

Lake Township Planning Commission

Public Hearing and Regular Meeting

April 24, 2013

Approved Minutes

Lynette Rose, Vice Chairman, called the Planning Commission meeting to order at 7:04 P.M. Pledge of allegiance. Roll call. Jerry Pobanz, Bob Siver, Clay Kelterborn, Lynette Rose, Ric Geilhart present along with 15 guests.

(Public Hearing on proposed zoning amendments opened at 7:06 P.M.)

Notice of Hearing read by Recording Secretary.

Tom Pierce asked about Sections 702 and 802, “uses” for decks, whether that was literal, such as “I can use my deck to have a party”, rather than sizes? Kelterborn asked the recording secretary to read Section 702(g) and then indicated that this needed to be looked at since decks were put under “Uses Permitted by Right.” Tom Pierce indicated that one of the other requirements refers to size. Gerry Pobanz commented that in R-1 decks were limited to 300 square feet and the planning commission would like to eliminate that restriction. Kelterborn asked Rose if she knew why there was a 300 square foot limit. Rose indicated that was adopted prior to her appointment to the commission.

Troy Parsell asked whether a deck can be built to the seawall or not. Discussion on Section 705.2(C) which states that no structure shall be less than 35’ from the OHWM.

Walt Kloc indicated that he is happy the 300 square foot maximum is being removed, stating that it should never have been imposed and created many nonconforming gaps, that it was unfair to property owners in the R-1 district, but asked whether the 35’ ~~OHWM~~ OHWM setback is in conflict with this proposed amendment. Mr. Kloc was also concerned about high water mark vs. ordinary high water mark.

Jim Simmons asked what would happen if someone’s seawall is back ten feet from the ~~OHWM~~, OHWM, would they still have to stop at the seawall with their deck or could they go past the seawall.

Zoning Administrator Treder responded that they should stop at the seawall. If they go in front of the seawall, they would need a survey for the OHWM.

Motion by Kelterborn to close the public hearing, seconded by Rose. Motion carried – all ayes.

(Public Hearing closed at 7:30 P.M.)

Approval of Minutes: Motion by Kelterborn to accept the minutes of March 27, 2013 as presented, seconded by Geilhart. Motion carried – all ayes.

Approval of Agenda: Kelterborn suggested that the commission should put some thought into what items members might like to see on the May agenda. Motion by Kelterborn to accept agenda with addition of discussing May agenda items, seconded by Rose. Motion carried- all ayes.

Correspondence: Business plan from Lynnea Rabideau Matthews. Ms. Matthews was in attendance and addressed the commission regarding her rental property. She indicated that her renters had to move out last year and she thought she could divide the home into two rental units and then she received a letter from the township attorney. She has since determined that it would cost too much to make improvements required for two units and the insurance would be too high. She asked the township attorney how she was in violation strictly renting it as one unit to two families or multi-generations and the attorney was unable to answer her. She indicated she has a large lot with a 2,300 square foot home and full basement and it can adequately handle 12 people. She has letters from neighbors who are in support and also named other neighbors who did not write a letter. She indicated that only one neighbor has objected. She asked how she is in noncompliance with the township's ordinance when there are several other properties listed on rentalbug.com which are single family homes in Lake Township for rent.

At Kelterborn's request, Ms. Matthews provided information on rentals and letters of support to the board. Kelterborn asked Zoning Administrator Treder if this is an allowable use. Treder stated that as a single family it is okay but not as a multi-family. Treder also indicated that he talked with Jack McCain who could do a one hour continuous flow test on the septic to determine how much it can handle since there is nothing on file in regard to the septic. The flow test would run about 600 gallons in one hour through the system and if it can handle that it would be okay.

Kelterborn asked how the traffic might impact the neighbors and how much off street parking is available at the site. Ms. Matthews stated that it could be family members, one group coming from out of state. She indicated that last week she had five cars in the drive, that there are two driveways and the lot is 150 feet by 191 feet.

Ms. Matthews indicated that she owns two homes, that both homes were originally part of a single estate that was divided in 1959. The rental house is a four bedroom, three bath house, the garage had servants quarters and her house was the guest house.

Geilhart asked Treder about the flow test and how it is done. Treder indicated that the tank is opened and water is pumped directly into the tank for one hour. Geilhart commented that a lot of lake houses have 12 or 15 people on weekends and they don't need a flow test. Rose asked whether Ms. Matthews has ever had a lot of people at one

time and had any problems. Ms. Matthews stated that initially she had problems and had McCain out and since then has had no problem.

Kelterborn commented that the commission has to be concerned as to whether it is a use permitted by right, whether it is a single family use and if it is more than single family, what then. Pobanz agreed. Building Inspector Tory Geilhart stated that the problem is solved with the building code because this is a single family house.

Lou Colletta commented that it all started when she wanted to rent two units and the attorney contacted her and now she's not going to divide the home.

Kelly Smith stated that he lives next door and they are on friendly terms but do not agree. He stated that several years ago he wanted to do something similar and they contacted Lake Township and were told they couldn't do it. He owns a house across the street that he rents to his parents and he is here to find out if this is allowed because it will set a precedence. He indicated there are 8 or 9 lakefront homes for sale and investors will buy them for investment purposes as rentals and what is a peaceful and quiet area won't stay that way with different people coming and going. He stated they bought in Lake Township because that wasn't allowed and Ms. Matthews should have made sure she could do what she wanted with it before she bought it.

Pobanz stated he didn't think the township would tell someone how they could rent their home, that he rents a home in Harper Woods. Kelterborn commented that it is the use and the commission needs to put themselves in Mr. Smith's place as neighbor, this is a different level of use than renting to one person long term.

Bob McLean commented that this is a R-1 residential home and what Ms. Matthews is asking is more in line with a B & B which is more a commercial use. He stated if he was a neighbor and it was rented for six months or one year, he would have no problem with that, but weekly, weekends, semi-monthly is more a commercial use.

Geilhart commented that the township can't be unfair to one person. Many homes are rented for two weeks, so where does it end?

Kelly Smith commented that this is a single family home in a single family neighborhood. Lou Colletta asked when Mr. Smith was told he could not do what he wanted. Smith indicated it was in 1991, that weekly rentals were not allowed.

Kelterborn asked Mr. Smith, who is in real estate, how this type of use would affect property values. Mr. Smith responded that most people like their privacy and if you have a family next to you that owns the house, you get used to that family, but if it is a rental you don't know who is coming and it will have an affect on the value of your property. If

you pay \$2,000 to Ms. Matthews for a week, you are going to want to get your monies worth. Renters are always on vacation.

Tom Pierce commented that he has a house with a rental property 20 feet away, he would agree that it would affect his property value, but with 200 feet distance and woods, he would not agree. Does the township want to tell people how to use their home? Is the township going to get into a position of defining what people can do with their houses?

Lou Bushey commented that he is a real estate salesman for 40 years and is on a bank board and that if they have a person who wants to borrow money for a home that is next to a rental, they will not give the same amount of money. He indicated the Stroh's Sub is one of the nicest on the water with a ½ mile of lakefront with 25 homes and would like to keep it that way with single family homes.

Troy Parsell stated that he is a certified general appraiser from Elmer Township in Tuscola County and can understand both sides but stated that the property is worth more now than it was with all the improvements made and all neighbors are in agreement with what Ms. Matthews is doing. He stated that whether it really affects the value of neighboring properties is questionable since it is a nice home and will attract a certain caliber of people and Ms. Matthews lives next door and doesn't want riff raff, she will screen people and it is still a single family use, not a revolving door.

Kelly Smith commented that this is rented over the internet with Tom and Denise Carriveau managing the property and Ms. Matthews doesn't know the people. He commented that Ms. Matthews mentioned other houses that are rented and he is aware that Janice Winters rents her house for a few weeks to the same people every year.

Ed Borycz stated that he lives two houses away and has not problem with Ms. Matthews plans, that he is sure she will scrutinize the renters.

Kelterborn asked whether she was responsible or if Carriveau's were responsible for screening renters. Ms. Matthews responded that Denise Carriveau responds and screens potential renters and if she has any that she is iffy on, Denise will contact her to discuss it. Kelly Smith indicated that if someone is managing property they are supposed to be a licensed real estate person.

Ms. Matthews indicated that she has provided the names and addresses of eleven other homes being rented and Janice Winters' home was not included in that list.

Tom Pierce asked whether there are any sections in the zoning ordinance that refer to rentals.

Kelterborn indicated that he would like to do some research on this issue, that there have been a lot of comments and when there are people on both sides of an issue; the planning

commission has to look at it very carefully. Ms. Matthews indicated that she needs an answer. Kelterborn commented that he has more questions than answers. Kelterborn asked Treder how he would handle a situation if someone came to him and said that his neighbor was renting a house for \$2,500 per week and I'm having problems. Treder said it would depend on the type of problem, whether they should call the police or talk to the owner of the property.

Siver commented that it is the planning commission's job to look at the situation from the worst case scenario.

Kelterborn commented that the question is what she wants to do and the township should contact the attorney and ask if this type of use is condoned as a singled family use.

Kelterborn suggested moving on with the meeting and indicated that the Township Board adopted a Civil Infraction Ordinance, No: 2013-01, which will assist with enforcement of the zoning ordinance.

Old Business:

Decks: Discussion about setback of decks and whether the language stating that the front yard setback will be the seawall is clear, that Section 705.2(C) requires a 35' setback from the OHWM and whether this is in conflict with the proposed change. McCallum asked whether the 35' setback is still necessary with the 30 degree rule and if so, perhaps adding something excluding decks from the 35' setback. Also discussed was that along the lakefront many homes have their septic and drainfields in the front yard and will this be a problem, whether the health department regulates building a deck over a drain field and also what happens in situations where there is no seawall. Building Inspector Geilhart commented that he has never known anyone who wanted to build over a drain field but if it happened it would be advisable to contact the health department first, but building over a tank is not a problem as long as the tank is accessible. He also commented that the Zoning Administrator needs to be able to go out to a site and in situations where there is no seawall, make a determination as to where the setback will be taken from. Ric Geilhart commented that the township should not go back to the situation where a survey is required to build a deck.

Siver suggested adding language that states, "if no seawall, setback to be determined by presumptive placement of seawall based upon zoning administrator's determination".

Treder suggested stopping at the word "seawall," that the township attorney advised him that our ordinance was too wordy and it is best to keep the language short and to the point. He stated that he should be able to make the call as to where the setback should be in cases where there is no seawall.

Motion by Pobanz to amend ordinance to read: “The front yard setback for decks shall be the seawall. If no seawall, the deck setback to be determined by the zoning administrator,” seconded by Geilhart. Motion carried – all ayes.

Motion by Rose to add the following to Section 705.2(C) “Decks are to be excluded from this requirement, seconded by Geilhart. Motion carried – all ayes.

Motion by Pobanz to send proposed amendments to Huron County, seconded by Siver. Motion carried – all ayes.

Section 304.2 Violations and Penalties. Kelterborn commented that the township attorney had not yet answered questions the planning commission had in regard to sanctions at their March meeting and made a motion to table further discussion until the May meeting, seconded by Rose. Motion carried – all ayes. It was noted that the planning commission had recommended sending the proposed amendment to Huron County at their March meeting while waiting for further input from the attorney.

New Business

Elect Chairman: Motion by Kelterborn to appoint Gerry Pobanz as Chairman, seconded by Rose. Motion carried – all ayes.

Motion by Kelterborn to appoint Robert Siver as secretary, seconded by Geilhart. Motion carried – all ayes.

Business Plan from Lynnea Rabideau Matthews: Kelterborn recommended tabling this issue until they could get answers to the many questions raised during the prior discussion.

May Agenda: Items suggested for May agenda included lot coverage for decks, bathroom facility at Philp Park, Geilhart will ask Road Commissioner Mike Power to attend next meeting, and schedule a joint meeting with the township board for planning purposes and as far as the Master Plan updates, Kelterborn suggested setting up appointments for planners to come in and talk to the Planning Commission

Public Comments:

Tory Geilhart asked the commission to give Ms. Matthews an answer to her question as to whether she is in compliance or not with the zoning ordinance in renting her house. Kelterborn suggested the supervisor check with the township attorney. Colletta mentioned that the attorney was involved when she was going to rent it as two units but that is now resolved and the attorney could not tell her whether she was in violation by renting it as a single family use. Ric Geilhart commented that it is still a single family use, rented or not.

Lou Bushey wanted to know who made the motion regarding Ms. Matthews property. Pobanz indicated that it was not the business of the planning commission, she received a letter from the attorney and it was going to be a multiple unit, now it's not. Bushey commented that 15 years ago the township board tried to take away rentals from Krebs' Cottages and the Krebs had to hire Don Clark to represent them. Lou Colletta stated that the dispute at that time was changing the zoning from commercial to residential business, that it wasn't to take away his use. Bushey asked whether anyone can buy lakefront property and rent it by the week? He commented that Ms. Matthews is running a business, it is a commercial use. Geilhart indicated that he doesn't see a problem and doesn't think it is a big problem in the township.

Walt Kloc thanked the board for removing the 300 square foot limitation on decks and asked whether the board would waive the \$375 fee paid for the May 1st variance? Kelterborn indicated that it was the property owner's choice to apply for a variance rather than wait to see if the ordinance changed.

Lou Colletta commented that the whole meeting was a welcome change and appreciated the board allowing public comments.

Motion by Kelterborn to adjourn, seconded by Rose. Meeting adjourned at 10:05 p.m.

Karen Sienkiewicz, Recording Secretary