

REGULAR MEETING OF THE EAST BAY CHARTER TOWNSHIP
PLANNING COMMISSION
Tuesday, June 2, 2009 6:30 p.m.
East Bay Charter Township Hall
1965 N. Three Mile Road
Traverse City, MI 49686

Present: Planning Commission Members Judy Nemitz, Ted Hentschel, Jim McDowell, Robert Tubbs, Tracey Bartlett, and Mindy Walters

Absent and Excused: Mike Nickels

Also Present: Township Attorney Peter Wendling; Township Planner Jay Kilpatrick; Zoning Administrator Leslie Couturier; Recording Secretary, Anne Wendling;

Six (6) guests were in attendance.

1. **Call to Order:** Vice - Chairman Tubbs called the meeting to order at 6:32p.m.
2. **Roll Call:** Roll was called by the Recording Secretary.
3. **Review for Conflict of Interest:** There were no conflicts of interest reported.
4. **Approval of the Agenda:** A motion was made by Bartlett to approve the agenda with the change moving item #6 to item #3 and renumbering the rest of the items accordingly. The motion was seconded by Hentschel to approve the agenda as amended. The motion carried unanimously.
5. **Approval of the Minutes:** Hentschel made a motion to approve the Regular Minutes of May 5, 2009 with a change to item B1 indicating that the motion carried unanimously. Nemitz seconded the motion and the motion carried unanimously.
6. **Public Input:** None given
7. **Reports:**
 - A. *Township Board:* Bartlett stated that board minutes are included in the packet. She is working on the new water ordinance to clean up some verbiage. Bartlett addressed the upcoming escrow policy. She attended the MTA

conference and attended road discussions at the MTA meeting.

- B. *Appeals Board:* Hentschel had no report at this time.
- C. *Planners Report:* Kilpatrick reported that the Boy Scout Camp is currently zoned BR, Boardman River District, where camps are not allowed. At one time the camp was zoned LA, Lakes Area where camps are allowed as a use by right. A map or text change is needed to make the camp a conforming use. Kilpatrick will draft an ordinance amendment for Board review.
- D. *ZA Report:* Couturier said that there are many junk complaints this time of year.
- E. *Attorneys Report:* Township Attorney Wendling had no report.
- F. *Correspondence:* Included in packets.

8. **New Business**

A. **Public Hearings:**

1. **Special Land Use 1-09/ Site Plan Review 3-09; Robert & Michele Adams; an Accessory Structure with Floor Area Greater than the Principal Structure. Public Hearing and Action.**

Kilpatrick stated that this request is needed because the accessory structure exceeds the footprint of the original structure. Tubbs asked the applicants to comment and asked about the size of the structure. Mr. Adams asked about square footage and the original footprint. Mrs. Adams asked about what they can do with what they already have and be legal. Couturier and Tubbs stated that the structure could be up to 1000 sq feet.

Hentschel made a motion to approve the SPU 1-09 and Site Plan Review 3-09 with Findings of Facts and conditions drafted by Planner Jay Kilpatrick and dated May 19, 2009. Walters seconded the motion and the motion carried unanimously.

2. **Zoning Amendment 2-09; Amendment to Officially Establish the Planning Commission. Public Hearing and**

Recommendation to the Township Board.

Kilpatrick stated that this amendment officially establishes the Planning Commission per the Michigan Zoning Enabling Act. Tubbs opened public comment at 6:57pm and seeing none, closed public comment. Nemitz inquired about term limits. Kilpatrick said that there were no term limits, but by-laws had to be followed and the township board reappoints officers for one year terms.

Bartlett moved to approve Zoning Amendment 2-09 and recommend the amendment to the Township Board. McDowell supported the motion and the motion carried unanimously.

3. Zoning Amendment 6-09; An Ordinance Amendment to Confine Ultimate Approval Authority to the Planning Commission and Relieving the Township Board of such Responsibility. Public Hearing and Recommendation to the Township Board.

Kilpatrick stated that this has been discussed by the Planning Commission already and this recommendation came out of the joint meeting this spring. Tubbs opened the public hearing at 7:02pm and seeing none, he closed public comment. McDowell commented that it seems like duplication to have the township board oversee the decisions regarding the proposed PUDs. Hentschel opposes the action and stated that he does not want to have power in the hands of a non-elected entity. Township Attorney Wendling commented that the board is responsible for its appointments to the Planning Commission and decisions are based on what is in the ordinance. McDowell asked about a "safety net" and Couturier said there is a net in place with lawyers and planners. Bartlett asked if a joint workshop on a proposed PUD could be called at any time. Kilpatrick said that a special meeting was a good idea and Attorney Wendling warned that commissioners should be careful when to involve the board members and make sure that the board members do not act as a "super planning commission." Tubbs thinks it is ultimately the board's decision.

Bartlett made a motion to approve Zoning Amendment 6-09 and recommend it to the Township Board. Walters supported the motion and the motion carried unanimously.

4. Zoning Amendment 3-09; An Ordinance Amendment Regarding the Duration of Approvals of Special Land Use Permits Authorizing a PUD and the Procedure for Extensions. Public Hearing and Recommendation to the Township Board.

Tubbs opened the public hearing at 7:17pm and seeing none, closed it. Bartlett asked about language referring to the township board and Wendling said he would change any language which referred to the board and planning commission action. Nemitz asked about notification to the applicant and Couturier stated that the township would attempt to notify the applicant and chose not to place such language into the ordinance.

Nemitz moved to recommend adoption of Zoning Amendment 3-09 with removal of language pertaining to township boards and trustee action. McDowell seconded the motion and the motion carried unanimously.

5. Zoning Amendment 4-09; An Ordinance Amendment Regarding the Duration of Approvals of Special Land Use Permits Authorizing and the procedure for an Extension. Public Hearing and Recommendation to the Township Board.

Tubbs explained that this proposed amendment gives two years approval with a one year extension if certain conditions are met. Tubbs opened the public hearing at 7:22pm and seeing no comment, closed the public hearing.

McDowell made a motion to approve 4-09 and recommend it to the township board. Hentschel supported the motion and the motion carried unanimously.

6. Zoning Amendment 5-09; An Ordinance Amendment Regarding the Duration of an Approved Site Plan, its Termination and the Procedure for an Extension. Public Hearing and Recommendation to the Township Board.

This proposed amendment would give a two year initial approval of site plans. Tubbs opened the public hearing at 7:25pm and seeing no comment, closed the public hearing.

Nemitz moved to adopt Zoning Amendment 5-09 and recommend it to the township board. Walters supported the motion and the motion carried unanimously.

7. Zoning Amendment 7-09; An Ordinance Amendment Regarding Performance Guarantee Requirements. Public Hearing and Recommendation to the Township Board.

Kilpatrick stated that this proposed Zoning Amendment would revise the ordinance with respect to performance guarantees. Tubbs opened the public hearing at 7:26pm and seeing none, closed public hearing. Bartlett asked about other municipalities having such an ordinance and Wendling answered that a performance guarantee is, many times, part of the funding process.

Bartlett made a motion to approve Zoning Amendment 7-09 and recommend it to the township board. Nemitz supported the motion and the motion carried unanimously.

8. Zoning Amendment 8-09; An Ordinance Amendment Regarding the Tabling, Without Consideration of a Public Hearing for any New Matter before the Planning Commission for Which Applicant Escrow Deposit are in Arrears at the Time of the Hearing. Public Hearing and Township Board.

Planner Kilpatrick said that this proposed amendment would force the Planning Commission to table any approval of pending permits without consideration of a public hearing if the applicant's escrow deposits are in arrears. Tubbs opened the public hearing at 7:38pm and seeing none, closed the public hearing.

Bartlett moved to approve Zoning Amendment 8-09 and recommend it to the township board. Walters seconded the motion and the motion carried unanimously.

B. New Business

1. Discussion Regarding Stairway Access to Lake.

Kilpatrick told commissioners that the Forest Lakes Overlay zoning district may be affected by such regulations of decks and/or stairways leading to water. He stated that waterside decks must meet ordinance standards and stairs cannot be greater than 5 feet in width. Nemitz says the five foot width could be problematic because of topography. McDowell said safety should also be a

concern for any stairway. Discussion centered on a possible stepped ordinance where frontage dictates the size of a deck. Kilpatrick stated that he would discuss the issue with other planners in other municipalities and draft a document for the next meeting.

2. Discussion Regarding Site Plan Reviews; Group vs. Individual Visits.

Couturier wanted the Commissioners to revisit the fact that East Bay is one of the only townships to have a group site plan review. Other municipalities have individual site plan reviews. She stated that commissioners must be very careful of ex parte communications taking place on the site. Commissioners discussed the pros and cons of the open meetings act and the site plan reviews. One problem is that a handicapped individual could have access issues which would violate the open meetings act.

9. Old Business:

10. Adjournment: Vice - Chairman Tubbs adjourned the meeting at 8:25pm.