

**CHARTER TOWNSHIP OF CHOCOLAY
PLANNING COMMISSION MEETING MINUTES
MONDAY, OCTOBER 12, 2009**

I. MEETING CALLED TO ORDER AT 7:31 PM/ROLL CALL

Present: Chairman Albert Denton, Ken Tabor, Kendell Milton,
Andy Sikkema, Andy Smith, Estelle DeVooght

Excused: Steve Kinnunen

Staff Present: Jennifer Thum (Planning and Community Development),
Laurie Vashaw-Eagle (Recording Secretary)

II. APPROVAL OF SEPTEMBER 14, 2009 MEETING MINUTES

Andy Sikkema, Moved, Al Denton, Seconded, to approve the September 14, 2009, Planning Commission minutes after corrections on page 6, VIII) A) change September 6, 2010 Planning Commission Calendar meeting date to September 7, 2010 and on page 9, IX) Public Comment correct Ms. Dees' to Mr. Dees'.

Ayes 6. Nays 0. Motion approved.

III. ADDITIONAL ITEMS/APPROVAL OF AGENDA

Estelle DeVooght, Moved, Andy Sikkema, Seconded, to approve the agenda as written for the October 12, 2009, Chocolay Township Planning Commission meeting.

Ayes 6. Nays 0. Motion approved.

IV. PUBLIC HEARINGS

A. REZONING #144

Tyler Lemire for Kurt Spodeck, 106 West Branch Road, stated that Mr. Spodeck submitted a letter dated June 11 2009 expressing his opposition to the rezoning of this planned development. Mr. Spodeck feels that this type of development should not be done in the Agricultural/Farming district. Mr. Lemire stated that there is the possibility of sewage problems from the houses in this development as each parcel will have its own septic system and feels this type of development does not fit into the area.

Dick Arnold, 312 Co. Road 545, stated that he is in favor of this development and feels it would be a nice addition to the area. Mr. Arnold stated that Mr. Spodeck is operating a business in an area that is zoned rural residential.

B. VEHICLES, TRAILER PARKING, AND STORAGE ORDINANCE

No public comment.

V. PUBLIC COMMENT

Stephanie Gencheff, 597 Lakewood Lane, inquired if there will be a vote on the height of accessory buildings tonight? She would like to state that she opposes any increase in the current height of accessory buildings and is questioning why the change is needed. She feels that the reason the City of Marquette is increasing their height requirement is to encourage the building of mother-in-laws home within the city, which are not permitted in the Township of Chocoday.

Wayne Dees, 512 Woodvale Drive, stated he feels this is unnecessary and doesn't know why it should go through.

VI. PRESENTATION

No presentations scheduled.

VII. OLD BUSINESS

A. HEIGHT FOR ACCESSORY STRUCTURES, #34-09-17

Ms. Thum reported that at the September 21, 2009 Township Board meeting, the trustees thought the idea of increasing the height of the detached accessory structures was worth exploring. However, they wanted to see some language that did not permit the accessory structure to be taller than the primary residential structure. If you recall at the August 10, 2009 Planning Commission meeting, a public hearing was held to discuss increasing the overall height limit of a detached accessory structure. Responding to concerns from Gary Niemela of Skandia Truss, the Planning Commission was asked to reviewed the current height limit for detached accessory structures. Section 6.1 in the definition section of the Zoning Ordinance currently permit a height of 15'. This height is measured from the average grade of the area

covered by the building to the midpoint between the eave and the peak of the structure. Attached garages or accessory structure are regulated by height restriction of the residence. As per Mr. Niemela, the “Attic Truss” that his company produces exceeds the current height restriction and is not legally marketable in our township. From a planning standpoint, our concern is the protection of neighboring property and to ensure that these structures remain at a scale which is accessory to the main structure. This was the reason that staff was asked by the Planning Commissioners to come up with a formula for buildings over 15 ft, so they would not have an impact on the neighboring properties grass/gardens. On September 14, 2009, the commission accepted staff’s formula and made a motion to increase the height to 16’6” for a detached accessory structure. The recommended changes are as follows:

R1 District – Side and rear yard setbacks for accessory structures must be increased 2’ for every foot over 15’.

R-2 District – Side and rear yard setbacks for accessory structures must be increased 3’ for every foot over 15’.

Staff would now like to add language in the motion that states that the detached accessory structure shall not be higher than the primary structure. Staff believes the suggested language bellows covers the trustees concerns with regards to the detached building being taller than the primary one. Also, staff would like to try to put a stop to anyone thinking that they can occupy the detached building and staff added a sentence addressing that.

Estelle DeVooght, Moved, Andy Smith, Seconded, to recommend to the Chocolay Township Board to approve zoning amendment #34-09-17 to raise the maximum height of a detached accessory structure to 16’6”. The overall height of the detached accessory structure shall not exceed the height of the principal residence on the property. Detached accessory structures shall not be occupied for dwelling purposes. In order to prevent blocking any sun, the following formula will be attached to any building with a height over 15 ft.

R-1 District – Side and rear yard setbacks for accessory structures must be increased 2’ for every foot over 15’.

R-2 District (Harvey) – Side and rear yard setbacks for accessory structures must be increased 3’ for every foot over 15’.

Ayes 4. Nays 2. Motion approved. (opposed Andy Sikkema, Ken Tabor)

B. PROPOSED ZONING AMENDMENT #34-09-09, DEFINITION AND ACREAGE

Ms. Thum reported that at last month's meeting, the Planning Commission discussed parks and the Lakenenland property. Listed below is an updated version of an updated definition of a park that staff and Mr. Andy Sikkema worked on:

Draft Amendment #34-09-09

This proposed zoning amendment is being recommended because the definition of parks was not in the ordinance; therefore, this is a recommendation for consideration to the Planning Commission to include Parks within the definition section of the zoning ordinance.

1. Article II, Definitions:

Add to definitions "Park"

Proposed definition:

Park, a publically owned parcel of land, as:

- A. Maintained for recreational and ornamental purposes.
- B. A landscaped Township square.
- C. A large tract of rural land kept in its natural state and usually reserved for the enjoyment and recreation of visitors.
- D. Protected area in its natural or semi-natural state that may consist of rocks, soil, water, flora, fauna and grass areas.
- E. A place where people can hold public festivals/events.

The Township Supervisor would like the Planning Commission to make a decision on how to handle the permit that was issued for the band shell at Lakenenland. We can leave the permit sit, as parks will be added into the AF districts shortly (as a conditional use permit) or we can revoke it and then have him apply for a band shell under a CUP permit.

The previous definition for parks is as follows:

"Park, a noncommercial, not-for-profit, parcel of land, with or without a structure, designed to serve the recreational needs of the residents, including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.

After much discussion pertaining to publically owned parks and privately owned parks Ken Tabor Moved, Estelle DeVooght, Seconded to table amendment #34-09-09 until November so more research can be done.

Ayes 6. Nays 0. Motion approved to table this until the next meeting.

C. WOOD BOILER ZONING AMENDMENT #34-09-06

Ms. Thum reported that at the last Planning Commission meeting there was more discussion on the wood boiler ordinance. Mr. Andy Smith submitted some suggested changes. Staff feel there should still be an acreage requirement for wood boilers and believe that 5 acres should stay in place.

****REVISED****

Ms. Thum provided a revised draft amendment #34-09-06, Outdoor Wood Burners/Furnaces and Appliances; Section 6.5: (Conditions of Approval), Section 6.5 (A) and (B) 1.b.

Proposed amended language: (conditions for approval)

- I. Chimney Heights/Setbacks
 - a. If the outdoor wood burner/furnace or other wood appliance meets the Phase I EPA standards, the outdoor wood burner/furnace or other wood appliance shall be located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling.
 - b. If the outdoor wood burner/furnace or other wood appliance meets the Phase II EPA standards, a setback of 50 feet must be met from all lot/property lines. The outdoor wood burner/furnace or other wood appliance shall be located at least 75 feet from the nearest residential dwelling not served by the wood appliance. There are no chimney height requirements for a Phase II outdoor wood burner/furnace or other wood appliance.
 - c. If there is an existing outdoor wood burner/furnace or other wood appliance already installed and there is new construction on a previous vacant lot of a residence not served by the outdoor wood burner/furnace or vacant lot of a resident not served by the outdoor wood burner/furnace or other wood boiler within 75 feet of such wood appliance then the owner of such wood appliance shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from Chocolay Township.

- d. If there is an existing outdoor wood burner/furnace or other wood appliance already installed and there is new construction on a previous vacant lot of a residence not served by the outdoor wood burner/furnace or other wood boiler within 200 ft. of such wood appliance then the owner of such wood appliance shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from Chocolay Township.

II. Outdoor Wood Burner/Furnace Regulations:

- a. No fuel other than natural wood without additives, wood pellets without additives, coal and agricultural seeds in their natural state may be burned;
 - 1) The following fuels are strictly prohibited in new or existing Outdoor Wood burner/furnaces or other wood appliance:
 - i. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.
 - ii. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.
 - iii. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 - iv. Rubber, including tires or other synthetic rubber-like products.
 - v. Newspaper, cardboard, or any paper with ink or dye products.
 - vi. Any other items not specifically allowed by the manufacturer or this provision.
- b. Outdoor wood burner/furnace or other wood appliance shall not be located in the front yard;
- c. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocolay Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- d. “Best Burn Practices” as issued by the Environmental Protection Agency

- shall be followed by all applicants utilizing outdoor wood boilers.
- e. No Outdoor Wood burner/furnace, regardless of the date of installation, is allowed to operate when conditions cause visible smoke plum to cross onto adjacent owner's land and buildings for 12 minutes or more in any hour. Sending smoke on adjacent land or buildings for 12 minutes or more is a nuisance and a violation of the regulation.
 - f. Outdoor wood burner/furnace or other wood appliances may only be used from September 1 to May 31 each year.
 - g. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors.

III. Commercial Outdoor Wood Burner/Furnace or other wood appliance with a rated thermal output greater than 350,000 Btu/hr Analysis Requirement

- a. Any person intending to install or operate a commercial outdoor wood burner/furnace or other wood appliance that has a rated thermal output greater than 350,000 Btu/hr shall obtain an evaluation report and installation recommendations performed by a licensed professional engineer that includes the following information:
- b. What type of application will the outdoor wood boiler/furnace or other wood appliance be used for;
- c. A determination of the heat load requirements of the facility as compared to the available heat supply of the outdoor wood boiler to ensure the unit is properly sized.
- d. The stack location relative to the property lines and building locations within 400 feet of the outdoor wood boiler;
- e. The stack height; and
- f. Recommendations for the proper outdoor wood boiler installation, including but not limited to, hook-up, auxiliary fuel, properly sized outdoor wood boiler/furnace or other wood appliance, stack height and location.

Kendell Milton, Moved, Ken Tabor, Seconded, to recommend to the Township Board for approval at their next meeting.

Ayes 6. Nays 0. Motion approved.

VIII. NEW BUSINESS

A. REZONING #144

Jennifer Thum reported that Rezoning Request #144 is a request from Mr. Frank Stabile of 121 Vista Hills Drive. The properties in consideration are parcels #52-02-126-019-040, #52-01-126-019-20, and #52-02-019-126-30. These parcels are where the proposed development and approved private road Vista Hills Drive are located. Mr. Stabile has petitioned the Chocolay Township Planning Commission to rezoning the parcels of property from the current zoning classification of AF (Agricultural/Forestry) to PUD (Planned Unit Development). The Planning Commission held a public hearing on August 10, 2009 for the preliminary review. The Commissioners voted to grant Preliminary approval to the applicant at that meeting with a vote of 4 to 1. The Township Board voted on September 14, 2009 to give the applicant Preliminary approval as well. Staff has received the required information from the County Planning Commission; they were not in favor of this PUD development. The applicant has met all of the required conditions that were placed on him as part of the preliminary approval. Staff would still like to add some language to ensure that the Eastern lots cannot use Vista Hills Drive or the driveway off lot F, since they were removed from this PUD application.

Staff still feels that more open space should be required, and that Mr. Stables lot's should be included in the entire PUD. However, staff understands that the applicant's intent since 2002 was develop this land, and one can see that from looking at the plans that went along with the private road application.

Al Denton, Moved, Kendell Milton, Seconded, that following the review of Rezoning Request #144, the Staff/Review, holding a public hearing, and receiving preliminary approval from both the Planning Commission and the Township Board recommends Final approval with the following conditions.

1. The 3.42 acres of open space and the various easements and 15' buffers shall be recorded with the Marquette County Register of Deeds.
2. The eastern lots if ever developed shall not be allowed access to Vista Hills Trail, the applicant would have to go through the PUD process again to see if the lots would be allowed to use either Vista Hills Trail or the driveway to Lot F.
3. The applicant must obtain all local and county permits that are required before construction.

Ayes 4. Nays 2. Motion approved. (opposed Estelle DeVooght, Ken Tabor)

B. VEHICLE AND TRAILER PARKING AND STORAGE (JUNK CARS) ORDINANCE

Ms. Thum reported that staff feels the current vehicle/trailer parking and storage ordinance is too lax and leaves staff unable to enforce junk car ordinance violations. Staff have done several site inspections on known problem places and the current ordinance does not allow us to do anything about them. The current ordinance does not place regulations on RV's, which is becoming a problem in the Township. The Township is also having problems with people allowing their kids or friends to park either their commercial vehicle or a car for sale on their lot. The proposed ordinance would allow the Township to be able to clean up this problem. (See attached).

The Planning Commission members provided approval to continue work on the Vehicle and Trailer Parking and Storage (Junk Cars) Ordinance.

Ayes 6. Nays 0.

C. 2009/2010 ROAD RANKINGS

Ms. Thum reported the Township last completed road evaluations/rankings in October, 2007. The Township's road resurfacing project has been underway for two years. The Township was able to get all of the roads in Harvey resurfaced, and Jean, Juliet, Judy, and Veda in those two years. With the 2010 budget looking at the next road resurfacing project to start up next Spring, we need to prioritize our next road projects. For the first year of the road resurfacing project the Township worked with the road commission. The following year, the Township went out for bids and the bid was awarded to Superior Paving. They finished up a couple of weeks ago, and it appears that they came in under budget. The roads look great and we have had no complaints.

Attached is a spreadsheet detailing the roads that we identified through field inspection that should be prioritized for resurfacing. The roads that have recently been resurfaced are at the bottom and shaded in gray. Also, attached are out field notes regarding all roads that have some significant problems that need to be addressed. The Township staff have ranked the roads according to the Township's road ranking system. The Planning Commission should review these rankings to determine your recommendation (ranking) to the board.

Ken Tabor, Moved, Al Denton, Seconded to recommend to the Township Board approval of the Road Ranking List that staff and the Planning Commission have agreed to.

Ayes 6. Nays 0.

D. BEAVER GROVE RECREATION AREA ANALYSIS

Ms. Thum reported local parks not only serve a recreational purpose, but they also enhance the quality of life for the communities. Each month staff will give an overview of the Township properties and the Planning Commission is to decide if the property is being used to serve our residents. Local parks focus on recreational activities that are generally more intensive and often require highly developed infrastructure (e.g., ball fields, golf courses, and swimming pools), though many local parks also preserve important land and water resources. In reviewing the properties, please look at the neighboring residential development and see if that park fits their needs. The Township is almost all residential and the more places we can offer to them to enjoy locally the better.

Beaver Grove Recreation Area (BGRA):

LOCATION: West of US 41 and north of County Road 480 and is accessible from either road.

SIZE: This is a combination of two parcels making up a 29.1 recreation site.

ZONING: MP

SCHOOL: None.

OBSERVATION: Facilities at this site consist of a baseball field, basketball court, pavilion, tot-lot playground, horseshoe courts, picnic facilities, multi-use open space, hiking trails, parking and restrooms. The Township comprehensive plan states that there are access sites to Big Creek, with fishing opportunities. Staff is not sure if this is still there. This is done on 15.11 acres; the other 14 acres are leased for agricultural purposes.

IMPLEMENTATION

STRATEGIES: Staff has looked at developing a community garden on the 14 acres that we currently lease for agricultural. There are several community gardens in the Upper Peninsula, one is in Escanaba.

Commissioner Sikkema also mentioned that this might be a good spot for a community garden. A question pertaining to a community garden will be put on the upcoming survey that will be sent out to the residents of the Township of Chocoday.

Ayes 6. Nays 0. Motion approved.

IX. PUBLIC COMMENT

Wayne Dees, 512 Woodvale, inquired if staff received his comments from the last meeting.

X. COMMISSIONER'S COMMENT

Ken Tabor inquired about the new flashing sign at the Holiday Station on US 41. Jennifer Thum stated she asked the Zoning Administrator about it and was told the sign is legal.

XI. DIRECTOR'S REPORT

Jennifer Thum reported staff is looking at the budgeting for the proposed new manager position. Ms. Thum also stated that the State revenue sharing was decreased by approximately \$300,000 for the Township, which will have an impact on statutory funds and possibly employee positions.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Marquette Township Planning Commission Minutes, August and September, 2009
- B. Planning and Zoning New, September, 2009

XIII. ADJOURNMENT

Ken Tabor, Moved, Al Denton, Seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:33 p.m.

Albert Denton, Chairperson