

MINUTES- SPECIAL MEETING
BEDFORD TOWNSHIP PLANNING COMMISSION
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
September 7, 2016

PRESENT:

PAUL PIRRONE
ROBYNE BUSH
MARYANNE BOURQUE
MATT ANGERER
JAKE LAKE
TOM ZDYBEK

EXCUSED:

KORLEEN BIALECKI

ALSO PRESENT:

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

Bourque, called the Bedford Township Planning Commission meeting to order at 7:01 p.m. The Pledge of Allegiance was said. Lake called the roll. Quorum present.

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Motion by Lake, supported by Bush, to approve the minutes of August 24, 2016.

Roll call as follows: Voting Aye: Lake, Bush, Angerer, Zdybek, Pirrone and Bourque Voting Nay: None. Excused: Bialecki. Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)-None

NEW BUSINESS

- A) **7:02 P.M. CONTINUE THE OPEN PUBLIC HEARING REGARDING FOREST VIEW LANES REQUEST FOR A SPECIAL APPROVAL TO ALLOW AN OUTDOOR RECREATIONAL USE, PER SECTION 400.1203, C-2 SHOPPING CENTER BUISNESS DISTRICT, ON PARCEL NUMBER 5802-028-023-00, OTHERWISE KNOWN AS 2345 W. DEAN ROAD, TEMPERANCE, MI 48182**

Kincaid recapped on 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., the 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. 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 on June 1, 2015 for the 2015 season and on June 6, 2016 for the current season. The minutes of the BZA temporary use approval were included as information for Planning Commission reference to what was approved. Kincaid continued saying Richard Kenny, the current owner and operator of Forest View Lanes and Sandy Courts Volleyball, expanded the volleyball use to a total of 11 courts as was approved with the BZA temporary use. Kincaid added the additional information received is in regards to parking. Kincaid referenced the calculations of the inside facility that does include the bowling lanes, the bar/eating area and the golf simulator/seating area which required by ordinance is 116 parking spaces. Kincaid continued saying the outdoor recreational area currently in existence is 11 volleyball courts, where the applicant may discuss further as all courts may not be utilized at 100% at all times, however when calculating the courts as used at all times the requirements by ordinance would be 132 parking spaces for 11 courts, the yard game area would require 4 parking spaces, and the outdoor bar and patio area requires 22 parking spaces. Also, the applicant has indicated area zone 6, as identified on the submitted plot plan, consists of approximately 14,400 square feet and is for additional outdoor activity, but has not identified the use and without knowing the use the Planning Department is unable to calculate the required parking, as the entire area may not all be utilized for outdoor recreational area. Kincaid added calculations for outdoor recreational parking would be 158 parking spaces for a total of 274 to include the Bowling Alley/ Bar area. Kincaid noted the applicant has managed to obtain additional parking spaces that were not updated before the packet was assembled and Mr. Kenny will speak in regards to that. Kincaid

added the Planning Commission cannot grant a variance on the number of parking spaces required by ordinance, saying if the applicant would like to reduce the number of spaces required by ordinance, Mr. Kenny would have to seek a variance from the Board of Zoning Appeals. Kincaid included that there were a total of 10 email letters received, 8 letters of support for the use and two letters received did not state opposition to the use, however, expressed concern regarding hours of operation and noise.

Richard Kenny-7824 Jackman Road-Owner of Forest View Lanes-Tony Brescol-Attorney for the applicant-

Mr. Brescol stated this request is a small deviation from the temporary use that was already granted by the BZA. Mr. Brescol added the applicant is requesting a variance from fence boundaries for continuity purposes within area zone 6 to create uniformity with the existing fence to the west in zone 2 and to maintain uniformity along the front fence line in zone 7. Mr. Brescol added, from a use standpoint: volleyball, corn hole, ice rink, fowling and various yard games which are the current uses granted and there is no request to change. Mr. Brescol continued saying in regards to parking requirements, referencing the submitted plot plan starting with zone 1: Bowling Alley/Bar Area and Two Simulators: determined by ordinance 116 spaces are required. Mr. Brescol added the applicant's position is because the indoor uses and outdoor uses are so diametrically opposed in the seasons which they occur, the applicant feels they should not be held to ordinance parking requirement standards, for a total requirement of 274 parking spaces for indoor and outdoor uses. The applicant is not stating the use or the area does not exist, Mr. Kenny's point is it should be determined by evaluating the entire property how and when the property is being utilized. Mr. Brescol reiterated for Zone 1 an agreement of a total of 116 parking spaces, Zone 2, the rear four volleyball courts, stating each court as a designated size of 30 x 60, under the ordinance requires 48 parking spaces. Mr. Brescol added he has calculated the required parking in half as the use is only half the year and feels that is why the ordinance allows the ability to go before the BZA to request a variance of the required parking due to the time frame of each use. Mr. Brescol said parking requirements for this location should be determined and calculated by seasons or months with the proposed uses due to the uses not happening all the time at the same time. Mr. Brescol went on to discuss the yard game area required parking calculating at a fixed use area for that specific use (corn hole, fowling etc.) Mr. Brescol said each Corn Hole game requires 70 square feet where Mr. Kenny has 6 totaling 420 square feet in area and requiring 3 parking spaces. Fowling would require an area of 160 square feet. Mr. Brescol stated Mr. Kenny would like the Commission to determine each outdoor recreational use area parking requirement so if a use should be moved into another area Mr. Kenny would be still able to calculate required parking and be in compliance. Mr. Brescol said parking is the major issue.

Mr. Brescol went on to discuss the setback from the southerly property line, Zone 2 where there are currently 4 volleyball courts playing area as the ordinance requires a 50' setback and Mr. Kenny is requesting a 40' deviation from that requirement due to the courts being currently approved under with a temporary use and have been in existence. Mr. Brescol also added a 10' deviation from the commercial property to the west from the ordinance requirement of 35' as approval for temporary outdoor recreational use is also in existence. Mr. Brescol moved on to Zone 6, stating currently there are no specific uses proposed, however Mr. Kenny is requesting approval for any proposed outdoor use activity as long as he continues to comply with parking requirements. Mr. Brescol stated another request for deviation from the outdoor ordinance is for the proposed fence on the west side of the property for Zone 6, equal to or matching the already granted variance setback on the east side of the driveway located north of the youth courts and adjacent to the Kicking Mule Car Wash for continuity on the front and the west of Mr. Kenny's property. Lastly, Mr. Brescol stated a deviation from the hours of operation is requested. Mr. Brescol noted the liquor hours are not the topic of discussion as that is regulated by the State. This deviation request is for the determination of hours of operation for outdoor recreational use. Mr. Brescol advised the Planning Commission Mr. Kenny is requesting hours for outdoor recreational use to coincide with the hours of the current liquor license. Mr. Brescol referred to Zone 2 and requested hours of operation to be the two southerly courts that abut the residential property to close at a proximately 10:00 p.m. or simply stating all outdoor recreational use within 50' of the residential property line must be shut down at 10:00 p.m. and all remaining zones having a 2:30 a.m. shut down time. Mr. Brescol added Mr. Kenny feels this is a good resolution to resolving the noise issues closest to the residential property. Pirrone asked the applicant when the music is shut down, and Mr. Kenny advised the two courts in Zone 2 the music is turned off at 10:00 p.m. when those courts are currently shut down. Mr. Brescol referenced Zone 7 and those courts being leased by the Toledo Beach Volleyball, adding Mr. Kenny feels there should be no required parking calculation for zone 7, as there is no lighting and at dark those courts are locked up and not Mr. Kenny's actual use. Mr. Brescol advised the Commission Members the existing screening and buffering is located on the neighboring properties and Mr. Kenny would like to use the existing tree line as his required buffer and in the event that the natural tree line is removed, Mr. Kenny suggested the Planning Commission, when it is determined the tree line has been removed, revisit the buffering/screening requirements. Mr. Brescol requested in zone 6, for the Planning Commission to grant approval for all proposed outdoor recreational activities subject to meeting parking requirements on the use.

Karen Rideout-8112 Douglas Road-Ms. Rideout stated during 2013, 2014 and 2015 the noise increased, and from around 5-9 p.m. it is like a party on all the courts until 2:30 a.m. Ms. Rideout commended Mr. Kenny on taking issues from that time frame into consideration. Ms. Rideout referenced the residential property across the street and being a residential area and could increase noise issues. Ms. Rideout referred to the Monroe County Planning Commission's lengthy recommendation on the Outdoor Recreational Activity Ordinance. Ms. Rideout voiced her opinion that hours closing earlier would protect the security and safety of township residents. Ms. Rideout said this year it has been quieter and that she has met with Mr. Kenny and believes Mr. Kenny wants to work with the neighbors but without having anything on paper there is nothing binding. Lastly, Ms. Rideout requested the Planning Commission Members to please take into consideration the surrounding residents in the area.

Ryan Luksaik-8042 Douglas Road-Mr. Luksaik voiced concern in regards to the amount of noise due to the close proximity to a residential area.

Motion by Bush, supported by Lake to close the public hearing at 7:47 p.m. Motion carried.

Bourque advised 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 move forward as scheduled.

Bourque requested clarification on the parcel and the adjacent parcels zoning. Kincaid advised the two adjacent lots to the west are C-2 zoned, south residentially zoned, the parcel where the car wash is located is C-3 zoned, east is residential and the undeveloped parcels on the north side of Dean are residential. Bourque requested clarification on the setbacks deviation and the fence. Mr. Kamprath cautioned the Commission to not confuse a construction of a "fence" with a "setback". Mr. Kamprath stated the applicant can install a "fence" anywhere on the property as long as it complies with the "Fence Ordinance", but the "setbacks" could be different than the placement of a fence. Mr. Kamprath clarified fences are required under the new ordinance to encompass the entire property perimeter or each particular use, and the ordinance does not state a setback is determined by a fence location, however, the Planning Commission can determine that if the Commission felt it was a practical way to control the use. Bourque inquired on the use in zone 6 and installing volleyball courts. Mr. Kamprath stated the applicant would need to specify his requested uses and the Planning Commission would need to approve the use and the required parking.

Commission members discussed Zone 7 regarding the current lease agreement for 5 years (2016 year 2) and asked legal for clarification what that use would become, calculating parking requirements and if it should be included in any motion should that lease not be renewed. Mr. Kamprath added the Planning Commission would need to address the use proposed and determine the parking requirements as the Commission does not have the authority to deviate from the parking requirements, adding any deviation would be proposed to the Board of Zoning Appeals. Lake added there are three issues to address: parking, which is determined by a calculation, setbacks, and hours of operation.

Pirrone asked the applicant if the fence is on the adjacent property to the south, asked if there are issues with parking and are there any intentions to increase parking. Mr. Kenny said the fence is on his property, there are no issues with parking unless due to weather or holidays and a small time frame the indoor and outdoor uses may overlay; however Mr. Kenny would like to expand the capacity. Pirrone added the use has been in existence for years and even Ms. Rideout stated it has been better. Mr. Kenny stated he did not own the business in 2013, he purchased the property in 2014, in 2015 was informed of the issue to request a temporary use approval for the outdoor use and 2016 requesting a permanent special approval use. Discussion continued amongst the commission members and the applicant on the improvements (lighting, whistles, etc.) the applicant has willingly done in respect the surrounding property owners and to improve the property. Bush added residents do have Township ordinances to protect them from the noise and asked the applicant if there is a proposed ice rink for a use and how parking is calculated. Mr. Kenny stated there is an ice rink use in the winter and Kincaid added due to the number of spaces currently available to include the required parking for the ice rink area would not exceed the number of required parking spaces even if at full capacity with the bowling, bar/eating area and the golf simulators.

Further discussion took place regarding the parking area and requirements and any deviation from the ordinance requirements would need a variance from the Board of Zoning Appeals. Mr. Kenny stated outdoor activity and the noise ordinance are two separate things. Mr. Kenny advised currently the courts 50' from the residential property line are shut down at 10:00 p.m. and the two courts remaining in Zone 2 as proposed in the application are being shut down at midnight. Mr. Kenny said he feels that is fair and adequate in regulating the noise level to the residential neighboring properties. Mr. Kamprath said hours of operation for each zoning area shall be determined. Zdybek asked if the amplified outdoor music use can be eliminated. Mr. Kenny stated he controls the music and it is at a low level and anyone within the parking lot playing music from the vehicle are asked to leave the facility.

Bush inquired on how many people are actually still playing volleyball after midnight. Mr. Kenny advised there are people until 2:00 a.m. still playing the sport on the current front courts located in Zone 5 until 2:30 a.m. however, the patrons drinking are normally in Zone 4, the bar area. Bush asked if Zone 4 is the bar area and Mr. Kenny stated yes that is correct with no outdoor recreational use. Mr. Kenny advised in Zone 7 there currently is no lightening as those courts at this time are not utilized after dark. Discussion took place regarding the residential properties to the north and Kincaid said the use in zone 7 meets the setback requirement as approved by the BZA. Angerer said he visited the commercial location to the west of Forest View Lanes to understand the concern of the noise level, saying the sound of voices was very minimal and he could not hear the music at all. Mr. Kamprath advised the noise ordinance still applies and would overrule any decisions made by the Planning Commission, however noise is difficult to regulate and can indirectly be regulated by regulating distance and hours of operation. Planning Commission Members continued to discuss enforcement and how noise is managed. Lake reiterated concern on setbacks, lighting, buffering and hours of operation. Mr. Kamprath said the Outdoor Recreational Ordinance states default hours or 10:00 a.m. until midnight seven days a week.

Mr. Kamprath advised the Planning Commission is permitted to deviate from the 35' setback from a non-residential zoning district and the 50' setback requirement from a residential zoning district with the Commissions' findings of unique circumstances. Lake stated determining the setback is measured from the actual activity and not the fencing area. Mr. Kamprath agreed. Lake voiced his lack of concern on granting the setback deviation request of 40' on the Zone 2 as his concern would be the hours of operation in that area. Mr. Kamprath advised the Commission Members to remember to deviate from a setback requirement there must unique circumstances. Planning Commission Members discussed at length the hours of operation, proposed uses, and what is permitted by ordinance.

Mr. Kamprath stated the exhibit with the zone locations was provided by the applicant to clarify each use area and Kincaid added a copy of the zoning exhibit will be included with the minutes for identification purposes. Lengthy discussion on each zoning area and the uses and hours of operation for each zone continued between the applicant and the Planning Commission Members. Mr. Brescol advised the motion of hours of operation that were granted from the BZA were not clear on what was discussed at the meeting. Mr. Kenny believed he was granted a temporary use approval with zone 2 shutting down at 10:00 p.m. and the remaining courts at 2:30 a.m. Mr. Brescol said those are the current hours of operation Mr. Kenny has been utilizing the outdoor recreational areas. Pirrone said the current hours of operation are important for discussion as that is the time frame the use has been taking place for the past three years. Bush also advised the facility has been operating on these hours of operation with no formal complaints made to the township. Pirrone commended the applicant on the positive improvements to resolve any issues from the previous years. Bourque and Lake referenced the increased number of courts and the additional yard games since the initial approval was granted. Mr. Brescol advised the Commission that as of June 2016 Mr. Kenny received a second year of a temporary use approval, but only operating 14 months into the temporary use. Kincaid informed Bush the process for a temporary use is the Planning Commission makes a recommendation to the Board of Zoning Appeals and the BZA makes the decision on the temporary use.

Motion by Lake, supported by Bush, to grant the special approval for Forest View Lanes to allow an outdoor recreational use, on parcel number 5802-028-023-00, otherwise known as 2345 W. Dean Road, Temperance, MI 48182 as the use is not injurious to the district and environs, is not contrary to the spirit and purpose of this Ordinance, 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 the Ordinance or conditions of approval are not being maintained. Conditions being the applicant meet the requirements of parking, lighting and fencing of the Bedford Township Outdoor Recreational Use Ordinance, granting the buffering to be the existing natural tree line on abutting properties but shall a complaint be registered with the Township stating the natural buffer has been removed and what the buffer requirements will be, the applicant then must submit a site plan of the required buffering within 90 days of the Planning Commissions' determination, which shall then be submitted and approved by the Planning Commission.

Conditions of the submitted Zoning Site Layout (exhibit A) are as follows:

ZONE 2:

- *Granting a 40' deviation from the required 50' rear yard setback from a Residential Zoning District with the unique circumstances as temporary approval use and courts established prior to the Outdoor Recreational Use Ordinance*
- *Granting a 20' deviation from the required 35' side yard setback from a Commercial Zoning District with the unique circumstances as a temporary approval use and courts established prior to the Outdoor Recreational Use Ordinance*
- *Required to shut down all outdoor recreational use 50' from the rear property line at 10:00 p.m. as currently being utilized per the owner*
- *Remaining location of Zone 2 to comply with the default hours of the ordinance and shut down all outdoor recreational use at midnight*
- *Permitting all requested uses: Fowling, Volleyball, Corn Hole and Ice Rink*

ZONES 3 & 5

- *Granting a 20' deviation from the required 35' side yard setback from a Commercial Zoning District with the unique circumstances as a temporary approval use and courts established prior to the Outdoor Recreational Use Ordinance*
- *Required to comply with the default hours of the ordinance and shut down all outdoor recreational use at midnight*
- *Permitting all requested uses: Fowling, Volleyball, Corn Hole and Ice Rink*

Roll call as follows: Voting Aye: Lake, Bush, Zdybek and Bourque. Voting Nay: Angerer and Pirrone. Excused: Bialecki. Motion Carried.

Motion by Bush, supported by Pirrone, to grant the special approval for Forest View Lanes to allow an outdoor recreational use, on parcel number 5802-028-023-00, otherwise known as 2345 W. Dean Road, Temperance, MI 48182 as the use is not injurious to the district and environs, is not contrary to the spirit and purpose of this Ordinance, 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 the Ordinance or conditions of approval are not being maintained. Conditions being the applicant meet the requirements of parking, lighting and fencing of the Bedford Township Outdoor Recreational Use Ordinance, granting the buffering to be the existing natural tree line on neighboring properties but shall a complaint be registered with the Township stating the natural buffer (trees) has been removed, the Planning Commission will make a determination if the buffer has been removed and what the buffer requirements will be, the applicant then must submit a site plan of the required buffering within 90 days of the Planning Commissions' determination, which shall then be submitted and approved by the Planning Commission. Conditions of the submitted Zoning Site Layout (exhibit A) are as follows:

ZONE 6

- *Required to shut down all outdoor recreational use at 2:00 a.m.*
- *Granting a 20' deviation from the required 35' side yard setback from a Commercial Zoning District with the unique circumstances to match the existing fence line*
- *Recommending a 50' deviation from the required 102' front yard setback in a C-2, Shopping Center Business District, which must go before the Board of Zoning Appeals for a variance*
- *Required to submit to BZA for a variance request for a 2' fence height variance in the front yard as per ordinance in a C-2, Shopping Center Business, a 4' fenced height in a front yard is permitted*
- *Permitting all requested uses: Fowling, Volleyball, Corn Hole and Ice Rink subject to the Bedford Township Parking Ordinance or BZA Approval.*

ZONE 7

- *Required to shut down all outdoor recreational use at 2:00 a.m.*
- *Allowing the 50' deviation from the required 102' front yard setback in a C-2, Shopping Center Business District as was previously granted by the Board of Zoning Appeals in a temporary use variance*
- *Allow the existing 6' fence height in a front yard as was previously approved through a temporary use variance granted by the BZA*
- *Permitting all requested uses: Fowling, Volleyball, Corn Hole and Ice Rink.*

Roll call as follows: Voting Aye: Bush, Pirrone, Zdybek, Angerer and Bourque. Voting Nay: Lake. Excused: Bialecki. Motion Carried.

Motion by Pirrone, supported by Bush, to approve Exhibit A, Submitted Site/Plot Plan for Forest View Lanes, on parcel Number 5802-028-023-00, otherwise known as 2345 W. Dean Road, Temperance, MI 48182

Roll call as follows: Voting Aye: Pirrone, Bush, Zdybek, Angerer, Lake and Bourque. Voting Nay: None. Excused: Bialecki. Motion Carried.

Mr. Brescol requested the Commission to revisit the motion on Zone 5, where the Planning Commission Members determined to maintain the existing approved motion. Mr. Kamprath advised unless the Commission Member who made the motion wants to reconsider, the motion stands. Lake stated motion stands.

PUBLIC COMMENT –

Ryan Lukasik-8042 Douglas Road- Requested clarification on if operating outside the approved hours, how is that handled and who enforces, also stating he knows no other area that allows that time frame of operation every day of the week.

INFORMATION – NONE

COMMISSION / STAFF COMMENT –

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Kincaid - advised there is a meeting scheduled for September 21, 2016 as there are three public hearings scheduled for two pond approvals and one for a rezoning.

Bush - voiced concern on school being back in session to be aware the bus traffic.

Pirrone - reminder of Temperance Days and appreciated all that came out and expressed their concerns and the Planning Commission taking all stated into consideration. Lake and Bourque agreed.

ADJOURNMENT –

The meeting was duly adjourned at 9:44 p.m.

Respectfully submitted,

*Jodie L. Rector
Recording Secretary*