

Clearwater Township

Planning Commission and Zoning Board of Appeals
Regular Annual Meeting of January 8, 2024
As approved by the Planning Commission February 5, 2024

Call to Order, Pledge of Allegiance:

The Planning Commission being at present without a chair, ZBA Chair Greg Snyder graciously agreed to chair this annual meeting.

Chair Greg Snyder 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: Cassasa, Fields, Keyes, Packer.

ZBA members present: Casassa, Cox, Gerlach, Seefried, Snyder. Alternate Theresa Schurman was present via Zoom.

Township officials: Zoning Administrator Radtke, Clerk Johnson, Deputy Clerk Spann.

Public: Rebecca Norris, Gloria Kilian, Sue Kelly, Mary Beth Kazanski, Tina Lyttaker, Michele Schellie, and Jim Leffew. Via Zoom: Carol Bucher, Bradley Simmons, and Linda Misol (sp?)

Approval of Agenda:

MOTION by Cox, second by Gerlach to accept the agenda as presented. Motion carried.

Call for Disclosure of Conflicts of Interests:

All commissioners and members of the ZBA declared having no conflicts of interests.

Approval of Minutes:

Planning Commission

Secretary Fields reported two typos: misspelling of Kilian and 2023 rather than 2024 in the date for the next meeting.

MOTION by Cassasa, second by Packer to accept the minutes of December 4, 2023 as corrected. Motion carried.

Zoning Board of Appeals

MOTION by Snyder, second by Seefried to accept the minutes of October 9, 2023 as presented. Motion carried.

Public Comment for Matters Not on the Agenda:

Jim Leffew – Mr. Chair, I would just like to thank you all for being here.

Commissioner Comment for Matters Not on the Agenda:

None.

ZBA Member Comment for Matters Not on the Agenda:

None.

Correspondence for Matters Not on the Agenda:

None.

Scheduled Variance Hearing of Mike McKay’s Request for setback from road at 7652 Crystal Beach Rd, Rapid City:

Chair Snyder reported that the applicant has not received approval from the health department regarding the septic system and converting the home from a 3-bedroom to a 4-bedroom house. Therefore, he is postponing his appeal until a future special meeting or the next regular quarterly meeting of the ZBA. Applicant has received email from the County Road Commission stating the proposed addition will not affect snowplowing operations, so they have no objection. Snyder expressed concern that the addition might adversely affect parking. The site plan shows that there is a shed on the current septic field; it will be removed. Some responses have been received and they will be handled when the variance request is actually heard.

Old Business:

1) Both special use permit applications deal with a second dwelling on an R-1 lot. The controlling portion of Ordinance 22 – Zoning, is Section 13.03.C:

13.03 PERMITTED USES SUBJECT TO SPECIAL USE PERMIT

C. The use of one accessory building or guest house as a temporary, auxiliary living space may be allowed provided that:

1. The lot or land parcel contains sufficient land area that, in addition to 15,000 square feet allocated to the primary dwelling, there is at least 15,000 square feet more that may be allocated to the auxiliary living space, and that all required building dimensions and setback dimensions are met.
2. The living area in the auxiliary living space does not exceed the living area in the primary dwelling.
3. [Repealed per Amendment 4, Adopted March 16, 2016, Effective April 1, 2016]
4. A District Health Department permit specifically describing the use, and bearing the approval of the District Sanitarian, is presented with the application for the Special Use Permit.

The Ordinance does not define “temporary auxiliary living space,” but it does define “auxiliary living space.”

AUXILIARY LIVING SPACE: A building containing facilities for sleeping, eating, cooking, and disposal of wastes that is used primarily for housing family members or guests

during vacation periods, or while a primary dwelling is under construction, and is not intended or used for extended occupation throughout much of the year. The use of auxiliary living space for more than 120 days in a calendar year is not considered approvable under this provision, unless an applicant is granted an extension for special circumstances, such as unmanageable construction delays.

a) 7225 Crystal Beach Rd (Kilian)

What had been planned as a house and barn, became only a barn with an apartment inside it. Now the applicant wishes to build the house. This would result in two dwelling units on a single lot. Zoning Administrator Radtke assisted in the Commission deliberations with advice on potential flexibility in decision making, and possible conditions to remedy the deficiency.

Packer – Read excerpts from the Zoning Ordinance and the Master Plan regarding the matter of multiple dwelling units on R-1 properties.

Ordinance 22 Article XII Single Family Residential District 13.01 PURPOSE

The purpose of providing this Residential District is to establish areas in Clearwater Township dedicated to single-family residential use in which each dwelling or accessory structure hereafter erected is located on an individual lot or premises

Master Plan Objective 3 Provide for a range of development types through appropriate land use distribution

With the already crowded conditions on and near the township’s watercourses, our planning foresees the need to slow the increase in residential density there, and multifamily dwellings are therefore inappropriate in those locations

Deliberations included discussion on the advantages of providing additional housing, the requirements of the existing law, whether the ordinance should be amended to accommodate this kind of special use, and the possible conditions to permit building the house on the lot with the existing “barndominium.”

The following motion was made:

MOTION by Packer, second by Keyes, to recommend the Township Board approve the special use permit application from Gloria Kilian to build a house at 7225 Crystal Beach Road, with the condition that the house and barn are to be used as a single rental. Motion carried.

Roll call vote:

- Packer - yes
- Keyes - yes
- Casassa - yes
- Fields - yes

b) 7285 Crystal Beach Rd (Schellie).

In this request, there is an auxiliary dwelling space created inside an existing pole barn, that the property owner intends to be inhabited by her mother for a portion of the year. That dwelling space already exist. This application is for the purpose of making the existing situation legal. The similarity of this application to the Kilian application resulted in a very similar motion:

MOTION by Keyes, second by Fields, to recommend the Township Board approve the special use permit application of Marv & Michele Schellie, at 7285 Crystal Beach Rd, to allow the use of an auxiliary dwelling space for a family member for a portion of the year, with the condition that there will not be two rentals operating on that property at the same time. Motion carried.

Roll call vote:

Casassa – yes

Keyes – yes

Packer – yes

Fields - yes

Zoning Administrator Radtke read from Ordinance 22 – Zoning – Article XXIV – Special Use Permits, Section 24.02.J. APPEAL

1. Within fifteen (15) days following the date of decision of any special use permit, an applicant or any aggrieved party, including any governmental body or agency, may appeal the decision of the Township Board to the Zoning Board of Appeals. Upon the filing of an appeal, the application, all relevant documents and testimony, and the findings and decision of the Planning Commission, and decision of the Township Board, shall be transmitted to the Zoning Board of Appeals.

He offered the clarification that the 15 day clock begins on the date when the minutes are approved for the meeting at which the Township Board made its decision.

Michele Schellie asked if she would be required to send her mother away as soon as 120 days had elapsed. The Commission understands that there can be some flexibility in the particular situation.

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2) Proposed modifications to the Planning Commission By-Laws. All Commissioners present have reviewed the suggested changes. The following motion was made:

MOTION by Casassa, second by Keyes, to accept the proposed changes to the Planning Commission By-Laws as presented in the report at the December 4, 2023 meeting. Motion carried.

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Snyder asked for the modifications of the Planning Commission By-Laws be included as addendum to the minutes of this meeting. [Att A]

Snyder further requested that the Planning Commission recommend to the Township Board that the conditions as detailed for the two special use permit applications be transmitted to the Register of Deeds so that future owners of the properties would be aware of those restrictions.

Report of Planning Commission to ZBA and Township Board:

The report is to be received and filed.

Report of ZBA to Planning Commission and Township Board:

The report is to be received and filed.

New Business

- 1) Monthly meeting dates for the Planning Commission as given in the report and in the December 4, 2023 minutes.
- 2) Quarterly meeting dates proposed for the ZBA: January 8, April 8, July 8, and October 14, 2024; January 6, 2025.

MOTION by Snyder, second by Gerlach, to adopt the proposed meeting dates for the coming year. Motion carried.

- 3) Member changes for ZBA:
Dan Packer has left the ZBA and now serves on the PC
Theresa alternate has become an alternate
Mike Seefried has become a ZBA member

- 4) Member changes for PC:
Jim Leffew and Len Von See have ended their terms of service on the PC
Dan Packer and Chris Garrock have been appointed to the PC.

- 5) Election of officers for ZBA?:
MOTION by Gerlach, second by Seefried, that the incumbent officers – Greg Snyder, Chair and Gianine Casassa, Secretary – be re-elected and that Kurt Cox be elected as Vice Chair; all nominees having indicated their willingness to serve. Motion carried.

- 6) Election of officers for PC?:
MOTION by Fields, second by Casassa, to elect Dan Packer as Chair, Gianine Casassa as Vice Chair, and Tina Fields as Secretary; all nominees having indicated their willingness to serve. Motion carried.

- 7) Preliminary review of Malin rezone petition (40-004-016-011-30):
The Commission reviewed the petition for completeness. This property is in the Village Commercial district and the applicant would like it to be rezoned Commercial Light Industry.

MOTION by Keyes, second by Packer, to set a public hearing for the Douglas Malin rezoning request to be heard at the regular Planning Commission meeting of February 5, 2024. Motion carried.

Closing Public Comment:

Theresa Schurman – commented that she has heard about the Malin initiative and thinks it would bring jobs to the community.

Keyes – wondered how many might be employed. Radtke noted that downstate, Malin has 27 full-time employees and some part-time.

Adjournment:

MOTION by Fields, second by Packer, to adjourn. Adjournment at 9:19.

Assignments:

- Fields forward to the Township Board the Planning Commission recommendations regarding the two special use permit applications (7225 Crystal Beach Rd – Kilian; 7285 Crystal Beach Rd – Schellie), with conditions – accompanied by the recommendation to have the conditions recorded with the Register of Deeds.
- Add bylaws modifications as an attachment to these minutes.
- Advise Clerk's office regarding ZBA Variance request form
- Fields to see to publication of February 5, 2024 public hearing on the Malin rezoning request; also advise Clerk's office to send notice to owners of property within 300 feet of the subject property..

Next regularly scheduled meetings:

PC February 5, 2024;

ZBA April 15, 2024

Respectfully submitted,



Tina Norris Fields

Secretary

20231204: Proposed changes to the Planning Commission by-laws.

Adopted January 8, 2024

Section 1: Officers – Change the name to **Officers and Representatives**. In this section are listed the three officers of the Planning Commission as well as the Representative from the Township Board and the Representative to the ZBA. These two persons are not officers of the Planning Commission, but they are required by the Michigan Planning Enabling Act of (PA 33 of 2008 as amended). It is logical to list them in the same space as the officers, but that requires changing the name of the section.

Section 1, E: Township Board Representative and F: Zoning Board of Appeals Representative – Change these titles to **E: Representative from the Township Board** and **F: Representative to the Zoning Board of Appeals**. As currently written, both persons appear to be either representing another government body to the planning Commission or representing the Planning Commission to another government body. This may cause confusion in the future for those who were not present when the law was established. Changing these subsection headings makes it clear in which direction the representation is to be carried out. In both cases, the principal function of the person is to maintain open communication between the governing bodies.

Section 2: Meetings, F: Agenda – The Chairperson is named as the responsible party for assembling the agenda for meetings. Historically, this Planning Commission has had its Secretary prepare the agenda in consultation with the Chairperson. This informal delegation of that task by the Chairperson to the Secretary might better be stated in the by-laws. Here is suggested language for consideration (text to be deleted is ~~struck through~~ and text to be inserted is underlined.)

The Chairperson shall ~~be responsible~~ hold ultimate responsibility for the content of the agenda and may delegate to the Secretary the task of preparing an agenda for Planning Commission meetings.

In the order of business, item **7 Ongoing Business**, which was added by amendment September 10, 2018, has been discontinued in the Planning Commission's regular meetings. Therefore, it should be deleted.

Item 11 should become **Report of the Representative from the Township Board**. **Item 12** should become **Report of the Representative to the ZBA**.

Item 13 Report of the Zoning Administrator, should be deleted from the regular order of business since the Zoning Administrator does not report to the Planning Commission.

Under Notes concerning the public hearing process, there is this final paragraph:

Within ninety days of the decision, a written notice containing the decision of the Planning Commission will be sent to petitioners and originators of the request; this notice will be in the form of the approved minutes of the particular meeting at which the decision was adopted.

Since the Planning Commission is advisory and does not make the final decision to grant or deny a request, this paragraph should be either rewritten or eliminated. If it serves no real purpose, deleting it may be the proper thing to do.

Section 3: Duties of the Planning Commission, Subsection D says to take such actions as required by the **Michigan Zoning Enabling Act (PA110 of 2006 as amended)**. It should include taking actions required by the **Michigan Planning Act (PA 33 of 2008 as amended)** as well.

Subsection H of Section 3 says to prepare a Capital Improvement Plan. Section 65 of the Michigan Planning Enabling Act (PA 33 of 2008) says that the requirement for a Capital Improvements Plan is for municipalities that operate a water supply or sewage system. Here is the pertinent paragraph:

(2) Any township may prepare and adopt a capital improvement program. However, subsection (1) is only mandatory for a township if the township, alone or jointly with 1 or more other local units of government, owns or operates a water supply or sewage disposal system.

For this reason, **Section 3 - Subsection H** of the Planning Commission by-laws should be deleted.

Section 4: Duties of the Zoning Administrator, should be deleted in its entirety since the Zoning Administrator is not a member of, and does not report to, the Planning Commission.