

Planning Commission Minutes

For

September 28, 2006 Meeting

The Planning Commission meeting held Thursday, September 28, 2006 convened at 7:00 p.m. at 111 E. Michigan Avenue, Paw Paw, Michigan. Chairperson Kathleen Larson presiding.

Present: Larson, Bogen, Thomas, Larcinese, Greensley and Rumsey. Also present: Bradley Noeldner and Lisa Wininger, Planner. Roger excused.

Motion by Thomas, supported by Larcinese, to approve the minutes of the regular meeting of August 24, 2006 as presented to the commission. All members present voted in the affirmative.

Motion by Larcinese, supported by Rumsey to approve the minutes of the June 22, 2006 regular meeting as amended. All members present voted in the affirmative.

Public Hearing: Keystone Community Bank-East Michigan Ave.

Motion by Larcinese, supported by Greensley, to close the regular meeting and proceed into a public hearing to receive comment and consider a request for rezoning parcel # 80-47-280-001-00, from RM (Multi-family residential) to B-2 (General Business). Regular meeting closed at 7:04 p.m.

Lisa Wininger provided the Commission with a review of criteria to be considered when presented with a rezoning request. She pointed out that three main criteria should be evaluated. 1) Is the new use consistent with the future land use plan; 2) Will allowing such a rezoning be detrimental to the surrounding properties; and 3) Is the site well suited for rezoning?

In the opinion of Wininger, after reviewing the site and surrounding properties, allowing a rezoning from RM to B-2 would be consistent with surrounding property uses. With proper landscaping and screening, a rezoning would have limited detrimental impact on adjacent properties located across the street. Also, the property immediately to the north, on the same block, the property to the west, just across the street, and the property to the east on Michigan Avenue (same block) are all currently zoned B-2, General Business.

Discussion took place about whether B-2 was the best use for the site. Also, what if the bank were not to remain in the buildings, what would be the impact on surrounding properties if some other permitted B-2 use were to move onto the property which may not be as "friendly" as the bank to surrounding properties.

Wininger replied that staff was not suggesting that B-2 was the “best” use for the site- only that the ordinance provides for sufficient screening and access requirements to make this zoning district not a detriment to the surrounding properties.

Other than the discussion of the Planning Commission and the response to questions of the Commission by Shannon Streich from Continental Designs, there were no other public comments on this issue.

Public Hearing : JTKS, LLC – Special Use Permit – 429 S. Kalamazoo St.

Motion by Thomas, supported by Rumsey, to close the Keystone Community Bank Public Hearing at 7:09 p.m. and open a public hearing to receive comment and consider a request for a special use permit to allow outdoor display and sales of new and used motor vehicles, boats, trailers or similar equipment at 429 S. Kalamazoo Street, Paw Paw, MI (parcel # 80-47-161-005-00) (JTKS, LLC).

Larson asked if Mr. Tapper would please explain to the Commission why he was requesting a special use permit. He replied that the Zoning Ordinance requires a special use permit to allow for an open air business in the B-2 (General Business District). His intended use for this site is to have a vehicle sales facility.

Phyllis Hoger (522 S. LaGrave St.), inquired about how close to the river the project may be constructed. She also has concerns about how the lighting may impact her property located immediately to the east of the proposed site. Her last question was in relation to fencing. She wanted to know if the site will be fenced to the river or not?

Wanda Nolen (412 S. Niles St.) asked about the impact of lighting, stated concerns about privacy of the neighbors located on S. Niles Street and traffic and noise concerns.

Mr. Tapper stated that it is his intention to not build in an area any closer to the river which could impact wetland areas. All site plans will be in compliance with local and state requirements.

He went on to say that the lighting will be contained on-site. That the site has an existing fence surrounding it, which will remain and in regard to concerns about noise, his business hours are typically 9:00 a.m. – 6:00 p.m. weekdays, and Saturdays between 9:00 a.m. – 5:00 p.m. Normally, the business is closed on Sundays.

Mr. Tapper also commented that the back yards should have no different privacy concerns than when the lumber yard was in operations at the site.

Lisa indicated that a site plan would need to be approved prior to the issuance of a Special Use Permit. Upon review of the site plan, lighting needs would be addressed and would need to be in compliance with the zoning ordinance. She also stated that fencing requirements would need to be in compliance with ordinance requirements and that no

extension of the requested site could be done without coming back to the Planning Commission for further review and approval.

Kathy indicated that there are too many items required on the site plan check list, which are not included on the existing site plan. She further stated that she is willing to have a meeting next week in order to allow Mr. Tapper to get this information placed on the site plan and, still allow the project to move forward and keep it on schedule for consideration by the Village Council.

Kathy asked that staff provide Howard Overbeek with a list of items still needed on the site plan so that when it is brought back to the Planning Commission, they can take some type of action on the request.

Motion by Thomas, supported by Bogen, to postpone a decision on the request for a Special Use Permit until a Special Planning Commission meeting to be held Thursday, October 5, 2006, at 7:00 p.m. in the Paw Paw Village Hall, located at 111 E. Michigan Avenue.

There were no other comments on this issue.

Public Hearing: “Special Conditional Use Permit) – Patrick Brennan, 609 E. Michigan Avenue

Motion by Larcinese, supported by Thomas, to close the JTKS,LLC Public Hearing at 7:14 p.m. and open a public hearing to receive comment and discussion on a “Special Conditional Use Permit” request submitted by Patrick Brennan for the property located at 609 E. Michigan Avenue, Paw Paw, Parcel # 80-47-154-003-00. The purpose of the request is to allow B-2 (General Business) uses at a site currently zoned R-2 (one & two family residential).

Winger explained to the Planning Commission the reason that a “Special Conditional Use” request is being requested at this site, rather than a re-zoning. She referenced the section of the Ordinance which applies to such requests. This site is quite unique in shape and size. It also contains a historical structure which has significance to the community and state. In fact, even if the existing structures were completely removed and a new structure constructed, it could not meet the set-back requirements of the Ordinance. Also, the ordinance does not provide for a property owner to request a “Use” variance.

Therefore, rather than re-zone the property, then go to the Zoning Board of Appeals (ZBA) to request set-back variance to allow the property owner to use the property, it is in the best interest of the community to allow the zoning designation to remain R-2 (one & two family residential) and to approve a “Special Conditional Use” to allow the property owner the best and highest use of the site.

Winger further explained that a Special Conditional Use limits what can be done on the site. It limits the uses available to the property to only those consistent with the existing structures. The owner needs to provide a sketch of the property showing the existing

structures, dimensions, basic floor plan, etc., so that any changes which may take place in the future may be tracked. Expansion of the buildings is not permitted.

She also stated that because this is not a re-zoning, all signs at the sight must be in compliance with the R-2 zoning district requirements. All other requirements of the R-2 zoning district must be followed.

Thomas wanted to know if we can limit the types of B-2 uses allowed at the site and exclude some which may be detrimental to surrounding properties.

Wininger indicated that the uses can be restricted to “permitted uses” in B-1, RO zoning districts.

After much discussion and input from Mr. Brennan that his intended use of the property at this time is for a beauty shop and church/community meeting room, Lisa suggested the following uses be allowed at the site, under this “Special Conditional Use” permit.

1. All uses currently allowed in R-2 (one & two family residential)
2. B-1 (Local Business District) All permitted uses with the exclusion of (c) funeral parlors and mortuaries, (i) warehousing facilities, including mini storage facilities, (j) accessory buildings and uses, and all uses allowed by Special Use.
3. RO (Restricted Office District) all permitted uses of this zoning district with the exception of (a) two & three family dwellings and (e) funeral parlors and mortuaries.
4. There can be no change of approved uses without a request, and further approval, from the Planning Commission.

Renee Townsend (609 Oak Street, Paw Paw) stated that this was her first time attending a Planning Commission meeting. She asked what support the Planning Commission provides to control the amount of multiple residential properties in the Village. Specifically, she referred to structures which house more than one & two families in them.

She discussed a large house located to the east of her residence and two apartments on Oak Street near her residence. She also discussed the condition of a house located in back of her property with boarded up windows and which sits vacant.

Kathy suggested that there are ordinances which address blight and if there are violations of the ordinance as it relates to the apartments, the Village can look into them. However, some of the apartments which Ms. Townsend mentioned are legal non-conforming uses. Meaning they were in existence at the time the ordinance was adopted and as long as the use doesn't change, they can continue as apartments.

Village staff will look into the properties in question and do what they can to make sure they are in compliance with the ordinance.

There are no further comments on the issue of the Special Conditional Use request at this time.

Motion by Thomas, supported by Larcinese, to close the Brennan public hearing and move back into the regular public meeting of the Planning Commission. Returned to the regular meeting at 7:21 p.m.

NEW BUSINESS:

Motion by Thomas, supported by Larcinese, to recommend the Village Council approve the request from **Keystone Community Bank**- to consider rezoning parcel # 80-47-280-001-00 from RM (Multi-family residential) to B-2 (General Business).

All voted in the affirmative. Rogers absent.

Motion by Larcinese, supported by Rumsey, to approve a special use variance request from **Patrick Brennan** for property located at 609 E. Michigan Avenue, parcel # 80-47-154-003-00 for the following uses:

1. All uses currently allowed in R-2 (one & two family residential)
2. B-1 (Local Business District) All permitted uses with the exclusion of (c) funeral parlors and mortuaries, (i) warehousing facilities, including mini storage facilities, (j) accessory buildings and uses, and all uses allowed by Special Use.
3. RO (Restricted Office District) all permitted uses of this zoning district with the exception of (a) two & three family dwellings and (e) funeral parlors and mortuaries.
4. There can be no change of approved uses without a request, and further approval, from the Planning Commission.
5. This permit is in effect only in conjunction with the existing structure. No expansion of the building is permitted and if the building is to be removed, the permit will become invalid.
6. A site sketch and interior plans must be submitted to the Village so that a record can be kept of the status of the site at the time of permit approval. Any deviation from this plan will require Village approval.
7. Any signs must be consistent with the sign standards for the R-2 districts unless a variance is approved by the Zoning Board of Appeals.
8. All other regulations of the Village and State must be observed.

Ayes: Larson, Rumsey, Thomas, Greensley and Larcinese

Nay: Bogan

Absent: Roger

OTHER BUSINESS:

Mr. Tapper asked if the Planning Commission could provide him with a time line of when the information relating to his project would be required to be submitted to the Village so that it could be reviewed. It was decided that the Village needed it by Tuesday afternoon so that it could be delivered to the Planning Commission members for their review.

Fence Ordinance: Wininger provide sample language for revisions to the fence ordinance. She asked that the Commission members take it home for review and bring comments to the next regular meeting.

Parking Standards: Wininger provided sample language for revising parking standards. Again, she asked the Commission members to take it home and review for comments to be brought back at the next regular meeting.

Car Ports: Larcinese informed the Commission that the Council would like to have us review the ordinance as it relates to car ports. Staff will review recommendations from Councilmember Basinger and provide some direction at the next regular meeting.

Sign Ordinance: Larcinese informed the Commission that revisions will likely be necessary to the portion of the sign ordinance that relates to political signs. The Village has temporarily limit enforcement of campaign signs due to a request and threat of law suit brought to us by the ACLU. Attorney Page is reviewing options the Village may have based upon federal court cases which have prevailed relating to political campaign signs. When we have this information, staff will present it to the Planning Commission for consideration.

OLD BUSINESS:

Warner Winery: Village Manager Noeldner updated the Planning Commission on the status of Ordinance enforcement as it relates to the paving of the parking lot and the screening of dumpsters at the Warner Winery property. A court order has provided 45 days for Mr. Warner to bring his property into compliance with the site plan approval.

Yarbrough Apartments Dumpster Screening: Noeldner informed the Commission that he had discussed this with Mr. Yarbrough this past week and that Yarbrough intended to have this completed yet this fall.

Meeting adjourned:

Motion by Rumsey, supported by Bogan, to adjourn meeting at 9:38 p.m.

All present voted in the affirmative.