

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
January 19, 2016
6:30 P.M.

DRAFT COPY

CALL TO ORDER:

Chair Pfof called to order the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Township Hall at the Park Township Office.

ATTENDANCE:

Present: Jeff Pfof, Nicki Arendshorst, Eric DeBoer, Dennis Eade

Absent: Linda Dykert, Denise Nestel, Tom Vanderkolk

Staff: Andy Bowman, Staff Planner, Ed de Vries, Zoning Administrator

APPROVAL OF AGENDA:

Arendshorst moved, supported by DeBoer, to approve the agenda as submitted.

Voice Vote:

Ayes 4, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Eade moved, supported by Arendshorst, to approve the minutes of the December 15, 2015 Regular Meeting as submitted.

Voice Vote:

Ayes 4, Nays 0. Motion carried.

DISCUSSION/ACTION ITEMS:

A. Special Use Application for Home Occupation – De Vries

An application for a special use from Thomas and Pam De Vries to operate a home business manufacturing jams, syrups, and other similar items, using an existing accessory building on the premises. Said land and premises are located at 1744 Washington St., Holland, MI 49424. (Parcel # 70-15-22-482-002, R-4)

deVries provided the background for this item. The applicants recently purchased a business which manufactures “Artisan” jams and syrups. They currently rent space at another commercial kitchen, but would like to install a kitchen at their home. They are proposing to take an existing accessory building, install the necessary cooking equipment, and use it to make the products. According to the applicant they cook two or three days a week, making around three “batches” of product. Each batch is five to seven pounds, or approximately 18 jars. They do not conduct retail sales from the home other than mail order, and would not receive large shipments at home. They use their own vehicles, or UPS at the home, and have an offsite location for incoming or outgoing delivery of orders that require large trucks.

The property is zoned R-4, Medium Density One & Two Family District. The lot is 13,200 sq. feet in size, has a single family house, detached garage, and an existing non-conforming 288 sq. foot accessory building. The property is served by municipal water, and private septic system for sewage. The accessory building proposed for the use is non-conforming due to size and setbacks from the side and rear lot lines. Maximum size for this lot would be 264 sq. feet and setbacks from the side and rear lot lines should be 5 feet. The building was originally used as a pool house and contains a bathroom with shower. Later it was used as an accessory dwelling unit with a sleeping area until the owners were notified it was a violation. The applicants would need to install a proper commercial kitchen, together with electrical upgrades to the service. They state the only exterior change would be the vent/stack for the kitchen. The photos in the January 12, 2015 Staff Memo show the lot with the accessory building in red and the lot as it located in the surrounding area.

The proposed use appears to comply with most of the ordinance to be allowed without requiring the special use. The Zoning Administrator has directed the applicant to apply for the special use due to the fact commercial kitchen equipment is required, and the change of use of a non-conforming building from an accessory residential use to a home occupation use, and the ordinance requires a home occupation to be conducted entirely within the dwelling. The considerations listed under Section 38-506 (3) would need to be considered.

Public Hearing:

Pfost opened the Public Hearing at 6:43 P.M. There was no comment.

Pfost closed the Public Hearing at 6:44 P.M.

The applicants explained they will be closely governed by the State regarding certified kitchen standards. They currently rent kitchen space by the hour that involves a round trip distance of 12 miles so this proposal would be more convenient and time-saving. De Vries

said his wife works full time and he is disabled, thus they prefer to establish the business in their home and hope for future growth.

Pfost thanked the applicants for being proactive in presenting their request for special use.

Bowman noted the State of Michigan cottage food industry regulations do not apply to this application.

DeBoer asked if problems develop in the future does the special use ordinance provide for dealing with violations.

Bowman said there are general rules of home occupation an applicant must follow and these include violations should they occur. Conditions can be imposed that are not covered by the ordinance and they would be enforceable should a situation develop. The conditions should not be arbitrary, but based on resolving issues or concerns determined by the Planning Commission.

DeBoer asked if the ordinance imposes restrictions should odor resulting from preparing the product become a problem.

Ed deVries said the ordinance provides for noxious odors. The ordinance also has provisions that deal with neighbor complaints. He pointed out that the Planning Commission can also add a specific condition in that regard.

Bowman said this special use is a right that goes with the property. It would have to be reconsidered if there should be a different owner in the future who would want to produce a different product.

The applicant stated he has talked with the neighbors none of which had a problem. He has asked them about their concerns. He explained that large deliveries will not be a problem since he has made arrangements elsewhere for those. He is trying to keep the process as discreet as possible so it is not imposing on the neighbors.

DeBoer asked if the applicants can discontinue this business at any time. What if the business use is abandoned? Does the ordinance stipulate a certain time period regarding abandonment? Bowman advised it is reasonable to expect a year's period of abandonment would discontinue the use.

Eade asked if there are consequences as a result of this kind of business such as regarding odors, for example, attracting raccoons. The applicant said this is not a problem. He added that there is a potential for growth. They want to be successful and perhaps set up their own store some day.

Bowman asked if the conversion to a commercial grade kitchen would be dismantled should the applicants sell the property. The applicant said it would be moved should they sell the property. De Vries said when he originally purchased the house he was told he could rent out the accessory building. They won't leave any equipment if they should sell. The building will

be listed as a large shed as part of any future sale so a future owner would not have to deal with what he did.

Pfost asked if there is any problem with the nonconforming building. deVries said with the planned renovations the applicants aren't changing the foundation so we don't consider they are extending the life of a nonconforming building.

Pfost asked about sanitary issues, such as the status of the septic system. Should the County Health Department be a consideration? deVries said a reasonable condition could be approval of the County Health Department.

De Vries said there is not a lot of water usage in the preparation. There are two sinks are for minimal cleanup.

Pfost asked how long the applicant has been in the house.

DeVries bought it about 15 years ago.

Pfost asked about pumping the septic.

De Vries just had the system pumped out. The new system was installed in front – the old one is behind the house.

Arendshorst noted the Township has encouraged low impact home business. However, since it goes with the property, she asked if there are limits on a commercial business if there is a property transfer. Conditions regarding the approval of the County Health Department and the septic system should be a part of the approval for this application.

Mrs. De Vries said they are certified by the State.

Pfost said his experience regarding odor involves odor detection, and if it is objectionable. Fruit cooking is not normally considered objectionable, but we can include a provision.

deVries quoted the ordinance that covers these concerns.

Bowman said with special use there is a specific agreement with the Township on conducting this use and it can include resolving such concerns.

deVries noted that if there was a number of complaints that should be called to the attention of the Township then the Township would deal with it.

Arendshorst moved, and Eade supported, to approve the special use application for operating a home business manufacturing jams, syrups, and other similar items, using an existing accessory building on the premises. Conditions include:

1. The business should be in accord with the requirements of the County Health Department.

2. The septic system be regularly maintained.
3. The commercial kitchen should be dismantled upon abandonment of the use including through the future sale of the property.
4. The special use approval would expire after one year of non-use.

Voice Vote:

Ayes 4, Nays 0. Motion carried.

deVries said he would send the applicants a notice of approval of the special use application.

B. Ordinance Amendments

1. Accessory Buildings

deVries said a number of accessory building requests have come before the Zoning Board of Appeals. As a result of a pattern of variance requests, we need to look at the zoning ordinance regarding building size and the architectural restrictions of the accessory building. At present the requirements in the ordinance may prohibit an accessory building matching the residence. The restrictions include no more than two gables, maximum of three dormers, and roof requirements of a maximum 10/12 slope. Currently the ordinance doesn't allow a second floor and people want a second floor for storage. He recommends removing the restrictions and rely on the stipulation to disallow living quarters.

Also, properties which have no attached garage can be allowed a second detached accessory building of 484 square feet. The Zoning Board of Appeals has routinely allowed including that additional square footage on an accessory building with the requirement there may not be another detached garage later. He suggested allowing the additional square feet in the ordinance for properties without an attached garage.

With regard to the chart that shows square footage requirements and setbacks, deVries proposed revising the numbers to remove the confusion where transition occurs in size measurements.

Bowman asked if the new sizes help the unintended issue of height requirements causing jumps in building size and setbacks. deVries replied that it indirectly might help in that the floor areas have been changed some.

DeVries said to meet the conditions of a dimensional variance there has to be a burden imposed by the ordinance and all 4 review standards must be met. One option is that the Zoning Board of Appeals can directly authorize a lesser front, side and rear yard setback or the placement of the accessory building and it not be a variance. He therefore added a paragraph that the Zoning Board of Appeals can authorize a direct approval for

such variations and listed five standards that are appropriate and easier to justify without using the hardship definition. He noted the use of the term “special exception” which distinguishes it from a “special use” as is typically decided at the discretion of the Planning Commission rather than Zoning Board of Appeals.

Bowman said regarding the special use concept, the State of Michigan has deferred to Planning Commissions and Boards of Appeals to allow “discretionary use.” The Zoning Board of Appeals originally had the authority to authorize special uses since they were similar to “violations” of the zoning ordinance. In the early years, the Board of Appeals was too often being called upon to make land use decisions instead of matters of fairness and consistency as is their primary purpose. Therefore, the state modified the enabling act for zoning to allow for “special land uses” and most ordinances today have the Planning Commission, sometimes with the Board of Trustees, approve them.

Following discussion, the Planning Commission supported the use of term “exception” for the Board of Appeals rather than “special use.”

deVries highlighted the requirement of 484 sq. feet for a detached garage. However, sometimes a 22' x 22' floor area isn't enough. He felt we should consider 24' x 24' or 576 square feet for a detached garage with a little more room.

Bowman asked about the architectural compatibility issue. He noted it often requires some level of judgment on the part of an administrator and can be difficult to determine in some zoning districts with diverse housing styles..

deVries summed up by reminding the commission that a public hearing would be held on these proposals following the Planning Commission's agreement on language changes. They would then be forwarded to the Township Board for review.

DeBoer moved, and Eade supported, to support the recommended changes in the language for accessory buildings and move them forward for a public hearing and Township Board review and approval.

Voice Vote:

Ayes 4, Nays 0. Motion carried.

2. Lot of Record

de Vries described this issue as when you split parcels into a prior “lot of record” to make additional building sites, it creates more nonconformity which is the opposite of what we are supposed to be doing. The more he researched this issue with other townships the clearer it became that Park Township is in a minority in allowing a lot to be split in this manner. Most of these original platted lots are very small and need variances. If we have these small lots we should develop some rules. He cited examples of what the Zoning Board of Appeals has had to deal with in these situations,

especially with narrow side yards and requests to build homes with unusual height in relation to width.

Bowman said there is an appropriate evaluation to be made in existing neighborhoods to determine the best “fit” for new lot creation. Certain zoning districts have specifications for lot dimensions that are inappropriate for these neighborhoods and variation is needed to match development patterns without requiring so many variances. However, if larger lots have become the norm based on current zoning patterns, these older lots should not just be built upon simply because they were originally conceived in that manner. If more than one such substandard lot is owned by one person, it should be combined to meet current zoning requirements and not allowed to be broken out.

deVries said we just had a corner lot situation in which the lot is so narrow it can't be built on. However, we have to allow the owner to build because it's provided for in the ordinance. He advises that once contiguous lots under the same ownership are joined together the owner has to meet the minimum requirement of the ordinance. He can't return to the lot of record. The lot cannot be split to a prior pattern of lot development.

deVries went on to advise that Legal Counsel, Dan Martin, has previously clarified that the goal of the State of Michigan is to minimize nonconformity. If the property is under one owner it is within the township's authority to not allow it to be made smaller than the current requirement.

Pfost has observed that we have had enough of these situations that we should try to work toward greater conformity. He is in favor of moving this change forward.

Bowman said this could apply to the Master Plan regarding the proposed Neighborhood Heritage Preservation Districts. An ordinance to handle these situations would be helpful. Language to discourage split lots which do not fit the established neighborhood pattern would be helpful. This could be included as a general ordinance or as part of the NHP language.

The Planning Commission agreed to ask deVries to prepare the appropriate language.

Eade moved, and DeBoer supported, to direct staff to develop appropriate language to cover contiguous lots of record under the same ownership, and the requirements for nonconforming lots, height and side yard requirements that fit to scale.

Voice Vote:

Ayes 4, Nays 0. Motion carried.

PUBLIC COMMENT:

Pfost opened Public Comment at 7:51 P.M. There was no comment.

Pfost closed the Public Comment at 7:51 P.M.

ANNOUNCEMENTS:

The next scheduled meeting of the Planning Commission is on February 16, 2016.

Arendshorst noted that a subcommittee assigned to review the Covenant Development PUD proposal will meet on Monday, January 25 at 1:30 P.M. at the Township offices meeting room. The attendees include the Covenant developer and engineer, attorneys, Township trustees, Township Supervisor, and Zoning Administrator. It will be a workshop discussion with the principal focus on the additional five acres issue. It is an open meeting.

Pfost noted the training workshop for Planning Commissions and Zoning Boards of Appeals will be held by Ottawa County on February 9 and 25 respectively, from 6:30-9:30 P.M. deVries said he has attended this workshop and it would be beneficial for new board members.

deVries said he would be unable to attend the February meeting.

ADJOURNMENT:

Pfost moved, and DeBoer supported, to adjourn the meeting at 8:05 P.M.

Voice vote:

Ayes 4, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
January 21, 2015

Approved: