

# MINUTES BIG RAPIDS CHARTER TOWNSHIP PLANNING COMMISSION

Tuesday, August 14, 2018 --- 7:30 p.m.

Big Rapids Township Hall, 14212 Northland Drive, Big Rapids, MI 49307

## I. CALL TO ORDER: 7:30 P.M.

Vice Chairman Mark Sweppenheiser called the regular meeting of the Big Rapids Charter Township Planning Commission to order at the township hall on Tuesday, August 14, 2018 at 7:32 p.m.

## II. ROLL CALL:

Present: Zach Cook, Mary Davis, Gordon Oliver, Mark Sweppenheiser, and Carman Bean. Amanda Wethington is absent. The record shows a quorum is present.  
Also Present: Zoning Administrator and Recording Secretary, Brent Mason.

## III. ELECTION OF CHAIRPERSON:

Mr. Sweppenheiser began by requesting nominations for Chairperson. Mr. Bean nominated Mr. Sweppenheiser, but Mr. Sweppenheiser gracefully declined because of his employment with the City of Big Rapids and the potential for future conflicts of interest if projects that might affect both the township and the city are heard before the Commission. Mr. Sweppenheiser thanked the other members for the consideration. Mr. Oliver suggested Mrs. Davis, and she also declined as she felt she was still too new to the job. Mr. Bean mentioned Mrs. Wethington, but the discussion stopped because she wasn't present. Mr. Bean asked Mr. Oliver if he would be interested in the position. Mr. Oliver declined as well. Mr. Bean is not able to serve in the chairman capacity due to his position as a trustee. Mr. Cook felt that he hasn't gained enough experience on the Commission yet to function in the position of Chairman. Mr. Bean nominated Mrs. Wethington, seconded by Mr. Sweppenheiser. Mr. Sweppenheiser requested a roll call vote, and the motion passed unanimously with five ayes. Mr. Sweppenheiser will continue as the Vice-chairman and the position of secretary will not be filled at this time, pending review of the by-laws since Mr. Mason functions as the recording secretary.

## IV. CONFLICTS OF INTEREST:

Mr. Sweppenheiser asked if any of the Commission members had known conflicts of interest with any item on the agenda for this meeting. No one indicated that a conflict of interest existed.

## V. MINUTES:

Mr. Sweppenheiser asked the Commission to review the minutes of the July 10, 2018 regular meeting. Mr. Bean made a motion to approve the July 10, 2018 minutes as submitted. Mr. Oliver seconded the motion. There was no further discussion. The motion passed unanimously with five ayes.

## VI. PUBLIC COMMENT:

There was no public comment.

## **VII. SITE PLAN REVIEW:**

Ken Brininstool from Four Seasons Rental @ 17943 – 205<sup>th</sup> Avenue has applied for a site plan review to expand his mini-storage business. He is currently operating a mini-storage, warehouse, porta-potty and dumpster rental business at this location, and has determined that there is a need for more mini-storage units in the area. He is proposing up to three additional buildings for storage lockers. The proposed buildings are smaller than the current buildings on this site and would complement his business. This particular use has been operating at this location for over a year, and the demand for additional mini-storage lockers is high. The one peculiar feature of this location is the 100-foot drain easement on the north side of the property along 18 Mile Road. The proposed buildings will still be at least 40 feet from the existing fence on the north side of the property and the fence appears to be located outside of the existing drain. There are no other concerns for this parcel. Mr. Bean commented that he is glad to see the property being utilized. Mr. Sweppenheiser asked if there were any storm water issues. Mr. Mason replied that the current retention/detention pond is larger than what is required for the property as it currently exists, and that the Northgate drain does run along the north side of the property. Mr. Bean made a motion to approve PZ18-0030, the site plan for the expansion of Four Season Rentals @ 17943 – 205<sup>th</sup> Avenue. Mr. Cook seconded that motion. Mr. Sweppenheiser asked for a roll call vote, and it was approved unanimously with five ayes.

## **VIII. ZOA 18-002:**

Mr. Sweppenheiser asked Mr. Mason to advise the Commission about the proposed changes regarding the typographical errors that were missed in the proof-reading of the most recent version of the Zoning Ordinance. Mr. Mason read the ordinance language and the proposed changes for the Special Use Permit and Planned Unit Development sections. Mr. Sweppenheiser found other occurrences of the word “zoning board” that also needed to be replaced with “planning commission.” Mr. Bean asked if the ordinance document was available in Microsoft Word, and Mr. Mason said that it was. Mr. Bean suggested that the entire ordinance should be reviewed with the “find and replace” command, so that all occurrences of “zoning board” could be removed and replaced with Planning Commission.

The members discussed a language change for the issuance of a special use permit. The following language was recommended: “The Planning Commission may require special conditions or restrictions which the Planning Commission considers necessary to carry out the purpose of this chapter.”

Mr. Bean then brought up concerns from the Board of Trustees regarding the language in the zoning ordinance that limits the right of appeal to the applicant on a denial of a Special use only. Discussion revolved around the definition of an aggrieved party and who would be eligible for an appeal. Mr. Bean stated that those definitions should be black and white. The Commission discussed role of the board of appeals, and the whether a final SUP decision should be made by the Planning Commission or if it should be sent to the Board of Trustees for final approval. Discussion continued regarding the Zoning Board of Appeals and their ability to review and act on business brought before them since they currently meet only once a year for their organizational meeting. Mr. Sweppenheiser stated that he believes the ZBA would have difficulty acting on these cases because they don't have any experience and that these decisions should be

handled by the board of trustees. Mr. Mason mentioned that since our zoning ordinance is minimally obstructive and restrictive, it rarely requires review of decisions. Mr. Bean mentioned that the ZBA probably will not have many opportunities to hear cases, since currently, there are so few SUP decisions made by the Planning Commission to begin with. Mr. Sweppenheiser and Mr. Bean discussed the case regarding the cell tower that is now in Circuit Court, and that the ZBA should have been part of the process to preempt the case from going to court. Mr. Bean believes that if that case had been heard by the ZBA and they upheld the Planning Commission's decision, that would have been the end of the case. Mr. Sweppenheiser stated that he feels the case would have gone to court regardless of how the ZBA might have ruled. Mr. Sweppenheiser repeated Mr. Bean's concern that an aggrieved party should be able to go to the ZBA. Mrs. Davis mentioned that as long as the definition of an aggrieved party is not ambiguous, then she would be in favor of that change. Mr. Bean asked if the definition of an aggrieved party could be taken out of the Michigan Zoning Enabling Act. Mr. Mason looked for a definition in the act, but was unable to find specific language defining the aggrieved party. He will find the definition and present it to the Planning Commission at their next meeting. Mr. Sweppenheiser and Mr. Bean feel that language that will allow any "aggrieved party" to appeal a SUP decision by the Planning Commission to the ZBA needs to be discussed further. Mr. Mason continued with an explanation of why he feels the current language exists. The determination process that the Planning Commission goes through is supposed to make sure the use is provided for in a manner that considers any potential concerns for that use and if it is appropriate for the area. Mr. Bean mentioned that the aggrieved party may believe that the actions of the Planning Commission did not follow proper procedure, and therefore should be able to appeal the decision on those grounds.

Mr. Sweppenheiser asked to move on to the proposed language changes for communications towers. Mr. Mason read the proposed language changes. All changes are additions to the current language as follows:

#### **153.246 QUALIFYING CONDITIONS.**

(A) The following site and developmental requirements shall apply.

(1) All tower sites requiring a Special Use Permit shall be on parcels of at least ten acres in size and have a minimum area sufficient to contain the tower and its accessory uses. The site shall have permanent deeded access to a public road.

(B) Special performance standards.

(1) The tower must be set back from all property lines a minimum of 150 feet or a distance equal to its height, whichever is greater.

(20) The tower shall be removed by the property owner or lessee within six months of being abandoned by all commercial users. A performance bond sufficient to cover the cost of removal of the tower may be required as a condition of the special use permit.

Mr. Bean started discussion about how close a tower should be to any dwelling, and suggested that the distance be 500 feet. The discussion continued and many options

were considered. Mr. Sweppenheiser mentioned that if we put a minimum distance on how close a tower can be to a dwelling, and later a new home gets built on property near the tower, we will be creating non-conformities, which isn't the purpose of the ordinance. Mr. Cook mentioned that as a farmer, he would not want a tower in the middle of his property, he would prefer that it be as close to an edge or corner as possible to still allow for agricultural use of the remaining area. Mr. Sweppenheiser stated that bigger parcels would obviously be less affected. Mr. Bean mentioned that we could look at other districts like industrial or commercial. Mr. Mason mentioned a possible overlay zone along the expressway. Mr. Bean asked if we currently allow towers only in the Agricultural District. Mr. Mason advised that the Ag. District is the only place where new towers are allowed in Big Rapids Township. Mr. Mason told the Commission that Mecosta Township allows towers in almost every district except medium density residential. Mr. Sweppenheiser stated that he is fine with the 150-foot distance thanks to Mr. Cook's response that allows for other use of the parcel by allowing the tower site to not take up the whole parcel. Mr. Mason asked if there were any other changes that the Commission wanted to pursue in that section.

Mr. Sweppenheiser asked if there would be any ramifications if this ordinance is changed and the Verizon Tower situation is sent back to the Planning Commission for a decision. Mr. Stanek said he did not think it would be changed that soon, and that Verizon's application date would determine which language would be used for their determination. Mr. Bean and Mr. Mason agreed. Mr. Sweppenheiser said that we should make sure. Mrs. Davis asked if the tower decision could come back to the Planning Commission. Mr. Mason said that the Court could do one of three things. The Court could uphold or affirm the decision. The Court could overturn the decision, or they could remand the decision back to the Planning Commission to hear again.

Mr. Bean wondered if we should look at the commercial district as another location for communication towers. Mr. Mason feels that the current uses allowed in the commercial district are sufficient, and towers might not use the land as effectively.

#### **IX. OTHER BUSINESS:**

Mr. Bean and Mr. Stanek mentioned the upcoming Citizen Planner on-line program and the Class that is being held in Mt. Pleasant. He asked that anyone who might want to attend contact Rene Fountain and get registered.

Mrs. Davis asked about the property at 22420 Woodward. Mr. Mason gave an overview of the enforcement actions that have been taken to this point. Two civil infraction citations have been issued, and the second will be heard by District Court on August 23. The Court has ordered clean-up, but the occupants still have not complied. Mr. Mason stated that the goal is to get the property cleaned up, but the occupant's lifestyle will likely result in other violations even if the Township cleans up the property.

Mr. Stanek mention the Board approved Bob Hampson to serve on the Planning Commission and he will start next meeting.

**X. ADJOURNMENT:**

Hearing no further business for the Planning Commission, Mr. Sweppenheiser entertained a motion to adjourn at 8:43 p.m. The motion was made by Mr. Bean and seconded by Mr. Cook. The motion carried unanimously with five ayes.

Motion to approve the Planning Commission minutes of August 14, 2018 by: Mr. Bean, Seconded by: Mr. Oliver. Roll call vote carried with seven ayes.

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Brent R. Mason, Recording Secretary  
BIG RAPIDS CHARTER TOWNSHIP  
PLANNING COMMISSION

September 11, 2018

Date Approved