

**Clearwater Township**  
Joint Meeting of Planning Commission  
and Zoning Board of Appeals  
January 6, 2020 – As approved February 3, 2020

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

Planning Commission Chair Backers called the meeting to order at 7:08 p.m., and opened with the Pledge of Allegiance.

**Roll Call of Members and Recognition of Visitors:**

Commissioners present: Backers, Cassasa, Fields, Von See, and newly appointed Township Clerk Moore.

Zoning Board of Appeals members present: Bergmann, Gerlach, Lawicki, and newly appointed Planning Commission representative Casassa.

ZBA member absent: Snyder

Township officials: Zoning Administrator Parzych

Public: Leo Fix, Lorraine Fix, David Findley, Karen Findley, Dan Packer, Tom Pierce, Tom Jacobs, Jason Morrison, plus one gentleman who declined to sign in.

**Approval of Agenda:**

The agenda was accepted, by both the Planning Commission and the Zoning Board of Appeals, after correcting the street address of the Morrison property from 6333 to 6323.

**Call for Disclosure of Conflicts of Interests:**

All members present of both bodies declared no conflicts of interests with items on the agenda.

**Approval of Minutes:**

**MOTION** by Casassa, second by Von See, to accept the Planning Commission minutes of December 2, 2019, as presented. Motion carried.

**MOTION** by Gerlach, second by Lawicki, to accept the Zoning Board of Appeals minutes of October 14, 2019, as presented. Motion carried.

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

There was none.

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

There was none.

**ZBA Member Comment for Matters Not on the Agenda:**

There was none.

**Correspondence:**

Received a letter from the legal representatives of the Kalkaska Village notifying us of the village's intention to update its Master Plan. This letter is hereby incorporated into the record by reference.

**Scheduled Public Hearing: petition by Jason Morrison to rezone a 2-acre portion of his property, located at 6323 Rapid City Road, having property tax ID 40-004-021-014-00, from Recreational to Village Commercial.**

Zoning Administrator Parzych – reported that Jason Morrison has been an upstanding citizen of the township, a man of good character, and has carried on a good electrical repair business in the community for several years. He has a parcel of land on Rapid City Road, just south of the Skegemog Swamp entrance, and would like to convert two acres of it to Village Commercial in order to be able to locate his business there and put up a sign to let people know where the business is. Parzych commented that Morrison's electric business does not work on transformers, or other forms of work that would harm the water table. ZA Parzych indicated that he favors the project.

Applicant: Jason Morrison – stated that his intent is to upgrade the existing building that is on the property and make that the office, and put up a sign at the road. The existing landscaping will remain in place. The existing back building has been repaired and will be the workshop. The ramshackle house that was on the property has been removed. Chair Backers asked for clarification about the current location of the business. Morrison responded that he rents that space and wished to move the business to his own property. He pointed out that there is very limited available commercial space available in the township, and he does not want to leave here. He is a lifelong resident and wants to stay here and run his business here.

**Those speaking in favor of the project:**

Dan Packer – said he is in support of the project.

Tom Pierce – supports the project.

Tom Jacobs – has known Jason a long time and supports the project.

Dave Findley – is in favor of the project.

**Those speaking in opposition to the project:**

Leo Fix – asked what could be put in Village Commercial. Chair Backers read the list of permitted uses. Mr. Fix asked what would prevent Morrison from putting in a gas station. That would require a special use permit.

Lorraine Fix – said that although she trusts Mr. Morrison to do as he says he will, the zoning goes with the property, and she doesn't trust the next owner. The next owner might try to do something more damaging. She also asked whether this would violate the Master Plan. She referenced the paragraph that addresses keeping the natural aspect of that long stretch of Rapid City Road. She expressed her concern that this represents the first of potential future encroachments into the natural beauty of the area.

Lucy Gerlach – stated that this would be spot zoning, which she considers to be one of the worst things to do to the community. She stated that having permitted one spot zone, the township becomes liable to lawsuits for denying similar future requests. She stated firmly that she is in opposition to spot zoning. Furthermore, she pointed out that once the land is rezoned, regardless of what the applicant says he is going to do, he can do anything that is permitted in the new zone. The zoning goes with the property, not the person.

Karen Findley – asked whether this zoning would open up the area to more storage units. Chair Backers and ZA Parzych both said “No,” because the storage units are allowed in the Commercial-Light Industry zone, not the Village Commercial zone. She then commented that Mr. Morrison has made great improvements to the property in question.

**Public Input closed at 7:44 pm**

**Planning Commission Deliberations:**

Chair Backers encouraged discussion among the Commissioners before taking on consideration of the factors given in Section 29.03 of Ordinance 22. Von See thinks it would have been better for the whole commercial strip to be fully established. He spoke of safety concerns regarding existing businesses already in place on Rapid City Road that he referred to as “on the road junkyards.” Casassa spoke of being torn by more than one thought – the legitimate issue raised regarding the potential spread of spot zoning, and the fact that this is only two acres and that Village Commercial is not Industrial. Moore had no concerns to mention at this time. Fields said she was also torn by more than one consideration. There is always the future danger, but Village Commercial is much more restrictive than Commercial-Light Industry, and this is an appropriate business.

If this rezoning request is approved, it will amend the boundaries of both the Village-Commercial zone and the Recreational zone.

**29.03 – Fact-finding with regard to rezoning**

A. What, if any, conditions related to the petition have changed which justify the amendment?

Backers – there is a need for more commercial space; this is to keep a local business local; we’re growing a bit, otherwise, the area conditions haven’t changed.

Moore – the lack of available village commercial property.

Von See – there is a lack of available commercial space; we’ve tried to add such space north of town and run into resistance; it’s not an easy pill for people to swallow, but we do need more commercial space if we’re ever going to be more than storage space.

Casassa – the area conditions haven’t changed much; but there is a lack of space.

Fields – there isn’t much change to the area, and because we are growing, we are in need of additional business space.

B. What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the amendment?

Backers – no error, there just hasn’t been enough action to accommodate business growth in the community; most of the Recreational zone is property owned by the DNR that will never ever be developed.

Moore – no error, just the natural growth process.

Von See – no error, just couldn't see that far into the future.

Casassa – not necessarily any error.

Fields – not a mistake, but the original ordinance was crafted more than 40 years ago; no one knew that we would ever need so much more space.

- C. Would the approval or denial of this petition set a precedent? If so, what possible effects might result from this?

Backers – no, because two Village Commercial properties that are not contiguous to the Village Commercial district exist already (they are: the southwest corner lot of the intersection of Crystal Beach Road and Rapid City Road, and the lot on the south side of Crystal Beach Road, where it meets the bridge over the Torch River).

Casassa – agree.

Moore – agree.

Von See – agree.

Fields – agree.

- D. If approved, what impact would the amendment have on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future?

Backers – none.

Casassa – none.

Moore – none.

Von See – none.

Fields – none.

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

Von See – as planned, no effect.

Backers – don't think a sign and a couple of commercial vehicles will have any effect.

Moore – with the 2-acre limitations, there is no effect.

Casassa – no effect.

Fields – no negative effect.

- 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.

Moore – none.

Casassa – none.

Von See – none.

Backers – none – health department approval of septic system takes care of any

potential groundwater concerns.

Fields – none; as the property stands it is upland and even if it had at some time been wetland, it has been upland for some time, so there is no loss of wetlands.

**MOTION** by Backers, second by Casassa, to recommend to the Township Board approval of rezoning the 2-acre portion of the parcel with tax id 40-004-021-014-00, as described in the application, subject to survey of the proposed Village Commercial portion. Motion carried.

**Roll call**

- Von See – aye
- Moore – aye
- Casassa – aye
- Backers – aye
- Fields – aye

**Deliberations closed at 8:14 pm**

**Annual Business of Both Boards**

Meeting dates:

The Planning Commission set its calendar at its December 2, 2019 meeting, as follows:

January 6, 2020	February 3, 2020	March 2, 2020
April 6, 2020	May 4, 2020	June 1, 2020
July 6, 2020	August 3, 2020	September 14, 2020
October 5, 2020	November 2, 2020	December 7, 2020
January 4, 2021	February 1, 2021	March 1, 2021

The Zoning Board of Appeals set its calendar as follows:

April 13, 2020	July 13, 2020	October 12, 2020
January 4, 2021		

The two boards agreed on January 4, 2021 as the date for their annual joint meeting.

Officers for 2020:

The Planning Commission elected its 2020 officers at its December 2, 2019 meeting, as follows:

Chair: Tom Backers, Vice Chair: Len Von See, Secretary: Tina Fields.

The Zoning Board of Appeals elected its 2020 officers as follows:

**MOTION** by Lawicki, second by Bergmann, to elect Lucy Gerlach as Chair, Bob Bergmann as Vice Chair, and Gianine Casassa as Secretary, all candidates having agreed to serve. Motion carried.

**Old Business:**

Report of Planning Commission to the ZBA for 2019 – Chair Backers reported that the Township Supervisor has asked the Planning Commission to consider combining the best parts of the Agricultural District and the Recreational District into a single zone. We are also tasked with establishing additional commercial property in the township. We are also in need of getting an official zoning map completed and signed by the Supervisor. Chair Backers stated that the ZBA will have to review the modified Zoning Map before it goes to the Township.

Secretary Fields reported that we spent a good deal of 2019 dealing the Tillman Telecommunications Tower matter. Chair Backers thanked the ZBA for its stand on the Tillman Tower matter. Clerk Moore reported that a FOIA request has been received for the approved minutes of the December 19, 2019 Township Board meeting. They are probably waiting for that document before taking the next step. Attorney Wendling will be preparing the letter for the township directing the Tillman team to take the tower down. The Tillman team does have all the documents telling them that their special use permit has been denied. Clerk Moore stated that if the township is sued by the Tillman team, it is probable that our insurance company will assign an attorney to represent us in court.

Report of ZBA to Planning Commission for 2019 – Chair Gerlach reported that there were 5 variance hearings during 2019, which constituted the business of the year.

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

Zoning Administrator Parzych – reported that he has updated the records of land use permits issued for 2016, 2017, 2018, and 2019. He is working to continue that historical record to earlier years. Bergmann asked about a pole barn at 5448 Way Road that was permitted in August of 2019. It is built and power has been brought in. There now appears to be a block wall being built that may be the basement for a future structure. Do they need a permit? Parzych responded that if it was not in the original permit, then yes. He agreed to check it out.

### **New Business**

Adam Parzych – lifted up his concerns about the number of storage buildings and large pole barns being built in Rapid City. Storage buildings are permitted in the Commercial-Light Industry zone as a use by right. Pole barns in any zone in Clearwater Township must meet the setback requirements of the zone district. The discussion covered the assumption that large pole barns are being built by people who intend to use them for illegal purposes, such as growing marijuana in our township which has opted out of the marijuana business. Parzych's argument is that limiting the size of the pole barns will reduce the likelihood of their being used for illegal grow operations.

The Commission asked what size limitation the Zoning Administrator would recommend for pole barns. He suggested 30' x 40' which immediately got the objection that there are perfectly valid reasons to build larger buildings than that on private property.

### **Closing Public Comment:**

People comment on the proceedings.

Tom Pierce – asked if the township couldn't just return to a more restricted standard for pole barns. Parzych responded that yes that could happen.

There followed much informal discussion on the legitimate uses of land, and the limitations of local government to dictate private land use.

### **Adjournment:**

**MOTION** by Von See, second by Gerlach, to adjourn. Adjournment at 8:51 pm.

**Assignments:**

- Fields to send recommendation for approval of Jason Morrison's rezoning petition to the Township Board.
- Fields to send the amendment proposal to the Kalkaska County Planning Commission for review and comment.

**Next Meeting:** February 3, 2020.

Respectfully submitted,

A handwritten signature in cursive script that reads "Tina Norris Fields".

Tina Norris Fields  
Secretary