

MINUTES- REGULAR MEETING
BEDFORD TOWNSHIP PLANNING COMMISSION
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
APRIL 12, 2017

PRESENT:

JAKE LAKE
JOE GARVERICK
DAN STEFFEN
MICHELLE BORK
TOM ZDYBEK
ROBYNE BUSH

EXCUSED:

MATTHEW ANGERER

ALSO PRESENT:

MARTY KAMPRATH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH
KAREN M. KINCAID, PLANNING AND ZONING ADMINISTRATOR
JODIE L. RECTOR, PLANNING AND ZONING, ASSISTANT, RECORDING SECRETARY

Lake called the Bedford Township Planning Commission meeting to order at 7:04 p.m. The Pledge of Allegiance was said. Zdybek called the roll. Quorum present.

APPROVAL OF THE AGENDA

Motion by Steffen, supported by Bush, to approve the agenda. Motion carried.

APPROVAL OF THE MINUTES

Motion by Bush, supported by Zdybek, to approve the minutes of March 8, 2017. Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

Joe Turek- 7955 Douglas Road-Mr. Turek stated he is interested in purchasing one of the lots within Greystone Manor and would like the opportunity to split the property again as the developer has the request on the agenda on a determination to amend the PUD tonight into four parcels being a major or minor amendment.

NEW BUSINESS

A) REQUEST FOR A SIGN WAIVER FOR SECOR-STERNS INVESTMENT, LLC, LIQUOR CABINET, LOCATED ON PARCEL NUMBER 5802-031-006-10, OTHERWISE KNOWN AS 7375 SECOR ROAD (FORMER FOOD TOWN)

Kincaid reviewed the analysis stating the applicant is seeking a variance request to replace the existing prior legal non-conforming wall sign located on a portion of the former Food Town location, which has been converted into a multi-unit building. A sign waiver was granted for the Dollar Tree on 7/27/2016. The parcel is zoned C-3, General Commercial, and per Section 400.1922 7b) 2 ½ feet in height and either 50 square feet in area or 80% of the width of the unit, whichever is less is permitted. The applicant is proposing an 81 square foot sign 2 ½ feet in height to be attached to an existing permanent parapet wall and per Section 400.1922.1 V- permanent non-freestanding signs shall be wall signs, attached to a wall of a building such that no part of the sign shall be located higher than the lowest point of the roof attached to the wall of the building where the sign is located. Thus requiring a 31 square foot area waiver and to allow the placement of the sign to be located above the lowest point of the roofline due to the roof design. If the request is considered, the following waivers are required:

- 31 square feet in area waiver
- Permit the placement of the sign above the lowest point of the roofline due to the roof design

Kincaid noted the following shall be considered for inclusion in any motion to approve:

- A sign and electrical permit shall be obtained from Bedford Township
- The applicant shall continue to work with the Township to ensure placement of the sign meets all the requirements of this waiver

Lake informed the applicant the commission was one member short, offering the option to defer to a later date when all members could be present. Mr. Hall opted to move forward as scheduled.

Rob Hall- Applicant Representative- Mr. Hall stated the proposed sign is due to the size of the unit and similar to the Dollar Tree location. Discussion continued amongst the Commission Members on the proposed size, location and being a three unit building. Mr. Hall explained the proposed sign is centered with the unit and there is another unit to the south.

Motion by Garverick, supported by Bush, to grant the sign waiver for Secor-Sterns Investment, LLC, Liquor Cabinet, located on parcel number 5802-031-006-10, otherwise known as 7375 Secor Road to allow a 31 square foot area variance and permit the location of the sign above the roof design on an existing permanent parapet wall conditioned upon a sign and electrical permit be obtained from Bedford Township and the applicant shall continue to work with the Township to ensure placement of the sign meets all the requirements of this waiver.

Roll call as follows: Voting Aye: Garverick, Bush, Zdybek, Steffen, Bork and Lake. Voting Nay: None. Excused: Angerer. Motion carried.

B) REQUEST FOR A SIGN WAIVER FOR CHRIST THE KING LUTHERAN CHURCH, LOCATED ON PARCEL NUMBER 5802-032-042-00, OTHERWISE KNOWN AS 2843 W. STERNS ROAD

Kincaid reviewed the analysis stating the applicant is seeking to install a monument sign located at 2843 W. Sterns Road, location of Christ the King Lutheran Church. The Ordinance permits one monument sign of up to 32 square feet in area and five feet in height (section 400.1922) to serve as identification in an R-2A, Single Family Residential Zoning District for lots or parcels containing other than dwelling units. The applicant is seeking to install a 34.5 square foot by 5.78 foot tall monument sign to include an LED message board. Therefore, the proposed sign requires a 2.5 square foot area waiver and a 1" height waiver. Per Section 400.1922 1) O, states no flashing, moving, oscillating or intermittent type of illuminated sign or display shall be permitted in any zoning district. Therefore, the Planning Commission shall determine how often the message can change so not to create a safety issue by distracting passing traffic. The applicant has indicated the proposed sign will be installed where the existing sign is located. Should the request be considered, the following waivers are required:

- a 1" height waiver
- a 2.5 square foot area waiver
- approval to allow an LED Message Board

Kincaid added the following shall be considered for inclusion in any motion to approve:

- all required permits shall be obtained from Bedford Township
- the applicant shall continue to maintain the entire perimeter landscaped area of the base, no less than two feet wide, growing, and in healthy condition

Gary Harrell-3443 Quail Hollow Drive, Graphic Signs- Applicant Representative- Mr. Harrell referenced his previous request for Olde School House Commons, saying this proposed type of sign is very similar. Discussion continued on the sign size, illumination during day and night hours and the proposed time frame on the message board change. Mr. Harrell stated the illumination can be adjusted at any time and graphics. Commission Members discussed review and amending the ordinance in regards to permitting an LED Message Board.

Lake informed the applicant the commission was one member short, offering the option to defer to a later date when all members could be present. Mr. Harrell opted to move forward as scheduled.

Motion by Bush, supported by Zdybek, to grant a sign waiver for Christ The King Lutheran Church, located on parcel number 5802-032-042-00, otherwise known as 2843 W. Sterns Road to allow a 34.5 square foot sign 5.78 feet in height and to allow an LED Message Board with a minimum five second message change interval conditioned upon all required permits shall be obtained from Bedford Township and the applicant shall continue to maintain the entire perimeter landscaped area of the base no less than two feet wide, in a growing and healthy condition.

Roll call as follows: Voting Aye: Bush, Zdybek, Garverick, Steffen, Bork and Lake. Voting Nay: None. Excused: Angerer. Motion carried.

C) REQUEST FOR A DETERMINATION IF THE PROPOSED AMENDMENT TO THE GREYSTONE MANOR PLANNED UNIT DEVELOPMENT IS A MINOR OR MAJOR CHANGE, LOCATED ON PARCEL NUMBER 5802-021-036-00, DOUGLAS ROAD NORTH OF CONSEAR ROAD

Kincaid reviewed the memo stating the developer of Greystone Manor PUD, Greystone Holdings, LLC is seeking a determination on a PUD amendment. The PUD was approved on April 18, 2006 for 16 lots on Douglas Road, just north of Enfield Village. On June 28, 2006, the developer was granted a minor PUD amendment to address the sewage system issue as a result of the bedrock and the depth required to have a forced main. The private road has been installed and the owner has indicated while not all utilities have been installed, the trench for the utilities has been ground out (bedrock), was filled for safety purposes, but can be easily reopened to install the remaining required utilities. No work has taken place on the vacant site for a number of years, and the subject site has been on the market. The property owner has an

interested party that would like to finish the site, but would like to reduce the number of lots from 16 to 4. Therefore, this consideration is to determine if the request for the PUD amendment is a major or a minor amendment to the PUD. In the past, a reduction in the proposed number of units, and/or a separation of units that has resulted in a reduced number of units, has been considered a minor amendment. Once the determination has been made, the owner will be given direction on how to proceed.

Jason Sheppard- 7325 Bentcreek, Temperance, MI 48182-Applicant Representative- Mr. Sheppard advised he had been marketing the site and now has an interested buyer for lot three to the rear of the development, however the prospective buyer was interested in acquiring more acreage. Mr. Sheppard stated after further discussion with the property owners and reviewing the original submittal, a determination was made to lower the density and decrease the number of lots to four with each maintaining approximately 8 acres. Mr. Sheppard advised the water lines are to the rear of the development, trenches are in for the electric and gas lines and the remaining lots would be based on perking for septic and well. Mr. Sheppard advised the development would continue to be a private road with private four member association. Bush stated positive feedback on decreasing the density to maintain larger parcels. Steffen asked for clarification on sanitary and Mr. Sheppard advised there would be leach fields. Zdybek asked Kincaid for clarification on the request of Mr. Turek and splitting another parcel within the proposed amendment. Kincaid advised the developer is proposing four parcels, should any of those lots be sold and there was a plan to further split those parcels, an amendment to the PUD would be required. Kincaid continued saying any change made to PUD would require an amendment to the PUD. Mr. Kamprath agreed. Mr. Sheppard stated at this time the developer is only seeking a four lot amendment. Mr. Sheppard also added it would also be within the association to determine as it is a private development. Mr. Kamprath asked Mr. Sheppard, representative for the developer, for clarification that for this exercise for a determination of a minor or major amendment, it is a proposal for a total of four units. Mr. Sheppard stated that is correct, proposal of four units not five.

Lake informed the applicant the commission was one member short, offering the option to defer to a later date when all members could be present. Mr. Sheppard opted to move forward as scheduled.

Bush stated previous request of this nature, proposing a less dense development, has been determined as a minor amendment to a PUD. Lake also agreed. Bork asked if a minor or major amendment to the PUD is what is only being determined tonight. Mr. Kamprath stated that is correct.

Motion by Bork, supported by Bush, to determine that the proposed amendment to the Greystone Manor Planned Unit Development is determined to be a minor change, located on parcel number 5802-021-036-00, Douglas Road north of Consear Road, as the proposed amendment is to create a less dense development.

Roll call as follows: Voting Aye: Bork, Bush, Zdybek, Garverick, Steffen, and Lake. Voting Nay: None. Excused: Angerer. Motion carried.

- D) OPEN THE PUBLIC HEARING REGARDING FOREST VIEW LANES REQUEST FOR AN AMENDMENT TO AN EXISTING SPECIAL APPROVAL FOR AN OUTDOOR RECREATIONAL USE IN A C-2, SHOPPING CENTER BUSINESS DISTRICT, TO EXPAND RESTRICTED USES ALLOWED IN ZONES 2, 3, 5, 6 AND 7 AND TO EXPAND HOURS OF OPERATION IN ZONES 2, 3 AND 5 IN ACCORDANCE WITH THE SUBMITTED PLOT PLAN, ON PARCEL NUMBER 5802-028-023-00, OTHERWISE KNOWN AS 2345 W. DEAN ROAD, TEMPERANCE, MI 48182**

Motion by Bush, supported by Steffen, to open the public hearing at 7:35 p.m. Motion carried.

Kincaid reviewed the analysis stating the site consists of approximately 9.22 +/- acres and is the current site of Forest View Lanes and Sandy Courts Volleyball. The bowling alley was established several years ago and a letter dated June 11, 2001 was issued to Management Control System, Inc. (former owner) stating it was determined the bowling establishment received special approval from the Township prior to the time of construction, therefore, rendering the bowling establishment in full compliance with the special approval uses in the C-2 zoning district. Kincaid continued updating on previous meeting information stating on May 24, 1989, a special approval and final site plan approval was granted by the Planning Commission for a miniature golf course that was located within the fenced area northwest of the bowling establishment, which now contains three volleyball courts. The outdoor miniature golf course use transitioned to an outdoor volleyball use, and while the date of the transition has not been able to be verified by the Planning Department, the applicant obtained approval from the Board of Zoning Appeals for the temporary use in 2015 and 2016. On August 16, 2016, the Township adopted the "Outdoor Recreation in C-2 and C-3" ordinance that allows for certain commercial outdoor recreation activities in C-2 and C-3 commercially zoned districts. On September 7, 2016, the applicant sought and was granted special approval to allow outdoor recreational uses on the subject site. On October 3, 2016, the applicant went before the Board of Zoning Appeals for a fence height variance and to allow a non-decorative

fence to be placed in a front yard setback. As well, a variance was granted to allow a reduced parking requirement due to seasonal activities. On October 12, 2016, the applicant sought an amendment to the special approval that was granted on September 7, 2016, with a request to revise the approved hours of operation within Zone 5 (3 volleyball courts) from 10:00 a.m. to midnight to 10:00 a.m. to 2:00 a.m. The request for the amended hours of operation was denied. All minutes for the previous considerations from various boards were included in the packet of information provided to the Planning Commission for this request.

The analysis went on to state Richard Kenny, current owner and operator of Forest View Lanes and Sandy Courts Volleyball, is seeking an amendment to allow for additional yard game activities that have increased in popularity, while remaining in the confines of the noise ordinance and all other Township ordinances. The proposed activities do not include any sort of motorized vehicle, bike, car, etc., and do not include a firearm range, firearm discharge, target practice with a firearm or other weapon, archery range, or any other dangerous activity. As well, the applicant is seeking approval to offer ANY permitted use to take place at the owner's discretion in different areas of the facility so long as the use has been approved; for instance, to allow permitted yard games to be played in an area where volleyball was once played. This request applies to Zones 2, 3, 5, 6 & 7. *

(Direction was given to the Planning Commission to refer to the applicant's submitted aerial layout included in the packet of provided information for zone locations. The requests were described as follows©)

Zone 1: No changes proposed (bowling alley).

Zone 2: Changes as described in paragraph above marked with an *, and to amend the hours of operation for the recreational use, which shall include continuing to shut down all outdoor recreational activities 50' from the rear property line abutting the residential district at 10:00 p.m., and to amend the hours of operation in the remainder of the zone from the current midnight shut down time to allow activities until 2:00 a.m.

Zone 3: Changes as described in paragraph above marked with an *, and to amend the hours of operation for the recreational use from the current midnight shut down time to allow recreational activities until 2:00 a.m.

Zone 4: No changes proposed (bar area) ***Please keep in mind, default permitted hours of operation for recreational activities as regulated by the "Outdoor Recreation in C-2 and C-3" Zoning Ordinance (10:00 a.m. to midnight), where operating hours may otherwise be adjusted by the Planning Commission as part of the special approval, do not affect the hours liquor may be served. The serving of alcohol is regulated by Liquor Control Commission and may be served until 2:00 a.m., regardless of the outdoor recreational activities permitted hours of operation.***

Zone 5: Changes as described in paragraph above marked with an *, and to amend the hours of operation for the recreational use from the current midnight shut down time to allow recreational activities until 2:00 a.m.

Zone 6: Changes as described in paragraph above marked with an *. There is no request to amend the hours of operation, as the current permitted recreational hours of operation is 10:00 a.m. to 2:00 a.m. The applicant has indicated if any motion is made to adjust the hours of operation to an earlier time, the applicant will remove and withdraw this zone from consideration for amendment as it pertains to Zone 6. If withdrawn, the applicant would have to adhere to the stipulations of the September 7, 2016 granted special approval.

Zone 7: Changes as described in paragraph above marked with an *. There is no request to amend the hours of operation, as the current permitted recreational hours of operation is 10:00 a.m. to 2:00 a.m. The applicant has indicated if any motion is made to adjust the hours of operation to an earlier time, the applicant will remove and withdraw this zone from consideration for amendment as it pertains to Zone 7. If withdrawn, the applicant would have to adhere to the stipulations of the September 7, 2016 granted special approval.

Kincaid lastly noted included within the packet is additional identification, an aerial map and a zoning map.

Tony Brescol- Applicant Representative-Attorney and Rich Kenny- Owner- Mr. Brescol wanted to advise the issues that have required the applicant to resubmit an amendment. Mr. Brescol stated he wanted to remind the board and the community that the discussion is on playing volleyball and various yard games, and the ordinance regulates the games and the hours the games will shut down. Mr. Brescol stated the ordinance does not apply to noise, serving of alcohol or patrons being outside, playing of music or anything of the like. Mr. Brescol said the applicant is aware he must comply with the requirements of the outdoor recreational ordinance, the noise ordinance and with liquor control's rules. Mr. Brescol continued saying this specific ordinance is to regulate the outdoor activity. Mr. Brescol referred to previous meetings, saying since that time, he and Mr. Kenny sat down and did a cost analysis, which has been supplied to the Commission Members, and the results that were determined first is the expense of approximately \$55,000.00 to improve

zones 6 & 7, which have the 2:00 a.m. play time (zone 6- undeveloped, zone 7- no lighting). Mr. Brescol continued saying during the volleyball season, April 1st through September 4th, there is approximately \$135,000.00 loss of revenue between the hours of 10:00 p.m. to 2:00 a.m. Mr. Brescol referenced the submitted application listing other location within a 15 mile radius and where Mr. Kenny's patrons will go due to the Mr. Kenny's restricted hours of operation, saying those locations are able to continue play after midnight and all are within the Ohio area. Mr. Brescol said the location draws a huge amount of the patrons from the Ohio area, even the youth volleyball is leased by Toledo Beach Volleyball. Bush inquired on who supplied the cost analysis and asked if it the loss of revenue is due to the time restraints. Mr. Brescol stated Mr. Kenny prepared it based on his point of service system. Bush asked Mr. Kenny to supply clarification on cost analysis and break down. Mr. Kenny said each patron pays to play no matter how long the intent to stay and play and last season was a cost of \$5.00 per person and any additional revenue from food and drinks. Garverick inquired on the need for the increase time frame. Mr. Kenny said this is all open play, league time finishes at approximately 10:00 p.m.

Mr. Brescol referred to zone 7, leased by Toledo Beach Volleyball and being an upscale court being a desirable location for youth only. Bush inquired if the time request is not granted, would the applicant then use the youth court to allow adult play and increase alcohol sales. Mr. Brescol advised an option that was explored was to allow 21 and over to play at times to exploit the possible increased revenues. Mr. Brescol advised, he and the applicant have to explore other means to get the revenue back due to the restricted hours. Mr. Brescol said this loss of revenue is based on historical figures as the hours granted have not been in place for a volleyball season. Bush inquired if the use was permitted by ordinance. Kincaid added yes the applicant received his temporary use with the BZA for the 2015 and 2016 seasons. Garverick asked for clarification on the time frame of the use and further issues such as noise or drinking not being the issues tonight to determine.

Bush asked Mr. Kamprath for further clarification on the decision of the Planning Commission including the secondary effects of the decision. Mr. Kamprath stated this comes down to competing property interest of Forest View Lanes and the surrounding property owners and their right to use their property and have peace. Mr. Kamprath advised as part of the special approval the Planning Commission cannot lose sight of noise and other effects on the neighborhood. Mr. Kamprath continued saying part of the findings that the Commission determined when the Commission originally approved the Special Approval to satisfy the required criteria and whenever there is an amendment it must comply with Section 400.1203, which is, the Planning Commission imposes after finding that the use is not injurious to the district and environs, is not contrary to the spirit and purpose of this Ordinance, is not incompatible with already existing uses in the area, will not interfere with the orderly development of the area, would not be detrimental to the safety or convenience of vehicular or pedestrian traffic, will be served adequately by essential public facilities and services, will be consistent in assuring that the general public health, safety and welfare will not be infringed upon, and will be in compliance with all Township, County, State and Federal laws and regulations; and which, once approved, shall be deemed to authorize only one specific use, and shall expire and become null and void without further notice or action by the Planning Commission in any case where the special approval use has not been established within six months after the Planning Commission's grant of approval thereof or where the special approval use is discontinued or ceases to exist for six consecutive months or for 18 months during any three year period; and which may be revoked by the Planning Commission after it finds that any of the requirements of this Ordinance or conditions of approval are not being maintained. Mr. Kamprath reiterated those were part of the findings within the motion by Lake when this request was originally approved. Lake requested to open the public hearing for public comment.

Karen Rideout- 8112 Douglas Road- Ms. Rideout stated she has lived at her home for 23 years and at that time she believed there were only 2 volleyball courts that were not being utilized, or rarely utilized, and a miniature golf area. Ms. Rideout added in the past 4 years that area has expanded exponentially with hours of operation until 2:00 a.m. Ms. Rideout continued saying there was so much noise and partying atmosphere that she and her family were not even going outside having fun and feeling safe on their own property. Ms. Rideout stated the Commission is here to protect the public's health, safety and welfare. Ms. Rideout reminded the Commission Members that Mr. Kenny has already appealed to amend the hours of operation of the volleyball courts twice and Ms. Rideout does not see or feel there are any unique circumstances that have changed since that time to be discussing the hours of operation again. Ms. Rideout reminded the Planning Commission of the petition she had obtained during a previous request. Ms. Rideout stated she felt the decision that was made the last time on the hours of operation was a great compromise between Mr. Kenny and the surrounding properties. Ms. Rideout lastly hoped the Commission understands she just wants to also have peace and enjoyment on her property. Garverick inquired how far Ms. Rideout's house is from the property. Ms. Rideout stated she lives on Douglas Road. Bork stated approximately 300'. Discussion continued on the location of Ms. Rideout's property and the subject site. Bork stated that noise is not the Commission's concern. Lake and Bush stated yes the Commission needs to take secondary effects into consideration when making a decision. Steffen inquired on any compliance issues with the noise ordinance at subject site. Bush added there is not an ordinance officer on duty during the evening hours and continued to state the sheriff's department does not enforce the township ordinances. Ms. Rideout stated she has made calls after hours. Mr. Kamprath stated discussion and a decision is based on everything caused by this activity that could impact the neighboring properties. Bork stated the township has a noise ordinance. Mr. Kamprath advised the noise ordinance is

separate and independent from anything being discussed tonight not to say that it is not relevant to this topic, but what is relevant to this topic is the impact of this activity on the neighbor's which includes: noise, traffic, smells, sounds, lighting, etc. Ms. Rideout stated if the hours are increased there needs to be a wall, tree line or some sort of buffer. Garverick asked Mr. Kamprath on the Commission requiring a buffer. Mr. Kamprath stated that buffering and screening is provided within the ordinance to try and minimize the impact of this activity against adjoining parcels such as setbacks (which have been dealt with extensively in prior meetings), screening (trees, mounds, obscuring walls) all which are in the condition within the ordinance permitting the Planning Commission to impose as part of granting a use.

Mary Jones-9145 Summerfield-Ms. Jones requested to remember the community and that Forest View Lanes having brought up the recognition of Bedford by bringing in patrons from the surrounding areas. Ms. Jones said Mr. Kenny is one of the most staunch supporters of Bedford Township.

Dave Schmitt- MS Builders, owner of residential property on Dean Road- Mr. Schmitt is the property owner of the 20 acres across the street from Forest View. Mr. Schmitt commended Mr. Kenny on the job he has done at the location and feels it is an asset to the community and he has no opposition. Mr. Schmitt inquired if this approval is permanent or is occasionally reviewed. Mr. Kamprath stated it is a permanent approval unless the conditions are violated and then the approval can be terminated, and is void if the use discontinues for at least 6 months. Mr. Schmitt inquired if the noise was out of control how would that be handled. Mr. Kamprath stated any complaint would need to be submitted and presented to the Planning Commission for review.

Jim Nyhan-8277 Argyll- Mr. Nyhan stated he was the previous owner of Forest View Lanes. Mr. Nyhan said since 1995 there have been 5 volleyball courts. Mr. Nyhan continued to say he found when he was the owner, after the facility had closed down, is when there would be an issue with noise and fights. Mr. Nyhan stated he found since the location is now being manned and managed it has minimized any trouble.

Ryan Luksaik-8042 Douglas - Mr. Luksaik displayed photos of lighting issues to his home. Garverick inquired on Mr. Luksaik's distance from the subject site. Mr. Luksaik stated he is third house. Mr. Luksaik stated there is an issue with the noise level. Mr. Luksaik stated Mr. Kenny had contradicted himself saying the location was open until 2:00 a.m., however if the documents were checked, he was only granted until midnight. Mr. Kamprath said he is unaware of the time frame the location has been operating, but the temporary use approval was until midnight. Steffen asked if any courts were permitted until 2:00 a.m. Bush stated not until October she believed. Mr. Luksaik voiced his opinion on time frame being until 10:00p.m.during the week and midnight on the weekends. Mr. Luksaik concluded asking the Commission to take into consideration the request of the surrounding residents.

Motion by Bush, supported by Steffen, to close the public hearing at 8:24 p.m. Motion carried.

Planning Commission discussed several locations in other areas, surrounding parcels, uses and hours. Lake stated no one is questioning Mr. Kenny being a good citizen of Bedford Township; however the Planning Commission needs to think about the facts and the requirements of the ordinance and how it is written, on how the Commission judges if the use is injurious to any of the surrounding parcels. Lake added regarding the time permitted, saying the ordinance is not for whether Forest View can generate revenue. It is about what time and how late to permit the outdoor activity, keeping consideration for the surrounding residential properties.

Bork inquired on the motion process. Mr. Kamprath advised Mr. Brescol may want to address the Commission again and the applicant should be given the opportunity to defer to the next meeting due to the Commission being one member short. Mr. Brescol agreed with all property owners having the right to enjoy their property, and Mr. Kenny does respect that. Mr. Brescol continued saying that Forest View Lanes has been operating volleyball since before either of the presenters here tonight occupied those premises. Mr. Brescol stated even if every request presented was voted down tonight, two zones (6 & 7) have approval to be utilized until 2:00 a.m. Mr. Brescol reiterated the request is to allow the use of all of zones until 2:00 a.m. Mr. Brescol said Mr. Kenny is asking to use his commercial property in a way that was presented within the packet. Bush asked if Mr. Kenny was willing to install a berm to help with the noise level concern expressed. Mr. Brescol stated as there are some practical difficulties with certain types of buffering due the fencing being close to neighboring lot lines, obtained by the variance requested and granted last year. Steffen stated the zones and time frames currently approved: 6 & 7 until 2:00 a.m., and zones 2, 3 & 5 until midnight with the south 50' of zone 2 shutting down at 10:00 p.m. Mr. Brescol stated that is correct. Steffen asked if Mr. Kenny would be open to discussion on all of zone 2 shutting down at midnight. Mr. Brescol said certainly. Mr. Kenny stated there is no organize play after 10:00 p.m. Mr. Kenny added low decibel/multi-court whistles are used during league play. Bush stated in her opinion she felt the Commission worked very hard and diligently to come up with a mechanism that would be respectful to both Mr. Kenny's ability to make money and to protect the surrounding residential property owner's rights. Bush asked Mr. Kenny aside from capturing more revenue what are the exact issues. Mr. Brescol said one of the issues is the time, however the other practical difficulty Mr. Kenny has with the approval is the motion made reflected in the approved minutes specifically

states outdoor recreational activities permitted: fowling, volleyball, corn hole and an ice rink. Mr. Brescol advised the request is to allow for any outdoor activity Mr. Kenny would like to offer in all zones be permitted, so long as it is not offensive. Bush asked Mr. Brescol if the Commission were to grant approval for any requested use but maintain the time constraints would Mr. Kenny agree. Mr. Brescol stated no, as after review of the previous request approval the determination was made that the approval did not meet the intent or the needs for Mr. Kenny in all the zones.

Lake stated the Commission needed to be careful when not knowing what potential outdoor recreational game could come out and approving all outdoor games with no stipulations. Bork voiced opinion on an approval of all outdoor games being permitted and Steffen agreed due to the township and applicants' time when having to come back every time a new outdoor game was created. Mr. Kamprath read aloud the ordinance and noted the ordinance specifically list outdoor recreational uses permitted or any other commercial outdoor activity must be specifically identified and approved by the Planning Commission pursuant to special approval. Lake advised what the Commission determines is setting a precedent for other commercial properties within the township. Mr. Brescol stated there are 13 parcels within the township that the ordinance could meet the requirements of the ordinance and not every commercial property. Lake agreed, however the Commission should still be consistent with those 13 parcels. Bush stated the ordinance is specific in the wording of the permitted games, and the Commission does not have the authority to change without the applicant stating a specific requested game. Bush said the Commission needs to review the request before them and what precedent is going to be decided upon as fair, equal and considerate for all property owners within the township. Bush stated she felt there was a good compromise in the decision that was made last meeting. Lake agreed. Mr. Brescol stated the applicant does not want to be limited to the use of each zone just because a name of an outdoor activity has changed, but is still similar in use to avoid additional meetings. Mr. Brescol reviewed the zone areas and clarified the proposed amendment of uses and hours. Lake stated with the request of additional games, he would have no objection to approving some flexibility within the zones, however Lake said he is not willing to allow a time frame pass midnight as it is the time frame that defaults in the ordinance. Bush agreed. Lake asked for an explanation referring to the application portion stating to withdraw zones 6 & 7 if they are included to change the permitted time to midnight. Mr. Kamprath clarified saying to change the hours to midnight from 2:00 a.m. Mr. Kamprath stated this is a global special approval for the entire site. Mr. Kamprath added the Commission can review as a whole site, or break it down into mini sites as the Commission may wish. Steffen again inquired a compromise of the zone time frame closing down zones 2 & 3 at midnight keeping the 50' time frame and more global the outdoor game use. Bush agreed adding if there was an issue the neighbors could request a change in the use or time. Mr. Kamprath stated he does not believe a neighbor can request a change in the proprietor's special approval. Mr. Kamprath said if there was proof of a violation of the conditions of the approval that would be a different situation. Bork voiced opinion of 5, 6 & 7 until 2:00 a.m. and the remaining zones as previously approved. Bush agreed with adding a berm in front of zones 6 & 7. Mr. Brescol added he was unaware if that condition would require a variance. Mr. Brescol advised the Commission there is no volleyball currently taking place in zone 3 as it is an extension of bar area. Lake advised when and if a motion is made to keep in mind if it is to allow all or any uses in all zones, even if it currently is not taking place, and that it does not mean it can or will not be created if it is included in the motion and approved.

Lake informed the applicant the commission was one member short, offering the option to defer to a later date when all members could be present. Mr. Kenny opted to reschedule to the next available meeting. Kincaid advised the request will be represented at that May 10, 2017 regular scheduled meeting. Mr. Kamprath advised the public hearing has been closed and will not be republished, so should there be any further comments, that will be addressed during public comment time at the next meeting.

PUBLIC COMMENT -

Ryan Luksaik-8042 Douglas- Mr. Luksaik asked for the Commission to review and take into consideration other locations if the commercial property is abutting a residential area and the time frame permitted for outdoor use.

INFORMATION -

None

COMMISSION / STAFF COMMENT -

Kincaid stated the April 26th, meeting has been cancelled and the next meeting is May 10th.

Bush wished everyone a Happy Passover and upcoming Easter.

ADJOURNMENT -

The meeting was duly adjourned at 9:06 p.m.

*Respectfully submitted,
Jodie L. Rector, Recording Secretary*