

# BAY TOWNSHIP PLANNING COMMISSION SPECIAL USE PUBLIC HEARINGS

## October 17TH, 2019 MEETING MINUTES

**CALL TO ORDER** Dave Skornia called the meeting to order at 7:00PM and led with the Pledge of Allegiance. Also, in attendance were Wendy Simmons, Xavier Gaudard, Jamie Shepherd, and Joe Jones. Lynn Maxwell and Steve Van Dam excused. Zoning Administrator Ron Van Zee and Kristin Baranski (Recording Secretary) were also in attendance.

**PRIOR MEETING MINUTES** October 1, 2019 Bay Township Planning Commission meeting minutes will be dispensed and corrected at November 2019 Planning Commission meeting.

**AGENDA APPROVAL** No agenda to approve

**PUBLIC COMMENT** No public comments.

**PUBLIC HEARING SMITH** Skornia opened the Smith Public Hearing at 7:03 pm. Applicant is requesting a special use permit to construct an accessory building on a lot without a primary residence. Property is located on Church Street. Applicant is planning on using accessory building as storage while home is being built (plans to build within next 12 months). VanZee stated the following: lot is currently vacant; located in agricultural district; structure will be 40'x60'; owner moving to Bay Township from New Mexico and will use accessory building for storage while residence is being built; structure is permanent. VanZee directed the Planning Commission to review Article IV, Section 4.7 (General Provisions/Accessory Buildings). Renee Santana (applicant's fiancé) presented the following to the Planning Commission: plenty of room on the property; driveway is already present; area leveled off where building will be located; building location is approximately 300-foot setback.

The Planning Commission reviewed request. Discussions included (with input from VanZee and Santana):

1. Screening of site: natural screening on three sides currently exists. Screened well on sides and rear of property but open on street view. Finding of Fact: the distance from the street (3x's the required setback) creates enough screening coupled with the commonality of pole barns within the Township.
2. Setback: proposed structure will be 3x's the required setback and with the planned building of a primary residence the accessory will be within Bay Township ordinance.
3. If a primary residence existed, a special use permit for accessory building would not be necessary. Ordinance purpose was to avoid accessory buildings without a primary residence.
4. Building timeline for primary residence not applicable (special use permit is for an accessory building without a primary residence).
5. Concerns of accessory building used for business. (Any use outside of the Bay Township Zoning Ordinance would require additional special use permits).
6. Ordinance purpose was to avoid accessory buildings without a primary residence.

### REVIEW OF ARTICLE IV

4.7: Accessory Buildings

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- a. In the Agricultural District, accessory buildings are permitted in the front yard(s) as long as such building(s) are not less than one hundred feet (100) from the front property line and shall not occupy more than thirty percent (30%) of the front yard(s). **YES**
- b. Accessory buildings shall not be used or occupied for dwelling purposes on a temporary or permanent basis, and shall not be used or occupied for business purposes except those expressly permitted by this Ordinance. **YES**
- c. Accessory buildings may not be located closer to any side or rear lot line than the principal building is permitted, with the exception for accessory buildings having less than 120 square feet of floor area, which may be located not less than ten feet from a side or rear lot line. **YES**
- d. The distance between an accessory building in excess of 120 square feet and any principal building shall be not less than ten (10) feet. **YES**
- e. On platted or unplatted less than 2 acres in size, the total aggregate area of the accessory building shall not exceed the total building area of the principal structure. **N/A**
- f. On lots less than two acres in size, the total aggregate area of accessory buildings shall not occupy more than ten percent (10%) of the total lot area. On lots two or more acres in size, the total aggregate area of all structures and impervious surfaces shall not occupy more than twenty percent (20%) of the total lot area. **YES**
- g. This subsection is to provide the opportunity to establish accessory buildings without a principal residence through a special use permit so long as the use is consistent with existing and surrounding uses. This provision shall not allow new uses that are commercial in nature. In all zoning districts, accessory buildings without a principal structure may be established through a special use permit, subject to the provisions of Article XIII and the following requirements:
  1. The accessory building is consistent with surrounding uses, based on the following considerations:
    - a. The building is well-screened from public view; **YES** (3 times the front setback, naturally screened on three sides, road view lack of vegetation (screening) was compensated with distance from road)
    - b. The building is an appropriate size compatible with surrounding buildings **YES**
    - c. The use is compatible with surrounding uses **YES**
    - d. The placement of the building is appropriate relative to surrounding roads, buildings and natural features; **YES**
    - e. The outdoor storage of goods and/or materials of any kind is prohibited unless screened if the Planning Commission finds that such screens are necessary to mitigate any adverse impacts outdoor storage may have on adjoining properties and road right-of-way. **YES**
  2. A future development envelope for a principal structure is preserved in full compliance with all applicable setback requirements in the district. **YES**
  3. Upon site plan review, the planning commission may determine a performance guarantee is required as set forth in Article XII, Section 12.17. **NO**
  4. Upon site plan review, the planning commission may determine it is necessary for the property owner to enter into a deed restriction or other means to restrict certain activities when/if the property changes hands, before issuing a zoning permit. **YES**

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Letter of support from Haggards received and on file.

**MOTION by Shepherd, seconded by Simmons, to approve a special use permit to build an accessory building without a principal structure. The special use permit and deed restriction will be rescinded upon building of principal structure on said property. Motion passed upon unanimous affirmative vote of the Board Members present.**

Skornia closed the public hearing at 7:59 pm.

### PUBLIC HEARING BATES

Skornia recused himself at 7:59 pm stating a conflict of interest. Shepherd opened the Bates Public Hearing at 8:00 pm.

VanZee presented the following: special use permit request is to convert a portion of upper level of existing accessory building into living space; request is below the allowed square footage; allowed under Section 4.34; approval from Health Department; attached survey. Gail Bates presented the following: 22-year resident; 2.5 acres; accessory building was used as a hobby woodworking shop; proposing to finish upstairs; house is in LLC; no interest in renting space; 564 square feet total project; all setbacks are met; all screened. Skornia (Builder) presented the following: square footage under maximum; previous use woodworking area will become sunroom/rec room; separate entrances for each space.

The Planning Commission reviewed 4.34 Accessory Dwelling Units for fact finding.

#### 4.34 Accessory Dwelling Units

This subsection is established to provide the opportunity for Accessory Dwelling Units (ADUs) in Bay Township through a special use permit as a way of providing more housing choices for Bay Township residents, increasing affordability and flexibility, and supporting multigenerational housing in single family neighborhoods, while still preserving the rural charter of the Township and high-quality neighborhoods.

a.) ADUs may not be appropriate on every residential parcel and are subject to the provisions of Article XIII (Special Uses), and the following specific requirements:

1. ADUs are permitted only as an accessory use to an owner-occupied single-family dwelling. **YES**
2. A maximum of one ADU is permitted per parcel. **YES**
3. An ADU must be established as a permanent structure. **YES**
4. An ADU may be incorporated into an existing dwelling on any lot meeting the minimum lot size and dimensional standards of the zoning district in which it is proposed. When proposed as a separate structure from the existing dwelling unit, an ADU shall comply with the standards of Section 4.7. **YES**
5. In no case shall an ADU be larger than 800 square feet and it must comply with minimum building occupancy standards by the Charlevoix County Department of Building Safety. **YES**

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6. An ADU may not be placed on a non-conforming lot or on a lot with a non-conforming primary structure if the non-conforming is because the lot or structure is too small. **YES**
7. On-site parking accessed through an existing driveway shall be required for an ADU. **YES**
8. Applicants for an ADU shall provide certification from the Health Department of Northwest Michigan that the water supply and sewage disposal are adequate for the projected number of residents. **YES**
9. Upon site plan review, the planning commission may enter into a deed restriction or other means to restrict certain activities when/if the property changes hands, before issuing a zoning permit. **NO**

Two letters of support (Parker and Haggards) received and on file.

**MOTION by Gaudard, seconded by Simmons, after review of the finding of facts to approve the Special Use Permit for a Accessory Dwelling Unit, passed upon unanimous affirmative vote of the Board Members present.**

Shepherd closed the Bates Public Hearing at 8:25 pm.

**PUBLIC COMMENT**

None received.

**ADJOURNMENT**

**MOTION by Gaudard, seconded by Simmons, to adjourn the meeting at 8:26 pm, passed upon unanimous affirmative vote of the Board Members present.**

**Respectfully Submitted,**

**Kristin Baranski  
Deputy Clerk**