

Clearwater Township
Planning Commission
Regular Meeting of October 2, 2017
As approved November 6, 2017

Call to Order, Pledge of Allegiance:

Before the Pledge of Allegiance, Vice Chair Backers asked those assembled to stand for a moment of silence for the people of Las Vegas, Puerto Rico, Florida, Texas, and the Virgin Islands; he then called the meeting to order at 7:02 pm, and opened with the Pledge of Allegiance.

Roll Call of Members and Recognition of Visitors:

Commissioners present: Backers, Eldridge, Fields, Von See.

Commissioner absent: Parzych

Township official: Zoning Administrator Molby

Public: Don Bailey, Anne Welburn, Margaret Edgington, Thomas Edgington, Rick Galan, Doug Roe, Philip Halstead, Adam Edgington, Chris Edgington, Becky Norris, Pat Hubble, Archie Kiel, Robert Gallagher, Nader Saco, Marcus Gee, Judy Umlor, Jule Moore, Laura Westerman, Jeff West, Dwight Seaman

Approval of Agenda:

MOTION by Von See, second by Eldridge, to accept the agenda as presented. Motion carried.

Call for Disclosure of Conflicts of Interests:

Chair calls for commissioners to disclose any real or potential conflicts of interests. All commissioners declared none.

Approval of Minutes:

MOTION by Von See, second by Eldridge, to accept the minutes of September 11, 2017 as presented. Motion carried.

Public Comment for Matters Not on the Agenda:

Pat Hubble – said he saw a two-by-three sign, at Glade Road and Valley Road, for the Rapid River Lodge. He asked whether we know anything about this. Zoning Administrator Molby will investigate.

Comments from Commissioners for Matters Not on the Agenda:

Zoning Administrator Molby – asked whether Secretary Fields had made any progress on incorporating the existing amendments into the Zoning Ordinance, yet. She had not.

Public Hearing: on the special use permit application of the Michigan Heritage Foundation to place a monument, representing the American Flag, at the entrance to the Patriot Park, being developed on township property, on the north side of the M-72 highway.

The planning commission reviewed a preliminary site plan at its last meeting. Zoning Administrator Molby affirms that he and Chair Parzych have met with Jerry Cannon in the interim to review the completed site plan. Molby confirms that all setback requirements are met. The flag monument was originally conceived as a brick structure, but on advice from the engineers, it will be poured concrete with the design applied on the surface and sealed. The hope of the applicant is to be able to pour the foundation before the snow flies.

Zoning Administrator Molby stated that the flag monument location is 40 feet from all boundaries. Some trees have to be cut to provide adequate visibility. Vice Chair Backers has also walked the site.

Public input:

Becky Norris – asked whether the bottom stripe of the flag monument will be above the ground. It will be above grade, and the flag will be lit at night.

Jeff West – asked about the long time this project is taking. It’s been more than ten years. If it’s a good project with community support, why hasn’t it already happened? The commission acknowledged that the project had been on hold for many years, for reasons known only to the Michigan Heritage Foundation. When the project came back to us in the spring of this year, with the concept of the flag monument at the entrance, we recognized the need to amend the Zoning Ordinance with an Article that specifically addressed monuments and memorials. That was done (Amendment 6 to Ordinance 22), and the project design moved forward. The Michigan Heritage Foundation has now come back to us with the required special use permit application, which occasions the current public hearing.

There being no further public input, Vice Chair Backers closed this portion of the hearing and moved into Commission deliberations.

Ordinance 22, Section 24.03.A (1-8) Standards for Review

1. The Special Use shall be designed, constructed, operated and maintained in a manner that shall not change the essential character of the surrounding area.

Eldridge – yes, the monument will be well-maintained and does not change character

Backers – yes, because patriotism is never out of place

Von See – yes, it will not degrade the surrounding area

Fields – yes, for reasons already stated.

The commission finds standard 1 to be met.

2. The Special Use shall not interfere with the general enjoyment of adjacent property.
Von See – yes, this will not interfere with anybody on either side
Backers – yes, the placement is such that it is surrounded by trees, except for Highway M-72, as long as the lighting is proper
Eldridge – yes, layout of property insures this will not interfere with other properties
Fields – yes, for the same reasons.

The commission finds standard 2 to be met.

3. The Special Use shall represent an improvement to the property under consideration.
Backers – yes, definitely
Eldridge – yes, the patriotism and gratitude of this monument represents a big improvement
Fields – yes, this does represent a huge improvement to the property
Von See – yes, it is an improvement.

The commission finds standard 3 to be met.

4. The Special Use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
Fields – yes, I see no possibility of hazard to adjacent property by this use
Eldridge – yes, no hazard whatsoever
Von See – yes, no hazard to adjacent properties
Backers – yes, other than during construction, there is no potential hazard.

The commission finds standard 4 to be met.

5. The Special Use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed Special Use shall be able to continually provide adequately for the services and facilities deemed essential to the Special Use under consideration, such as whether the proposed sewage disposal and water supply will be safe and adequate.
Vice Chair Backers proposed that standard 5 be waived, because it didn't apply in this case. The unanimous consensus of the Commission was to waive standard 5 as not applicable.

The commission waives standard 5 as not applicable.

6. The Special Use shall not place demands on public services and facilities in excess of current capacity.
For the same reasons as prevailed for standard 5, the unanimous consensus of the Commission was to waive standard 6 as not applicable.

The commission waives standard 6 as not applicable.

7. The Special Use shall be consistent with the intent and purpose of this Ordinance.
Backers – yes, appropriate drawings have been submitted, indicating correct setbacks and other code requirements
Von See – yes, complies with current ordinance
Eldridge – yes, 40 foot setbacks all around and all forms filed and approved
Fields – yes, for reasons already stated.

The commission finds standard 7 to be met.

8. Side and/or rear boundaries abutting a residence or residential property shall be provided with screening from adjacent premises, which screening shall consist of either a solid uniformly finished and maintained wall or fence of durable material or by a well-maintained dense evergreen planting, which screening shall not be less than six (6) feet in height.
Backers – yes, screened naturally by trees greater in height than 6 feet
Eldridge – yes, all boundaries are in compliance
Von See – yes, all screening and setbacks are in compliance
Fields – yes, for reasons already stated.

The commission finds standard 8 to be met.

The commission finds standards 1, 2, 3, 4, 7, and 8 to be met, standards 5 and 6 are waived because they are not applicable to this case. All pertinent standards are met.

MOTION by Fields, second by Von See, to recommend approval by the Township Board, of the special use permit application by the Michigan Heritage Foundation, to place an iconic flag monument at the entrance to the Patriot Park, per the plan as presented.

Motion carried unanimously.

- Eldridge – yes
- Von See – yes
- Backers – yes
- Fields - yes

Ongoing Permanent Business:

Michigan Medical Marijuana Facilities Licensing Act - Don Bailey (member of the State Board) presenting

Invited by Chair Adam Parzych to address the gathering, provide information, and answer questions. Mr. Bailey began by providing some historical background. Ballot initiative in 2008 for medical marijuana passed. The 2008 law was not crafted by the legislature, it was written by the recreational marijuana movement. Mr. Bailey spoke with one of the authors of the Michigan Medical Marijuana Act, who told him that the goal was recreational marijuana, but polling showed that dispensaries and recreational marijuana would not pass, while medical marijuana would pass, and that it was necessary to pass medical marijuana to desensitize the public. The writers of the law knew that the 12 plants permitted per patient was too much product and it would have to go somewhere; and they left dispensaries out of the law, even knowing that distribution issues would arise.

Mr. Bailey has spent 36.5 years in law enforcement, the last 31 with the Michigan State Police, and 15 years of that has been undercover. He said that law enforcement had correctly discerned the plan and purpose of the MMMA to be what he learned in speaking with one of the authors.

Two main components of 2008 are a caregiver and a patient. The patient could grow his own 12 plants. A caregiver could be his own patient and have five more, so he could grow $6 \times 12 = 72$ plants. Every dispensary in the state is illegal, because they're selling to more than their five patients. Another quirk in the law is that the caregiver can't make any money; it's only permissible to recover costs. If a caregiver is providing marijuana to patients at no profit, the price per ounce would be approximately \$20 per ounce, and we know that dispensaries are selling marijuana for \$280 to \$450 per ounce.

In the 2008 law concentrates, edibles, and extracts were all illegal; that changed in September 2016. In the 1970s, marijuana had an average of about 1.77% THC; today, the average THC in marijuana is from 6.8-12%; it is even possible to obtain a 28-32% THC marijuana. That's the smokable marijuana. Concentrates can be up to 99% THC.

Mr. Bailey said that there are two driving forces: recreational marijuana and money. Reported September 29, 2017 that Denver police need more room and money to store seized marijuana. The Colorado experience is reported annually in the Colorado Rocky Mountain High HIDTA report (HIDTA = High Intensity Drug Trafficking Area). Drug cartels are moving into Colorado where the black market thrives for purchases that exceed the legal limits.

Mr. Bailey related this incident: two weeks ago, Michigan State Troopers stopped a car from Indiana that had just left a dispensary in Lansing and was headed south back to Indiana. The driver has a California marijuana card, which made it legal for him to possess 2.5 ounces here, although he could not legally bring it here or purchase it here. He had 4 pounds of marijuana and 13 pounds of concentrate in the car, heading back to Indiana – not a marijuana legal state. He had made this trip ten times over the summer. Mr. Bailey said that Michigan has become a source of marijuana for the entire Midwest. Three months ago, a trooper stopped a Colorado car heading west on I-94. The car had 2 pounds of "wax," a concentrate that can be as high as 99% THC content; the retail value of that "wax" is \$72,000. The Colorado people in the car explained that the Michigan product is "some of the best," and that they were taking the "wax" back to sell in Colorado.

In 2016, the Michigan Legislature decided to promulgate new laws to regulate growers, processors, testing facilities, secure transporters, and provisioning centers. There are three levels of growers: class A for 500 plants, class B for 1,000 plants, and class C for 1,500 plants. People with class C licenses will be allowed to stack licenses, that is, to have more than one. Information on the law is found at: www.michigan.gov/lara/0,4601,7-154-79571---,00.html go to Michigan.gov/lara and click the marihuana tab.

Backers – our function here is to either opt in or opt out, but if we opt in, do we have to do it by December 16, 2017?

Bailey – no, you can do it next week, next year, or never, there is no date deadline to opt in.

Eldridge – but, isn't the difficulty that the people who want to apply for licenses have to have an opt-in municipality before they can apply for those licenses?

Bailey – no, people in townships that have not yet opted in, can apply for a license and be conditionally approved pending finding a location for the business. It's similar to being pre-approved for a mortgage before looking for a house.

Eldridge – isn't the licensing fee \$9,000?

Bailey – the fees are confusing. There are two fees. One is the nonrefundable application fee of from \$4,000-\$10,000. The range is because the whole program has to be revenue neutral, the state can't make any money, but also the state can't lose any money. The state board cannot limit the number of licenses.

Question from the public about whether having a liquor license would preclude an applicant from obtaining a medical marijuana facilities license. Mr. Bailey indicated that he was unaware of any such limitation. But, he pointed out, this is a medical marijuana law, this is not recreational. A provisioning center is not going to be a bar; it will be more like a pharmacy kind of environment.

There was much public expression of discontent with the federal government for its treatment of veterans who use marijuana. Mr. Bailey confirmed that the VA will deny benefits to someone who uses marijuana.

Rick Galan – commented that it wasn't that long ago when Coca Cola still had cocaine in it. He pointed out that very little academic research has actually been done on the potential benefits of marijuana. As a businessman with some forty years of experience, he is committed to doing his business responsibly. He hopes the township will opt in and allow him do his business here. He asked about the 25% of tax that would devolve to the township.

Bailey – it's a fraction of the 30%, based on how many licenses are issued.

Galan – it's still a lot of money that could come to the township, and if this township doesn't opt in, he will take his money and buy land in a municipality that does.

Backers – Acme just approved it last week, two weeks ago it was Rapid River, and three weeks ago it was the Village of Kalkaska.

Dwight Seaman – does the local government have control over who gets a license here? Can we limit it to local people and stop big entities from coming in from the outside and taking over?

Bailey – that's up to your town.

Question from the public about revocability of licenses. Yes, the state board will have the authority to suspend or revoke a license.

Question from the public about districts in which facilities are permissible. State law says industrial or agricultural.

Backers – if the township does not opt in, what happens to the existing licensed caregivers in the township?

Bailey – the caregiver-patient relationship established under the 2008 law is not affected by this new law.

Backers – so the growers and caregivers in this township, as long as they are in compliance with the 2008 law, are legal as is, whether the township opts in or not?

Bailey – yes.

Backers advised the gathering that this meeting is just informational. No decision or action will be taken tonight on the matter. This will come up again on next month's agenda, and the decision-making process will begin there. We're just trying to get the law down so we understand what is involved.

Question from the public about how the board will treat people who have been operating dispensaries and who now want to apply for a license under this new law. Bailey responded that if those operators somehow did not know they were operating illegally, and closed down immediately upon learning that fact, the board could consider them.

Question from the public concerning the danger that during the transition there wouldn't be sufficient access to marijuana for some patients. Bailey shared the most recent statistics, showing 218,226 registered patients and 38,107 licensed caregivers (average 5.7 patients per caregiver). Using conservative numbers of 1 pound of marijuana per plant, and 3 crops per year, our 38,107 growers can produce $12 * 6 * 3 * 38,107 = 8,231,112$ or 8.23 million pounds of marijuana per year. If a patient were to smoke a 1 gram joint every 2 hours, 24 hours per day, 365 days of the year, that patient would need 9.6 pounds of marijuana for the year. Our growers are producing over 37 pounds of marijuana per patient per year. So, the supply is ample.

Backers – asked about holding more than one kind of license. If you hold a testing license or a secure transporter license, you can't hold any other. You can hold any combination of grower, processor, and provisioning licenses. Each license has its own annual state licensing fee. The licensing fee is not a fixed amount; it will depend on total expenses for the vetting, allocated by number of license applications. No caregivers are going to be allowed to work in these facilities.

Vice Chair Backers asked the public to provide their names and the types of license they were interested in obtaining.

The issue of raising capital for this business was discussed. If a licensee has a corporation and wishes to sell shares in that corporation, every prospective shareholder has to be investigated by LARA, because each shareholder is a part owner of the business.

Mr. Bailey offered his phone number for any future questions: (231) 215-8022.

Those gathered thanked Mr. Bailey for his time and information, with applause.

It being late, the chair asked for a motion to adjourn.

Adjournment:

MOTION by Fields, second by Backers, to adjourn. Adjournment at 8:53.

Assignments:

- Fields to communicate the planning commission's recommendation to approve the special use permit application by the Michigan Heritage Foundation to place a flag monument at the entrance to Patriot Park.

Next Meeting: November 6, 2017

Respectfully submitted,

A handwritten signature in cursive script that reads "Tina Norris Fields".

Tina Norris Fields
Secretary