

**MINUTES SILVER CREEK TOWNSHIP
PUBLIC HEARING AND REGULAR PLANNING COMMISSION MEETING HELD
JANUARY 22, 2020**

The Planning Commission Public Hearing was called to order by Chairman Terry Harris at 7:00 p.m. on Wednesday, January 22, 2020. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Nick Barnes, Jon Tidey, Tim Feirick, Bill Zuhl, Terry Harris, Debbie Brown, Dave Grabemeyer

MEMBERS ABSENT: None

OTHERS PRESENT: Building/Zoning Administrator Todd Herter, Recording Secretary Lindsay Krohne, members from the public

MOTION TO APPROVE JANUARY 22, 2020 PUBLIC HEARINGS AGENDA

Bill Zuhl motioned to approve the January 22, 2020 Planning Commission Public Hearings Agenda. Debbie Brown seconded. Motion passed by voice vote.

Chairman Terry Harris stated that the reason for the three separate public hearings were to review proposed text amendments to the Township Zoning Ordinance to add a definition of “fence” and to amend the fencing provisions contained in Section 155.031, to review a request by Philip and Lynette Nevins for a special use permit to operate a licensed seasonal campground, and to review a request by Jennifer Northrup for a special use permit for a rental hall/wedding barn venue.

Secretary Debbie Brown read aloud the public hearing notices.

PUBLIC HEARING TO REVIEW PROPOSED FENCING TEXT AMENDMENT

Secretary Debbie Brown read the proposed text amendment changes to “Definitions” in Section 155.06 and Section 155.031:

FENCE: A fixed structure or gate, constructed of standard fencing materials readily available on the retail market such as wood, vinyl, or metal that is erected as a dividing marker, barrier, or enclosure, encircling either wholly or any portion, of any area. No tarps, visquene, tires, or other junk is allowed.

ADJACENT GRADE Adjacent grade shall be construed as the average grade measured at a point three feet on each side of the fence. In the case of a fence on a retaining wall, adjacent grade shall be the grade of the top of the wall.

HEIGHT The average distance between the top element in the fence and the adjacent grade over a straight section of fence with no corners.

PROTECTIVE MEASURES FENCE A fence erected for the express purpose of protecting an enclosed area and the property therein, or a fence intended to deny access to a dangerous property or location.

155.031 FENCES.

(A) *General.*

(1) Fences erected within the required front yard in any district shall not exceed four feet high of unobstructed chain link fence or shall not exceed three feet in height of a type which is not more than 66% solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.

(2) Fences shall not be erected or maintained in any district in such a way as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines 20 feet from the point of intersection. Fences constructed within this area shall not exceed 36 inches in height.

(3) Any fence shall be maintained in good, safe, and sturdy condition.

(B) *Residential districts or uses.*

(1) Fences in the residential districts or residential uses in other districts shall not exceed six feet in height, measured from the surface to the uppermost portion of the fence.

(2) Fences in the residential districts or fences enclosing residential uses in other districts shall not contain barbed wire or be electrified.

(C) *Non-Residential Districts or uses*

(1) Fences in the non-residential districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence not be nearer than six feet from the surface of the ground. The total height of fences in the non-residential districts shall not exceed eight feet.

(D) *Water Front District*

(1) Fences in the Waterfront District erected between the main building and the shoreline shall not exceed four feet high of unobstructed chain link fence or shall not exceed three feet in height of a type which is not more than 66% solid, so as not to obscure vision at the property line of the lot or parcel on which it is placed.

(2) Fences in the Waterfront District shall not be placed lakeward of the ordinary high water mark.

(3) Fences in the Waterfront District shall not exceed six feet in height, measured from the surface to the uppermost portion of the fence.

(4) Fences in the Waterfront District shall not contain barbed wire or be electrified.

(5) Fences in the Waterfront District shall not be placed lakeward of the ordinary high water mark.

PUBLIC COMMENT

None.

COMMISSION DISCUSSION

None.

Terry Harris closed the fence amendment public hearing at 7:20 p.m.

SPECIAL LAND USE PERMIT PUBLIC HEARING – NEVINS LANDING LLC

Chairman Terry Harris opened the floor for public comment regarding the Special Land Use Permit request made by Philip and Lynette Nevins.

PUBLIC COMMENT

John Fehland voiced his concerns about additional traffic and the number of people on the property, the potential expansion to more trailer sites in the future, water quality, and noise.

Lisa Malloy voiced her concern about a potential request for another campground.

Doug Pearson referred to “Ordinance 90-01” and voiced his concerns about the costs and benefits to residents, and the impact of boat usage, lack of regulation, property values, key holing, and using a dock for multiple boats.

Joe Moore voiced his support of the campground.

Bonnie Stasiak agreed with John Fehland and voiced her concerns about lack of rules, traffic, potential expansion of trailers, noise, fireworks, and trash.

Nicole Nevins voiced her support of the campground.

Applicant Philip Nevins stated that between 1930-1963 there were 50 cottages there, along with additional cabins for busboys, waitresses, cooks, chefs, etc. He stated that they never had any problems with traffic or boats. He added that they are not going to expand and want to continue making a living doing what their family has done to make a living. Philip stated that he will be occupying one site and there will be no trash and no noise after 11:30 p.m. He stated that there will be no fireworks outside of the days allowed by the state. Philip stated that he is not asking for a variance, he is asking for a Special Use Permit to continue operating the campground.

Roger Bower voiced his support for the campground, adding that it is cleaner now than ever, and that Mr. Nevins will do what he says he’s going to do.

Veronica Towne voiced her concerns about the effects more crowding would have on the lake and the increase in chemicals it would take to treat the lake. She voiced her concern of increased invasive species and the environmental impact on the lake.

Steve Prillwitz voiced his support of the campground, stating that he doesn't see how it is going to affect anything since there will not be any additional boats.

Steve Piller voiced his concerns about property values and the head count increase the campground would bring, safety, and key holing.

Royce Chenore voiced his concern about rules and regulations and where those were, as well as property values, debris on the property, noise, foul language, and trash.

Ann Walsh questioned Philip Nevins if he had a two year lease with Minnick's campground to use their drive. Philip answered yes that it was a two year lease and then it would be done. Ann voiced her concerns of additional chairs, a pontoon, partying, and the driveway.

Bill Zalewski stated his concern about the 2-year lease for the drive and the increased traffic, as well as the potential expansion of the campground.

Jordan Brooks voiced his previous disrespect from the renters and the character of the people there.

Chairman Terry Harris closed public comment at 8:40 p.m.

WRITTEN COMMENTS

Secretary Debbie Brown read aloud the written comments received:

Maribeth Coleman Rice – Opposed due to oversaturation with people and boats, and the potential expansion.

Christine A. Lauber – Opposed due to additional occupants to the lake, the entrance to the location and traffic hazards, lack of open land on Dewey Lake, congestion, high water, and renters bringing boats with the potential damaging the eco system of the lake.

William Cahill – Two separate letters - Opposed due to the reduction in lake safety, increased lake activity since the 1960's, existing lake congestion and lack of knowledge by non-residents, setting a precedent for other Dewey Lake homeowners, and the negative impacts on their property values. His second letter voiced his concern of funneling.

David Coleman – Opposed due to the creation of a dangerous amount of boat traffic.

Thomas P. Coleman – Opposed, stating that it is unclear if the proposed variance will increase density for watercraft on the lake, which is already becoming dangerous and unmanageable.

Thomas Coleman – Voiced concern about the rumors surrounding the variance, questioning if it is for additional mooring density. Questioned due diligence to insure the property is per code.

Timothy Coleman – Opposed due to the action, in his opinion, causing his home value to decline.

Elizabeth Coleman – Opposed due to the opinion it will result in an increase in boat traffic by renters, the current disregard to lake rules, safety, and the ecological condition of the lake.

Patricia Coleman Griffin – Opposed for concerns of an unsafe and overcrowded lake, dynamic change of the lake, and safety.

Michelle Coleman – Concern of future owners, questioned if restrictions can be added.

Richard & Molly Coleman – Opposed for concerns of a dramatic increase of people, cars, and more boats. Concerns of safety, the increased number of boats affecting shore erosion and property damage, the current congestion.

Maureen Kelly – Opposed due to the increase in road traffic, the width of Garrett Road being unable to accommodate large camping trailers, safety issues for nearby families crossing the road, and the risk of invasive aquatic species.

Daniel Coleman – Concerns included increased boat traffic potentially leading to safety issues for Dewey Lake, the increased number of watercraft in the past ten years, and increased odds for accidents.

Jeffrey, John, and Karen Hoese – Voiced support of the campground, noting the amount of clean up that has been done including trees and foliage.

Douglas C. Pearson – Concerns included the already developed to the maximum Lake for boats, water and further erosion, ability for the sites to be key holed, and renters and campers not understanding the rules of the lake.

John Fehland – Concerns included what the tenants will do to entertain themselves without any activities there, the lack of beach, and the past history of trespassing, vandalism, confrontation with neighbors, noise, loud parties, the decreased lake frontage, the addition of vehicle traffic to the campground, the location of the road not being over 50’ from the neighbor’s driveway, the additional number of people standing on Garrett Rd, lack of a marina permit, and keyholing.

COMMISSION DISCUSSION

Jon Tidey asked if the public access is considered key holing.

Dave Grabemeyer asked for clarification on the two-year lease deal with Minnick’s. Philip Nevins answered that there is a two-year lease agreement with Minnicks to use their drive while they construct their own drive. Philip stated they will only be able to use the drive to take trailers in and out for two years.

Chairman Terry Harris closed the Nevins Special Use Public Hearing.

SPECIAL LAND USE PERMIT PUBLIC HEARING – NORTHRUP WEDDING BARN

Terry Harris opened the public hearing for the Special Use Permit request by Jennifer Northrup for a wedding venue.

Debbie Brown stated that she likes the property better than the property Jennifer was originally considering, due to it being farther from the road and not having homes around it.

PUBLIC COMMENT

Henry Burton stated that he sees it as a safety issue with the drive being on the downslope of the hill, and that this same issue was turned down twenty years ago because of it.

Chairman Terry Harris closed public comment.

WRITTEN COMMENTS

Debbie Brown read a letter of correspondence received by Henry Burton, voicing his concerns that the property can be rezoned to commercial, the danger the traffic would cause, whether there would be security, if it would be fenced in, as well as time limits and noise control. His letter also voiced questions about the septic system and public water supply.

COMMISSION DISCUSSION

Tim Feirick questioned how many events a season could accommodate, and Jennifer answered that from May through October, if full capacity 3 nights per week, there could be 72 events per season.

Dave Grabemeyer questioned an extra lane, and Jennifer explained there would be an in and out drive, with a circled path, or third lane, for vendors or drop offs/pick- ups.

Jennifer stated that the engineer figured room for a 24' drive, with a third lane 200' off the road.

MOTION TO CLOSE PUBLIC HEARING

Nick Barnes motioned to close the public hearing. Tim Feirick seconded. Motion passed by voice vote.

REGULAR PLANNING COMMISSION MEETING

Chairman Terry Harris opened the regular meeting.

APPROVAL OF JANUARY 22, 2020 REGULAR PLANNING COMMISSION MEETING AGENDA

Debbie Brown motioned to approve the January 22, 2020 Regular Planning Commission meeting agenda. Dave Grabemeyer seconded. Motion passed by voice vote.

MOTION TO APPROVE MINUTES FROM NOVEMBER 20, 2019

Dave Grabemeyer motioned to approve the November 20, 2019 Planning Commission minutes. Tim Feirick seconded. Motion passed by voice vote.

COMMUNICATIONS

None.

PUBLIC COMMENT

None.

TOWNSHIP ATTORNEY'S REPORT

None.

ZBA REPORT

None.

BUILDING/ZONING ADMINISTRATOR'S REPORT

Building/ Zoning Administrator Todd Herter asked the Planning Commission members to revisit the idea of a short term rental ordinance, adding that it has caused him a lot of problems in another township.

Todd explained that if short term rentals are not a permitted use in the zoning district, it is not allowed, nor is it grandfathered in.

Todd stated the Planning Commission needs to start looking at this, no matter what the legislature is doing. He added that from all the concerns and complaints heard tonight, he gathered that people have concerns about non-residents or non-local people renting, bringing boats out, speeding around the lakes, and the effects it has on the people that are here full time.

Todd stated that there are a ton of rental places around the lakes, and they're considered, according to the state law and federal government, commercial any time a location is rented for more than 14 calendar days per year.

Jon Tidey stated that he spoke to someone at Pipestone, and they just adopted Appellate Court Ruling and they are walking away from it.

Todd commented that at least they have something.

Jon Tidey stated that Chikaming has a high rent district and he spoke with the Supervisor, who stated told him they took quite a while to establish their rental ordinance, and explained that they have a log of who is renting what and haven't had any problems.

Todd added that theoretically speaking, all of the rentals around here are illegal.

Bill Zuhl stated that you can't use 14 days as an arbitrary number, and Todd answered that according to the attorney, you can. Todd added that anything less than 30 days is considered transient, much like hotels.

Bill Zuhl stated that just because it's being rented 30 days or less or 30 days or more, it is still a commercial operation and it's not allowed in that zoning district. Todd replied that there is a difference in transient.

Bill stated that it is commercial and it shouldn't be allowed, and that's why he has a problem with what Pipestone did.

Todd stated that it is January, and most people don't start renting their places out until June. He added that they have a short time to think about and start working on something. Todd explained that if a township doesn't enforce their ordinance, they can be sued and if he gets a complaint from somebody, he has no choice but to go over there and end it, legally.

Jon Tidey stated that what concerned him with Pipestone is they haven't been challenged, and Chikaming has it all laid out.

Terry Harris stated that he plans on asking the township attorney to attend the next meeting and see where they need to go from here.

Todd referred to two situations he is dealing with in another township, one being 600 acres of proposed short term rentals, a wedding venue, etc. and another situation where someone built a \$1 Million structure with the idea they were going to rent it short term, and they can't, causing a major expense to them.

NEW BUSINESS

MOTION TO APPROVE FENCE DEFINITION AMENDMENT AND TEXT AMENDMENT

Debbie Brown motioned to approve the "Fence" definition amendment and the text amendment as presented. Jon Tidey seconded. Motion passed by voice vote.

Terry stated that this will move on to the County Planning Commission.

Terry asked the commission members what their opinion is on the Nevins property, and whether they want to take action this evening. Members agreed they were not ready to take action.

Jon Tidey commented that he doesn't see where there will be a lot of change from the past. Nick Barnes added that there was a lot of opposition.

Dave Grabemeyer stated that over half of the concerns were over boating, which is a non-issue. He asked if we can put in Special Use restrictions, which would be in place even if there was a sale. Todd answered yes, that the Special Use goes with the property. Dave asked if the 8 spots they are proposing stays at that number, and Todd answered yes.

Terry asked if they would have to back and reapply if they wanted to have more trailers, and Todd answered that he is not sure, but he believes the state dictates how many trailers they can have.

Todd stated that they really need to check at state level to see exactly who dictates how many campsites there are. Bill commented that with the Special Use, they can tie in the number of sites. He asked if they can override state laws. Todd answered that he remembers a situation where he was told by a state inspector that our ordinance cannot supersede the building code, so he wasn't sure. Todd suggested checking with the attorney to see about dictating how many camp sites they have.

MOTION TO TABLE ACTION ON NEVINS PROPERTY

Jon Tidey motioned to table action on the Nevins property. Dave Grabemeyer seconded. Motion passed by voice vote.

COMMISSION MEMBER COMMENTS

Terry asked the members what action they wanted to take on the wedding venue. Debbie answered that she is ready to vote on it tonight, adding that Jennifer did an excellent job hiring an engineer and it was a very nice presentation. She added that the proposal should answer most questions anyone would have.

Dave Grabemeyer questioned how they will control noise, and Jennifer answered that music will end at a certain time in the contract, and everyone will be off the property by midnight. Dave commented that he spoke with a Supervisor up north who stated they are in court right now over noise.

Jennifer Northrup stated that they tried to design the building in an L shape to help funnel the noise toward the farm property.

Dave asked Jennifer if they have to get something from the Department of Transportation to put in a driveway, and stated that the main thing is the safety of people pulling in and out.

Discussion followed.

Todd Herter stated that he cannot give a building permit until there is a driveway permit.

Chairman Terry Harris stated there is a Rental Hall Ordinance that has been approved. He read aloud the following section of the ordinance along with some discussion:

Applications to the Township shall include the following:

1. The expected number of events per year –72 events
2. The maximum number of attendees per event (to be determined based on the size of the venue) – 200 guests
3. The number of employees (Owner Representatives to be present during events) Depends on how big the event is; there will always be one, but up to three depending on the guest count.
4. Hours of operation – The hours of operations shall not exceed 12:00 a.m. including cleanup, music shall end at 11:00 p.m.

5. Restroom provisions including ADA compliant based on maximum number of attendees
6. Proposed lighting for the structure and parking area shall be sufficient to provide safety without infringing on neighboring property
7. Sound amplification to be used only within the structure
8. Use of temporary structures or tents in conjunction with events – None will be used
9. Proposed signage – Shall comply with Township sign ordinance (see Chapter 153 of the Silver Creek Township, Michigan Code of Ordinances)
10. Security to be provided – Terry Harris questioned if this will be for the bar or the property during the event. Jennifer Northrup answered that either employees or herself will be there to enforce rules and policies, but as far as a security officer she does not plan on it unless the need arises. Jennifer also explained that there will be a dedicated bartending service from May-October and there will not be an option to bring in your own service.
11. Location of trash receptacles
12. Traffic management and parking plans – Terry asked for clarification on the plans for the parking area, since Jennifer stated there would be a retention pond for runoff. Jennifer answered that it would be gravel at the very least. Terry commented that he prefers something more porous than asphalt or concrete anyway. Joe Moore commented that the nearby pond which was brought up in the public hearing is a quarter of a mile away and would not be affected.
13. Other documentation as required by Township, County and State officials including a stamped copy of the state and township approved plans for the venue.

MOTION TO APPROVE WEDDING VENUE SPECIAL USE PERMIT

Dave Grabemeyer motioned to approve the Wedding Venue Special Use Permit. Debbie Brown seconded. Motion passed by voice vote.

Todd Herter clarified that the motion was to approve the Special Use Permit, but they would also have to approve the site plan. Terry asked if everyone had the chance to review it. Bill Zuhl stated that as long as they can get the driveway permit and it's good with the state, he is good with it.

Chairman Terry Harris read aloud Section 155.132 of the Zoning Ordinance:

155.132 BASIS OF DETERMINATION.

Prior to approval of a special land use application, the Planning Commission shall ensure that the standards specified in this section, as well as other applicable standards of this chapter, are satisfied by the completion and operation of the special land use under consideration.

(A) The Planning Commission shall review the particular circumstances of the application under consideration in terms of the following standards, and shall approve a special land use only upon a finding of compliance with each of the following standards.

(1) The special land use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

(2) The special land use shall not change the essential character of the surrounding area.

(3) The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment which will be detrimental to the health, safety, or welfare of persons or property through the creation of hazardous or potentially hazardous situations or the excessive production of traffic, noise, smoke, fumes, or glare.

(4) The special land use shall not place demands on public services and facilities in excess of current capacity.

(B) The Planning Commission and/or Township Board may require the submission of a reasonable review fee which the township may use to pay for the services of a qualified attorney, engineer, planner, inspector, or other individual which the Planning Commission and/or Township Board deems necessary. Said fees shall only be used for the review of any proposal covered under the terms of this chapter. All such fees shall be held in escrow and any unused fees shall be returned to the applicant.

(C) The Planning Commission may impose conditions with the approval of a special land use which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this chapter. Such conditions shall be considered an integral part of the special land use application and shall be enforced by the Zoning Administrator.

(D) If, after the establishment of the special land use, the approved use is found not to be in compliance with the approval granted by the Planning Commission, said use shall have 60 days to correct any problems as determined by the Planning Commission. If infractions are not corrected within the 60 days, the provisions of § [155.134](#) shall be initiated.

There were no concerns regarding the Basis of Determination. Bill Zuhl questioned where the terms and conditions would be written out to make sure they are compliant. Todd answered that when the architect gives him a stamped drawing, it has to show the occupant load based on the size and what it is going to be used for, which may differ from the 200 they discussed. Todd stated that they can limit the number. Bill Zuhl stated that they agreed on 200 guests, and asked where they can put it in writing.

Todd answered that it will be in the minutes, the number of guests is one of the conditions they can make.

Bill Zuhl stated they should spell out the hours of operation. Todd answered that as long as it is in the minutes of the meeting, it will be fine and he will have a copy of the minutes in the file.

Bill Zuhl asked if they would be doing the Site Plan review tonight. Discussion followed. Terry stated that he would call a Special Meeting for the Site Plan Review. Discussion followed.

Terry Harris stated that they will have a Special Meeting on Thursday, February 13th, 2020 at 6:00 p.m. to review the Site Plan.

The Planning Commission meeting was adjourned at 10:34 p.m. by Chairman Terry Harris.

Respectfully submitted,

Lindsay Krohne
Recording Secretary

Debbie Brown, Secretary

To be approved at the February 13, 2020 Planning Commission meeting

DRAFT