

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, FEBRUARY 28, 2023, AT THE LEELANAU COUNTY GOVERNMENT CENTER.

Proceedings of the meeting were recorded and are not the official record of the meeting. The formally approved written copy of the minutes will be the official record of the meeting.

CALL TO ORDER Meeting was called to order at 5:30 p.m. by Chairman Yoder who led the Pledge of Allegiance. The Meeting was held at the Leelanau County Government Center, 8527 E. Government Center Dr., Suttons Bay, MI.

Yoder welcomed new member Brian Fenlon.

ROLL CALL

Members Present: S. Yoder, R. Miller, T. Nixon, A. Trumbull, T. MacDonald, B. Fenlon

Members Absent: C. Noonan, R. Brush, M. Black, M. Lautner
(prior notice)

Staff Present: G. Myer, Senior Planner

Public Present: J. Damm

CONSIDERATION OF AGENDA

Yoder stated he would like to add “change the date” to Item No. 3 under “New Business.”

Motion by Miller, seconded Trumbull, to accept the agenda as amended. Motion carried 6-0.

CONFLICT OF INTEREST – None.

PUBLIC COMMENT – None.

STAFF COMMENTS

Myer said staff is currently working on the Annual Report and will have it ready for the next meeting.

CONSIDERATION OF JANUARY 23, 2023 MEETING MINUTES

Motion by Nixon, seconded by MacDonald, to accept the minutes as presented. Motion carried 6-0.

NEW BUSINESS

PC02-2023-03 Cleveland Twp. – Text Amend

Myer reviewed the staff report, saying this request was received on February 3 and the last day of review under the Michigan Zoning Enabling Act 30-day review period in March 5. The Cleveland Township Master Plan does not specifically address this amendment, and neither does the Leelanau General Plan. Myer moved on to Section 5: Staff Comments and said the proposed amendment will

replace the current Section 5.08 Setback Restrictions with the following language:

No building or structure shall be built closer than forty feet to the nearest right-of-way line of any public street or thoroughfare, no closer than ten feet for side yards, no closer than ten feet for rear yards, and no closer than seventy-five feet to the water's edge. Where compliance with either of these restrictions creates a practical difficulty, application for possible relief may be made to the Zoning Board of Appeals.

Myer continued, saying the current Section 5.02 Residential I-Use Permitted: (b) language will be replaced with the following:

One guest house located on the same building lot area as the main house, and not attached to same, nor occupied for periods of less than thirty consecutive days at a time as a rental in any calendar year.

The proposed amendment will also amend Section 9.11 Agricultural Tourism to read as follows:

vi: Maximum of four camp sites or rooms. Maximum occupancy of two adults per room or site, excluding dependent children.

Myer continued, saying the proposed amendment will add the following to Section 9.11, 3:

b) xiii : In collaboration with the township affiliated fire department, a site appropriate fire suppression system (plan) is developed and implemented.

And amend the definition of "Dwelling" to read as follows:

Any building or part thereof, occupied as the home, residence, or sleeping place of one or more persons either permanently or transiently, except automobile trailers or mobile homes.

In conclusion, Myer said staff commends the township for allowing use of a 2nd housing unit on a property for at least 30 days at a time. This would be consistent with an 'accessory dwelling unit' which is something the Housing Action Committee and Housing North have been promoting, as a means to provide additional housing units.

Yoder informed members they will now be recommending approval or denial in their motions, which is something that was included in the past, but had they had gotten away from.

Miller questioned the proposed amendment to Section 5.08 Setback Restrictions and said if you have a development with gridded streets, are you saying 40 feet to both the front and side street? Or would it be considered the side lot because it's not clear? Miller commented on changing the wording to "practical difficulty" and said that must be something new. Also, with regard to the proposed amendment to Section 5.02 Residential I, Use Permitted, what if it was rented out to someone for 30 days, and the renter leaves for a couple days or a week, are they in violation? This language needs to be modified to reflect that it is "rented" or "contracted" for 30 days not "occupied." In conclusion, Miller questioned how this would be enforced.

Fenlon suggested including a definition of what the township considers occupancy.

Nixon questioned what motivated the township to change this language to “practical difficulty”, and said there might need to be a definition of what “practical difficulty” means. Also, with regard to the proposed amendment to Section 5.02 Residential I, Use Permitted, the sentence in not constructed properly and he suggest the following: “One guest house located on the same building lot area as the main house and not attached to the same, nor occupied as a rental in any calendar year for periods of less than 30 consecutive days at a time.” This says the same thing, but the grammatical order is a little better. Nixon continued, saying there are more communities concerned about guesthouses being available. Did the township give any consideration to requiring that the owner lives on the property? Recently the Village of Suttons Bay has been concerned with the expansion of their short-term rentals and that they see this possibility as opening up more short-term rentals.

MacDonald said he has similar concerns with the 30-day rental language. It says as long as it’s rented for 30 days, but it doesn’t say “by a single person.” It could be rented by four different people for one week each and it would be “rented” for at least 30 days. MacDonald pointed out that the township explained why they were changing the wording from “hardship” to “practical difficulty.” Miller commented that “hardship” has been the norm for years.

Fenlon suggested a change to the setback restriction language because it needs more clarity.

Yoder said he thought “practical difficulty” was odd, it’s always been hardship. Obviously, it’s a new standard to be used, but what is “practical” and how do you define that? Members questioned if there was definition in the Michigan Zoning Enabling Act.

Motion by MacDonald, seconded by Nixon, to recommend approval with suggested changes, and to forward the staff report, minutes and all comments to the Cleveland Township Planning Commission. Motion carried 6-0.

PC03-2023-0 Centerville Twp. – Text Amend

Myer said this request was received February 13 and the last day to review under the 30-day review period was March 13. The Centerville Township Master Plan does not specifically address this proposed amendment and neither does the Leelanau General Plan. The township held a public hearing on February 6 at which time no public comments were received.

Myer continued, reviewing the current zoning ordinance language for Section 13.1 C Site Plan Review and stated that the proposed amendment would amend it to read as follows:

Site plans for towers shall be acted on within 60 days of receipt by the Centerville Township Planning Commission of a complete application and site plan meeting the requirements in B of this Section. Following approval of a site plan and after the twenty-one-day waiting period for appeals, the petitioner shall apply for the appropriate County and/or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

Myer pointed out language from the Declaratory Ruling and Notice of Proposed Rulemaking and concluded by saying that it was noted from the township that there is an FCC rule that Site Plans for communication towers be acted upon within 60 days or they are deemed approved. The township recently reviewed an extensive Site Plan for the expansion of the RV park and were under the 90-day review period. Removing this language provides the township with more time for these reviews.

Miller questioned how the 60-days was defined. Is that business days or calendar days? If it's not acted on, is it automatically approved or denied? The FCC states it, but it is not clarified in the amendment.

Jamie Damm, Centerville Township Planning Commission secretary, stated that the FCC ruling is that those acted upon days are calendar days and if it is not, then it is automatically approved. Miller responded that it should be stated that way within the townships zoning ordinance rather than just assume that people understand that. Damm said she believes it is stated in the towner section of the township's ordinance. Their intent was to remove the 90-day restriction on non-tower applications. Miller responded that if it is defined somewhere, in reference, then it is probably okay.

Fenlon said adding "in accordance with FCC Ruling" would probably work.

Nixon said he knows the intent is to clarify and get out of the 90-day step for ordinary site plans, but is there someplace else in the zoning ordinance that covers how ordinary site plans will be handled?

Damm questioned as to the timing perspective or how to handle it? Nixon responded both. Damm said yes, Section 13 describes exactly how to handle site plans. Nixon questioned if the ordinary person reading the ordinance would know this section pertains just to towers and there is another section that pertains to everything else and the steps to follow. Damm said yes, there was.

Fenlon questioned if there is no 90-day time limit, is there any time limit? Damm responded that there was not. Fenlon questioned if that could potentially create problems with constituents that are not getting approved or denied in a reasonable amount of time. It could be months or years later and what recourse would they have? Damm said it could be upsetting to some since there is no time limit, but they also thought of the county and other townships presentation of the same topic. There are no time limits for non-tower applications within those other townships or at the county level. Nixon commented that the township has had some constraints in the past with the 90-day time limit. Fenlon suggested that maybe six months would be a reasonable time.

Yoder mentioned a prior site plan application that the township denied because of the 90-day time limit. By removing the 90-day time period it allows the commission more time for a thorough review rather than having to make a decision in haste.

Motion by Fenlon, seconded by Trumbull, to recommend approval and to forward the staff report, minutes and all comments to the Centerville Township Planning Commission. Motion carried 6-0.

Annual Planning Session Topic & Date

Yoder mentioned he had talked with staff regarding moving the annual session to the fall because of difficulty in finding speakers for a spring session. Members were in consensus to move the annual planning session to September or October. Yoder said he was looking for training topics and asked members for suggestions.

Miller suggested having an update on several different hot topics.

Fenlon suggested grant funding for townships and the new county septic ordinance. Trumbull suggested ADU's (accessory dwelling units)

Members were in consensus that they would move this agenda item to next month and be ready with suggestions.

REPORTS

Housing Action Committee – No report given.

Parks & Recreation – No report given.

REPORTS from LCPC members

MacDonald said he viewed the Leelanau Township meeting in which they talked about the proposed rezoning that was reviewed last month and the township tabled the discussion until next month.

Yoder mentioned that Solon Township is working on their Master Plan.

COMMUNICAITONS – None.

PUBLIC COMMENT – None.

STAFF COMMENTS – None.

ADJOURN

Meeting adjourned by consensus at 6:14 p.m.