

**CHARTER TOWNSHIP OF CHOCOLAY
PLANNING COMMISSION MEETING MINUTES
MONDAY, JUNE 8, 2009**

I. MEETING CALLED TO ORDER AT 7:30 PM/ROLL CALL

Present: Chairman Albert Denton, Estelle DeVooght, Ken Tabor,
Kendell Milton, Andy Sikkema, Andy Smith, Steve Kinnunen,

Absent:

Staff Present: Jennifer Thum (Planning and Community Development), Randy Yelle (Zoning Administrator), Laurie Vashaw-Eagle (Recording Secretary)

II. APPROVAL OF APRIL 13, 2009 & MAY 18, 2009 (JOINT BOARD) MEETING MINUTES

Steve Kinnunen motioned, seconded by Andy Sikkema, to approve the April 13, 2009 Planning Commission minutes as written and Ken Tabor motioned, seconded by Estelle DeVooght to approve the Planning Commission/Township Board combined May 18, 2009 meeting minutes as written.

Ayes 7. Nays 0. Motion approved.

III. ADDITIONAL ITEMS/APPROVAL OF AGENDA

Steve Kinnunen motioned, seconded by Estelle DeVooght, to approve the agenda as written for June 8, 2009.

Ayes 7. Nays 0. Motion approved.

IV. PUBLIC HEARINGS

A. CONTINUED HEARING FOR REZONING REQUEST #142

Mr. William Beckman stated that he is requesting to rezone this parcel from R-1 to Commercial. He stated that when Dana Estates had their subdivision surveyed many years ago there was supposed to be a 50 ft buffer between the subdivision and Mr. Beckman's property. This never occurred, which resulted in Mr. Beckman's property being zoned residential instead of commercial. Mr. Beckman stated that he has provided a letter and deed for this property as requested by the Township staff.

Joseph Uren, 116 Dana Lane – stated that he opposes Rezoning Request #142 as he feels the Township doesn't enforce the zoning ordinance. Mr. Uren provided the Commission members with pictures he provided to the Township approximately 7 years ago. The pictures show what Mr. Uren believes is dumping occurring behind Timbercrest and on the Oberstar property. Mr. Uren stated that he believes the residents do not want any more commercial dumps in the area.

Mr. Ed Pavaglio 108 Dana Lane, stated that why should Mr. Beckman be allowed to rezone his property when he wasn't allowed to put up a commercial garage? Mr. Pavaglio also stated that he and Mr. Beckman have had problems pertaining to their lot lines.

Trisha Martin, Dana Lane, stated that she feels if Mr. Beckman's property is used for storage facilities or something similar, the Township should work with Mr. Beckman to rezone this piece of property from R-1 to Commercial.

B. PROPOSED ZONING AMENDMENTS 34-09-01 TO 34-09-16

Proposed Zoning Amendments #34-09-01 through #34-09-16 were presented to the public for comment. There were no comments from the public pertaining to any of the proposed zoning amendments presented (#34-09-01-#34-09-16).

V. PUBLIC COMMENT

No public comment.

VI. PRESENTATION

No presentations scheduled.

VII. OLD BUSINESS

A. REZONING #142

Jennifer Thum reported that Rezoning Request #142 is a request from William Beckman, the property in consideration is parcel #52-02-110-063, and the lot is between the Dana Estates and Timbercrest Landscape Company. Mr. Beckman has petitioned the Chocolay Township Planning Commission to rezone the parcel from the current zoning classification of R-1 (Residential to "I" (Industrial or "C" (Commercial). The entire parcel is 3.08+/-acres and the applicant is requesting the rezoning due to hardship of selling the land as residential, as the land abuts an Industrial District.

The questions that came up at the January meeting concerning the deeds have been answered. Mr. Beckman dropped off copies of the deeds that show that he was deeded 50 ft. east of the Dana Estates and he then deeded 50 ft. to the Wursters (Timbercrest). It appears that everything is correct.

Steve Kinnunen moved, Ken Tabor seconded, that following the review of Rezoning Request #142, and the Staff/File Review and holding a public hearing, the Planning Commission recommends that the Township Board Deny Rezoning Request #142 for the following reasons:

1. There is no public health, safety or welfare concerns, that would require this lot to be rezoned.
2. The Planning Commission cannot rezone properties just because the owner is having a hard time selling the lot.
3. The Future Land Use map has the parcel zoned as Residential.

Ayes 7. Nays 0. Motion approved.

VIII. NEW BUSINESS

A. PROPOSED ZONING AMENDMENTS #34-09-01 - #34-09-16

Jennifer Thum reported that Township staff is bringing to the Planning Commission the proposed zoning amendments now that they have been presented at a public hearing. We can either approve them and recommend them to the Township Board, deny them, or table them for more discussion.

- #1 Amendment 34-09-01 – Multi-Family Residential District (MFR); Section 4.3:
(D) 1

Existing language:

1. Density is limited to *seven* homes per acre.

Proposed amended language:

2. Density is limited to *five* homes per acre

Ken Tabor moved, Andy Smith seconded, to approve zoning amendment #34-09-01 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

- #2 Amendment #34-09-02 – Agriculture/Forestry (AF); Section 4.7 & 4.4:

Parks were completely omitted from the AF district. In the old zoning ordinance; Parks were a permitted use within the RP district and a conditional use with the RR-2 district.

Proposed additions:

1. Add to AF Section 4.7 (C) 12. Parks
2. Add to WFR Section 4.4 (C) 7. Parks

Steve Kinnunen moved, Ken Tabor seconded, to approve zoning amendment #34-09-02 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

- #3 Amendment #34-09-03 – Agriculture/Forestry (AF); Section 4.7;

Kennels were completely omitted from the AF district, in the old zoning ordinance; kennels were a conditional use with the RR-2 & RP districts.

1. Add to Section 4.7 (C) 11. Kennels

Ken Tabor moved, Kendell Milton seconded, to approve zoning amendment #34-09-03 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#4 Amendment #34-09-04 – Height and Placement Regulations; Section 6.1:
(Schedule of Regulations)

Existing language:

	District	Front	Side	Rear
1.	MFR	30	30	30

Proposed amended language:

	District	Front	Side	Rear
2.	MFR	30	10	35

Ken Tabor moved, Steve Kinnunen seconded, to approve zoning amendment #34-09-04 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#5 Amendment #34-09-05 – Height and Placement Regulations; Section 6.1:
(Schedule of Regulations)

Existing language:

	District	Minimum Lot Size	Minimum Lot Width
1.	MFR	20 Acres	None

Proposed amended language:

2.	MFR	2 Acres	200 feet
----	-----	----------------	-----------------

Ken Tabor moved, Kendell Milton seconded, to approve zoning amendment #34-09-05 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#6 Amendment #34-09-06 – Outdoor Wood Burning Boilers and Appliances;
Section 6.5: (Conditions of Approval) Section 6.5 (A) and (B) 1. B

Existing language:

1. Minimum chimney height of 15 feet, measured from the grade to chimney top or 2 feet higher than the nearest neighboring principal dwelling within 1000 feet, whichever is higher.

Proposed language:

- a. A setback of 75 feet from any and all lot/property lines, easements, and right-of-ways;

- b. The outdoor wood-fired boiler shall be located at least 300 feet from the nearest residential dwelling, not served by the furnace;
- c. If the outdoor wood-fired boiler is located within 500 feet of the nearest residential dwelling, the chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;
- d. No fuel other than the natural wood without additives, wood pellets without additives, coal, and agricultural seeds in their natural state, may be burned;
- e. Outdoor wood-fired boilers shall not be located in the front yard;
- f. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocolay Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- g. If the outdoor wood burning appliance meets the Phase I EPA standards, the outdoor wood boiler located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;
- h. If the outdoor wood boiler meets the Phase II EPA standards, a setback of 50 feet from all lot/property lines, easements, and right-of-ways. The outdoor wood-fired boiler shall be located at least 200 feet from the nearest residential dwelling not served by the boiler. There are no chimney height requirements for a Phase II outdoor wood boiler.
- i. “Best Burn Practices” as issued by the Environmental Protection Agency shall be followed by all applicant utilizing outdoor wood boilers.

Ken Tabor moved, Andy Sikkema seconded, to table amendment #34-09-06 until the next meeting to allow staff to research set-backs and the definition of grade.

Ayes 7. Nays 0. Tabled.

#7 Amendment #34-09-07 – Commercial Vehicle Parking in Residential Districts; Section 6.11:

This paragraph was completely omitted from this section, and should not have been as this paragraph was not addressed. Although, whereas this action was not questioned and/or appealed within the required timeframe, it is my opinion that the newly adopted zoning ordinance is a legal and binding ordinance.

This paragraph is no longer a legal part of the zoning ordinance, therefore, if the Board wants it in the zoning ordinance, it must be adopted as a new amendment to the Zoning Ordinance.

Proposed reinstatement of this paragraph:

1. (C) One (1) 27 foot or smaller truck or van may be parked at a residence in all other residential zoning districts without Township review or approval.

Proposed additions:

2. (A) approval required, *subject to the following subsections and limitations.*
3. *(E) In the event of a conflict or contraindication between the above provisions of the Zoning Ordinance and Ordinance number 55, being the Vehicle and Trailer Parking and Storage Ordinance, the terms of the Zoning Ordinance shall prevail.*

If adopted, the action will move the existing (C) to **(D)**.

Steve Kinnunen moved, Al Denton seconded, to reinstate the previous zoning ordinance wording for amendment #34-09-07 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#8 Amendment #34-09-08 – Nonconforming Uses and Structures; Article XIV, Sections 14.1 & 14.2:

The Zoning Board of Appeals shall not issue use variances, (Chocolay Township Zoning Ordinance Article XV, and per the Michigan Zoning Enabling Act; Act 110 of 2006) nor can the Planning Commission.

The Township Board, would amend the Zoning Ordinance to include the use that the Township Board may deem should be allowed within a designated Zoning District. Therefore, the Township Board would not be approving or issuing a use variance, but amending the ordinance, per MZEA, to accomplish the desired action or in this case, the desired use within said district(s).

Proposed action:

1. Remove any and all reference to and regarding USE VARIANCES.

Andy Smith moved, Ken Tabor seconded, to approve zoning amendment #34-09-08 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#9 Amendment #34-09-09 – 1. Article II, Definitions:

1. Add to definitions “Park”

Proposed definition:

Park, A noncommercial not-for-profit, parcel of land, with or without a Structure, designed to serve the recreational needs of the residents, including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.

Steve Kinnunen moved, Ken Tabor seconded, to approve zoning amendment #34-09-09 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#10 Amendment #34-09-10

1. Article II, Definitions:

Add to definition regarding “Kennels”

Existing language:

Means any activity involving the permanent or temporary keeping or treatment of four or more adult dogs, cats or any combination of, other than ordinary agricultural activities

Proposed amended language:

Means any activity involving the permanent or temporary keeping or treatment of four or more domestic pets, including adult dogs or cats, or any combination of such animals exceeding three in number, for other than ordinary agricultural activities.

Andy Sikkema moved, Al Denton seconded, to approve zoning amendment #34-09-10 and recommend to the Township Board.

Ayes 4. Nays 3. Motion carried.

#11 Amendment #34-09-11

1. Article XVIII. Signs and Fences

Add 18.12 from “Fences” to “Flags”

Proposed language:

18.12 Flags

(A) Flags, other than corporate, commercial or advertising flags shall be permitted in all residential zoning districts, on developed residential lots. Flags shall be subject to the following regulations:

- 1. Flags shall meet the sign setbacks within Section XVIII and the height limits for structures within Section VI.***
- 2. Up to three (3) flags of any combination but not more than one (1) corporate, commercial or advertising flag shall be permitted on a single lot, shopping center, or business.***
- 3. No flag shall be displayed with the flag of the United States of America, which is of greater area or which is placed at a greater or same height as that of the flag of the United States of America flag.***
- 4. No corporate, commercial or advertising flag shall be located on any lot other than the business lot that the flag is advertising.***
- 5. All out-of-doors flags shall be displayed from a pole or other mounting device which is permanently affixed to the ground or a building.***

Ken Tabor, moved, Steve Kinnunen, seconded to approve only (A) #1 of zoning amendment #34-09-12 and delete #2-#5 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#12 Amendment #34-09-12:
Add to Article II Definitions:
After “Family Day Care Home”:

Proposed language:

Flag: Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device or any such device attached to a building or structure for display out-of-doors.

Flag, Business: A flag displaying the name, insignia, emblem, logo, or the like, of a business and/or corporation.

Steve Kinnunen, moved, Al Denton, seconded to approve zoning amendment #34-09-12 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#13 Amendment 34-09-13:
Add to Article VI: Add 6.1 after “Said structure(s)”

Proposed language:

NOTE: Lots of less than 20 acres, but not less than 5 acres within the AF district prior to the adoption of this Ordinance, are legal nonconforming. April 21, 2008.

Steve Kinnunen, moved, Estelle DeVooght, seconded to approve zoning amendment #34-09-13 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

#14 Amendment 34-09-14:
Add to Article XVIII: 18.4 Remove (C)

Current language:

(C) The flag of any state or nation respectfully displayed.

Steve Kinnunen, moved, Ken Tabor, seconded to approve zoning amendment #34-09-14 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried.

- #15 Amendment 34-09-15:
Add to Section XI after Building Grades fill to increase height.

11.12 Outside Lighting

- A. On site lighting shall be directed away from residential properties and public or private streets.
- B. Light emitted in non-residential developments which are adjacent to residential development(s) shall be compatible with the character of the adjacent residential areas.
- C. Information shall be supplied on the style, manufacturer's part number, height direction, location, wattage, type of bulb and intensity of outside lighting on the final site plan for final approval.
- D. Building Lighting:
 - a) No building-mounted or pole mounted floodlights are allowed. Signs may be lit with floodlights provided the light is focused downward on the sign and does not spill beyond the sign. Shields or adjustable louvers shall be required on floodlights to control beam spread.
 - b) Landscape lighting shall be allowed, provided shielding and louvers are utilized to limit lighting to objects only. Lamp wattage shall be low as possible to illuminate the object without causing glare on the site or neighboring property.
 - c) Gas station canopy lights shall be provided with flat lenses to limit glare. Illuminant levels shall comply with Illuminating Engineering Society Standards.
 - d) Lighting standards in parking lots shall have 20 foot maximum mounting height.
 - e) Searchlights, strobes, lasers or similar high intensity light for outdoor advertisement or entertainment are prohibited.
 - f) Lights mounted on buildings shall not be a flashing, moving or intermittent type.

Steve Kinnunen moved, Ken Tabor, seconded to approve zoning amendment #34-09-15 and recommend to the Township Board.

Ayes 7. Nays 0. Motion carried to table.

- #16 Amendment #34-09-16

Remove from Article IV; Sections 4.1 C, 4.2 C, 4.3 B, 4.4 C, and 4.6 B
(on lots of 5 acres or more)

Proposed language:

Outside wood boilers, including conditions of approval.

Estelle DeVooght moved, Andy Sikkema, seconded to table this until the next meeting so staff can research further #34-09-06.

Ayes 7. Nays 0. Motion carried to table.

B. HEIGHT RESTRICTION FOR ACCESSORY STRUCTURES

Jennifer Thum reported that a couple of months ago, staff was approached by Mr. Gary Niemela to discuss the height limit of accessory structures in our Township, which is 15 ft. Mr. Niemela's position is that we should reconsider this height and raise it to 17 ft; this would be the average height from finished grade to the center of the vertical truss height. Mr. Niemela's logic behind this is, the State of Michigan has adopted a new energy code, which requires R49 in ceilings to comply with the heel trusses that must be raised to accommodate insulation. The new energy code is expected to encourage more insulation and ventilation in attic spaces.

Staff has spoken with Greg Sicotte at the County, and he does not interpret the energy code the same as Mr. Niemela. We have gotten a letter of support from Mr. Swadley of Sunrise Builders, stating that he believes the height increase would be a good thing too. Ms. Thum has spoken with Marquette Township and the City of Marquette both of them are looking at raising the height. One objection at Marquette Township was that the increased height could lead to view or shade problems for the neighbors. Our Zoning Administrator, Mr. Yelle is not in support of raising the detached height limit from 15 ft. to 17 ft.

Ms. Thum stated that she shares the same concerns as Marquette Township, but our zoning ordinance is not "green" and we should be encouraging residents to do everything to be more environmentally sensitive. Her concern about having residents create living space in the attic due to height increase is legitimate, but that is where we would have to do more enforcement and work with the County to ensure that the plans don't reflect any living space. Ms. Thum stated she would be in support of raising the height, but maybe to 16 ft, with the condition that the height of the accessory structure does not exceed the main structure.

Steve Kinnunen moved, Ken Tabor seconded, to table this item, to give staff further time to review/research set-backs, definition of grade, and lot sizes until the next meeting.

Ayes 7. Nays 0. Motion to table this item until the next meeting.

C. PEDESTRIAN GRANTS

Jennifer Thum reported that our NMU intern, Mr. John Neych has been working on trying to secure a couple of pedestrian based grants. He has completed the first one which is through the North Carolina Highway Safety Research Center they wrote a book titled, “Resident Guide for Creating Safe and Walkable Communities.” The Highway Safety Research Center was seeking ten communities or neighborhoods that were interested in making their environment safe for pedestrians and walkable to pilot the test guide. We will hear if we were awarded this grant in mid-July.

The second one will be worked on within the next couple of weeks and that is through the Conservation Fund, in partnership with Eastman Kodak and the National Geographic Society, provides small grants to stimulate the planning and design of greenways in communities across the United States. The annual grants program is designed to help establish a national network of greenways. The grants may be used for activities such as mapping, ecological assessments, surveying, conferences, design activities, developing brochures and interpretative displays, public opinion surveys, hiring consultants, incorporating land trusts, building foot bridges, planning bike paths, or other creative projects.

D. SENIOR COMMITTEE

Mr. Steve Kinnunen, reported on the possibility of creating a senior committee. Ms. Thum thinks this is a great idea, as our demographics show an aging population and she thinks it would be a good idea to try and meet with them to see what their needs are from the Township. Ms. Thum stated she would be happy to post some information on the Township’s website about the possible committee to see if we get any interested volunteers.

Al Denton moved, Steve Kinnunen seconded, to have the Planning Director post some information on the website about the possible senior committee to see if we get any interest.

Ayes 7. Nays 0. Motion carried.

E. POCKET PARK

Steve Kinnunen reported that at the April meeting, he showed Ms. Thum pictures of pocket parks and thought that we should try and develop at least one in our Township. This would be a great thing, but the hard part comes in trying to find a location to work on. Mr. Kinnunen drew up a plan for a park at our municipal complex and Ms. Thum has discussed this with our DPW and they were concerned about it being rather close to the road.

Ms. Thum reported that the Township did put away money for new playground equipment, and she was thinking that we might be able to do a park and install playground equipment by the Township marina on Main Street. There are a lot of families in the Harvey area with really no place for recreation. Ms. Thum stated that a fence could be installed to help keep the kids away from the water and the playground equipment could be located on top of the hill.

Steve Kinnunen motioned, Estelle DeVooght seconded, to support staff to go to the Township Board to discuss a pocket park in Chocolay Township.

Ayes 7. Nays 0. Motion carried.

F. MDOT LANDSCAPE PLAN

Jennifer Thum reported that she has gotten back the latest landscape plan for the US-41 Enhancement Project. It appears that there will be landscape coverage in more areas and staff is pleased, but still has some concerns. Such as the plant choices, there could be more use of taller trees, the split-rail fence seems to have disappeared and the consultant is still showing trees where some already exist. Ms. Thum provided photographs of the proposed plans and trees.

Ms. Thum stated that this plan is for our Township, so she is expecting all of the Commissioners to really look at the plans, pay attention to the locations, plant species and determine if overall you as a resident are happy with the plans. The Township and its residents should feel very fortunate to have a project like this in our Township and Ms. Thum would like to see the Township Boards and Commissions take some ownership of this project.

IX. PUBLIC COMMENT

No public comment.

X. COMMISSIONER'S COMMENT

No comments from the Commissioners.

XI. DIRECTOR'S REPORT

Jennifer Thum reported that the Township has made it through the first round of the Coastal Grant and hopes to hear something further in June. Ms. Thum reported that there will be an article in the CABA Newsletter pertaining to road construction.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Planning and Zoning News, May, 2009.
- B. Marquette Township Planning Commission minutes March, April, and May, 2009.

XIII. ADJOURNMENT

Ken Tabor moved, Andy Smith seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:40 p.m.

Albert Denton, Chairperson