

Clearwater Township
Planning Commission
Regular Meeting of October 7, 2019
As approved October 15, 2019

Call to Order, Pledge of Allegiance:

Chair Backers 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, Cassasa, Eldridge, Fields, Von See.

Township officials: Zoning Administrator Parzych, Deputy Clerk Moore.

Public: Leo Fix Lorraine Fix, Karen McKenzie, Lynne Buday, Carol Backers, Sandra Wheelock, Ruthanne O'Brien, Jason Morrison, Brooke Morrison, Greg Hanlin – plus four present who decided not to sign in.

Approval of Agenda:

Item 9 on the agenda was resumption of deliberations on the special use permit application from the Tillman Tower team, the time clock of which was suspended while the applicant sought variance approval from the ZBA. The special use application is for a 170' cell tower. The applicant sought a variance for the 170' tower, then withdrew that request and entered a new one for a 120' tower. The ZBA has denied the variance petition for the 120' tower. The application still sitting open before the Planning Commission is for a 170' tower. It is important for the record that the Planning Commission complete the process.

There being no one present at this meeting to represent the applicant, Fields proposed postponing resumption of deliberations until the Planning Commission's November 4, 2019 meeting. This would permit the township's legal counsel to correspond with the applicant's legal counsel for clarification on how the applicant would like to proceed. After discussion, the following motion was made:

MOTION by Fields, second by Eldridge, to strike item 9 from tonight's agenda and postpone resumption of deliberations on the Tillman Tower special use permit application until the November 4, 2019 meeting. Motion carried.

With Item 9 struck from the agenda, the following motion was made:

MOTION by Von See, second by Backers, to approve the agenda as amended. Motion carried.

Call for Disclosure of Conflicts of Interests:

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

Approval of Minutes:

MOTION by Von See, second by Casassa, to approve the minutes of September 9, 2019 as presented. Motion carried.

Public Comment for Matters Not on the Agenda:

Jeff West – Served a “no trespass” notice on Adam Parzych, and asked that the record reflect that action. He proceeded to state that he believes that the “Zoning Board has a problem, ... that Zoning is illegal, ... that involves Zoning Act 110, the Enabling Act. We don’t have a charter, we didn’t have legislative approval to do this, and we didn’t have a vote of the people – that’s the three ways that you get zoning. So, I’m just going to make this statement, in meetings past I’ve said that I believe it is illegal, and now I’m confirming that in my opinion because of legal advice, that this Board has the ability to control their own land, public domains, i.e., zoned public land – that’s it – not private property. Thank you.”

Commissioner Comment for Matters Not on the Agenda:

There was none.

Correspondence:

There was none.

Public Hearing on Rezoning Petition from Jason Morrison:

This is a petition from Jason Morrison to rezone his property with address of 6333 Rapid City Road, in Rapid City, being tax id parcel number 40-004-021-014-00, from Recreational to Commercial-Light-Industry.

Zoning Administrator Parzych – The commercial area of the township extends south to the Skegemog Swamp. It would not be a big deal to extend it. Mr. Morrison has conducted his business at the present location without any complaints ever being lodged against him. He wants to move his business to another location on land that he owns. The Zoning Administrator has no objection to the project.

Jason Morrison – Presented his desire to move his electrical contracting business from the present location, which is rented, to property he owns. There is not a lot of existing commercial property in the township that meets his needs. If he can have this property rezoned commercial, he will put his business here. He plans to keep it simple, a building, and a sign at the road. If he cannot have it rezoned, he’ll probably just build houses on it.

Jeff West – asked “How big is that parcel?” Chair Backers allowed the question and responded that it is twenty-five acres. West challenged that size as being a parcel, and said that in his opinion, that’s land.

Those speaking in favor:

Jule Moore – said she has no issue with rezoning this parcel. If we’re going to grow our commercial district anywhere, it needs to be in our main corridor.

Those speaking in opposition: [18:57 in the recording]

Jeff West – spoke to the excellent character of Jason Morrison as a citizen, neighbor, and business person. In his opinion, however, rezoning a twenty-five acre parcel is not appropriate. He commented that the property in question is not contiguous to the township’s commercial district and rezoning it would constitute a spot zoning. Reading from a document of the MSU Extension, he quoted “one illegal form of rezoning is spot zoning.”

[retrieved from https://www.canr.msu.edu/news/how_to_spot_a_spot_zoning.html]

Lorraine Fix – resides at the corner of Morrison and Rapid City Road. Read from Objective 1 of the Master Plan “there are lengthy stretches of roadway that best present our best features to the public and that we believe should be faithfully preserved. These include the portion of M-72 that runs through the township, Rapid City Road between the DNR Skegemog Swamp Trailhead and Townline Road, and Valley Road between Dundas and Wilhelm Roads.” It seems you would have to change the Master Plan in order to do this zoning. It will affect property values. Other concerns are light and noise pollution, as well as what a future owner might do with the property, since zoning goes with the land. Also, it abuts an environmentally sensitive wetland – do we have an environmental impact statement? Chair Backers responded that those issues would be addressed by the county and state permitting processes.

Leo Fix – expressed concern that he and other homeowners have lakeview property, and that factories would deprive them of the view they believe they purchased. He also expressed concern that Lake Skegemog would be in danger of pollution. He opposes zoning that twenty-five acre parcel commercial, because it will change the character of the surrounding area.

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Secretary Fields – distributed information regarding zoning, from the MTA publication “Township Planning and Zoning Decision-making.”

Clerk Eldridge – read from the same MTA publication: “spot zoning is a commonly misunderstood and misused term. Spot zoning is neither a negative nor positive term, it may be an entirely appropriate action. Simply stating that a proposed application is *spot zoning* is not a reason for denial.”

Secretary Fields – noted that the Village Commercial district is primarily within the village, but there are two properties outside the village proper that are zoned Village Commercial. They are the corner of Rapid City Road and Crystal Beach Road, where the chiropractic office is, and the property now known as Living Waters, located just east of the Torch River Bridge on the south side of Crystal Beach Road.

Chair Backers – commented that if we approve this rezoning from Recreational to Commercial-Light Industry for Mr. Morrison, AT&T will come back wanting to put up a tower in a Recreational zone. He expressed his opinion that the two situations are similar. We postponed the meeting for the tower to November 4, and Chair Backers is concerned that what we do here for Mr. Morrison may have an impact on what happens there.

Secretary Fields – noted that one is a special land use permit application and the other is a rezoning petition, which she said are two very different things.

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Deliberations: [29:12 in the recording]

Review of standards for rezoning proceeded. Section 29.03 Fact Finding.

29.03.E. On a rezoning petition, how would it affect the environmental conditions or value of the surrounding property if approved?

29.03.F. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change were approved and the resulting allowed structures were built? Such as:

1. Surface water drainage problems;

2. Waste water disposal problems:
3. Adverse effect on surface or subsurface water quality; and
4. The loss of valuable natural resources such as forest, wetlands, historic sites, wildlife, mineral deposits or valuable agricultural land.

Discussion:

Backers – commented that having a commercial enterprise developed next to his home would certainly change the area, and he expressed concern that the subject property would not remain the only one rezoned.

Von See – said he is not really in favor of making this change, but also commented that although zoning is supposed to be about public safety, he sees it as “about the Benjamins.”

Casassa – stated that she has issues with the potential environmental impact. We may need more commercial space, but not there.

Eldridge – said she is actually in favor of commercial development along the main corridor. We need more light industry and commerce in this community if we hope to grow. The subject property is far enough away from the lake that she finds it hard to see any environmental impact.

Fields – expressed her support for Mr. Morrison and his business, and acknowledged the value in having a competent electrical contractor in the town. Her one concern is that, regardless of Mr. Morrison’s purpose, whatever is permitted in that commercial district is permitted by right to the next owner. The possibility of looking at a different zone should be mentioned.

Backers – indicated his support for the Mr. Morrison the person, and for the business. His concern is for the future uses of the land. He spoke of the need for businesses in the community, for people to be able to make a living, and that we will be meeting with the Township Board tomorrow at 10:00 to work on ideas for the Master Plan, looking to the future of our community.

Morrison – noted that he just wants a way to put up his building and a sign. He is new to the entire process and would like our assistance in working things out. He said he would like to know about what is permitted in Village Commercial district. Secretary Fields read the permitted uses. Mr. Morrison withdrew his petition to rezone this property from Recreational to Commercial-Light Industry. He will consult with the Zoning Administrator before submitting a new application.

Deliberations were closed at 8:00 p.m.

Ongoing Permanent Business:

We discussed the information we have assembled for updating the Master Plan – some Census estimates for population, school population, the fire department report, alleyways report, building information, and roadways info. We will attend the meeting tomorrow with the Township Board.

Chair Backers described the entire process required to complete the alleyways project.

Report of Township Representative:

Clerk Eldridge – reported that the tennis courts have been removed, Morrison Road resurfacing is completed, and the Township Board is holding a special meeting tomorrow morning to discuss the Master Plan.

Report of ZBA Representative:

Fields – reported that the ZBA held a public hearing September 13, 2019 on a variance petition from the Tillman Tower Team regarding the setback and spacing requirements for a 120’ tower. The variance was denied.

Report of Zoning Administrator:

Zoning Administrator Parzych – distributed his report for August 2019, which report is hereby incorporated into the record, and a copy of which is attached to the permanent copy of these minutes as [Att A].

Closing Public Comment: [1:11:09 in the recording]

Ruthanne O’Brien – claimed that she had filed many zoning violation complaints without any response from the township. After a bit, she acknowledged that she had several text message conversations with the Zoning Administrator. A few minutes farther on, Zoning Administrator Parzych asked her if it were not true that she has filed a lawsuit against the township on these very topics. She acknowledged that she had. Parzych noted that, therefore, we cannot even discuss the matters with her. Chair Backers declared this discussion closed. [1:27:45 in the recording]

Adjournment:

MOTION by Fields, second by Von See, to adjourn. Adjournment at 8:32.

Next Meeting: November 4, 2019.

Respectfully submitted,



Tina Norris Fields
Secretary

Clearwater Township Zoning Administration Monthly Report

Month/Year Aug 2019

7

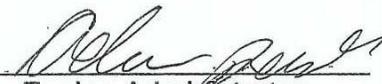
Land Use Permits Issued

- 1 Garages, Sheds
- 2 Residences
- Residences w/Attached Garage
- 3 Pole Barns
- Resident Additions
- Decks, Porches, etc.
- 1 Miscellaneous, Other Buildings

46
0
1
0
15
0

- Field Checks
- Attorney Contacts
- Planning Commission Meetings
- ZBA Meetings and/or Township Board Meetings
- Contacts with Public, Home or Land Owners
- Training Sessions

Date: 9-23-19

Signature: 
Zoning Administrator