual maintenance. He raised the point that the groundwater north of the campground flows to Torch Lake and the groundwater south of the campground flows to Rapid River. The topography is such that there is a high water table and poor soil. He expressed concern that Nitrogen and Phosphorus contained in groundwater seeping into the lake may be related to the increase in Golden Brown Algae observed in the lake. [Editor's note: this is a topic currently under scientific study, and its actual mechanism is not yet fully known.]

Chair Parzych asked Don Smith to address the septic system concerns. He responded that it was engineered to handle 10,000 gallons per day 365 days per year, it has a triple-tank system with a pump that switches septic field sides every time it operates. The system was installed by Droggt Excavating and was inspected and approved by the state at the time of installation, for the full 54-site capacity. It is a low pressure system, not just a gravity system, which does a much better job of evenly distributing the water across the septic drain field.

Robin Choate stated that he supports the campground increase to 54 sites. He lives in the neighboring subdivision on Twinbrook Road, with the campground literally in his backyard. He states that the campground is quieter than the people in his subdivision working on cars in their driveways. In response to concerns raised about an increase in the use of the public access, he points out that it is a public access, available to all the public.

Speaking against: Larry Mitchell inquired about the legal limit of people per campsite. He raised the concern that additional campsites means additional people using the public access to get to Torch Lake. He considers this “feeding people into the lake,” and he objects to that.

Norm Neuenschwander asked whether we should expect another expansion request in the future. It is his opinion that increasing the number of campsites may decrease the value of neighboring properties. He commented that although the Smith brothers have done a nice job to the extent possible to screen the view of camper winter storage, he notes that the number of campers stored over the winter has increased. He acknowledged that the smoke from campfires, while discernable, was not intolerable. He also acknowledged that the Smith brothers do a nice job of advising their clients of the rules for proper use of the public access road-end.

Don Smith affirmed a commitment to the limit of 54 campsites.

At this point, Chair Parzych closed the public input portion of the hearing.

The Commission deliberations begin with the findings of fact. We recall the findings of fact from the previous hearing and add new ones established during this hearing.

1. We find that the Torch Grove Campground is a legal nonconforming use, having been in existence prior to the establishment of zoning in Clearwater Township.
2. We find that the Sheriff of Kalkaska County found that there was no problem with traffic except on the July 4 holiday.
3. We find that the Smiths distribute the rules for road-end usage and attempt to promote lawful behavior on the part of the campers.
4. We find that the Smiths have had some success in encouraging their campers to secure seasonal boat slips with the marina.
5. We find that the DEQ permit has been issued, that the health department inspects the campground every year on a random date, that the campground management submits a water sample before the season’s opening and again halfway through the season – [this has been increased to every 90 days].
6. We find that the maximum capacity, if this expansion permit is approved, will be between 160 and 320 people, and that such a maximum is likely only on holiday weekends.
7. We find that this proposed expansion differs in scope and character from John Peal’s proposal that was denied in the winter of 2005-2006.
8. We find that the appearance of the campground, with RV units visible year ‘round is an esthetic concern of the neighboring residents, and that the applicants desire to make the campground more appealing to the eye.
9. We find that concerns over the possible abuse of the Cedar Street road-end access to the lake are ongoing and not exclusive to the existence of the campground.
10. We find the character of the proposed expansion is likely to change the demographic of the campground clientele (for example, by raising the average age) [this has been achieved].

11. We find that while Ordinance 22, Section 18.03.K.4 permits a campground density of 65 campsites per five acres, this density will be capped at a limit of 54 campsites on this ten-acre property.
12. We find that the triple-tank, low pressure septic system, with pump-switch alternating between distribution fields, approved by the DEQ, randomly inspected by the Health Department, annual pumping in the spring, and water sampling of the wells every 90 days gives high confidence in the adequacy and proper maintenance of the water and sewage facilities.
13. We find that the commitment to remain within the 54-site limit imposed by the DEQ at the time of permitting, is acknowledged by the campground management, and the restriction will travel with the land henceforward, regardless of ownership.

Clerk Eldridge noted the conditions recommended by the Planning Commission at the previous hearing. Secretary Fields explained that although the Commission had recommended two conditions, the Township Board had approved the application without those conditions. Therefore, those recommendations are not relevant to the current consideration.

Review of the Standards:

If all the standards are met, the application must be approved; if a single standard is not met, the application must be denied.

8.07 EXPANSION OR ENLARGEMENT OF NONCONFORMING USE OR STRUCTURE CONTAINING A NONCONFORMING USE

A. A nonconforming use or structure containing a nonconforming use may be expanded or enlarged, but only after review by the Planning Commission and final approval by the Township Board. The Planning Commission shall consider the request for the expansion or enlargement of the nonconforming use or structure containing a nonconforming use at a public hearing following the notice procedures for a request for a special use permit and shall recommend approval of the requested expansion or enlargement to the Township Board if it finds that all of the following standards have been met:

1. The existing nonconforming use or structure containing a nonconforming use does not adversely affect surrounding properties.

Parzych – yes – based on the findings of fact and comments of the neighbors

Backers – yes – because a campground is a campground and we’ve previously reviewed the matter, and the surrounding neighbors note that it has improved since the last time

Von See – yes – they’ve done a good job, it’s better than it was

Eldridge – yes – it’s a good location and it serves its purpose well

Fields – yes – for reasons already stated.

The Commission finds Standard 1 to be met.

2. The expanded or enlarged nonconforming use or structure containing a nonconforming use will not change the essential character of the surrounding area.

Backers – yes – surrounding area unaffected

Von See – yes – see no impact

Fields – yes – campground has so improved that the neighbors are in support

Eldridge – yes – area has been maintained

Parzych – yes – for reasons already stated.

The Commission finds Standard 2 to be met.

3. The expanded or enlarged nonconforming use or structure containing a nonconforming use shall comply with all applicable standards for that type use, including but not limited to the standards of Section 24.03.C if the nonconformity relates to a sexually oriented business.

Discussion that this standard is not applicable to the current matter:

Backers – yes

Von See – yes

Parzych – yes

Eldridge – yes

Fields – yes.

The Commission waives Standard 3 as being not applicable.

4. The expanded or enlarged nonconforming use or structure containing a nonconforming use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole.

Eldridge – yes – because of the limits in place

Fields – yes – because the sanitary systems have been carefully engineered and approved by the DEQ, and the controls put in place by the management

Parzych – yes – because of the health department inspections, the DEQ approval, the water sampling; if there were any impact we would be advised

Von See – yes – between the DEQ and health department requirements, and the additional screening and landscaping, negative impacts are minimal

Backers – yes – no additional negative impact on the natural environment.

The Commission finds Standard 4 to be met.

5. The expanded or enlarged nonconforming use or structure containing a nonconforming use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can

be seen from any public highway or seen from any adjoining land owned by another person.

Parzych – yes –they have kept the noise down, and no traffic issues

Backers – yes –there has been no need to call the police

Von See – yes –no calls to the police, not contributing to traffic, campfires not a big nuisance

Fields – yes – concur with colleagues

Eldridge – yes – no extra demands are being made

The Commission finds Standard 5 to be met.

6. The expanded or enlarged nonconforming use or structure containing a nonconforming use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.

Backers – yes – no difference or additional impact

Eldridge – yes – for reasons already stated

Von See – yes – agree with reasons already stated

Fields – yes – standard is already in place

Parzych – yes – for reasons already stated

The Commission finds Standard 6 to be met.

7. The expanded or enlarged nonconforming use or structure containing a nonconforming use will not place demands on fire, police, or other public resources in excess of current capacity.

Parzych – yes – based on prior communication from the sheriff – no calls

Backers – yes – no additional stress placed on our already-stressed first responders by this site

Fields – yes – agree with colleagues

Eldridge – yes – based on comments and questions answered this evening

Von See – yes – no new stresses by this expansion

The Commission finds Standard 7 to be met.

8. The expanded or enlarged nonconforming use or structure containing a nonconforming use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

Parzych – yes – garbage service pickup twice a week

Backers – yes – water and sewer facilities and trash are all in place

Von See – yes – agree with colleagues

Eldridge – yes – based on the services in place and prior DEQ permit

Fields – yes – for reasons already stated

The Commission finds Standard 8 to be met.

B. The Planning Commission may recommend to the Township Board reasonable conditions to any approval granted under this section to assure compatibility of the nonconforming use or structure containing a nonconforming use with surrounding property uses.

Discussion regarding conditions

The matter of screening the campground interior from the neighbors and the road, is slowly being accomplished by the ongoing planting of trees. The Smiths will also work with the immediate neighbor to improve the screening. The rules for using the public access road-end are already distributed by the campground management to their clients. The only condition the Commission wishes to add is that the number of sites be permanently limited to 54, and that the limitation travels with the land regardless of ownership.

MOTION by Parzych, second by Von See, to recommend approval to the Township Board of the application by Don and Steve Smith to expand the number of campsites to 54 for the Torch Grove Campground, property at address 6815 Crystal Beach Road, Rapid City, MI 49676, being parcel number 004-005-010-00, as permitted by the DEQ in December 2013; with the condition that the number of campsites be permanently capped at the limit of 54 for that property.

Roll call vote:

Eldridge – yes

Fields – yes

Backers – yes

Parzych – yes

Von See –yes

Motion carried unanimously.

Closing Public Comment:

None.

Adjournment:

MOTION by Backers, second by Eldridge, to adjourn. Adjournment at 8:25 p.m.

Assignments:

- Fields to communicate the Planning Commission's recommendation to the Township Board for action.

Next Meeting: May 8, 2017 at 7:00 p.m.

Respectfully submitted,



Tina Norris Fields
Secretary