

Planning Commission Regular Meeting
April 18, 2022
Beth Chan, Recording Secretary

PENINSULA TOWNSHIP

13235 Center Road, Traverse City, MI 49686

Phone 231.223.7322

Planning Commission Regular Meeting

April 18, 2022, 7:00 p.m.

1. Call to Order: 7:00 p.m. by Shipman

2. Pledge

3. Roll Call: Present: Dloski, Couture, Hornberger, Shipman, Alexander, Hall, Wunsch; Also present, Planner Jenn Cram, Attorney Greg Meihn via phone, Recording Secretary Beth Chan

4. Approve Agenda

Cram: change under business a.: remove word hearing and change to comments. Also, a late email came into the office and an email from Lou Santucci has been provided to the planning commission members.

Moved by Dloski to approve agenda as amended, seconded by Hall approved by consensus

5. Brief Citizen Comments (For Agenda Items Only)

Monnie Peters, 1425 Neahtawanta Road: the zoning ordinance re-write process began in the fall of 2015, it has been six and a half years. Disagrees with the cover memo from the planner, this is a substantial re-write. The older document was hard to read and the goal was to make a document that is easier to read and could be updated easily. Urged the planning commission to get the document approved.

Llewellyn Seibold, 3195 Cherry Hill Road: asked whether his email was received. Referred to the definitions for building height, number 30, figure 2-1, page 2-3 and 2-4. Requests that his email is part of the public record. This definition is out of touch with other codes he has seen as well as the Michigan Construction Code. The definition for building height is from the lowest grade to the highest point of the roof. The Michigan Construction Code and common to the other codes, is from the average grade to the average height of the roof, to the highest part of the average part of the roof; you do not get penalized if you have a steeper roof. Showed a graphic from Emmet County to illustrate his point. It is an average to an average rather than an absolute. There are reasons that the township should change this. We have many sloping building sites. The ordinance as proposed would discourage the building of more steeply pitched roofs, ten, twelve, and above. The higher-pitched roofs are common to the historical vernacular of Peninsula Township. Many of the bank barns could not be built under the current code because of roof pitch and because they have a steep roof and are built into a hillside. They would not meet the code of thirty-five feet. Solar panels and solar collecting roof materials in this area; a forty-five-degree pitch is optimal for our latitude. Many new homes do not meet the standards. This definition needs to be reconsidered. Passed the diagram to the planning commission members.

6. Conflict of Interest: None

7. Consent Agenda:

a. Approval of Meeting Minutes: Planning Commission Regular Meeting, March 21, 2022

Moved by Couture to approve meeting minutes from the Planning Commission Regular Meeting, March 21, 2022, seconded by Hornberger.

approved by consensus

8. Reports and Updates:

a. Citizens' Agricultural Advisory Committee (Cram)

Cram: meets on the second and fourth Thursday of the month. March 10th included a review of the roadside stand ordinance and March 24th had a guest speaker that covered the right to farm act and GAAMPS. On April 14th, the discussion focused on comparing the existing winery-chateau ordinance to the farm processing facility as a use by right and the proposed policy direction was summarized. The last meeting is on April 28th, where the final policy direction will be discussed. After that meeting a formal recommendation from the committee will be presented to the planning commission at their May meeting.

b. Master Plan Draft Update (Cram) no updates

c. PDR Ordinance Re-write (Cram)

Cram: the study group met briefly to go over revisions from the assessor and treasurer's office. Working on an updated version and will email a draft to the township board for consideration on May 10th. Once finalized, a copy will be emailed and posted to the website.

d. Bella Vue SUP #137 (Cram)

Cram: this is a SUP for a PUD, the property is less than the twenty-acre minimum. The township board allowed them to move forward with the PUD process to see if a better outcome could be achieved. This has been in process for two years. They have removed trees, and an arborist report has been requested. The township board has asked for a timeline summary to see if the removal of trees and the lapse of time in providing information to the planning commission has invalidated their ability to move forward with the SUP/PUD process.

Dloski: was a geotechnical report provided?

Cram: a geotechnical and an arborist report have been provided; additional items were requested as well as a complete submittal. Bella Vue SUP/PUD should go before the township board on May 10.

9. Business:

a. Zoning Ordinance Re-write-Proposed Modifications to November 16, 2021 Draft-Discussion and Public Hearing

Cram: Summarizes the memo in the packet, page 31-32.

1. Section 1.05-Conflicting Regulations (Page 1-2) Specific modifications include reference to the Right to Farm Act. This will be addressed with future modifications to the Zoning Ordinance related to all Agricultural Use Sections.

2. Section 2.02-Definitions (Pages 2-1--2-17) there are many new definitions. Staff will be reviewing all for clarity. The specific modification proposed removes the definition of Structure (Page 2-14) and replaces it with the existing definition from (Section 3.2 (Page 16)). The definition of structure will be reviewed and modified in the future for improved clarity.

Cram: building height was noted. The definition of structure was addressed and will be updated again.

Discussion

3. Section 6.15-Hotels and Motels (Pages 6-9--6-10) specific modifications include correction of minor typos and adding the intent statement and maximum building height that is missing from

the existing Hotel, Motel, Tourist Courts in the C-1 Commercial District (Section 8-10 (Pages 140-142)).

Peters: noted typo of SD to SP

4. Section 6.24-Rental of Dwellings (Pages 6-19) specific modifications include removing "Except in the A-1 Zoning district, ". This implies that short-term rentals are allowed in the A-1 zoning district.

Cram: have a legal opinion and waiting for the state action on this issue.

Discussion

5. Section 6.25-Roadside Stands (Page 6-19) specific modifications include removing and replacing the proposed Sections 6.25 verbiage with the existing language from Roadside Stands (Section 6.7.2 Uses Permitted by Right (8) (Page 40)). Roadside Stands will also be further addressed with future modifications to the Zoning Ordinance related to all Agricultural use Sections.

Cram: a roadside stand is a type of farm market where someone can walk up and look at and buy produce; a farm market is considered to be a wider range where you can walk in and it could have a supporting kitchen. This makes our language consistent with the GAAMPS.

Discussion of GAAMPS, right to farm, and the ordinance.

6. Section 6.34-Winery-Chateaus (Pages 6-32) specific modifications include removing "or used on the property." at the end of the sentence.

Cram: the May 16th regular meeting will address these sections; these will be discussed along with a public hearing on all of the sections:

- Section 3.13-Great Lakes Shoreline Regulations (Pages 3-11-3-19)
- Sections 6.01-Adult Foster Care Facilities (Page 6-1)
- Sections 8.04-Soil Erosion and Sedimentation Control and protection of steep Slopes (Pages 8-3-8-4)

Discussion of the details of the public hearing next month

10. Public Comments:

Seibold: you do not want the perfect to be the enemy of the good: if you have many changes after the rewrite, it will be confusing. Siebold would like the rewrite to be a rewrite instead of reverting back.

Cram: the proposed modifications to the current draft of the zoning ordinance re-write is short with specific modifications as noted. In some cases, the sticking points have been pulled and simply revert back to the original zoning ordinance language.

Siebold: does not want the process to be hurried.

Cram: the citizens' agricultural advisory committee will take the policy recommendations forward. The attorney and I will draft the verbiage. We are targeting July first for the document.

Wunsch: previously, the finished document went to the township board, residents wanted changes and it came back to the planning commission. The flashpoints were removed, the goal is to get the document adopted and amended (once adopted).

Siebold: hearing substantial changes; agrees that there is an intent in the right to farm that citizens need to know.

Hornberger: not dropping it, language will be fixed.

Cram: there will be a reference to the right to farm act.

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Peters: this has gone on for six and a half years. The old code is not searchable with many amendments.

Hall: suggested a heightened awareness of right to farm at the government level. The state expert came in to speak on this. The agricultural community is important to the peninsula.

Siebold: in good faith, hope that this ordinance is passed and changed as explained.

Discussion of the process and approach

Catherine Collegen, 17165 Old Woods Road: Clarified that in the ordinance there are no short-term rentals in A-1.

Cram: no short-term rentals in any of the residential districts and including A-1 – Agricultural.

11. Other Matters or Comments by Planning Commission Members:

Discussion of meeting minutes and clarification of best practices by Attorney Meihn

Alexander: hearing in Grand Rapids at 9 a.m. on Friday morning for the winery lawsuit

Hornberger: requested that the Sally Murray email is included in the packet for public record.

12. Adjournment:

Moved by Hall to adjourn, seconded by Dloski

approved by consensus

Adjournment at 8:22 p.m.

Jenn,

Yes this is the email and I would like it to be part of the record. Sorry for not being clear in the email.

It is meant to address the building height definition for the entire code but it also has an impact on the AG zone as some of the traditional type barns would not be compliant given the definition. That seems odd to me. The graphic from Emmet County is good in explaining the concept.

Thank you.

Lew Seibold

On Apr 27, 2022, at 1:26 PM, Jenn Cram <planner@peninsulatownship.com> wrote:

Lew, can you confirm that this is the email and attachments that you would like me to share with the PC at their next meeting.

My apologies for not including it in the packet. I thought it was directed to me personally for consideration and to keep me in the loop for your verbal comments.

Kind regards,

Jenn Cram

Peninsula Township Director of Planning

13235 Center Road

Traverse City MI 49686

phone - 231-223-7314

fax - 231-223-7117

planner@peninsulatownship.com

Office Hours: Mondays 7:30 am to 6:30 pm, Tuesdays – Thursdays 7:30 am to 5 pm and closed Friday – Sunday and Holidays.

From: Llewellyn Seibold <lewseibold@icloud.com>

Sent: Friday, April 15, 2022 3:45 PM

To: Jenn Cram <planner@peninsulatownship.com>

Subject: Zoning Ordinance Re-Write, Article 2 Definitions, Building, Height of pg. 2-3

Hi Jenn,

Thank you for your clear and systematic discussion of the ordinance sections that relate to AG Zoning. I appreciate the approach.

However, I'm somewhat disappointed that some sections of the re-write will have to be shuttled to the amendment process. Amendments are necessary but should be minimal upfront because they are items that make the ordinance "unapproachable" and confusing for the regular person not used to reading and navigating a code.

Nonetheless, the reason for my communication is a definition in the proposed ordinance that I find odd and out of touch with many other ordinances and with the Michigan Residential Building Code (reference 2015 Michigan Residential Code, Definitions, pg.18.) I believe that the State of Michigan has not adopted the newest code 2021 at this point so we are still under the jurisdiction of the 2016 adoption of the 2015 code.

Within the proposed zoning ordinance, Article 2 Definitions, is the definition of building height with a corresponding diagram. It states:

"(30) Building, Height of. The Vertical distance measured from the natural grade of the ground intersecting the center of the building at its lowest point to the highest point of the roof (excluding chimneys). In the example below, the height of the building as indicated as "A". Building heights may also be limited by the number of stories, which are also computed from the natural grade as shown below.

(diagram)

This definition seems overly onerous and unrelated to the definition in the Michigan building construction code, which is - "Height, Building. The vertical distance from grade plane to the **average height of the**

highest roof surface" (emphasis mine). Also Grade Plane is defined as "A reference plane representing the **average of the finished ground level** adjoining the building at all exterior walls (emphasis mine)."

I have also included as attachment three pdfs from other zoning jurisdictions that show how they figure the building height. Note that one (the first) is from Emmet County, MI and the graphic nicely shows in a complex building how the building height is figured.

There are a number of reasons why I think this needs to be changed:

1. We have many sloping building sites.
2. The ordinance as proposed would discourage the building of more steeply pitched roof slopes, (10/12 and above).
3. Higher pitched roofs are common to the historical vernacular of Peninsula Township, (see barns and historic homes)
4. Many of the ubiquitous "Bank Barns" could not be built under the current code because of roof pitch and because they are built into a hillside grade and have a steep roof.
5. Solar panels and solar collecting roof materials with roof slopes in the higher 12/12 pitch range are more naturally integrated with the overall form of the building.
6. A two story house with a walk-out basement and a 12/12 pitch roof with the minimum building width of 24' would exceed the 35' maximum according to the definition of building height.
7. Many new homes that are built do not conform to the peninsula ordinance but they are in conformity to the building code.

This issue is a significant carry-over problem in the re-write of the ordinance. The definition should be related to average grade and average roof height of the highest roof, excluding chimneys and cupolas etc (see Emmet County). IMO I'll be bringing this up at the public hearing of the Planning Committee if I can attend. Just thought I would give you a heads up.

The Best,

Llewellyn "Lew" Seibold
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Sally Murray

From: Sally Murray <assessor@peninsulatownship.com>
Sent: Monday, April 18, 2022 2:07 PM
To: 'Rebecca Chown'
Cc: 'clerk@peninsulatownship.com'; 'planner@peninsulatownship.com'; 'shipman.parks@gmail.com'; 'rand.plancom@gmail.com'; 'lwdloski@gmail.com'; 'acouture@need-lawyer.com'; 'jualexanptpc@gmail.com'; 'dsh_44@yahoo.com'; 'wunschis23@gmail.com'; 'loujr@schmidtholdings.org'; 'zoning@peninsulatownship.com'
Subject: RE: Short-term Rental Ordinance Discussion

Tracking:	Recipient	Read
	'Rebecca Chown'	
	'clerk@peninsulatownship.com'	
	'planner@peninsulatownship.com'	Read: 4/18/2022 2:36 PM
	'shipman.parks@gmail.com'	
	'rand.plancom@gmail.com'	
	'lwdloski@gmail.com'	
	'acouture@need-lawyer.com'	
	'jualexanptpc@gmail.com'	
	'dsh_44@yahoo.com'	
	'wunschis23@gmail.com'	
	'loujr@schmidtholdings.org'	Read: 4/18/2022 2:28 PM
	'zoning@peninsulatownship.com'	Read: 4/18/2022 2:39 PM

Becky:

Thank you for sharing this email. It warrants a clarified response, as the assertions that were offered are inaccurate. If all of the recipients of this email could forward it to any interested party that I may have overlooked, that would be appreciated.

For starters, the O'Brien parcel is ZONED 'A1' Agricultural. Assessors cannot change/amend/edit a zoning district. Assessors have no authority to manipulate zoning districts. These districts were established years ago and are upheld according to the Peninsula Township Master Plan. If a property owner wished to change their zoning district, they would need to make application before the Peninsula Township Zoning Board of Appeals and strict standards would guide that decision making process.

Any use defined in the Agricultural zoning district is a distinct 'use by right' available to the property owner. The Peninsula Township Zoning Ordinance details the allowable uses in each of our distinct zoning districts. If a property owner requires further clarification as to what may or may not be allowed in any particular district, the township zoning administrator would be the appropriate person to contact. Any violations of the zoning ordinance would warrant enforcement action by the Peninsula Township Zoning Enforcement Officer. If 'short term rental' is not allowed in the A1 zoning district, it is under the purview of the zoning administrator and/or zoning enforcement officer. There is no way to "get around" the Township Zoning Ordinance.

One of the primary function of assessing departments is to inventory and value all property annually.

The O'Brien parcel has received an agricultural *exemption* due to the agricultural production taking place on the farm. Any vacant, wooded, (i.e. "non-ag") contiguous parcel *is also eligible* to receive the exemption, per the General Property Tax Act-- Michigan Compiled Laws, Section 211.34c(2)(a). Finally, Ms. O'Brien does NOT receive any agricultural tax exemption savings related to the home/structure, as it is not her principal residence and it is

not a farm/migrant home. Specifically, the value of the home is taxed at a non-homestead (non-ag) millage rate—similar to the neighbors who pay full property taxes as owners of second homes.

I hope this sets the record straight. The short term rental topic can be a very heated one, as residents in the immediate vicinity can feel the most negatively impacted. In furthering these types of discussions, it is important to understand the facts, the correct terminology, the prevailing statutes and public policy surrounding the topic. In this way, clear advancement can be made on the issue(s). If a use is occurring in violation of the zoning ordinance, the best remedy is to seek pursuit of such violation.

If anyone has additional questions or concerns about the contents of this message, please feel free to contact me directly.

Thank you,

Sally Murray, MAAO
Township Assessor
13235 Center Rd
Traverse City, MI 49686
231.223.7313 phone
231.223.7117 fax
Office Hours: Mon 7:30am-6:30pm & Tue-Thu 7:30am-5:00pm

Opportunity is missed by most people because it is dressed in overalls and looks like work. – Thomas Edison

From: Rebecca Chown [mailto:clerk@peninsulatownship.com]
Sent: Monday, April 18, 2022 12:04 PM
To: Sally Murray
Subject: FW: Short-term Rental Ordinance Discussion

Good morning, Sally!

I thought you would like to see this email below. When you have a minute, could you school me on a few details?

Thank you!

Becky

Rebecca Chown
Peninsula Township Clerk
13235 Center Road
Traverse City MI 49686
phone: 231-223-7321
fax: 231-223-7117
clerk@peninsulatownship.com

Office Hours: Mondays 7:30 a.m. to 6:30 p.m., Tuesdays–Thursdays 7:30 a.m. to 5:00 p.m., and closed Fridays–Sundays and holidays

From: Lou Schmidt Jr. [mailto:loujr@schmidtholdings.org]
Sent: Sunday, April 17, 2022 6:15 PM

To: clerk@peninsulatownship.com; planner@peninsulatownship.com; shipman.parks@gmail.com; rand.plancom@gmail.com; lwdloski@gmail.com; acouture@need-lawyer.com; jualexanptpc@gmail.com; dsh_44@yahoo.com; wunschis23@gmail.com

Cc: Melissa McBrien

Subject: Short-term Rental Ordinance Discussion

Dear Ms. Chown, Ms. Cram and the members of the Planning Commission of Peninsula Township,

I understand that you will be discussing the short-term rental ordinance (Section 6.24) of the Zoning Ordinance Re-Write in your upcoming meeting this Monday, April 18. I am unable to make it to the in-person meeting but wanted to email my support of the proposed changes indicating that short-term rentals will not be allowed in dwellings regardless of their zoning type, unless they meet criteria and are given permission to operate as a bed and breakfast.

My wife, Mary, and I have been living in our home at 17133 Old Woods Rd (formerly 2379 Eimen Rd) for over 15 years now and have enjoyed our own quiet, secluded area of Old Mission Peninsula since. For the most part, our neighbors have all said the same thing. The one exception is Wendy O'Brien who owns a home and a separate waterfront lot on what is now Old Woods Road/Wendy Lane. Somehow, she was able to have the Peninsula Assessor zone the waterfront lot as agricultural and is able to rent her home at \$900/night on a short-term basis (one week or less) because of this designation. It is clearly an Airbnb, but in order to get around the Townships zoning ordinance regarding short term rentals, she relies on the "agricultural" designation. For over 5 years now, all the neighbors have been subject to a constant stream of short-term renters all summer - many of whom have loud parties into the night, disregarding the privacy of the other 5 homeowners. Our neighbors, Ray and Melissa Landis have experienced this more than any other homeowner as their home is adjacent to Wendy O'Briens lake front property. Make no mistake, though, all five homeowners on Old Woods Road have been subject to the loud inconsiderate

guests using the house and beach. I believe this latent and obvious abuse of the Township Zoning ordinance regarding short-term rentals is both unlawful and unfair to the other residents.

This clearly interferes with our right to peacefully enjoy our property and privacy. The Landis's also bring up a good point in that all other homeowners pay full property taxes as residential owners of a second home, while Ms. O'Brien enjoys the reduced taxes of an agricultural property owner, while extending B&B privileges to include beach access to all renters using this property. She enriches herself while taking advantage of a zoning ordinance that clearly doesn't apply to this situation.

Mary and I strongly support the ordinance re-write in favor of restricting short term rentals regardless of how the property is zoned. These rentals should adhere to the Township ordinance regarding short-term rentals and require certification from the Peninsula to operate - like every other homeowner on Old Mission Peninsula.

Please feel free to contact me at my phone number below should you have any questions.

Sincerely,

Lou and Mary Schmidt
17133 Old Woods Rd (Formerly 2379 Eimen Rd)
Email loujr@schmidtholdings.org
Cell (248) 770-3952

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