

Laketon Township Planning Commission
January 11, 2023 Public Hearing & Regular Meeting Minutes – APPROVED 2/8/2023

CALL TO ORDER: Chairperson Bob Marine called the meeting to order at 6:00 pm

ROLL CALL:

- Present: Suzanne Hayes, Dave Mieras, Chris Simpson, Paul Hoppa, June Earhart, Eric Anderson and Bob Marine.
- Absent: None.
- Also present: Zoning Administrator Heidi Tice, Recording Secretary Veronica West, Twp. Attorney David Bossenbroek and approximately 9 (nine) local citizens.

APPROVAL OF AGENDA: June Earhart moved to approve the agenda as presented. Eric Anderson supported the motion and the motion carried by voice vote.

APPROVAL OF MINUTES: Suzanne Hayes pointed out a couple of typographical/spelling errors in the minutes and then moved to approve them with those corrections. June Earhart supported the motion. The motion carried by voice vote.

PUBLIC COMMENTS ON AGENDA ITEMS ONLY: **NONE**

PUBLIC HEARING:

Chairperson Bob Marine gave brief instructions as to how the public hearing procedures will go. Paul Hoppa moved to open the public hearing. Dave Mieras supported the motion. The public hearing opened after a voice vote of approval at 6:04 pm. Secretary Dave Mieras read the public hearing publication aloud.

- **Item#1 – Rezone 25 parcels now zoned as C-2 to a mixed-use districts C-2/R4.**
 - Suzanne Hayes moved to open the hearing for public comment on Item#1. June Earhart supported the motion. The motion carried and the hearing was opened for public comment. Zoning Administrator Heidi Tice gave a brief power point presentation on Item#1 – the rezone of the Witham Rd corridor, which encompasses 25 parcels. She explained the current zoning and the problem; which is having legal non-conforming residential uses in a commercial district that limits what can be done with the residential uses without costs to the residents. She also discussed a couple of potential solutions, first being a zoning agreement and the other, which is proposed today, a rezone to a mixed-use district that permits by right several commercial uses and residential uses as well as some special land uses through the special land use process. She explained the area currently has properties being used both ways and this rezone would allow more flexibility for the property owners without added expense. She also showed a graphic of the map of the parcels to be rezoned and a graphic of the current way they are used – 13 are used residentially as legal non-conforming uses which limits what can be done with them, 9 have commercial uses now and 3 are vacant/undeveloped parcels. ZA H. Tice also noted that the proposal would be for the R4 residential uses and regulations to be mixed with the C2 Service Commercial uses and regulations as the R4 district allows for duplexes and smaller lots with municipal sewer and water services, which are available here. It was also noted that buildings/structures would be covered under state codes for their respective type – Residential Code for residential and Commercial Code for commercial.
 - Steve Allen of 2081 Deer Wood in Twin Lake spoke as a member of the Don Rea Post VFW. He asked if the VFW would be able to split their parcel and sell off a portion for a residential home. ZA H. Tice stated that if the parcel has splits available and could split a parcel off that conforms to the required lot size and meet the required setbacks for a home structure, then yes.
 - Shawn Lindback of 902 Witham Dr asked if there could be a residential use and a commercial use in the same building. She also asked what drove the township to pursue a rezone. ZA H. Tice explained that under certain special land use requirements & approvals it could be possible to have commercial and residential uses in one building and gave a few examples. She also explained that one property requested a rezone to residential with was considered spot zoning and that request brought the issue into the spotlight. Eric Anderson further noted that over the years similar issue came up in this area where parcels were having difficulty being developed/redeveloped under commercial uses and it seems the right thing to do is to come up with a solution.
- **Item#2 – Section 3.32.C Pool Covers and Pool Barriers.**

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- Eric Anderson moved to open the hearing for public comment on Item#2. Chris Simpson supported the motion. The motion carried and the hearing was opened for public comment. Zoning Administrator Heidi Tice gave a brief presentation; she read the existing language contained in the ordinance that requires a pool barrier (ie. fence) around the perimeter of a yard that has a pool, even if the pool has a specific building code approved type of cover. She further explained that the State of Michigan Uniform Building Code (State Code) cannot be overridden by local ordinance. At the request of Paul Hoppa, Township Attorney David Bossenbroek elaborated, noting it would be violation of the law for the township to be stricter than the State Code. He and ZA Heidi Tice recommended changing the ordinance language in this section to simply refer to the building code when it comes to pool barriers and covers.
 - There was no comment from the public on this item.

June Earhart moved to close the public comment time of the public hearing. Chris Simpson supported the motion. The motion carried by voice vote at 6:25 pm and the PC began deliberations.

Bob Marine reiterated that the requirement would still be for a pool to have a barrier/fence and a cover. ZA Heidi Tice said no, the ordinance would refer to the Michigan Uniform Building Code and currently the code requires either a barrier/fence that meets the code requirements OR a specific code approved type of mechanical cover that meets the code requirements. She went on to give a detailed explanation of the code approved types of covers as she herself has a pool with one of these covers. Bob Marine also asked if the Township has adopted the state code. Township Attorney David Bossenbroek explained the township doesn't adopt the code, the state does – and then either the township will enforce the code of the state will enforce the code. He added that with the current language there is a conflict between the zoning ordinance and the building code and causes a problem for residents. He also stated that residents have the option to do more than that code requires, but the township cannot force them to do more than the code requires. Mr. Bossenbroek deferred to audience member Rod Siegel, a retired building official/building inspector for Laketon Township. Mr. Siegel agreed with Mr. Bossenbroek that the township cannot legally require more than what the building code requires. Paul Hoppa questioned not being able to make pools safer. Mr. Bossenbroek replied again that the law does not permit the township to be in conflict with what the code requires and he gave an example: homes would be safer with sprinkling systems but the code doesn't require them and neither does the township, nor can the township require them. He also added he understands the safety concerns, but governments cannot cover every possible disaster scenario. Suzanne Hayes asked if they can just let the ordinance stand as it is? Mr. Bossenbroek stated something must be done as there is currently conflict between the zoning ordinance and the building code and they must be consistent. Chris Simpson stated residents can choose one or the other, or they can choose to do both. Mr. Bossenbroek replied residents can choose to go above and beyond the state code, the code sets minimum requirements, but the township cannot require more than the state code minimum requirements.

Item #1 – Proposed Mixed Use District C2 Service Commercial/R4 Residential: Eric Anderson moved to recommend the Laketon Township Board of Trustees adopt this proposed mixed-use district of C2/R4 for the 25 parcels listed. June Earhart supported the motion. A roll call vote was taken. Voting Yes on the motion: June Earhart, Eric Anderson, Suzanne Hayes, Chris Simpson, Dave Mieras, Paul Hoppa and Bob Marine. There were not votes in opposition of the motion. The motion carried.

Item #2 – Section 3.32.C Pool Covers and Pool Barriers: June Earhart moved to recommend the Laketon Township Board of Trustees adopt the following proposed language in place of the current Section 3.32.C language. "For requirements for ASTM1346 compliant pool covers and pool barriers, refer to the Michigan Uniform Building Code." Suzanne Hayes expressed concern with specifying a type of pool cover and respectfully moved to amend the motion, stated she moved to recommend the Laketon Township Board of Trustees to following language to replace the current Section 3.32.C. "Pool covers and pool barriers are covered by the Michigan Uniform Building Code." There was not support for the motions made. The motion died.

CORRESPONDENCE:

- **Various Handouts:** ZA Heidi Tice provided several handouts for the PC to read/review.
 - Master Plans for review and comment from neighboring communities: Oceana County and the City of North Muskegon.
 - Laketon Township 2023 list of observed holidays and dates offices will be closed.
 - ZA H. Tice also reminded them she has issued a couple of municipal civil infractions recently and they are still waiting for formal hearing dates from the court.
- **Welcome New PC Member Chris Simpson:** Chair Bob Marine welcomed new member Chris Simpson and asked him to give a little background on himself. Chris Simpson noted he is originally from the

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Holland Michigan area, but has lived in the Muskegon area since 2000 and in his current residence here in Laketon Township since 2016. He said he is a retired DNR Conservation Officer, owns a small home occupation business and is also a real estate agent. He stated Twp. Supervisor Kim Arter asked him if he would be interested in service on the PC and he happily accepted.

NEW BUSINESS:

- **Solar Energy Ordinance** – ZA Heidi Tice explained that solar energy technology is rapidly moving forward, there are a few residential applications already installed in Laketon Township. She added that experts in the field are recommending that Townships get local ordinance requirements in place before the technology and installations really explode and there is a “free for all”. She talked about things to think about when considering where solar panels should be located and how they should be regulated with regard to: sizes of property, setbacks from property lines, screening from view, manufacturer specifications for installation, roof mounted versus ground installations, abandonment requirements etc. She provided examples from some other area municipalities that have already adopted ordinances as well as an informational article from the MSU Extension related to solar energy systems. There was some discussion, noting the township already has an ordinance for wind energy/turbines, what municipalities closest to Laketon Twp have ordinances in place and discussion of tax implications and large utility installations of solar farms as well as small residential installations and a Consumers Energy lawsuit currently in progress over solar energy and personal property tax issues. Suzanne Hayes commented on the natural beauty of Laketon Township and being concerned about large utility style solar farms creating an eyesore. It was noted that Muskegon State Park has a ground installation at their building across from the Snug Harbor boat launch area. ZA H. Tice commented that there are only a few really large parcels where that could occur, but regulations could be written in such a way that minimum land area requirements would effectively prohibit them and also noting there are lots of options, but it is important to get rules/regulations in place before they come in, so she asked everyone to prepare for more discussion next month.

UNFINISHED BUSINESS:

- Capital Improvement Plan Update: ZA H. Tice provided a copy of the current CAP and reminded them of the joint work session with the Twp Board scheduled for January 19, 2023 at 5:00 pm that will last for 1 hour.

PUBLIC COMMENTS:

- Jason Jespersen of 1195 Witham Dr. asked about the potential for things like a six-unit retail building with 6 condo units above them under this new zoning district. ZA H. Tice explained that there are a variety of ways to potentially get such a development accomplished, through the site plan review process or a PUD process. Mr. Jespersen also asked how this new zoning district would affect sewer assessments/rates as there was a parcel that was being looked at for a development several years ago, but the sewer assessments made it cost prohibitive. It was explained assessments are based on a residential equivalent unit (REU), with a home being 1 unit and other uses being assigned an appropriate REU number based on the type of use and there is a schedule in place for a long list of other types of uses.

BOARD REPORTS:

- **Board of Trustees: Eric Anderson** - No report.
- **Zoning Board of Appeals – Suzanne Hayes** - No activity to report.

ADJOURNMENT:

- Eric Anderson moved to adjourn. Dave Mieras supported the motion. The motion carried and the adjournment occurred at 6:45 pm.

Respectfully Submitted:

Veronica West
Recording Secretary