

**PENINSULA TOWNSHIP ZONING BOARD OF APPEALS  
SPECIAL MEETING  
June 23, 2016**

Meeting called to order at 7:00 pm

Present: **Wunsch; Soutar; Vida-Chair; Cowall; Witkop**. Also present were Claire Schoolmaster, Planning and Zoning Administrator; Michelle Reardon, Director of Planning and Zoning, Peter Wendling, Township Attorney and Mary Ann Abbott, Recording Secretary.

Absent: None

**Approval of Agenda**

*Reardon* requests that Public Hearing Request No. 851 be removed from the agenda as the applicant has withdrawn.

**MOTION: Soutar/Wunsch** to approve the agenda as amended.

**PASSED UNAN**

**Conflict of Interest**

None

**Communication Received**

None

**Brief Citizens Comments – for items not on the Agenda**

None

**Scheduled Public Hearings**

**A. Request No. 851, Zoning A-1 (Adjourned from June 23, 2016)**

**Applicant: Burkholder Construction c/o Scott Wright, 2206 Cass Rd., Traverse City, MI 49684 Owner: Mary Ann & Mario Tabone, 379 Red Ryder Dr., Plymouth, MI 48170**

**Property Address: 14998 Peninsula Dr., Traverse City, MI 49686**

**Request: (1) a variance of 11 feet 2 inches (11' 2") from the required 100 foot (100') side yard setback to allow for the construction of a farm processing facility structure.**

**Parcel Code Nos. 28-11-122-010-00**

Applicant has withdrawn Request No. 851

**B. Request No. 847, Interpretation (Adjourned from June 23, 2016)**

**Peninsula Township Zoning Administrator requests interpretation of Section 8.7.3 (10) (u) – What constitutes a “guest activity use” as opposed to what is allowed in the tasting room of a Winery Chateau without a guest activity use permit?**

*Reardon* this request is a Zoning Administration request for an interpretation of our ordinance. All of the language surrounding Winery-Chateau has been given to the Zoning Board.

The Zoning administration is looking for an interpretation for what can occur in a tasting room of a winery/chateau outside of that guest activity use.

Section 8.7.3(10)(u) 1(d) states “ Guest Activity Uses do not include wine tasting and such related promotional activities as political rallies, winery tours and free entertainment (example-Jazz at Sunset) which are limited to the tasting room and for which no fee or donation of any kind is received.

*Wendling* one of the biggest issues is the wording “ which no fee or donation of any kind is received”. What are the restrictions of that compensation? This is the biggest issue before us. What Wendling would like to see from the ZBA tonight is: What

Peninsula Township  
Zoning Board of Appeals

June 23, 2016

constitutes a donation or fee that keeps it out of being a guest activity and keeps it within the realm of what is allowed as of an accessory for winery/chateau?

Further discussion occurred by the Zoning Board including comments of the limiting wineries as an event space; compensation received by winery for an event; functions of winery or B& B; focus needing to be related to wine tasting; intentions to promote agricultural use of Old Mission Peninsula; not allowing use of a facility to take donations; not meant to be an event space; all spaces open to public.

Public Hearing opened at 7:36 pm.

*Donald Coe, 211 Midtown* has had a winery on Old Mission Peninsula, served on the Grape and Winery Counsel and the Michigan Agricultural Commission spoke of the issues of wineries always on the agenda. Offered some primary issues to consider: different classes of wineries; remembering that there are other agencies that regulate wineries and other authorities may already be enforcing and licensing; and the fact that it is a small number of wineries and that tasting rooms are essential to the economic health of the winery. Mr. Coe offered assistance to the Zoning Administrator.

*Mark Nadolski, 10 McKinley*, President of Protect the Peninsula was heavily involved with the wineries ordinances going back over a decade. Old Mission Peninsula is unique so we cannot be treated like other wineries. Events were a battle. The whole intention was to promote the agriculture of the peninsula. It was not to have parties or weddings; it was created to promote agriculture. Wine by the glass was introduced to avoid people drinking free wine without buying anything. Wine and cheese was offered to temper the effects of the wine. Agrees that there should not be a charge for events. Appreciates the efforts of the Zoning Board tonight.

No further comments from the public. Public Hearing closed at 8:18 pm.

*Wendling* In the provision under D “no fee or donation of any kind is received”, is that only in respect to the winery or does “fee and donation of any kind “ mean any organization that is attending the event at the winery or the winery itself.

**Wunsch** could Wendling draft up two or three alternative motions so that we are sure our language is precise?

*Reardon* is there a consensus by the Zoning Board that the fees or donations mentioned are not just the winery but also the group that is gathering at the winery. There was a consensus by the Zoning Board that they agreed with this.

*Reardon* would also like to bring up the idea of closing off portions of the tasting room. Consensus of the Zoning Board that all portions of the tasting room will be open to the Public.

Suggestion is that we now direct the Attorney to draft the motions. **Wunsch** no charges other than the normal use of the tasting room. The tasting room open to the public. No upcharges.

**MOTION: Wunsch/Cowall** to table Request No. 847.

**PASSED UNAN**

**C. Request No. 848, Interpretation (Adjourned from June 23, 2016)**

**Peninsula Township Zoning Administrator requests interpretation of Section 8.7.2 (3) and Section 8.7.3 (3) – What uses/activities are allowed as part of a special open space use as provided under the Ordinance?**

Reardon Staff is looking to the ZBA for interpretation not to set policy. Section 8.7.2 (3) permits “Special Open Space uses, such as public beaches, bath houses, recreational camps and other open space uses operated for profit within any agricultural zone district” as a use permitted by Special Use Permit.

This suggests that open space is outside of a structure.

Section 8.7.3 (3) regulates Special Open Space Uses:

(a) The proposed site shall be at least two (2) acres in area.

(b) The proposed site shall have at least one (1) property line abutting a major or secondary thoroughfare. All ingress and egress to the site shall be directly from said thoroughfares.

(c) All buildings and structure shall be set back at least two hundred (200) feet from any property or street line. Whenever the installation abuts upon property within a residential district, this two hundred (200) foot setback shall be landscaped with trees, grass and structural screens of a type approved by the Township Board to effectively screen the installation from surrounding residential properties.

(d) No more than twenty-five (25%) percent of the gross site shall be covered by buildings.

*Reardon* An application that was later withdrawn brought to light that this ordinance might be interpreted differently.

*Wendling* In clarification the term building envelope talks about the setback area. The building envelope is not the building but the area in which a building could be placed without violating any setbacks.

**Wunsch** Can we deal with this in a zoning ordinance rewrite? He would rather take a restrictive approach?

*Wendling* Question is what direction is the Township going. Is the open space concentrated in the outside area or is it primarily being utilized by the structures. It may be a policy issue and a clean up of the language, included accessory structures allowed. If the ZBA does not like this language it can request that it is tightens down the use of accessory structures.

**Reardon** states that if there were an interpretation it would be that specific. Is this a use that occurs principally outside and structures can be used only to accessory to the outside event.

Public Hearing on Request No. 848 opened at 8:54 pm

*Marie Dalese, 527<sup>th</sup> Second*, CEO of Chateau Chantal reminds ZBA that Guest Use activities of Winery /Chateau not being allowed to have wedding or tent and tied to produce of Old Mission Peninsula. Just reiterating the discrepancy between the two. It is a problem but not your intent. Should not discriminate who is attending events. There are limitations on impact.

*Marilyn Elliott, 18811 Whispering Trail* is failing to understand why it is not possible for you to make the interpretation now to say it has to be principally outside of the structure and say no party barns or event venues. Simple request that could be simply done.

*Todd Oosterhouse, 7700 Peninsula Drive* wonders about open space - so if I have two acres I can have an event or wedding and how does this tie back to Master Plan for protecting agricultural. Whereas those that have wineries or fruit stands have to have vast amounts of acreage just to sell our goods.

No further public comments. Closed at 8:58 pm.

**Witkop** I think we are missing something. I think this was intended for perpetual uses not an occasional event.

**Wunsch** respond to public comment. It is worthwhile to have a policy body review the ordinance. This is not a policy board but we should interpret and report back to the PC or the Board to take a look at cleaning it up

**MOTION: Wunsch/Soutar** that the buildings as defined in subsection C and D of section 8.7.3(3) of our Ordinance refers to accessory buildings to the primary use.

**PASSED UNAN**

#### **Approval of Minutes**

A. June 9, 2016 Regular Meeting

**Vida** on page 22 numbering sequence is off. Page 24 Motion should read; Wunsch/Soutar Special condition #3

**MOTION: Soutar/Wunsch** to accept June 9, 2016 minutes as amended.

**PASSED UNAN**

**New Business**

**Township Board Report (Witkop)**

No report

**Planning Commission Report (Wunsch)**

No Report

**MOTION: Wunsch/Witkop** to adjourn at 9:09 pm.

**PASSED UNAN**

Respectfully submitted by Mary Ann Abbott, Recording Secretary