TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Torch Lake Township

Planning Commission Meeting

Community Service Building

APPROVED Minutes AS PREPARED 5-0

December 10, 2019

**Present:**  Kulka, Carleton, Stridiron, Shoemaker, Hawkins, Jorgensen

**Absent:**  Petersen

**Others:**    Graber, Grobbel

**Audience:**  3

**Recording Secretary:** J. Petersen

**1.**    **Call to Order Regular Meeting:**

Meeting called to order at 7:00 pm by Kulka.

**2. Public Commentary**

Kulka asked for public commentary and asked anyone who wished to speak to fill out the form.

Chuck Goossen spoke regarding commercial outdoor events. #1 continue to maintain a site plan review to afford the property owners a voice. There is a distinct physical makeup of surrounding properties. 1 has close access to R1 and one on waterfront. Keeping this review allows affected public to speak and allows the PC to see what the event/property owner is asking and put parameters around and citizen input. Please continue the special use permit process. Not doing so removes the right of the process to the public.

**3. Consideration of Agenda**

Motion by Shoemaker to add the review of section 23, page 23.19 (definition of water’s edge) and 23.24 and 23.25 (definition of unenclosed porch) to the agenda. Stridiron seconded the motion, Kulka called for discussion and vote; passing 6/0

**4. Approval of Minutes**

Changes: one spelling error (Tom Stillings paragraph oth should read “of” and Hawkins name spelling was corrected. Kulka made a motion to approve with the two corrections, Shoemaker seconded the motion, Kulka called for discussion and a vote; passing 6/0.

**5. On-Going Reports**

**5A Zoning Administrator’s Report**

Graber distributed an updated *Checklist for November 2019* and TLT 2019 Land Use Permits spreadsheet through Permit #2019-57, Land Division App # LDA2019-3 and ZBA Appeals ZBA 2019-5. Violations, civil infractions, enforcement, court cases, pending court cases, complaints, on-going permit status, and current zoning applications were summarized. ZBA meeting tomorrow to hear a request for interpretation of the Zoning Ordinance.

**5B PC Representative on ZBA Report**

Shoemaker summarized last month’s meeting

**5C TLT Board Representative on PC Report**

Petersen absent

**6.   Correspondence, Meetings, Training, Announcements, etc.:**

Kulka distributed training information for seminars and webinars available. and encouraged PC members to attend or take the online planning seminar given by the MTA

**7. Unfinished Business - NONE**

**8. New Business**

**8A Chapter 23, definition of water’s edge on Torch Lake (page 23.19)**

Shoemaker summarized the last ZBA appeal and the necessity to more clearly define the water’s edge line of Torch Lake is. The waterline has risen and fallen, most recently it has risen to record levels. How to measure, when to measure and where to measure were all issues encumbering the issue and need further clarification. Hawkins stated that due to the ER dam, there is an established waterline and the mark is permanent and easily defined. Stridiron asked if the mark was above sea level. Grobbel stated Yes. Stridiron stated we needed to establish what that line is so that at the time of survey (before build) those setbacks and lines can be established. Graber explained that that line isn’t clearly defined in the ordinance. Kulka stated that if the PC decides to, they can establish a line and a possible mandatory survey. Graber states she currently measures at the furthest protrusion of the building foundation to the waterline at the time of the fooencourtings being poured. She also stated most are not having a survey done. Grobbel stated his opinion was to default to the latest lake level for the water’s edge. The shoreline fluctuates not enough because Torch is maintained by the dam in ER but will still fluctuate somewhat. It’s been 45 years since we have seen this much water in the system. He suggests a default to the 580.5 of the lake level, as it is established and enforceable. Grobbel stated OHWM on Torch Lake was established decades ago. On the day the permit was reviewed and issued is the day and the level that has been established because as it states now it’s water’s edge. The PC can choose to more clearly define a set elevation that doesn’t fluctuate. Grobbel explained that elevation marks do not change (certain approach) the definition is the key, if it is water’s edge, it will fluctuate. Expect and plan for high water levels in the next few years. Kulka stated he is leaning toward establishing an elevation. Hawkins clarified that lake level and high-water mark are different. Grobbel stated the county and state has the only jurisdiction for establishing the Torch Lake water level. Hawkins stated the established court ordered lake level in 1973 was set as the following; summer 590.8’ (April 16 - October 31) & winter 590.2’ (Nov 1- April 15). Grobbel stated the PC has no authority to establish an elevation, only enforce water’s edge as it sees it. The zoning administrator decides and reasonably measures at the time of permit issuance and the ZBA backs her. This discussion isn’t one for the PC. Grobbel stated to rely on the Zoning Administrator to do her job and don’t undermine her abilities, get behind her and support her authority. The PC agreed the language of the zoning ordinance and the permit as well as the decision and procedures of the zoning administrator is sufficient as it stands.

**8B Chapter 23 - definition of unenclosed porch (pages 23.24 and 23.25)**

Shoemaker explained the ZBA’s request to the PC to review this definition stemming from the latest Zoning Board Appeal. The request was to look into Clarifying “unenclosed porch” -roof or no roof, walls or no walls etc. Graber stated no roof and no walls is an unenclosed porch. Graber stated that “unenclosed porch” is not mentioned in the zoning ordinance anywhere else. If an unenclosed porch was proposed in a setback, she would deny the permit if it had footings and or was attached to the home. Grobbel states he does not feel the PC needs to define unenclosed porch, that the default if needed will be the dictionary’s definition. Kulka asked the commissioners if they felt this needed changing or further definition. Barr (in audience) stated leaving it as is would be the decision of the PC and the ZBA would continue as it has. No further discussion or opinions were offered by the PC members. Kulka suggested leaving it as is and the commissioners agreed.

**8C Lighting Ordinance**

Graber stated there is nothing in the ordinance currently regarding downward shielded lighting and neighboring properties and dark night sky and she would like the PC to consider adding some language to the ordinance regarding this. Kulka stated if the PC wishes to do so it will be added to the next meeting agenda for discussion. Grobbel recommended the PC add something to the ordinance in order to protect the spirit of the ordinance in the general provisions. If the PC wishes to keep the rural character this is an excellent thing to look into enforcing/protecting/establishing. Graber stated that she did not wish for an entire chapter to be added, just establish and publish guidelines. Kulka polled the commissioners to comment on whether or not they felt this should be added to the agenda and unanimously they all agreed. Graber to draft language to be added to the general provisions, run by Grobbel and present to the PC at the next meeting.

**8D Commercial Outdoor Events**

Kulka stated that outdoor events have provisioning in agricultural, business and residential zones but nothing about commercial. Graber stated that Goossen’s comments earlier were to have commercial outdoor events be heard as a special use request as it is in business zones. Jorgensen stated she felt commercial properties should be able to have outdoor events. All the commissioners agreed. Kulka asked Graber to meet with him and begin to write the language to permit the activity. Shoemaker asked them to include looking at section 12.03a.

**9. Concerns of the Planning Commission**

**9A. Concerns of the PC Chair**

Kulka distributed a draft for training in May with Grobbel. Grobbel stated the presentation is on the Master Plan and how it relates to the zoning ordinance and how they LEGALLY relate. Grobbel stated the presentation is secondary to the question and answer session it is designed to conjure. PC’s questions are paramount.

**9B Concerns of PC Members** Kulka asked the commissioners for any comments or concerns. None were offered.

**15. Public Commentary**

Kulka called for public comments and none were given.

**16.**  **Adjournment - 8:45pm**

With nothing further, a motion was made by Shoemaker to adjourn, the motion was seconded by Stridiron; Kulka called for further discussion and vote passing 6/0.