

**Clearwater Township**  
Planning Commission  
Regular Meeting of August 7, 2017

**Call to Order, Pledge of Allegiance:**

Chair Parzych called the meeting to order at 7:02 pm, 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: Zoning Administrator Molby

Public: Rebecca Norris, Sallie Gross, Al Gross, Laura Werner, Theresa Schurman, Jule Moore.

**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 called for disclosure of any real or potential conflicts of interests. All members of the Commission declared no conflicts.

**Approval of Minutes:**

**MOTION** by Parzych, second by Von See, to accept the minutes of the meeting of July 10, 2017 as presented. Motion carried.

**Public Comment for Matters Not on the Agenda:**

Sallie Gross – stated that she and her husband have been trying to get a special use permit since May. She stated that this meeting constitutes their third attempt to be heard. There is some mystery on why no progress has been made. Zoning Administrator Molby asked them to come to his office this Thursday to get things sorted out.

Theresa Schurman – asked if there is a blight ordinance. She asked how long a house can stand unfinished, and how long it can be occupied without certificate of occupancy. Chair Parzych referred her to the county building department.

**Comments from Commissioners for Matters Not on the Agenda:**

There were none.

**Public Hearing: to consider the proposed new definition of the term STRUCTURE for the purposes of Ordinance 22 (Zoning Ordinance).**

In a recent court case, the judge found our current definition of STRUCTURE to be too vague to be clearly understood by all, and to be even-handedly applied. Therefore, the township was asked to review the definition and consider rewriting it with more precision.

The current definition reads: “any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwellings, garages, buildings, mobile homes, signs and sign boards, towers, poles, antennae, stand pipes or other like objects, but not including fences.”

The definition being proposed reads: “anything constructed or erected, the use of which requires a permanent location on or beneath the ground, or attachment to something on or beneath the ground, but not fences, well-heads, irrigation systems, or patio pavers 18” x 18” or smaller.”

### **Input from the public**

Theresa Schurman – asked if there were a separate ordinance for fences. She asked what difference there was between allowing fences all the way to the water line and allowing decks. She opined that the Planning Commission’s goal was to protect the water. Commissioners Fields, Parzych, and Backers responded that the goal of this public hearing was only to define the term STRUCTURE.

### **Planning Commission deliberations**

Fields summarized the research that the Commission has done into the definitions of STRUCTURE as found in the ordinances of several nearby jurisdictions. She indicated that the one universal concept found in these definitions was that the use of a STRUCTURE required a location on or beneath the ground or attachment to something on or beneath the ground. In fact the definition suggested by the Township Attorney included that concept. Discussion during the last two meetings led to including the word “permanent” in the definition, and the additional exclusion of well-heads, irrigation systems, and pavers no larger than 18” x 18.”

There being no further discussion, Chair Parzych made the following motion:

**MOTION** by Parzych, second by Von See, to accept the proposed new definition of STRUCTURE, “anything constructed or erected, the use of which requires a permanent location on or beneath the ground, or attachment to something on or beneath the ground, but not fences, well-heads, irrigation systems, or patio pavers 18” x 18” or smaller.” Motion carried.

#### Roll call vote:

Parzych – yes

Backers – no

Von See – yes

Eldridge – yes

Fields – yes

At this point, the Commission moved on to the Ongoing Permanent Business portion of the meeting, but, returned to this matter, as is recorded in that section, to reconsider the definition of STRUCTURE, on a motion by Fields.

During the Ongoing Permanent Business portion of the meeting, Commissioner Backers stated that his objection to the new definition of STRUCTURE, was that it included exclusions; that a definition should be just a definition; that any exemptions in application should appear in the

portions of the Ordinance regulating those applications; that as the new definition was written, a landowner could pave all the way to the water’s edge with 18” x 18” pavers.

Parliamentary procedure allows the reconsideration of a motion, but the motion to reconsider must be made by a member of the winning side of the previous motion.

**MOTION** by Fields, second by Eldridge, to reconsider the definition of STRUCTURE. Motion carried.

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

During the ensuing discussion, the Commission concurred that a definition should be only a definition; that it should not attempt to accommodate exceptions that may be made in other sections of the Ordinance. Therefore, the Commission agreed to strike the words “but not fences, well-heads, irrigation systems, or patio pavers 18” x 18” or smaller.” The following motion was made:

**MOTION** by Backers, second by Fields, the definition of STRUCTURE shall be: “anything constructed or erected, the use of which requires a permanent location on or beneath the ground, or attachment to something on or beneath the ground.” Motion carried.

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

The commission will have to comb through the ordinance to find the places where STRUCTURE appears in the language, and make the needed adjustments in the application of the ordinance.

**Ongoing Permanent Business:**

Waterfront setback language – the proposed language suggestion received from the ZBA was included in the packet, along with pertinent excerpts from the ordinances of nearby jurisdictions: Kalkaska Township, Helena Township, Milton Township, and Traverse City, as well as the current language in the Clearwater Township ordinance. The Commission reviewed the suggestions offered by the ZBA for Sections 4.03 and 9.02 of Ordinance 22 (Zoning). The proposed language is hereby incorporated into the record by reference, and a copy is attached to the permanent copy of these minutes as [Att A].

During this discussion, Commissioner Backers stated that his objection to the definition of STRUCTURE was the exclusions; that if you’re going to define something, just define it; if you’re going to exclude something from a particular application, exclude it in the application. The point was well-made and meritorious.

Reconsideration of the earlier motion is permissible, but only if the motion to reconsider is made by a person who was on the winning side of the previous motion. Fields made the motion, and Eldridge seconded the motion, to reconsider the definition of STRUCTURE. The record of that process is found in the Public Hearing section of these minutes.

Further discussion on the proposed language for waterfront setback regulation, revealed that more data was needed for the Commission to craft a well-informed and equitable regulation. Chair Parzych called an end to the discussion for this meeting and instructed that the topic be placed on the September agenda.

### **Old Business:**

Medical marijuana – There is new action on the Michigan Medical Marijuana legislation. Adam Parzych and Jule Moore will both be attending conferences on the matter, on August 16 and 30, respectively.

### **Report of Township Representative:**

Clerk Eldridge reported that Pat Gray has sold her Rapid City home, resigned from her township positions, and is moving back to her hometown of Battle Creek. Clerk Eldridge, Deputy Clerk Moore, Treasurer Crambell, and Deputy Treasurer Stroh, will staff the office. Supervisor Niederstadt will probably not return to his duties for another couple of months.

### **Report of Zoning Administrator:**

Zoning Administrator Molby distributed his report, which report is hereby incorporated into the record by reference, and a copy of which will be attached to the permanent copy of these minutes as [Att B].

### **New Business**

There was no new business to consider.

### **Closing Public Comment:**

#### **People comment on the proceedings**

Rebecca Norris commented that it would be nice to get the agenda on the website ahead of time. Discussion revealed that work is in progress for that.

Tom Backers offered congratulations to the Township Board for completion of Baggs Road and the scheduling of Wilhelm Road. Clerk Eldridge added that emergency federal funding was being applied for, by the Kalkaska County Road Commission, to repair West Plum Valley Road and Zimmerman Road, and that there was a possibility of collaboration between Kalkaska County and Antrim County on Zimmerman and McPherson Roads.

### **Adjournment:**

**MOTION** by Backers, second by Fields, to adjourn. Adjournment at 8:36 pm.

**Assignments:**

- Eldridge to send the proposed definition of STRUCTURE to the Township Attorney, who will forward it to Judge Buday.
- Fields will forward the proposed definition of STRUCTURE to the Township Board, for consideration at its August 16 meeting.
- Fields will forward the proposed definition of STRUCTURE to the County Planning Commission for its review and comment.
- Fields will circulate to the commissioners, the proposed language for 9.02.
- Fields will place the waterfront setback language on the September agenda.

**Next Meeting:** September 11, 2017

Respectfully submitted,



Tina Norris Fields  
Secretary

Proposed changes to sections 4.03 and 9.02 of the Clearwater Township Zoning Ordinance #22

(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 DNREQ.
- 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.

#### 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.*

Zoning Administration Monthly Report JULY 2017 Clearwater Township

4 Land Use Permits

Garages, Sheds

1 Residences 7398 CAUS BCU RD.

1 Residences with Attached Garage 5194 S. AMIDON RD.

1 Pole Barns 4222 SAPHIRE DR.

Resident Additions

Decks, Porches, etc.

1 Miscellaneous, Other Buildings WHEEL CHR. RAMPS, 9220 TORCH BROS. CT.

10 Field Checks

— Attorney Contacts

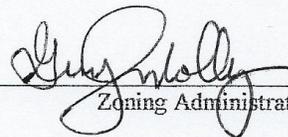
1 Planning Commission Meetings 7/10/17

21 Contacts with Public, Home and Land Owners SET BACKS, ZONE DIST., CLEANUP, FENCE SET BACK, HD BRASS, PL. DISPUTE.

2 ZBA Meetings and/or Township Board Meetings 7/12/17 ZBA  
7/19/17 TWP Bd.

— Training Sessions

— Zoning Violations

  
Zoning Administrator