

**MINUTES  
PARK TOWNSHIP  
PLANNING COMMISSION**  
Holland, MI 49424

Regular Meeting

August 26, 2021  
6:30 P.M.

**DRAFT COPY**

**CALL TO ORDER:**

Chair Ervine called the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Park Township Hall conference room.

**ATTENDANCE:**

Present: Terri DeHaan, Dennis Eade, Rosemary Ervine, Diana Garlinghouse, David Kleinjans, Jeff Pfof

Absent: David Koppenaal

Staff: Greg Ransford, Planner, Dan Martin, Attorney

**APPROVAL OF AGENDA:**

Kleinjans moved, supported by Eade, to approve the agenda as submitted.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

**APPROVAL OF MINUTES:**

Kleinjans pointed two corrections and Garlinghouse noted one.

Pfof moved, supported by Kleinjans, to approve the minutes of July 21, 2021 Regular Meeting as amended.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

**A. NEW BUSINESS**

**1. Accessory Buildings, Detached Accessory Buildings, Location and Height Limitations - Section 38-491(b)(2)h**

Ransford noted he drafted the language to reduce the number of variance requests the Zoning Board of Appeals experiences with regard to maximum accessory building area, size and height. The intent is to grant relief to the Zoning Board of Appeals.

**PUBLIC HEARING**

Ervine opened the Public Hearing at 6:37 P.M.

Kleinjans asked if there was any change in the appeal process to the Zoning Administrator.

Ransford said there were none. The language amendment was to make it less cumbersome for the applicant in appealing to the Zoning Board of Appeals which costs money for the applicant.

**Accessory Buildings, Detached Accessory Buildings, Location and Height Limitations – Section 38-491(b)(2)i**

Kleinjans asked if the Zoning Administrator or the Zoning Board of Appeals will allow larger buildings.

Pfost said the Zoning Board of Appeals and Zoning Administrator have to follow the standards if a larger building is to be allowed.

Ransford said there is a process requiring the standards must be reviewed, whether by the ZBA or the Zoning Administrator.

Pfost asked about the appeal process.

Ransford said the Zoning Administrator deals with the zoning area. He explained the five standards have to be met, although there can be exceptions.

Garlinghouse asked about the appeal process for the neighbor of the applicant. Can we protect the neighbor's appeal if there should be an objection?

Martin said the applicant or the neighbor could challenge the Zoning Administrator's decision by appealing that administrative decision to the Zoning Board of Appeals, pursuant to Section 38-66 of the Code of Ordinances. He went on to explain the property owner could potentially sue the Township or take the matter to the court, and the court might say an individual neighbor has standing and has the right to appeal. Or the court may say that the neighbor doesn't have standing or failed to exhaust their administrative remedies if they fail to appeal the decision of the Zoning Administrator to the ZBA before seeking to file a lawsuit in court.

Garlinghouse asked if the neighbor could be noticed by the Township if there is a challenge.

Ransford said if there is no objection to the ZBA's ruling, it would be an unnecessary step to notify the neighbor in event of a challenge. He asked Eade whether the Zoning Board of Appeals would consider this an issue with neighbors.

Eade explained so long as the building doesn't interfere with light, view, etc., that is the concern of the Zoning Board of Appeals.

Kleinjans said we should add the right to appeal to the ZBA if the Zoning Administrator turns down an application.

Garlinghouse said there should be a safety process for the neighbor. Is it possible to add a condition?

DeHaan asked if there have been any challenges to a ruling at the ZBA.

Eade said he wasn't aware of any as far as the Zoning Board of Appeals was concerned.

Pfost suggested with regard to condition 5 in the standards could we add "adversely affect the adjoining property" and leave it to the Zoning Administrator to determine the nature of the complaint. It would be up to either the owner or adjoining property owner as the next administrative effort. He asked if there could be written in a protective element.

Martin said it depends on the situation. Given a challenge it might be judicious to hold off on allowing a building permit until the appeal is decided. If they appeal to the Zoning Board of Appeals it would stay in the Township's control and jurisdiction. To ensure that neighbors received notice of an application, you could require a public hearing in front of the Zoning Administrator and then a notice would be sent out 10-15 days before approval of the request.

Pfost suggested staff could rewrite this, and the Planning Commission will postpone a public hearing and action on this agenda item.

Martin confirmed there would not have to have a second public hearing on this.

Kleinjans asked if there are requests coming to the Zoning Board of Appeals regarding larger accessory buildings, if they get approved, are the sizes they are limited to not large enough. He said there may be more requests if the Zoning Administrator is the decision-maker because it would be cheaper than the cost to appeal before the Zoning Board of Appeals.

Ransford said the challenge is there never is a perfect system – you can always change the language later.

DeHaan suggested the Planning Commission look at this in six months to see what comes to the Zoning Board of Appeals and the Zoning Administrator regarding this.

Ransford asked for a summary of the suggestions: change condition #5, and consider the option for public notice for requests. He asked for confirmation of the Condition 5 wording: “The building will not adversely affect or have negative impact on the adjoining property” - is this what the Planning Commission wants to add to the language?

Kleinjans suggested one more addition to the language: “It is an option for the Zoning Administrator to send the applicant to the Zoning Board of Appeals.”

All concurred.

Pfost moved, supported by Garlinghouse, to postpone the a recommendation and action until September.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

## **2. Requirements for Parking Areas – Section 38-605(6)**

Ransford pointed out the language is drafted to allow alternatives to wheel stops in parking lots. There are a couple of different options such as concrete curbs proposed which will improve parking lots.

Ervine closed the Public Hearing at 7:17 P.M.

Given that the accessory building language requires revision, Ransford suggested postponement of all three ordinance changes (accessory buildings and parking areas) and he will bring the language changes to the Planning Commission in September.

Pfost moved, supported by Garlinghouse, to postpone action on the three ordinance amendments until the next meeting.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

## **B. OLD BUSINESS**

### **1. Home Occupations – Definitions (Section 38-6), Section 38-506**

Ransford reminded the Planning Commission of its direction last month which included:

- Allow customers to be present on site and set time limits
- Permit employees of the home occupation outside of the home
- Eliminate conflict between “increase” language and delivery traffic language in Subset 2(b)

- Streamline language regarding the words “traditionally” and “historically” in Subset 3(a)

Martin reminded the Planning Commission this is in the review stage so no public hearing is required at this meeting tonight.

Pfost thanked Staff for preparation of the language. He suggested that the Planning Commission consider a different approach given the recent changes that COVID has presented with regard to the growth in popularity of home occupation businesses. Due to COVID and the increase in people working from home, we should be concerned about this kind of activity in residential areas that makes an adverse impact on the residential neighborhood. What will we regulate in the residential areas? Some traditional activities such as salon, auto repair, bakery, can create nuisances. However, there are some commercial activities that are acceptable and some not. Should we take a different approach? The Supreme Court is determining what can be operational in residential areas. In trying to regulate or define what home occupation is, we should ask ourselves what is suitable rather than just coming up with a no list? Should we take a different approach to this?

DeHaan asked how we define “traditional.”

Martin said “traditional” is generally defined as historically used home occupations, like music lessons, where the piano teacher has students come to a home for lessons. While not traditional, it is often typical to have newer occupations operating out of the home given technology, because the use of computers has affected home occupations and made many occupations easier to accomplish from home, rather than requiring an office, but they have not traditionally taken place in the home. What is not traditional? Things like an E-bay business. What we have done in the past is generate a list and add the other similar uses language, but they are not specific.

Pfost said the intent is to restrict activity so it is not impactful like a commercial activity.

Ervine asked if we want to postpone the discussion and look at it again and look at the term “adverse effect.”

DeHaan said looking at residential vs. commercial – should we look at the Master Plan and the commercial side of it. Does it make sense to carve out home occupation as separate? Let’s postpone this – what do we want to have in the future that is called “commercial?”

Pfost said if we write an ordinance saying no to short term rentals in a residential area, do we eliminate the problem re allowing commercial activity in a residential area. Should we take a different approach? Where will we be in the next five years? Can we have some language that takes us from too narrow an approach?

Kleinjans asked how a home occupation is different from a short-term rental?

Martin noted that the home occupation is an accessory to the residential use, so to speak. The primary use of the property is the residential use of the single family dwelling, but you

may incidentally also operate a home occupation as an accessory, if permitted and as regulated by the ordinance. A short-term rental is not a permitted use in the ordinance, not by right or by special use. It is more like the primary use of the residential dwelling, as a whole, becomes like a commercial hotel/motel use.

DeHaan said one definition is in regard to customers coming to the home. DeHaan said we should define it, not list home occupations. What should the public do and not do in a home with regard to a home occupation vs. a commercial business? What is customary and not customary?

Kleinjans asked where do we draw the line.

Ervine asked Planning Commission members for comment on where they are on some revision of the language to clarify terms.

Garlinghouse and Eade supported what the Planning Commission wanted to do.

Kleinjans was in support but believed some of the language could be changed.

Pfost said the language is not quite right at this moment in time.

DeHaan concurred a couple of areas need to be changed for clarification.

Kleinjans suggested deleting the word “customarily” and use “primarily” instead. If a home occupation is working with several people state “one at a time” in 2a. How did we come up with 3? In 3 the suggestion was to remove everything except the nature of home occupation.

DeHaan asked about the reference to “no outdoor storage of equipment.” Should the items be stored in an outside building?

Martin said this refers to storage in an accessory building so items are not stored outside, exposed for the neighbors to view.

DeHaan also asked about 3b regarding in-home daycare and the guidelines.

Ransford said it’s always been that way regarding daycare providers. This is dictated by the State of Michigan. It is either a use-by-right or a special use depending on the number of children.

DeHaan asked about 8:00 PM as a recommended stop time for home occupation activity. He said this is too late – could we move it to 7:00 or 6:00 PM? He also asked about the meaning of “display of merchandise.”

Martin said this may be in regard to outdoor advertising, but the Planning Commission and the Board can ultimately determine what they want to regulate. The idea is whether you want to allow a residential structure to look like a commercial business advertising the merchandise in display windows, and things like that. He said this should address aesthetics and what the look should be on the outside of the dwelling.

Ransford will redraft the language and bring it back to the Planning Commission for review. A Public Hearing will be held at that time.

## **PUBLIC COMMENT**

Ervine opened Public Comment at 8:00 P.M.

Mary Nusbaum asked when there will be an update on short term rentals.

Ervine closed Public Comment at 8:02 P.M.

## **ANNOUNCEMENTS**

The next Planning Commission meeting will be September 23, 2021.

Ervine said she hopes short-term rentals will be on the agenda at the September meeting. The consultant will join the meeting via ZOOM and report on the findings and data. She asked Ransford for his update.

Ransford said Staff has prepared the report on neighborhoods that have rentals. They are working on getting the Township neighborhoods identified more specifically. They are looking at commonalities among the rentals and the police reports by intersection, property address and street. They are mapping the rentals for a visual report.

Ervine said hopefully we can deduce what is happening in neighborhoods based on the findings. We owe the community a response on this topic. She asked DeHaan to give his Board Liaison report.

DeHaan provided an update on the consultant's findings based on the report to the Township Board. Web research on rental units brings up specific data, the data from the assessor on the number of single-family homes, and how many are exempt and non-exempt. He asked Martin to comment on the legal situation after his report.

The database is what they can pull from websites. In Park Township there are 318 short and long term rentals, 231 of which are short-term rentals. 28% are 5 bedrooms or more, 47% have 3 bedrooms. There were 183 short-term rentals in 2020, and that number has increased to 229 in the past 18 months – a 46% increase. There are 50 rentals on the South side of the Township.

Additional data: There are 7,555 single-family units in Park Township, 6,364 of those are permanent residents. That is 84% of single-family homes in the Township. The balance are non- homestead properties which are vacation rentals, etc. 27% of homestead properties are short-term rentals which poses a tax problem for the Township.

There are two million short-term rentals in the United States.

DeHaan described the best practices for enforcement of short-term rentals include identifying who owns them and their registration. A full-time compliance officer he would monitor 100 units. If the Township hired four officers they would be full time. You have LLCs buying properties too. Grandfathering is not recommended. The zoning ordinance has never granted permission for short term rentals. With regard to resident calls reporting problems, the sheriff said he is in business of stopping crime – short-term rentals are at the bottom of the list for response. A recommendation is setting up a hot line to owners when there are problems. The prognosis is this business will continue to grow in the future

Ervine said we need to ask: Do we regulate? and Who does the enforcing?

Martin said state law in the Zoning and Enabling Act looks at land use, the noise ordinance is not necessarily land use, like residential compared to commercial compared to industrial. The Township has a general, police power noise ordinance which is enforceable. The noise ordinance can be used regardless of the zoning classification and use of the property. While the Township is studying this, we aren't enforcing the prohibition on short-term rentals, but it is important to note that in the past we haven't ever permitted them – so legally, they are not permitted and would not be considered nonconforming uses, unless they predated the Zoning Ordinance's adoption in 1974, which is unlikely. They are currently considered zoning infractions, but we aren't enforcing municipal civil infraction citations on short term rentals as ordinance violations right now. it's like there is a moratorium currently on enforcement of short-term rentals while we study this, and while the state considers it as well. The Legislature has a couple of bills in process. The Michigan Supreme Court recently declined to hear a case regarding lawfulness of short-term rentals. Regarding grandfathering, it will not apply to the Township short-term rentals.

Dennis Eade said there has been no movement in the Legislature since Memorial Day.

Ervine noted the September packets will be available two weeks ahead.

DeHaan asked about plans for a Strategic Plan. Ervine said she hopes to have a decision regarding this soon.

## **ADJOURNMENT**

Pfost moved, supported by Kleinjans, to adjourn the meeting at 8:45 P.M.

Respectfully submitted,

Judith Hemwall  
Recording Secretary  
August 28, 2021

Approved: