**TORCH LAKE TOWNSHIP**

**ANTRIM COUNTY, MICHIGAN**

**APPROVED Minutes AS PREPARED 6-0**

**Planning Commission Meeting**

**June 14, 2016**

**Community Service Building**

**Torch Lake Township**

**PRESENT: Walworth, Kulka, Goossen, Jorgensen, Bretz, Schoenherr**

**ABSENT: King, Vey**

**OTHERS: Grobbel**

**AUDIENCE: 8**

Prior to meeting opening @ 7:25, Walworth announced open hearing process, directing public to fill out form with name, address and hearing topic.

**Walworth announced that commission members would take minutes this evening.**

1. Public Hearing - Re: Proposed amendments to Sections 2.16. B and 19.02.B regarding allowed structures in front and rear set back areas.

Public Hearing opened at 7:34 p.m. with Walworth reviewing history of process ~~to~~ that led commission to proposed amendment.

Letters Read: NONE

Mr. Bruce Laidlaw,

5103 Old Park Road, Eastport. Mr. Laidlaw addressed procedural issues, sharing that the Hearing Notice for June 14, 2016 had incorrect address of Township location. The old Township Hall location address was provided on the notice. Additionally, the Hearing Notice indicated that supporting material available on Township website. He was unable to find it on the website. He contacted Josh Vey, who then emailed it to him. He recommends that Commission seek legal council based upon his professional career as an attorney to ensure commission understands and follows procedure. Mr. Laidlaw moved comment to the Hearing Topic itself. He indicated that within the content he found nothing to help one understand why the changes for deck setback rules is necessary. He reviewed previous ordinance language, dating back several years of Torch Lake Township and indicated he also researched ordinance language of other local municipalities to understand their language. He provided his understanding of the implications of the changes indicating that ordinance change to allow decks in setbacksis a mistake. It can lead to deterioration of shoreline beauty. He suggests going back and eliminating decks [in the setbacks} or narrowly restrict them. He also said that on the Great lakes, per court law, people have right of passage to the high water line but do not have staying rights.

Mr. Pat Keelan noted he is a member of ZBA through end of this year. He described process for property owners making any kind of changes, emphasizing that lot reviews are involved to ensure understanding of each circumstance to ensure that decisions made are appropriate to the specific circumstance. He suggested this procedure should be adopted for decks in setbacks.

He feels that the submitted language allows for positioning decks “up to” or over the waterline and suggested is to tweak 2.16 or eliminate it and let people go to ZBA.

Mr. Bob Spencer, 709 N West Torch Lake Dr.

Mr. Spencer mentioned that he contacted Mr. Walworth and the Township Supervisor, Alan Martel prior to meeting to share that the hearing postings for June 14 had mistakes. While public meeting notice for June 22 is correct in Antrim Review, it is incorrect on the website in that it does not mention public hearing. He would like to see public notices be correctly done by all Township committees.

He continued to address Hearing topic sharing a list of questions that sought clarification and possible impacts of the proposed language of 2.16 B

Spencer asked if Commission would consider open meetings to engage property owners in the discussion and process. He said that notices on the setbacks should go out to all of water front owners in Torch Lake Township. He added that there are 840 water property owners in TLT (Grand Traverse Bay plus Torch Lake.)

1. Public Hearing - Re: Request for special use on Parcel 05-14-312-009-00 located at 4990 N. U.S. 31 to permit outside food and beverage service at the site.

Letters Read: NONE

Public Comment:

Jim Hettinger applicant for special use permit stated they are looking to be able to serve food and beverage outside [especially] during busy and overflow times. They will not have outside music.

Mr. Roy Ellison Spoke on behalf of the request, indicating that as a business owner himself he supports allowing owners to maximize income generation during short season.

Mr. Dave Hendershott, 7367 11 Mile Rd, Rockford, MI 49341

Mr. Hendershott is a neighbor to the location and has met the owners. He indicated his support for the business and the new owners, however asks that within a special request approval that constraining noise and lighting

considered as part of the approval. He would also like to see a restriction on parking to limit parking to the designated lot and restrict any parking on M88. He asks if a 5-year (or time based) approval could be considered, in case the ownership changes.

Mr. Bob Spencer: Mr. Spencer indicated he has yet to hear anyone speak against the project and that everyone seems anxious for it to open. Bob mentioned that in preparation for tonight’s meeting, he was unable to find proper paperwork – the section 18.04 development plan. Spencer asked the commission to consider asking Mr. Grobbel to walk the committee through the process to ensure the process is being properly instated.

Walworth sought clarity on fact that Spencer could not find application, indicating that the document Spencer was seeking is no longer being used. Walworth indicated that he had double-checked to ensure that the application and site plan was in place and available.

Public Hearings Closed at 8:06 PM

1. Call to Order Regular Meeting

Meeting Called to Order at: 8:07

1. Consideration of Agenda

Walworth would like to add ~~/~~ insert a new agenda item as Number 10 with the following agenda items renumbered in same order. Topic for new Item 10 will be the numeric Ordinary High Water Mark in the definition of the term “YARD”.

Motion to approved by Kulka seconded by Jorgensen and passed unanimously.

1. Correspondence, Meetings, Training, Announcements, etc.

Sarah Nichols, June 23 will be presenting the importance of tourism is n Michigan -

Walworth shared that he had received a letter from the Tip of the Mitt Watershed Council indicating they have recently finished work in Charlevoix on topic of septic system oversight. They are presenting their results to Charlevoix County and scheduling to deliver reports elsewhere. Antrim is included. Date has not been scheduled. It is anticipated to be in July. When he becomes aware of date he will we communicate. The letter asked if Torch Lake Township would like to join with Elk Rapids as a sponsor of the event.

1. Approval of Minutes May 10, 2016 Meeting Motion to approve May 10, 2016 Minutes by Norton Betz. Kulka seconded, but noted that on page 3 of the minutes, at the top of the page – the fact that music was also discussed is not indicated. It was agreed that since it was in the sentence below a change was not required. Minutes approved unanimously.
2. Concerns of the Public other than Agenda items

No public concerns communicated

1. Discussion and possible action on proposed amendments to Sections 2.16. B and 19.02.B regarding allowed structures in front and rear set back areas.

Walworth provided history of how committee lead to proposed amendments: It came to PC attention by Josh Vey, with the need for clearer definition of ground level, multiple levels. During deliberations it seemed desirable to also have tighter constraints on the size of decks and any lighting.

Grobbel responded to questions that Mr. Spencer had presented.Grobbel shared that the amendment discussion started and remains focused on decks and decks only. Regarding the projection of decks on or over water line Mr. Grobbel indicated that this was and is not intended. He shared that by law the MDEQ and/or the Corp of Engineers have control on any structure on or over waterline~~.~~ The state exercises jurisdiction below the ordinary high water mark and in some instances adjacent wetlands. If it is upland you can build up to the waters edge – assuming you still meet Township ordinances. Common-law riparian rights also come into play on this.

David Hendershott commented to clarify that with permitting approvals could be obtained from the governmental agencies. Grobbel agreed.

Grobbel: This was only about decks. The 324 was based upon an 18X18 assumption

Spencer: Seeking clarification on language 2.16B and 19.02B. He suggested that language is confusing -

Laidlaw: Asked if consideration was given to changing water levels on Lake Michigan in this discussion. Does it make sense to allow building near water where lake levels will likely destroy over time?

Gobbelstated that this does not allow buildings … this is about decks only. We have different high water marks on Lake Michigan and a controlled level on Torch Lake. The high water marks on the Bay is 580.5 MDEQ, 581.5 US Lakes and 584.4 FEMA. Torch Lake Township uses 581.5. The language is not enabling building of buildings in any of the set back areas

Spencer: Mr. Spencer shared that there is a Michigan Residential Code Book, and that within it in Section 105, it provides deck specifications in detail. Mr. Spencer shared his concern for proposed language causing conflict with the building code specifications. Jorgensen clarified that the Zoning Commission relies on the building code to be applied.

Goossen: Mr. Goossen would like Commission to look at 19.02B (the last paragraph) it should be cleaned up to clarify intent. Walworth agreed.

Grobbel suggested clarifying language at that time. Discussion was had.

Norton Betz moved to approve the following language. Walworth seconded. Accepted unanimously.

NEW LANGUAGE:

Section 19.02B – ZONING PERMIT EXEMPTION. Decks and accessory storage buildings not in setbacks, and having no footings or foundation, under two hundred (200) square feet, and a height not exceeding twelve (12) feet (i.e., accessory buildings only) shall be exempt from the permit requirements of this ordinance. These structures shall not protrude into the front yard setback and shall conform to all setback requirements of the district in which the structure is located.

[Motion to approve by] Goossen and Norton Betz seconded, that we forwardthese amendments to the board for approval. Passed unanimously

1. Discussion and possible action on request on Parcel 05-14-312-009-00 located at 4990 N. U.S. 31 to permit outside food and beverage service at the site.

The Chair distributed a draft finding of facts for consideration as a step towards documenting a decision.

Findings were reviewed and it was agreed to approve Special Use request with conditions as follows:

1. Hours of operation for outdoor service shall be limited to 9:00p.m.
2. All Outdoor lighting shall be downward directed and shielded and not fall upon any neighboring properties.
3. There shall be no outdoor music or outdoor speakers.

Motion to approve by Kulka seconded by Goossen. Unanimous approval

1. Definition of Yard

The Torch Lake Township Zoning Ordinance uses 581.5 as the Ordinary High Water Mark in the definition of “Yard”. It appears that the township has previously using 580.5 and that might create a non-conformity issue. Consensus is to leave ordinance language as is.

1. Concerns of the Public

9:51 Walworth opened floor to public. No Comments.

1. Concerns of the Planning Commission

Special meeting next week June 22 with public hearing on citizen proposed amendments with respect to Special Uses in the R1 zone. Legal counsel has advised that we can accept and process the proposal or chose to create an alternative.

Open discussion initiated by Goossen on proper noticing processes. Specifically has the upcoming June 22nd meeting been properly noticed and is any supporting material in its proper place. Walworth suggested that the Township should establish a policy for where and or how supporting materials will be made available for hearings.

1. Adjournment The meeting adjourned at 10:05 PM.