

Clearwater Township
Planning Commission
Regular Meeting of May 7, 2018
As approved June 4, 2018

Call to Order, Pledge of Allegiance:

Chair Backers called the meeting to order at 7:02 p.m., and opened with the Pledge of Allegiance.

Roll Call of Members and Recognition of Visitors:

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

Township officials: Zoning Administrator Parzych.

Public: Jill Tetreau, Jim Lindner, Hugh Ryan, Leroy Rademacher, Stanley Zenas, Jan Mangus, Carol Backers, Jule Moore.

Approval of Agenda:

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

Call for Disclosure of Conflicts of Interests:

Chair calls for commissioners to disclose any real or potential conflicts of interests. All commissioners declared no conflicts of interests.

Approval of Minutes:

Corrected spelling of Commissioner Casassa's name.

MOTION by Von See, second by Casassa, to accept the minutes of the meeting of April 2, 2018, as corrected. Motion carried.

Public Comment for Matters Not on the Agenda:

Questions were raised about Amendment 8 to Ordinance 22, revising Sections 4.03 and 9.02:

- 1) Has it been adopted yet?

Answer: it was enacted by the Clearwater Township Board, and published appropriately; before it could become effective, a notice of intent to file a petition for a referendum was received by the Township Clerk; the petition, with the requisite number of valid signatures was received by the Township Clerk within 30 days of filing the notice of intent; a resolution has been prepared by the Township Attorney, the language of which will be put before the Township Board at a special meeting on May 8, 2018 for approval to place the matter on the ballot for the August 7, 2018 primary election.

- 2) What does the resolution say?

Answer: the resolution has not yet been adopted by the Township Board, the language is not approved.

- 3) Can we not hear the language, or is it a secret?

Answer: it is not a secret. Here is the unapproved language, as read into the record:

“At a special meeting of the Clearwater Township Board, Kalkaska County, held in Clearwater Township Hall, located in Rapid City, Michigan, on May 8, 2018, at 11 a.m., the resolution was made by _____, seconded by _____, that on March 21, 2018, the Clearwater Township Board enacted Amendment Number 8, to Ordinance Number 22, the Clearwater Township Zoning Ordinance, which amended Sections 4.03 and 9.02 of the Zoning Ordinance to provide revised lake, river, and stream regulations, and revised waterfront setback regulations. This Zoning Ordinance amendment was published in a newspaper of general circulation in the township on April 5, 2018. Pursuant to MCL 125.3402.1, a notice of intent to file a referendum on the Amendment Number 8 to the Ordinance Number 22, the Clearwater Township Zoning Ordinance, was filed with the Clerk’s Office on April 11, 2018. Pursuant to MCL 124.3402.3, a petition requesting a referendum on Amendment Number 8 to Ordinance Number 22, the Clearwater Township Zoning Ordinance, was filed with the Township Clerk’s Office on May 1, 2018. The Township Clerk has determined that a sufficient number of signatures appear on the petition from the registered electors residing in Clearwater Township to require the referendum on the Amendment Number 8 to the Ordinance Number 22, the Clearwater Township Zoning Ordinance. Because the primary election is scheduled on August the 7, 2018, the Clearwater Township Board finds it appropriate to submit this proposition to the electorate at this primary election.

The resolution: Now, therefore, the Clearwater Township Board, hereby resolves that the following proposition, the language of which is hereby approved by the Clearwater Township Board and certified to the Clearwater Township Clerk and the Kalkaska County Clerk, shall be submitted to the electors of Clearwater Township for a vote at the August 7, 2018 primary election: ‘Shall Amendment Number 8 to Ordinance Number 22, the Clearwater Zoning Ordinance, which amended Sections 4.03 and 9.02 of the Zoning Ordinance to provide revised lake, river and stream regulations and revised waterfront setback regulations, and which was enacted by the Clearwater Township Board on March 21, 2018, be approved and take effect? Yes or No?’ The Clearwater Township Clerk be directed to take whatever action is legally required to place this proposition on the ballot at the August 7, 2018 primary election.”

Clerk Eldridge further declared that the resolution she had just read to the public, was drafted by Township Attorney Bryan Graham, who had also forwarded a copy of it to the attorneys representing the plaintiffs who filed the petition for a referendum.

- 4) Why doesn’t the amendment specify the “grandfathered” status of existing properties?

Answer: there is no need to so specify, since it is a principle of long-standing
[Post meeting note: both the Federal Constitution (Article I, Section 9, Clause 3) and the Michigan State Constitution (Section 10) prohibit ex post facto laws, which is why there is no need to so specify.]

- 5) When does the amendment take effect:

Answer: if the electorate passes it on August 7, 2018, it is effective on that date. If it doesn’t pass, the amendment dies and there is no change to Sections 4.03 and 9.02.

- 6) What triggers enforcement:

Answer: a complaint filed with the Zoning Administrator.

- 7) Is grass permitted? (Reference was made to scientific proof that grass is better for protecting the lake than “natural” materials, and a claim was made that grass is not considered natural by environmental organizations.)
 Answer: yes, grass is permitted.
[Post meeting note: the document referred to is “A Review of the Scientific Literature on riparian Buffer Width, Extent and Vegetation” by Seth Wenger for the Office of Public Service & Outreach, Institute of Ecology, University of Georgia, Revised Version, March 5, 1999, available as a pdf file from: <http://nhanrs.org/Buffer/Review.pdf>]
- 8) If the amendment won’t affect the status of existing properties, what is the point?
 Answer: this will prevent people in the future from putting concrete or asphalt paving from their house all the way to the water.
- 9) Do you have a definition for the word “structure” anywhere in your documentation?
 Answer: yes, it’s in Article V. It was revised by Amendment 7, at the request of the judge who heard the Township case against a riparian property owner who was in violation of the Zoning Ordinance.
- 10) Who adjudicates that (whether or not something is a structure)?
 Answer: the enforcement officer is the Township Zoning Administrator, whose action is initiated by a complaint.
- 11) Does the old language of the definition remain and the new definition get added to it?
 Answer: no, the new definition replaced the old definition.
- 12) Why is there a 4-foot wide pathway permitted, and doesn’t that contradict the rest of the language?
 Answer: the pathway is a permitted exception to the prohibition of any structure within the 50-foot setback, to protect the right of the landowner to have access to the water.
- 13) Why didn’t the notice of the public hearing include the word “lake” in the section names?
 Answer: the notice listed the actual names of the sections that were to be considered.
[Post meeting note: the notice also stated that the language of the proposed revisions was available from the Clearwater Township office for public review.]
- 14) Why don’t you video record all the township meetings and make those recordings available by email to people who want them?
 Answer: thank you for the suggestion; we will take it under consideration. In the meantime, if you want a copy of the audio recordings we make, simply request it before the meeting at which the minutes are approved, because we generally erase those recordings once the official minutes are posted.
- 15) Your Commission did its work and made a recommendation to the Township Board, and the Board adopted it, so you cannot make any changes at this time. Should we go to the Township Board for changes?
 Answer: once the language is approved for putting this matter on the August 7, 2018 ballot, it is in the hands of the electorate. The criteria have been met for taking the matter to referendum, as your petition requested; nothing can really be changed at this point.

At this time, Chair Backers closed the public comment segment of the meeting.

Commissioner Comment for Matters Not on the Agenda:

There was none.

Ongoing Permanent Business:

Master Plan Review – to begin the process of requesting the public’s input. After discussion, the following motion was made:

MOTION by Fields, second by Von See, to hold a special meeting at 6:30 p.m., on June 4, 2018, immediately prior to the regular meeting, for the purpose of initiating the master plan review process. Motion carried unanimously.

Old Business:

Discussion recounted the history of the difficulties with the unopened alleyways in the village center of Rapid City, and reviewed the proposed draft memo from the planning commission to the township board regarding finding remedies for matter. After discussion, the following motion was made:

MOTION by Fields, second by Casassa, to forward memo to the Township Board. Motion carried 3-2.

Report of Planning Commission Chair:

Chair Backers – reported on the Supreme Court of Michigan ruling that a Torch Lake resident’s short term rentals constitute a commercial enterprise. Chair Backers commended to all present to keep informed on the matter.

Report of Township Representative:

Clerk Eldridge – Supervisor Niederstadt will remain at Meadowbrook for another 30 to 60 days . A letter has been sent to Mr. & Mrs. Stevens regarding planned refurbishment of the Old Iron Bridge. Clerk Eldridge indicated that the Stevenses have 90 days to provide evidence of moving forward on the project to improve the bridge. Otherwise, the township intends to close the bridge to vehicular traffic and convert it to a walking bridge. The Board appointed Kernie Moore to the Board of Review.

Report of ZBA Representative:

Commissioner Fields – The ZBA welcomed Greg Snyder as a new member. There was much discussion on the proper procedure for notification of zoning violations. Planning Commission Chair Backers commented that the subject of informal notification has come up more than once. Zoning Administrator Parzych declared that the Zoning Ordinance specifies notification in writing.

Report of Zoning Administrator:

Zoning Administrator Parzych- distributed his report for April and the running report for the year to-date, which reports are hereby incorporated into the record by reference, and copies of which are attached to the permanent copy of these minutes as {Att A}.

New Business

Discussion on proposed new language for 25.05. After thorough discussion, the following motion was made:

MOTION by Eldridge, second by Von See, to keep the language of Section 25.05 of Ordinance 22, the Zoning Ordinance, as it stands. Motion carried 3 - 2.

Closing Public Comment:

Mangus – asked what it costs to receive a recording of the meeting on a CD. Fields responded that the digital recording can be made available without having to be put on a CD.

Adjournment:

MOTION by Von See, second by Casassa, to adjourn. Adjournment at 8:47 p.m.

Assignments:

- Fields to post the public notice of the special meeting at 6:30 p.m. on June 4, 2018, for the purpose of initiating the master plan review.

Next Meetings:

Special meeting for master plan review: June 4, 2018 at 6:30 p.m.

Regular meeting: June 4, 2018 at 7:00 p.m.

Respectfully submitted,



Tina Norris Fields
Secretary

Clearwater Township Zoning Administration Monthly Report

Month/Year April 2018

2 Land Use Permits Issued
 _____ Garages, Sheds
 _____ Residences
 _____ Residences w/Attached Garage
 _____ Pole Barns
 _____ Resident Additions
1 Decks, Porches, etc.
1 Miscellaneous, Other Buildings

20 Field Checks
0 Attorney Contacts
1 Planning Commission Meetings
0 ZBA Meetings and/or Township Board Meetings
17 Contacts with Public, Home or Land Owners
 _____ Training Sessions

Zoning Violations

1 Zoning Violations closed this month
5 Open Zoning Violations as of this month
1 New Zoning Violations opened this month
1 Zoning Violations under investigation
2 30 Day Notices Sent or in this status
3 60 Day Notices Sent or in this status
0 90 Day Notices Sent or in this status
0 Turned over to Attorney

Date: _____

Signature: 

 Zoning Administrator

