

BAY TOWNSHIP PLANNING COMMISSION

JULY 7th, 2020 MEETING MINUTES

CALL TO ORDER

Dave Skornia (Chair) called the ZOOM meeting to order at 7:00PM and led with the Pledge of Allegiance. Also, in attendance were Wendy Simmons (Board of Trustees Rep), Steve Van Dam (Vice-Chair), Joe Jones, Lynn Maxwell (Secretary), Xavier Gaudard, Jamie Sheperd and Ron VanZee (Zoning Administrator). Kristin Baranski (Recording Secretary/Deputy Clerk) were also in attendance.

PRIOR MEETING MINUTES

MOTION by Gaudard, seconded by Shepherd to correct and dispense with the reading of the June 2nd, 2020 Planning Commission regular meeting minutes, passed upon unanimous affirmation vote of the Board Members.

A roll call was taken:

Yeas: Simmons, Van Dam, Jones, Gaudard, Maxwell, Skornia, Shepherd

Nays: None

MOTION BY Van Dam, seconded by Simmons, to approve the minutes of the June 2nd, 2020 Planning Commission regular meeting as amended passed upon unanimous affirmation vote of the Board Members.

A roll call was taken:

Yeas: Simmons, Van Dam, Jones, Gaudard, Maxwell, Skornia, Shepherd

Nays: None

AGENDA APPROVAL

MOTION by Simmons, seconded by Jones, to approve the agenda as presented, passed upon unanimous affirmative vote of the Board Members.

A roll call was taken:

Yeas: Simmons, Van Dam, Jones, Gaudard, Maxwell, Skornia, Shepherd

Nays: None

PUBLIC COMMENTS NOT RELATED TO PUBLIC HEARING

Bill Mansfield (Lavender Hill Farm) spoke about the Barn Birthday Event on July 31st, 2020. The event will take place as scheduled per the Governor's Covid-19 requirements. Horton Creek Blue Grass Band will play as well as additional bands. Mansfield would like to extend the invitation to all Bay Township residents. Public comments closed.

SPECIAL USE PERMIT PUBLIC HEARING

Dave Skornia began the public hearing for Becky and Mark Lipchik, property ID 15-007-005-25, to open and operate a dog kennel at 08591 Horton Bay Road. Secretary Lynn Maxwell reminded the Public and

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Applicants of the procedure for public comment and rebuttal. Zoning Administrator Ron VanZee presented the permit application. The property is in the Agricultural District (Article VIII) and does meet setback requirements per the Special Use requirements (8.3-b).

Article 8.3 b reads: Dog kennels and boarding facilities provided all buildings and runs are located a minimum of 100 feet from all property lines and are at least 200 feet from any dwelling on adjacent and adjoining property.

Article XIII (Special Uses) will be followed by the Planning Commission during Special Hearing. VanZee commented the application is complete and defines the intent clearly versus the previous application by the Lipchiks. VanZee reminds the Planning Commission that Article 13.4 allows for the Planning Commission to place conditions on approval and Article 13.10 provides requirement of compliance with conditions. Dave Skornia opened the Public Hearing at 7:25 pm. The applicants began their presentation. After thanking the Planning Commission for reviewing the application, Becky spoke about the science of sound, how sound travels and the amount sound dissipates (reduced decibels) as it moves away from source. Mark Lipchik reiterated that they are in compliance within the Special Use requirements.

PUBLIC COMMENT

Public comments included: neighbor commercial dog kennel would destroy property values and noise levels would be unacceptable; commercial dog kennels should not be allowed in Agricultural District; safety concerns for neighborhood children; smell; additional traffic; adequate insurance; dog in garbage; neighbors are in agreeance in opposing proposed dog kennel; not the right place for a dog kennel; reference to a news article which quoted Becky Lipchik in opposition to an event barn because of sound issues; previous issues in dealing with dog kennels; personal dogs already come onto neighbors property; dropping property values; noise will interfere with sleep and peace; preserve Bay Township; sound travels down to Horseshoe Meadows neighborhood; too many dogs; Lipchiks never talked to neighbors about proposed kennel as suggested previously by Planning Commission; Simmons shared an opposed comment from a resident unable to attend public hearing; Bear Creek resident in support currently living near a dog boarding business; need for dog kennels in the area; Lipchiks would do a good job and do not want to aggravate neighbors and would be responsible; current owner of 'in home style boarding facilities.' Dogs receive constant care and alleviates constant barking; huge need for dog boarding in area; Lipchiks deserve a chance; Planning Commission needs

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to follow language of ordinance and keep emotions out of decision. Public comments closed. Lipchik's rebuttal: Becky clarified her public comments- it was a venue in a high populated dense area and events were going until 2:00 am; specific fence intended to contain dogs; no free running of animals; increased traffic is not going to be an issue (local businesses on Horton Bay Road create more traffic); hours of operation include am and pm specific hours for drop off or pick up; non fixed dogs will not be allowed at facility. Public hearing closed.

Planning Commission begins deliberation.

Discussion included:

Planning Commission: bark control systems are detrimental to a dog's personality; sound coming from other boarding facilities is noticeable when passing by.

Lipchiks: dogs will not have on bark collars, they will be using a device that outputs a high pitch sound to control barking; barn will provide additional sources to absorb sound from dogs; Lipchiks are closest to kennel and of course do not want to hear barking; Lipchiks will not accept dogs that are an issue.

Planning Commission: current application is not different enough from original application and requirement is to wait a year before reapplying. Did Lipchiks ever meet with neighbors as suggested previous meeting? Have the Lipchik's personal dogs been loose and wandered onto neighbor's properties?

Lipchiks: No due to corona virus and previous public hearing reaction the Lipchiks have only talked directly with a couple neighbors. Lipchiks believe one accusation of their dog being on a neighbor's property was mistaken identity and that yes, their dogs have gotten out but no adverse event.

Planning Commission: Any concern about how the neighbors oppose the dog kennel?

Lipchik: Yes, want to be good neighbors but neighbors do not dictate the Master Plan and the Special Use Permit request fits into ordinance perfectly.

Planning Commission: testing outside for sound levels; scientific results for bark control system

Lipchik: Testing has been done inside and outside; the bark system is an attempt to ease neighborhood concern; ideally barking will not be an issue without using a bark control system; have tested systems on own dogs within their home

Planning Commission: What is version of 'homestyle boarding'?

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Lipchik: Dogs feel like they are with another family while they are boarding. Old furniture will set the mood of a living room style.
Planning Commission: concerns about future property owner inheriting special use permit; individual conditions can be put on special use permit can expire with current property owner
Planning Commission: dog kennels have always been **an allowed** use in the Agricultural District; property rights/being able to use your property/affect on neighbors/really comes down to the noise issue/traffic is not an issue

13.3 General Standards of Special for Approval of Special Uses

- a. The property subject to the application is in a zoning district in which the special use is allowed by district regulations **YES**
- b. The special use, as proposed, complies with any specific standards applicable to the special use appearing elsewhere in the ordinance **YES**
- c. The proposed special use will be consistent with the intent and purpose of the Township's Land Use Plan, as well as the intent and purpose of the zoning district in which it will be located **YES**
- d. The proposed special use will not result in the creation of demands on police and fire services or on other public services or facilities; in excess of the Township's financial ability to provide same **YES**
- e. The proposed special use will not diminish the opportunity for surrounding properties to use and develop their property as zoned **CONDITIONAL YES**
- f. The proposed special use will be designed, constructed, operated and maintained so as not to negatively impact the character of land uses in the surrounding area **UNKNOWN**
- g. The proposed special use will not involve uses, activities, processes, materials or equipment that will create a nuisance for other properties in the vicinity by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap metals **NO**
- h. The proposed special use will be harmonious with the existing or intended character of the general vicinity and will not be hazardous to existing or future nearby uses **UNKNOWN**

MOTION by Simmons, seconded by Maxwell, to deny the special use permit for the Lipchik property located at 08591 Horton Bay Road based upon the finding of fact, passed upon affirmative vote of the Board Members.

A roll call was taken:

Yeas: Simmons, Van Dam, Gaudard, Maxwell, Shepherd

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Nays: Jones, Skornia

SPECIAL USE PERMIT PUBLIC HEARING

Dave Skornia opened the special use permit public hearing for the Collins Family Revocable Trust for property ID 15-001-006-022-10 located at 05000 VanHoesen Road. Ron VanZee presented the special use application for an accessory building without a principal structure (Article 4; Section 4.7g); **on** an out lot. The proposed building is 50 x 70 accessory building which would be an accessory building for the principal structure on the lot across an easement. The proposed accessory building meets all setback requirements as well as any additional requirements per the ordinance. The applicant presented his plans for the proposed pole barn. The lot is heavily wooded, the easement splits his lake parcel from an additional parcel. The proposed building is less than the maximum square footage. It will sit far back, out of sight. Neighbors have similar buildings currently and proposed building will fit in well with surrounding areas. Public comment opened and closed. Dave Skornia closed the public hearing.

Article 4; Section 4.7 g

The subsection is to provide the opportunity to establish accessory buildings without a principal structure 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 may be established through a special use permit, subject to the provisions of Article IV, 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**
 - 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 and adverse impacts outdoor storage may have on adjoining properties and road right-of-ways **YES**

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Article XIII

13.3 General Standards of Special for Approval of Special Uses

- a. The property subject to the application is in a zoning district in which the special use is allowed by district regulations **YES**
- b. The special use, as proposed, complies with any specific standards applicable to the special use appearing elsewhere in the ordinance **YES**
- c. The proposed special use will be consistent with the intent and purpose of the Township's Land Use Plan, as well as the intent and purpose of the zoning district in which it will be located **YES**
- d. The proposed special use will not result in the creation of demands on police and fire services or on other public services or facilities; in excess of the Township's financial ability to provide same **YES**
- e. The proposed special use will not diminish the opportunity for surrounding properties to use and develop their property as zoned **YES**
- f. The proposed special use will be designed, constructed, operated and maintained so as not to negatively impact the character of land uses in the surrounding area **YES**
- g. The proposed special use will not involve uses, activities, processes, materials or equipment that will create a nuisance for other properties in the vicinity by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap metals **YES**
- h. The proposed special use will be harmonious with the existing or intended character of the general vicinity and will not be hazardous to existing or future nearby uses **YES**

MOTION by Van Dam, seconded by Gaudard, to approve the special use permit for parcel 15-001-006-022-10 with the condition the building not be used for commercial purposes, only for personal use, passed upon unanimous affirmative vote of the Board Members.

A roll call was taken:

Yeas: Shepherd, Simmons, Van Dam, Jones, Gaudard, Maxwell, Skornia

Nays: None

Dave Skornia opened the special use permit public hearing for the Collins Family Revocable Trust for property ID 15-001-006-024-00 located at 05000 VanHoesen Road. Ron VanZee presented the special use application for an accessory building on a parcel in which a small cabin exists currently. They are requesting the cabin be considered an

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accessory dwelling unit (legal non-conformity current sits too close to the West property line and is 700 square feet in size) so they can go forward with the building of a new principal dwelling unit. Plans reflect new dwelling and existing dwelling will not exceed lot coverage and is in conforming with impervious surface on lot. The Health Department and Performance Engineering are working together regarding the well and septic design and placement. The Planning Commission stressed the importance of the waterfront vegetation strip and it is a requirement. It is important to make it a condition of special use permit approval and can also be a condition of a zoning permit being issued for structure. A letter in support from Haggards was received at township hall.

4.34 Accessory Dwelling Units

a.) Accessory Dwelling Units (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, 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 established by the Charlevoix County Department of Building Safety. **YES**
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-conformity 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 facilities 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

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when/if the property changes hands, before issuing a zoning permit. **N/A**

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- a. The property subject to the application is in a zoning district in which the special use is allowed by district regulations **YES**
- b. The special use, as proposed, complies with any specific standards applicable to the special use appearing elsewhere in the ordinance **YES**
- c. The proposed special use will be consistent with the intent and purpose of the Township's Land Use Plan, as well as the intent and purpose of the zoning district in which it will be located **YES**
- d. The proposed special use will not result in the creation of demands on police and fire services or on other public services or facilities; in excess of the Township's financial ability to provide same **YES**
- e. The proposed special use will not diminish the opportunity for surrounding properties to use and develop their property as zoned **YES**
- f. The proposed special use will be designed, constructed, operated and maintained so as not to negatively impact the character of land uses in the surrounding area **YES**
- g. The proposed special use will not involve uses, activities, processes, materials or equipment that will create a nuisance for other properties in the vicinity by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap metals **YES**
- h. The proposed special use will be harmonious with the existing or intended character of the general vicinity and will not be hazardous to existing or future nearby uses **YES**

MOTION by Van Dam, seconded by Simmons, to approve the special use permit for parcel 15-001-006-024-00 with the condition that an ~~established~~ plans be submitted to include a vegetative strip pursuant to 6.4 prior to zoning permit issuance, passed upon unanimous affirmative vote of the Board Members.

A roll call was taken:

Yeas: Shepherd, Simmons, Van Dam, Jones, Gaudard, Maxwell, Skornia

Nays: None

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MOTION by Simmons, seconded by Shepherd, to amend agenda and adjourn, passed upon unanimous affirmative vote of the Board Members.

A roll call was taken:

Yeas: Shepherd, Simmons, Van Dam, Jones, Gaudard, Maxwell, Skornia

Nays: None

Respectfully Submitted,

**Kristin Baranski
Deputy Clerk**