

CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
Monday, October 14, 2019 - 6:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

A. Call to Order/Pledge of Allegiance

The meeting was called to order at 6:00 p.m. by Chair Chamberlain.

B. Roll Call

Chair: Sherm Chamberlain
Members Present: Ben Edwards, Toni Felter, Brian Gelb, David Gray, Dennis Halverson, Jennifer Muladore, Phillip Parr, RJ Waddell
Members Absent: None
Staff Present: Kathy Egan, Community Planner; Jonathan Scheel, Zoning Administrator

C. Inquiry into Potential Conflicts of Interest

Chair Chamberlain stated that the company he works for was contacted by Midtown Builders for work on their project so he will recuse himself from Item G.3. He disclosed that his company was also contacted by the O'Brian family who live just south of the Jess proposal (Item G.2.) who wanted to know where the boundary lines were, but he felt there was no conflict.

D. Approval of Agenda

Motion by Member Felter, second by Member Muladore to approve the Agenda as presented. Motion passed by unanimous voice vote.

E. Approval of the Minutes

1. September 9, 2019 Meeting Minutes

Motion by Member Waddell, second by Member Gray to approve the minutes of September 9, 2019 as presented. Motion passed by unanimous voice vote.

F. Call for Public Comment Not Related to Agenda Items

G. New Business

1. Public Hearing Special Land Use Permit: John and Linda Eaton, 206 W. Carpenter Street – Bed and Breakfast

Zoning Administrator Scheel explained that this is a request for a Bed and Breakfast which is an allowed use with a Special Use permit. This property is in the R-1 District and is located at 206 W. Carpenter Street. The lot is approximately 10,700 sq.ft. A 1,200 sq.ft. dwelling and a 780 sq.ft. accessory building (garage) exist on the lot. The surrounding properties were zoned as R-1 as single family homes with one adjacent empty lot. Zoning Administrative Scheel stated that the project was subject to a Level B site plan review. He further detailed the specifics contained in the staff report and review standards. Member Waddell questioned if there were any bed and breakfasts or other uses in the area of this home and Zoning Administrator Scheel stated that there were none. He stated that the current owner owned three adjoining lots.

Mr. John Eaton, applicant, stated that he and his wife wished to purchase 206 Carpenter Street and operate it as a Bed and Breakfast with four rooms for rent.

The public hearing was opened.

Don Seeley, 1217 State Street, was concerned that this would be an attempt to circumvent the temporary ban on short-term rentals. He stated that operating a 3-4 bedroom rental would be like putting a hotel in the neighborhood. He noted the minimal lot size and he questioned that if it was a four-bedroom house where would the owners stay. Chair Chamberlain stated that the owners would have to live within the home. Mr. Eaton stated that there was also a finished basement with a bathroom.

The public hearing was closed.

Zoning Administrator Scheel reviewed information regarding traffic patterns, accessory buildings, and structures previously on the subject lots. Discussion followed regarding the five parking spaces, light spillage to the neighboring properties, and turning radius for accessing the parking area. Mr. Eaton agreed that he would install landscaping or fencing if the parking area became a problem for the neighboring lots.

Under item (6) of the Staff Report, the last section which started "the commercial and office uses..." was an error in the report and would be deleted. After Commission discussion, Zoning Administrator Scheel noted three additional potential conditions

including: that the fifth parking space be paved or graveled instead of grass; potential screening from the adjacent lot; and potentially keep the cement up to the property line next to the garage.

Motion by Member Felter, second by Member Waddell to approve Project 2019-01 SU based on specific findings of fact that the application does meet the review criteria in Chapter 153.253 with conditions as contained in the staff report, and two additional conditions including: 1) graveling or paving the 5th parking space to match the other four spots, and 2) screening parking from the adjacent lot. Motion passed by unanimous voice vote.

2. Public Hearing Rezoning Request: Robert J. Jess, 904 May Street – Conditional Rezoning

Zoning Administrator Scheel explained that this is a request for a Conditional Rezone of a large R-1 Single Family lot located at 904 May Street to R-4, Multi-Family High Density. The lot is approximately 10,700 sq.ft. A 2,100 sq.ft. building and a 780 sq.ft. accessory building (pole barn) exist on the lot. The adjoining properties to the north are a public school, multiple blocks to the southwest that are zoned R-4 High Density, and directly across the street is also R-1 zoning. The existing building is dilapidated and has been empty for some time. The buyers plan to refurbish the existing structure it into 3-4 apartments ranging from micro units of 300 sq.ft. up to potentially larger units of 1,200 sq.ft. The existing pole barn will have storage space available to renters of the apartments only. The exterior would be re-sided, and landscaping would be added.

Chair Chamberlain stated that conditional rezones have to be very use specific and the conditions that are set forth will run with the property. He understood that the physical structure will remain the same and the storage building in the back will remain the same, but all other conditions of the R-4 zoning district will remain in effect. He stated that there was a bit of confusion because the rezone request on page 32 states that "it is proposed that the property will be put into the following uses: rental/office, residential and office" but then when you read page 29 it conflicts with that language. He stated that by going to R-4, there is a minimum standard of 660 sq.ft. for an apartment, and to request a 300 sq.ft. micro unit the applicants would have to go before the Zoning Board of Appeals.

Mr. Robert Jess, applicant, stated he was not aware of the 660 sq.ft. requirement for apartments so that may wipe out the micro units and maybe it would just be 2 or 3 apartments. He stated his intention was to leave the roof line as is, and fix the siding with either cedar shake or vinyl siding. Chair Chamberlain questioned if the applicant would be willing to tear out the basketball court if it did not meet zoning standards and Mr. Jess stated that he would if it was required. Chair Chamberlain questioned if he was withdrawing the request for 300 sq.ft. units and complying with the R-4 zoning standards and Mr. Jess agreed.

Zoning Administrator Scheel clarified that the request was for conditional rezoning approval and the project would come back before them for site plan approval. The applicant will be required to comply with R-4 zoning standards.

The public hearing was opened.

Don Bryant stated that he lived just to the south of the subject property and he was not enthused about having apartments next door to his home. He felt with creative design the property could be converted into a very nice single-family home.

The public hearing was closed.

Member Waddell stated that he understood Mr. Bryant's position and he appreciated the effort to make some affordable housing units, but it is an R-1 neighborhood and was concerned about spot zoning. Member Halverson stated that it would be hard not to classify the current building as an eyesore and it currently adversely affects property owners. Discussion followed regarding the existing building condition, possible spot zoning, conditional rezoning issues, workforce housing, and the need for affordable housing units. Mr. Jess agreed to remove the office use from the application.

Motion by Member Halverson, second by Member Edwards to recommend Project 2019-01 RZ for approval based on specific findings of fact that the application does meet the review criteria in Sections 5.25 and 5.133, and accepting the R-4 zoning with the following provisions: building and accessory unit remaining the same volume, maximum of 3-4 apartments, and all parking, landscaping and setback lines in the R-4 zoning district would be complied with. Motion passed by unanimous roll call vote.

Zoning Administrator Scheel stated that the Planning Commission was recommending approval of the rezoning request with the final decision to come before the City Council on November 4, 2019.

3. Site Plan Review Midtown Development, Inc., 115 Pine River Lane – Residential Development

Chair Chamberlain left the dais. Zoning Administrator Scheel stated that the applicant was requesting site plan approval for a 14-unit site condominium which requires a Level B Site Plan Review. The applicant is proposing building seven two-unit

2,200 sq.ft. duplexes. The property was zoned R-4 High Density Residential. The adjacent land uses included a bed and breakfast to the north, single-family residences to the east and west, the Weathervane Hotel, a site condominium, and the Pine River Channel to the south. The application meets the submittal requirements. He noted that there were numerous letters from neighbors included in the agenda packet.

Tim Burton, Midtown Development President, stated that he came before this body about five years ago for a high-end development but did not have enough commitments to go forward with that project. He stated that they were presenting a more modest proposal which would be marketed as single-family homes. Zoning Administrator Scheel stated that they preferred the 12-unit site condominium (20' wide single-family homes with one duplex).

The public hearing was opened.

Kristen Jones, 113 Pine River Lane, stated that this proposal takes up two sides of her property. She asked the Commission to examine the density appropriate for the residential neighborhood (west side of Pine River Lane). She questioned if the proposal was for residences or sort of commercial hospitality hiding under the designation of R-4 zoning and she felt that those were questions that the Commission was charged to consider. She expressed concerns about traffic, safety and parking spaces. She asked the Commission to delay its decision until things were sorted out.

Linda Weston, 110 Burns Street, who owns a condo in the Weathervane Terrace, stated she had nothing against putting what it is zoned for on the subject property, but the infrastructure leading to the property and the whole street is in need of repair.

Harry Golski, Attorney for the Lake House Association, stated that the Lake House was uniquely impacted because it shares a long boundary with this proposed development. He stated the landscaping and buffering between the Lake House property and the project is minimal at best. He noted that the situation was made worse by safety concerns "caused by the movement of the hill". He referenced the photographs attached to his submittal today that show the hill is a Lake Michigan dune. He stated that this was going to create an enormous amount of storm water runoff because there would be no natural terracing. He advised the Commission to pay close attention to the permeable surface area of this project. Mr. Golski stated that the Lake House community is not adverse to development, but a cramped development using every square inch of property and making no provision for storm water runoff or for protection of the slope was not favorable. The Association felt the Commission should ask the developer for an independent storm water runoff, safety evaluation and slope stabilization study by an engineering firm selected by the Planning Commission.

Larry White, Charlevoix Country Inn owner, felt that the whole project had very little greenspace. He stated that he was very concerned with the back end of the development because there was approximately 4' between the back of his property line and paved turn around space for the project. He stated he would like at least 3-4' of landscaping.

Beverly Eby, 125 Pine River Lane, was concerned about lack of greenspace, extra traffic in the neighborhood, the road erosion on the channel side and trees along there that are covered with grapevines.

The public hearing was closed.

Member Waddell commented that the Commission needed to vote to extend the meeting beyond 8:00 p.m. Motion by Member Halverson, second by Member Gray to continue the meeting beyond 8:00 p.m. Motion passed by unanimous voice vote.

Member Halverson questioned if the plan meets the zoning designation and will there be any Zoning Board of Appeals' requests or deviations from what is written. Zoning Administrator Scheel stated there are 3-4 red-lined areas in his report where they could decide if it did or did not meet the standard.

Zoning Administrator Scheel stated that all the parking areas are permeable pavers. He noted that the Public Works and Electric Department directors voiced no concerns on the ability to deliver utilities to the project. Discussion followed regarding no outdoor space, no place-making aspect to this project, lack of landscape buffer, turning radius for emergency vehicles, and concerns regarding lack of adequate information with the submitted application. There was discussion back and forth with the developer regarding various aspects of the plan.

Member Waddell proceeded to review the standards. Discussion ensued on the following sections:

- 153.072 (2)(b), Parking - *The plan shows parking for each unit between buildings. Planning Commission to decide if parking setback standard applies to single family detached homes.* The proposed parking is set back 10' from property lines instead of the required 20'. After discussion, the Commission agreed that the project met this standard.
- 153.187(h) requires 1.5 parking spaces per dwelling unit thus this development needed 21 parking spaces; the

proposal for the development included 26 parking spaces. Minimum parking space requirements shall not be exceeded unless approved by the Planning Commission. After discussion, Member Waddell stated that he felt that the Commission would approve the additional parking spaces.

- 153.189(a)(1), the plan does not show any snow capacity or language showing how snow will be dealt with. Verbally the Zoning Administrator was told a snow blower will be used instead of plowing and excess snow will be removed from the property. The Commission agreed that the snow blowing option met the criteria.
- 153.189(E), dimensions for parking spaces. The proposed development shows one type of parking space: 90 degree parking which requires 9' width, 18' length, and a maneuvering width of 24'. The proposal shows 9' width, 18' length, and a maneuvering width of 20' which did not meet the 24' requirement. The developer advised that driving on the sidewalk could be used for vehicles to maneuver onto the driveway. The Planning Commission found that the proposed development does meet this requirement.
- 153.171 (H), Landscaping, Off-street parking areas. Verbally the Zoning Administrator was told that 15 bushes and two trees will be added to the rear of the buffer area. A retaining wall and a fence were also included on the plans. After discussion and review of the plans, the Planning Commission found that the proposed development does meet this requirement, and they would address the property to the east as part of the motion.
- Storm water – the proposed plan shows two rain garden holding areas for all storm water. Staff recommendation was that the Commission should require an engineered stamped storm water plan. Mr. Burton stated that they would be required to retain all storm water on site, and submit engineered storm water plans to the County as well.
- Landscaping – (7), Trees and shrubs shall not be placed closer than four feet to a fence, wall or property line. Discussion followed. Planner Egan advised that it was not the Commission's job to redesign a site plan; they need to rule on what is presented to them. She stated that the current rendering of the site plan does not meet the standards of the Ordinance.
- (5) Except for access drives or private streets determined by the Planning Commission to be necessary to provide safe access to a property, a building, structure or parking lot shall not encroach within a required buffer area. The back drive does encroach into the buffer area, therefore the proposed development does not meet this requirement.

Member Waddell summarized that the Commission has a problem with the back road meeting the standards for a buffer, they have requested an engineered storm water plan, and they have asked for natural screening between the development and Ms. Jones' property to the east.

Zoning Administrator Scheel stated that the Planner suggested that they table the item until the next meeting to allow the applicant time to address the standards that were not met. Planner Egan stated that they would be tabling the item for more information needed to make a decision.

Motion by Member Felter, second by Member Edwards to table Project-2-SP until the next Planning Commission meeting. Motion passed by unanimous roll call vote with Chair Chamberlain abstaining.

H. Old Business

Chair Chamberlain returned to the dais. Member Waddell recalled that they were going to include a discussion regarding rooftops on a future agenda. He asked for a report for the next meeting on the four Zoning Board of Appeals cases that were scheduled earlier this month.

I. Staff Updates

Chair Chamberlain stated that he and Members Felter and Muladore went to a class in Petoskey where he learned that any of their personal documents can be subpoenaed for review on any zoning issue. Planner Egan advised that the Novus Agenda System should include all of their notes.

Member Halverson commented that tonight was the second time that the Fire Chief failed to provide written documentation which substantiates his review of the development site plans that come before them.

J. Request for Next Month's Agenda or Research Items

K. Adjournment by 8:00 PM Unless Extended by Motion

Motion by Member Halverson, second by Member Muladore to adjourn the meeting. Motion passed by unanimous voice vote. Meeting adjourned at 9:27 p.m.