

Laketon Township Planning Commission
August 11, 2021 Regular Meeting Minutes – Approved 10/13/2021

CALL TO ORDER: Vice-Chairperson Paul called the meeting to order at 6:00 pm

PLEDGE OF ALLEGIANCE:

ROLL CALL:

- Present: Paul Hoppa, Dave Mieras, Suzanne Lockwood-Hayes, Eric Anderson and DJ Hilson
- Absent: Bob Marine and June Earhart, both with notice.
- Also present: Zoning Administrator Theresa Naruszkiewicz-Maner, Recording Secretary Veronica West, Twp Admin Asst. Tammy Stephenson, Applicant Kelly Toebe and 6 other citizens.

APPROVAL OF AGENDA: DJ Hilson move to approve the agenda as presented. Eric Anderson supported the motion and the motion carried by voice vote.

APPROVAL OF MINUTES: DJ Hilson moved to approve the minutes of 07/14/2021 as presented. Eric Anderson supported the motion. The motion carried by voice vote.

PUBLIC HEARING AT 6:10 PM for SLU Application for Kelly Toebe at 1128 S Robinhood Dr

- **Approval of Public Hearing Agenda:** Dave Mieras move to approve the agenda for the public hearing as presented. DJ Hilson supported the motion. The motion carried by voice vote. Vice Chairperson explained to the audience the order of business for the hearing: Introduction and summary by the Zoning Administrator, presentation of the request by the applicant, hearing public comment on the application, deliberation by the Planning Commission and then a decision made by the Planning Commission. After which, the remainder of the regular meeting will resume.
- **Introduction of the Application:**
 - Zoning Administrator Theresa Naruszkiewicz-Maner summarized the special land use request being made by Mrs. Toebe for a Group Daycare facility in her home where she will be allowed to care for up to 12 unrelated children. ZA Naruszkiewicz-Maner established that the application is complete with the only step remaining in the process is for this public hearing to occur and the Planning Commission to make a decision on the application. The ZA further reminded the PC to review the 8 requirements set by the ordinance with Mrs. Toebe and to consider the following conditions as well as the 8 ordinance requirements: Require a 6 foot privacy fence around the rear yard, require shrubs or dense vegetation to reduce noise, require that if the State Group Childcare license is ever revoked or terminated in any way that the special land use approval becomes null and void, if there are violations of the State licensing regulations that the licensee shall make corrective action within 30 days or the special land use permit shall be revoked and if Mrs. Toebe ever moves out of this home that the special land use permit shall become null and void so the special land use will not remain in place for future owners of the property.
 - Applicant Kelly Toebe of 1128 S Robinhood Dr stated her request is to go from being a licensed family childcare provider to being licensed for a group daycare. She talked about her history with regard to trying to obtain this approval from the township, including applying for a variance from the 1500-foot separation distance from another group daycare, which was not successful and the variance request denied by the township. She added that she has been licensed for family daycare for 9 years and feels child care is crucial for working families. She stated she is accepting of installing a 6-foot-tall privacy fence and will install shrubbery if required to do so. She talked about the times children are outside in the yard being about half an hour around 11:00 am and about an hour in the afternoon after nap-time. She talked about summer being louder as she has more older children, but once school starts, she has only ages 4 years and under. She noted her hours of operation are from 7:00 am to 5:00 pm with most kids getting picked up by 4:00 pm and the rest between 5 and 5:15 pm. PC Member S. Hayes asked if the outdoor area meets the minimum square footage required per child to which Mrs. Toebe noted the state licensing inspector approved both the indoor and outdoor space as meeting the size requirements. PC Member E. Anderson asked for historical timeline/clarification, was she a group or family daycare at her former home in the Township on Glenwood Ave? Was she over her licensed capacity in 2019? Mrs. Toebe stated she was a licensed family daycare at her former address and yes, she was she was over-capacity because her client families were growing and the State gave her some time to pursue the group license and approval from the township,

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which was not successful at that time due to the existence of another group daycare less than 1500 feet away. She was over capacity for awhile longer as she gave her client families time to find other arrangements for child care. PC Member E. Anderson commented on understanding the need for child care but the capacity was knowingly exceeded and asked if Mrs. Toebe will stay within her licensed capacity. Mrs. Toebe responded that she would. PC Member DJ Hilson asked about the neighborhood as it appears to be an active family neighborhood with families and children, which creates noise naturally. Mrs. Toebe noted that there are a few retired couples near her, but most are families with kids.

- **Public Comment:**

- **ZA Naruszkiewicz-Maner noted no written or verbal correspondence was received at the Township Hall.**
- **Mal He Lillmars of 1125 N Robinhood Dr:** Mrs. Lillmars stated her backyard meets up with this backyard. She talked about the lack of fencing initially at this daycare home and it resulted in rocks in their yard which, when mowing the lawn, becomes dangerous. She would like more safety fencing. She expressed concern over the number of children cared for there and asked the PC to make sure the rules are followed as she sees more than 12 kids there often but has been told Mrs. Toebe's children and relative children don't count.
 - **Vice-Chairperson Hoppa allowed Mrs. Toebe rebuttal.** Mrs. Toebe noted there has always been this small fence and also explained the state ratios of children to caregivers, noting that her children, children related to her, children of her assistant do not count in the ratio numbers per the State so long as they are over 6 years old. She also talked about the occasional toy, ball or rocks going into neighboring yards but works hard with the children to prevent that as much as possible.

Public comment ended at 6:43 pm.

- **PC Deliberation:** Discussion started with privacy fencing with Eric Anderson and Suzanne Lockwood-Hayes agreeing it would be a good idea to require this as a condition to keep the peace in the neighborhood as there are 3 neighboring back yards adjacent to this backyard. Paul Hoppa asked for comments on requiring shrubbery with DJ Hilson, Eric Anderson and Suzanne Lockwood-Hayes all in agreement that shrubbery would be an unnecessary expense to add on. Additional discussion of the fencing was to ensure the fence completely encloses the back yard on all sides, including the small portion from the house out to the side to meet up with the side fence line. There was some discussion regarding the one side already having a fence that belongs to the neighbor and Paul Hoppa commented it would be inconsistent to require fence on all sides except this one because the neighbor could take their fence down – so all sides should be required to be fenced to enclose the rear yard. Eric Anderson discussed the violations of the state licensing for number of children in care and was in favor of a condition that would revoke the special land use permit should the state revoke the license or the state license expires, or is discontinued for any reason. DJ Hilson went down the list of the seven (7) specific requirements spelled out in the zoning ordinance for a group childcare special land use, each paraphrased below and noted they have all been addressed and met:

- ✓ Required to have and maintain state group child care license.
- ✓ Day care activities ONLY permitted to occur within the main dwelling unit.
- ✓ Day care uses shall not generate noise, odor, vibration, or electrical interference beyond that of normal residential uses.
- ✓ Day care SHALL not operate for more than sixteen (16) hours in any 24-hour period.
- ✓ Minimum amount of square footage (66 sq ft) of usable outdoor space per child/client, exclusive of required front yards, side yards, driveways & parking areas. The area SHALL be fenced for safety and screened from any adjoining residential land by suitable plant material.
- ✓ Day care uses SHALL not involve alteration or construction not customarily found in a dwelling. A minimum of 35 square feet of indoor space per child/client, not including bathrooms, kitchens, storage areas etc.
- ✓ Group day care SHALL not be located closer than 1500 feet to any of the ordinance listed uses – including another group day care.

DJ Hilson move to approve the special land use permit application of Kelly Toebe at 1128 S Robinhood Dr, with the following conditions:

1. A 6-foot-tall solid privacy fence be installed on all sides of the back yard to completely enclose the back yard.
2. The special land use permit shall become null and void if any of the following occurs:
 - a. State of Michigan Group Child Care License is revoked, expires or is discontinued for any reason for more than 30 days.
 - b. Kelly Toebe moves out of or no longer resides at 1128 S Robinhood Dr.

Suzanne Lockwood-Hayes supported the motion.

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A roll call vote was taken.

Voting in favor of the motion: Dave Mieras, Eric Anderson, Suzanne Lockwood-Hayes, DJ Hilson and Paul Hoppa.

Voting in opposition of the motion: None.

Motion Carried. Special Land Use Permit application approved, with conditions.

There was further discussion regarding a time frame to require the conditions be met, in particular the fence being constructed. Members talked about anywhere from six months to a year. Zoning Administrator Theresa Naruszkiewicz-Maner noted the ordinance allows 1 year for the use to be substantially under construction and members were ok with a 1-year time frame due to the difficulty with building a fence in the winter months which are coming up soon.

PUBLIC COMMENTS on AGENDA ITEMS ONLY: NONE

CORRESPONDENCE

- Planning & Zoning News: ZA Theresa Naruszkiewicz-Maner distributed the July and August 2021 Issues - For informational purposes only – no discussion.
- Permits: Per ZA Theresa Naruszkiewicz-Maner, it's been quite busy for permits and she will report next month on permit numbers.

UNFINISHED BUSINESS:

- **Rich Young – 989 Witham Dr:** Zoning Administrator Theresa Naruszkiewicz-Maner noted the information requested was shared with Chairperson Bob Marine but he was unable to attend this meeting. The members discussed the situation but agreed they all need more information on this project and requested the PC meeting minutes and any reports from the Muskegon County Drain Commission be provided to all the members and then they will be able to address the situation appropriately.
- **Ed Kendall – Ordinance regarding Accessory Vehicle Storage:** Review of Mr. Kendall's frustrations, noting he doesn't like seeing the RV on the side of his neighbor's house. Suzanne Lockwood-Hayes noted she drove through the area and saw quite a few motorhomes, boats, trailers etc. Eric Anderson commented that these are active neighborhoods and many people have recreational vehicles. He added that at the last meeting it was mentioned that perhaps there could be a gasoline issue and he does not agree since all cars and trucks have gasoline, so RVs are no different. He added that, in his opinion, this is a neighbor issue more than an ordinance issue and there is no way to have ordinances that satisfy everyone. No further discussion, no action taken.
- **Master Plan (Review):** All members were provided with the final draft of the updated Master Plan, discussed one final correction to the cover page for the update year, the updated pictures and document formatting as well as corrected grammar/punctuation and data updates as available. Comments noting it is a quality document. DJ Hilson moved to schedule the required public hearing on this final draft Master Plan as presented and discussed. Eric Anderson supported the motion. The motion carried by voice vote. There was some additional discussion of the requirements to make the draft available to the public and to neighboring communities for their comments prior to the public hearing. Discussed scheduling the public hearing for the October meeting on 10/13/2021 at 6:10 after the public comment period has taken place.

NEW BUSINESS: NONE

PUBLIC COMMENTS:

- **Rich Young RE: 989 Witham Dr –** Mr. Young expressed frustration that the information has not been provided to the planning commission yet. He also expressed frustration that he has a hardship situation and the township has the authority to allow his development. DJ Hilson stated he is not comfortable discussing this without the information in front of him and the township can't speak to what Commissioner Brenda Moore did or did not do. Eric Anderson commented that he recalls the project and the PC granting a conditional approval, and the conditions included approval from the Muskegon County Drain Commission and that condition was not met and at this point Mr. Young would have to start the process over and re-apply. Mr. Anderson also commented that the PC must follow the ordinance and they can't just grant give Mr. Young a hardship exemption that at this point is unknown to even exist. Mr. Anderson

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additionally noted that if there is a procedure for hardship exemptions, where it's written in law or ordinance, needs to be brought to the PC. ZA Naruszkiewicz-Maner commented the ordinance gives a timeline of 1 year on these developments to be substantially under construction and applicants have the option to apply for a one-year extension, no application for extension was received from Mr. Young. Mr. Young stated he did apply for an extension and the township denied it. Paul Hoppa commented the PC needs to have all the information on this project, along with any information that may exist on hardship cases and then discuss this situation at the next meeting.

BOARD REPORTS:

- Board of Trustees: Eric Anderson noted there is nothing to report from the Board that pertains to the Planning Commission.
- ZBA: Suzanne Lockwood-Hayes stated there has been no ZBA activity to report on.

ADJOURNMENT:

- Dave Mieras moved to adjourn the meeting. Eric Anderson supported the motion. The motion carried and the meeting adjourned at 7:36 pm.

Respectfully Submitted:

Veronica West
Recording Secretary