

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, JULY 27, 2021, AT THE LEELANAU COUNTY GOVERNMENT CENTER.

Proceedings of the meeting were recorded and are not the official record of the meeting. The formally approved written copy of the minutes will be the official record of the meeting.

ALL TO ORDER

Meeting was called to order at 5:30 p.m. by Chairman Yoder who led the Pledge of Allegiance. The Meeting was held at the Leelanau County Government Center, 8527 E. Government Center Dr., Suttons Bay, MI.

ROLL CALL

Members Present: R. Miller, K. Todd, S. Yoder, G. Carlson, A. Trumbull, C. Noonan, T. Nixon, D. Hubbell, M. Black, N. Griswold

Members Absent: M. Lautner

Staff Present: G. Myer, Senior Planner, J. Romo, Secretary.

Public Present: Rod Jones, Sue Jones, Jack Kelly

CONSIDERATION OF AGENDA

Motion by Noonan, seconded by Trumbull, to accept the agenda as presented. Motion carried 10-0.

CONFLICT OF INTEREST – None.

PUBLIC COMMENT

Rod Jones, a resident of Elmwood Township, read from a prepared statement which was emailed prior to the meeting, regarding short term rentals (STR's). Jones stated he strongly opposed short term rentals in their residential neighborhoods, however, does not support removing STRs as a use from zoning districts. He supports the Elmwood Township Planning Commission's denial of the Zoning Amendment that would remove STRs as a use.

(A copy of the full comments submitted are on file in the Planning & Community Development Office)

Sue Jones, a resident of Elmwood Township, read from a prepared statement which was emailed prior to the meeting, regarding STR's. Jones said she is opposed to short term rentals in Elmwood Township's residential neighborhoods because they are a commercial use of property and Elmwood Township's Zoning Board of Appeals determined they are not an allowed use. The best approach the Board could take at this time would be to update the Master Plan and create a waterfront overlay. She supports the Elmwood Township Planning Commission's denial of the Zoning Amendment that would remove short term rentals as a use, thus making those properties non-conforming.

(A copy of the full comments submitted are on file in the Planning & Community Development Office)

Jack Kelly, an Elmwood Township resident, read from a prepared statement that was submitted just prior to the start of the meeting. Kelly said that tonight's public meeting was the sixty-eighth time that Save Our Neighborhoods in Elmwood (SONIE) had attended and provided verbal and written

testimony on the STR's matter during the past two and a half years. Kelly continued, saying that on March 20, 2019, the Elmwood Township Zoning Board of Appeals (ZBA) declared that non-owner occupied STR's were illegal and this determination still stands today. Kelly said the township planning commission also determined that such STR's had no place in their residential neighborhoods. When this matter arrived at the township board level in January of 2021, the board did not spend one single second examining the work and recommendations of the planning commission, or considering whether or not such STR's were supported by their zoning ordinance or Master Plan. Kelly said they instead decided to allow non-owner occupied STR's in all zoning districts, and then directed their planning commission to process a new amendment that would thereafter allow them in those very same zoning districts. Effectively seeking to change a currently non-conforming use into a legal non-conforming use. Kelly continued, saying that the township Planning Commission, as opposed to what is in the Staff Report, is not the applicant tonight; instead, this amendment was proposed by the Township Board. On June 3, 2021 the Planning Commission unanimously recommended denial of the very amendment the township board directed the Planning Commission to process. Kelly concluded by saying that in the end, none of this will matter because the township board, as a legislative body, has the ultimate authority to do whatever it wants to do, assuming it can find a way to allow existing STR's to continue operating while at the same time closing the door on all new one. (A copy of the full comments submitted are on file in the Planning & Community Development Office.)

STAFF COMMENTS

Myer noted that tonight's meeting was not being streamed on YouTube. This is something the members need to decide going forward if they wish to continue. Todd said she would like to continue, because there are some people who are still uncomfortable. It's nice access to those who are more vulnerable. Myer clarified that members would still need to be present at the meetings. Hubbell questioned how many people view the meetings. Griswold said if there is no major cost involved, there should be no problem to continue. If it is saved it would be good for record so members can reference at a later time.

Hubbell expressed concern, because it is hard to hear and follow when the public calls in during public comment. Yoder clarified that the public would still need to come in for public comment and that the recording is just a way to view the meeting online. Members were in agreement to continue streaming future meetings on YouTube.

CONSIDERATION OF JUNE 22, 2021 MEETING MINUTES

Todd requested changes be made to her comments on page 5. She would like her comments to read as follows:

“Even the concept that dwellings or properties that were not businesses when the Master Plan was created, would segue into businesses because of the desire to have businesses focused more in one place.” “Ihme raised a conflict that was not properly dealt with, which impacts the validity of the vote on this amendment, and our looking at this amendment.”

Motion by Noonan, seconded by Todd, to approve the minutes as amended. Motion carried 10-0.

NEW BUSINESS

PC08-2021-04 Elmwood Township – Text Amendment RE: Short Term Rentals.

Yoder read an email received just prior to the start of the meeting from Jeff Shaw, the Elmwood Township Supervisor, which stated, in summary “based on the current direction the Board appears to be taking, the information in front of the Leelanau County Commissioners this evening would no longer apply.”

(A copy of the full comments submitted are on file in the Planning & Community Development Office.)

Yoder continued, saying that he would not ask staff to review the staff report, however, he would ask for member comments.

Nixon referenced Kelly’s statement that the applicant was actually the township board and questioned if applicants must be exclusively from planning commission. He is concerned with establishing a precedent by reviewing this, if in fact, it is from the township board. Yoder said it was his understanding that staff reported on what the township planning commission reviewed. Although there were minutes included from the township board, the request they are reviewing is from the Elmwood Township Planning Commission.

Todd questioned Shaw’s email, asking if they had basically withdrawn all of the plans they were asked to review. Yoder said that was his understanding, although it isn’t very clear, it seems that is what the email is implying. Yoder said Todd was welcome to still offer her comments on the proposed amendment. Todd stated she saw Elmwood Township going in two different directions. First saying that STR’s, defined in which the owners are not resident, were not appropriate in residential zonings. Then saying, it’s okay because of some past things and we are going to live with those past things in whatever zoning area, ad infinitum, if it runs with the land. She suggests they get a plan and a rationale, and put it in the four corners of their zoning document for enforcement, residents, and for people like them to go forth with.

Discussion ensued on current house bill regarding regulation of short-term rentals.

Griswold questioned who and how would the township police STR’s if they are allowed. Also, how is it fair to those in existence that have been respectful to the neighbors if you take that right away from them. Miller said legislature is going to decide if the townships can do anything, and we don’t deal with policing. Yoder stated that what the legislature does it is out of the township’s control; that is not what we are reviewing tonight.

Kelly, a member of the public, stated that staff was well aware that under the Michigan Zoning & Enabling Act, anybody can propose a zoning ordinance amendment. In this case, it was the township board that directed the township planning commission. The planning commission processed it, and it must then go to the county planning commission for review. The township supervisor cannot subvert that process by sending an email.

Motion by Noonan, seconded by Miller, to forward staff report, minutes and all comments to Elmwood Township Planning Commission. Motion carried 10-0.

PC09-2021-04 Elmwood Township -Text Amendment RE: Wetlands.

Myer stated this request, which was received on July 12, was to review and comment on a proposed amendment to the Elmwood Township Zoning Ordinance, ZO-2017-04-12, Setback and Special Use Standards. The township held a public hearing on May 26, 2021, and following the public hearing, the township planning commission passed a motion to forward to the County for review. Myer continued, saying that Elmwood Township has proposed changes to Article 5 – Use Restrictions, Article 2 – Definitions, Article 6 – Site Development, Article 9 – Special Land Uses, and Article 13 – Severability and Effective Date.

Article 5 – Use Restrictions, Section 5.6 Table of Dimensional Requirements will be amended by adding a Wetlands Column with a 30ft setback in all districts.

Article 2 – Definitions

The proposed Water’s Edge definition shall be amended to read:

Water’s Edge, also Waterfront. The ordinary high water mark or where an ordinary high water mark has not been established, the line between the upland and bottomland which persists through successive changes in water levels, below which the presence of action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. For a stream, river or creek, the top of the bank of the channel. In the case of the presence of bluff, the shoreline setback shall be measured from the edge of the bluff.

Article 6 – Site Development Requirements, shall be amendment to add Section 6.1.2 B. 6:

Section 6.1.2

- B. 6. Every parking lot or parking area shall be so constructed that no surface water shall shed into or towards such body of water unless such surface water is first treated or filtered to remove any silt, grease or oil, salt or other matter which would deteriorate the water quality of said body of water. Snow removal from parking lot or parking area shall not be stored within the water edge setback unless contained to the parking area.

Article 9 – Special Land Uses, Section 9.3 B shall be removed in its entirety and Section 9.3 #9 shall be amended to read as follows:

9. The following specific requirements shall be met to the extent applicable to the proposed special land use:

- a. Ingress and egress for the special land use shall be controlled to ensure maximum vehicular and pedestrian safety, convenience, and minimum traffic impact on adjacent roads and highways, drives, and nearby uses including, but not limited to:
 - i. Minimization of the number of ingress and egress points through elimination, minimization, and consolidation of drives and curb cuts;

- ii. Proximity and relation of driveway to intersections;
 - iii. Minimization of pedestrian and vehicular traffic conflicts;
 - iv. Adequacy of sight distances between road and driveway intersections as specified in Section 6.2, Access Management.
 - v. Location and accessibility of off-street parking, loading, and unloading for automotive vehicles, including buses and trucks;
 - vi. Location and potential use of ingress and egress drives to access special land use parcels for the purpose of possibly reducing the number of access points necessary to serve the parcels.
 - vii. Adequate maneuverability and circulation for emergency vehicles.
- b. Screening shall be provided along all sides and rear property lines by a buffer area, and along the front property line by a greenbelt in accordance with Section 6.4, unless it can be demonstrated that the proposed special land use can be adequately controlled through some other means, such as restrictions on the hours of operation, or reducing the impact by the type and level of activity to be conducted on the site.

Article 13 – Severability and Effective Date will be amended to read as follows:

Severability.

If any sections, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Effective Date.

This Ordinance shall become effective eight (8) days following publication.

Todd said she commends the township for the protection of wetlands. Nixon said he was impressed with the definitions of water’s edge and waterfront. Griswold said it is great that they are doing this, however, the vegetation part is vague. Does it include what type of vegetation or how they are determining what vegetation defines a wetland. The Michigan Department of Environment, Great Lakes and Energy (EGLE) has a very detailed definitions of how to determine a wetland, and he thinks it would be good to reference that. Black stated that you have to be careful when defining wetlands. It could cost the counties a lot of money. An area down by Saugatuck determined certain lands were not buildable and the owners then forced the county to buy the land. Griswold said if someone buys a property that is a wetland, you need to do your due diligence and understand what you are buying

Motion by Nixon, seconded by Hubbell, to forward staff report, minutes and all comments to Elmwood Township Planning Commission. Motion carried 10-0.

Capital Improvement Program (CIP) – Draft

Nixon complemented staff on the thoroughness and clarity of the document. The CIP represents the interest of the Planning Commission and the County Board should be happy to receive it. Members were all in agreement with Nixon’s comments.

Motion by Noonan, seconded by Nixon, to approve the CIP as presented. Motion carried 10-0.

REPORTS

Education Committee

(No meeting)

Housing Action Committee

(No meeting)

Parks & Recreation Committee

Noonan stated the trail clean-up for the disc golf course and all walking trails at Myles Kimmerly Park was completed. They did receive an email, from a fellow bidder on the project, stating that the work was not done properly or to specifications and that he knew the work could not be done for that amount of money. Noonan said the committee is very satisfied with the work that was done. He invited everyone to the Old Settlers Picnic next weekend.

Reports from LCPC members of attendance at township/village meetings, or other meetings/trainings.

Yoder said the playground in Cedar has been open for a few weeks now and it turned out beautiful and is packed with kids. The playground was a community project that was estimated to be \$70,000 but with donations and volunteer work was done for \$30,000.

COMMUNICATIONS

Planning & Zoning News were available.

PUBLIC COMMENT

Kelly complimented staff on an excellent staff report on the STR matter. Kelly continued, saying that as the former Elmwood Township Supervisor, he is in an unenviable position of opposing his own township board in terms of what they want to do with STR's. VRBO, and Airbnb has changed the potential audience remarkably. Now it's worldwide, whereas before it was just "mom and pop", friends, or family members. It has become very profitable and he understands why people would want to do this, but when it comes to intruding into residential neighborhoods, that is putting in a commercial use that is not otherwise allowed anywhere in residential neighborhoods. Kelly said any zoning ordinance and/or amendment must be based on a plan. He concluded by mentioning what is going on in the legislature regarding STR's. The Michigan Municipal League, the Michigan Township Association, the Michigan Association of Planning, and every township that he has read about, is steadfastly opposed to what the legislator is trying to do with regard to STR's.

STAFF COMMENTS - None

COMMISSIONER & CHAIRPERSON COMMENTS

Carlson stated that they are awaiting dates for upcoming fall training.

Nixon said he hopes Kelly is correct, that the legislator does not invade, what he thinks is the right of local governmental agencies to determine their own way to regulate STR's. The townships have spent considerable time trying to carve out language that is appropriate for them. Nixon continued, saying it is outrageous, and insulting, for the state to say they can and should determine what happens in each community. It's a smack in the face and has no place in our communities. Our citizens spend ungodly amounts of time trying to solve our community dilemmas. How can the state trade that kind of distant thinking for the value of the individual citizens in their own community?

Noonan said they are seeing it in Kasson Township, with the gravel bill, which is making its way through the legislative branches. This would have an ungodly effect on local communities. To think the state has that mentality is crazy.

Todd stated she agrees and it is a one size fits none solution. She is impressed and pleased that members from the public came to speak and have done it in a respectful way.

Miller said he agrees that local government should be able to govern without the state getting in the way.

Hubbell commented that it's the law of unattended consequences. Whenever you pass legislation, the unintended consequences are oftentimes more profound and challenging than the intended consequences.

Yoder thanked staff for their work and members of the public for attending.

ADJOURN

Meeting adjourned at 6:19 p.m.