

**Melrose Township Planning Commission Minutes
Melrose Township Hall
Regular Meeting of January 27, 2020**

I. CALL TO ORDER / ROLL CALL

- A. Call to Order:** Chair Bart Wangeman called the meeting to order at 5:30PM.
- B. Members present:** Bart Wangeman, Bob Bourassa, Charley Zimmer, Dan Nowland, and Tim LaGasse.
- C. Members absent:** None
- D. Staff present:**
Zoning Administrator Randy Frykberg and Recoding Secretary Tom Mackie

II. APPROVAL OF AGENDA

Bob Bourassa motioned, Charley Zimmer seconded, to approve the Agenda as presented. All voted Yes, motion carried.

III. APPROVAL OF MINUTES

Bob Bourassa motioned, Charley Zimmer seconded, to approve the October 28, 2019 meeting minutes as presented. All members present voted Yes, motion carried.

IV. NEW BUSINESS – Public Hearing on Bear River Health Special Use Permit at 03780 and 03798 M-75 N (ID # 15-010-017-017-10).

Bart opened the Public Hearing at 5:35 PM and explained the rules of procedure, specifically, the Chair introduces the subject and the Township's Planner/Zoning Administrator provides a summary of the application. The applicant then can present main points of the application. Citizens in support of the application are then recognized followed by citizens in opposition. Given the large number of people in attendance Bart asked that comments be limited to two to three minutes each, be directed to the Chair, and be related to the purpose of the hearing. Following all comments, the public hearing is closed, and the Planning Commission begins deliberation.

Bart reported an email from Tim LaGasse to other members of the Planning Commission that may be considered Ex Parte as it included discussion of the case. Tim stated he could continue to participate with an open mind, had no malicious intent, and can be unbiased in evaluating the application. The other four Planning commission members all agreed that Tim should continue to participate.

Bart noted the purpose of this hearing is to consider a Special Use application by Bear River Health to operate an institution for human care at the property now occupied by the Elvin Lea Lodge on M-75 North. Randy noted the applicant, Dan Hartman, is in attendance for this hearing and read several details provided with the application. The property is zoned FF, "Farm and Forest" with the same allowed uses as in R-2, "Non-lakefront Residential." Institutions for human care are eligible for a Special Use Permit providing they meet the standards of Article X of the Zoning Ordinance

Randy reported having received 106 letters and/or emails providing comments on the application. Of this total 1 expressed support and 105 were opposed. Of those in opposition 97 suggested the use is not harmonious with the existing character of the general vicinity, 55 stated the proposed use is not consistent with the intent and purpose of the Zoning Ordinance, 28 suggested adequate safeguards for individual property rights are lacking, and 34 expressed concern for excessive public costs. In response applicant Dan Hartman noted the facility will have a maximum of 50 residents, may include some children under 12 years of age, no medical detox or out-patient services will be provided, and no outside structure changes are proposed.

Project Lead Heather Bearss described the mission and operation of Bear River Health. Executive Director and applicant Dan Hartman then indicated they would waive any concern over the email communication between Planning Commission members addressed earlier and would abide by whatever decision the Commission would reach concerning the application.

Dan provided additional information on their organization as well as plans for a new facility on M-75. Specifically, he noted the current facility at US131 and Springvale Road started with a dilapidated hotel in which \$2,000,000 was invested in improvements. No one has questioned the mission of Bear River Health. Their current facility includes about 80 employees and residents

Traffic at the new facility will be much less as no detox or out-patient services will be provided while many new residents are dropped off by police. Personal vehicles will not be allowed for residents. He recognizes the new facility is part of a resort community and earlier problems with residents leaving on foot have been addressed. Forty percent of their residents are from regions 2 and 5 which represent northern Michigan. Anyone falling out of their program is generally transported away from the site by Bear River Health employees. The proposed new site was chosen because the current facility is well-received by the community and employees live near-by. He believes there is a need for a women-only facility that could accommodate children under the age of 12. No alcohol, drugs, weapons, or wandering around the area would be permitted to the best of their ability.

Dan noted the new site is for sale and any other buyer would likely propose major redevelopment with a bigger impact on the community. Their plan would only involve interior improvements with no additional building construction or other visible changes.

Dan then provided his response to the 5 zoning ordinance standards for Special Use permits. He suggested the new facility would be harmonious with the general vicinity because the existing residential use and atmosphere as well as population density will not change. The nature and intensity of the proposed use as well as traffic to and from the facility is not a relevant issue. There will be no impact on public water and sewer as these services are provided by on-site systems. There may be increased demand on the local Fire Department and County Sheriff, but these additional services would also reduce the need for hospitalization. Any additional public cost to the community would also be offset through higher property taxes. Finally, Dan stated he will accept whatever the Planning Commission decides.

Bart called for public comment in favor of the application with the following responses:

- Gary Bradley indicated he lives on 4th Street, supports the application, and believes the service is needed in the community.
- Debbie, a Bear River Health employee, has seen good results in the existing facility, and suggested the facility is wonderful for the community.

Bart called for public comment in opposition to the application with the following responses:

- Elizabeth Ramsey owns 40 acres abutting the Elvyn Lea Lodge property. Several of her family members hunt on her property and she is concerned for the safety of residents with children walking the existing trails within feet of her property. She also expressed concern the area would become known as the “Recovery capital of Northern Michigan.”
- Bunny Marquardt of North Shore Drive indicated she was speaking for her neighbor Susan Gilmette. She cited incident response numbers over the last three years for fire and police to the existing facility. She noted her opposition was due to additional public costs, the project is not harmonious with the general area, and the Zoning Ordinance language for FF, “Farm and Forest” specifies this district is intended for large tracks of land used for farming or residential. She believes the existing facility is doing a good job, but a second facility needs a better location than the Elvyn Lea Lodge.
- Greg Adams lives directly across M-75 and stated the issue is not whether a second facility is good or needed, but whether this is a good location for this use. He noted a recent shooting incident, theft, and trespassing issues at the current facility. He noted a study suggesting a neighboring treatment center is associated with an 8% reduction in property value when a treatment center operates in the neighborhood and 17% if the center specifically treats opiate addiction.
- Bill Wehrenberg noted his family has owned property across from the lodge for 90 years. He suggested the Planning Commission members serve as representatives to the community and should keep this in mind as they vote.
- Suzy Wehreberg lives next door and owns 10 acres adjacent to the lodge. She has an extensive history working in the health industry and is sensitive to the needs of these women. She quoted current health study statistics suggesting children do not benefit from being housed in treatment centers. She would also feel uncomfortable walking in the area of an operating treatment facility.
- Jennifer Lewis is a clinical psychologist living across the street from Elvyn Lea Lodge. She believes these facilities are important, but this is not the proper location.
- Candy Lewis lives directly across the street and wants to echo Jennifer Lewis’s comment. She doesn’t want the area to be known as a treatment location.
- Gayle Charbonneau requested a commercial use 20 years ago for property just down the road and was denied.
- Jim Smith wants to echo earlier comments. He stated the proposed use is not appropriate for this location.
- John Jaqua lives on North Shore Drive. He applauds Bear River Health’s mission and execution, but the needed public transportation and other health services are not available in this location.
- Lucia Oelz stated the proposed use is not compatible with the residential nature of Walloon Lake.
- Dennis Howard, Melrose Township Fire Chief noted he had submitted a written comment earlier indicating 25% of Fire Department responses in 2018 were to Bear River Health. He also wanted to note the physical and mental burden on the staff.

The Township cannot afford to man the fire station full time, so responders are paged out from home or other employment responsibilities. A couple times in 2018 we had multiple responses to Bear River Health in one day. The Township's new ambulance contract with Boyne City includes total number of runs in determining the annual cost to the Township.

- Genny Whittaker suggested the existing facility is not complying with original restrictions on operations and is concerned this would also be the case with a second facility.

With no additional public comment Bart closed the Public Hearing at 6:27 PM.

DETERMINATION OF FINDINGS OF FACT

The Planning Commission reviewed General Findings of Facts as presented in Randy's memo. In reference to finding #15 indicating the applicant expects some police and ambulance activity, Bart noted the applicant now acknowledges this is "Inevitable." Bart also noted the application narrative includes a paragraph (#13) identifying the need to explain how the proposal will not create additional public cost, but no response was provided. This omission is addressed in Findings of Fact #17. Finally, Bart suggested a reference to the Master Plan be incorporated in the Findings of Fact. Following discussion, the accepted Findings of Fact relevant to this hearing are:

1. The FF, Farm and Forest District allows any use permitted in the R-2, Single Family Residential District.
2. The R-2 district allows Planning Commission authorization of several Special Uses, following provisions and standards of Article X, Special Use Permits, of the Township Zoning Ordinance. Special Uses that may be authorized in R-2 are "*Home Occupations, Religious Institutions, Cemeteries, Hospitals and other Institutions for Human Care, and Public Utility Buildings*".
3. According to the Township Zoning Ordinance, Special Uses may be authorized by the Township Planning Commission if the proposal meets the standards and other regulations of Article X (Special Use Permits), and the standards or other requirements of the Township Zoning Ordinance are met, "*but only if adequate safeguards are provided to ensure the protection of the public health, safety and general welfare*".
4. The present use is a legal non-conforming use that was present prior to zoning.
5. The requested Special Use Permit application indicates that "*Bear River Health is an Institute of Human Care in that we provide a residential closed campus for the safe and sober living for persons in early recovery from Substance Use Disorders*".
6. The application indicates that the difference from the present use is that there will be longer term stays and counseling sessions.
7. The Site Plan Review Checklist narrative indicates the length of stay for residents will typically be from 14 to 60 days.
8. The application indicates that this will be a women's facility.

9. The application indicates that the license will be determined by the state to have a maximum capacity of 50 residential persons.
10. The application indicates that they plan to house 32-48 female residents and about 10 staff persons on site at any given time.
11. The application indicates that some children under 12 may accompany the residents.
12. The application indicates that the house will likely continue to be used a single-family residence or converted to office space.
13. A conversion from a residence to office space is questionable in this district for a previous non-conforming use.
14. The application indicates that Bear River Health does not, in this application, request any building or redevelopment of the approximately 40-acre site.
15. The application indicates that there will be some police and ambulance activity.
16. The application indicates that, unlike the BRH center at the Junction, there will be no medical detox services on-site or outpatient services on-site at any time.
17. The application listed as #13 on their Narrative for Special Use Application states *"Explain how the proposed use in this location will not create additional public costs and will not be detrimental to the economic welfare of the township"*, but no answers were presented.
18. The purpose of the FF, Farm and Forest District, as stated in the Melrose Township Zoning Ordinance, Section 6.8, is as follows: *"This Zoning District is intended for larger tracts used for farming, forestry, residential, or which are idle. It is not intended for any use except Farm and Forest, low density, single-family residential use and other specialized rural uses requiring larger tracts of land. This restriction is necessary to prevent development without proper planning. If development and subdividing are to occur, they should be preceded by sound planning and either review of a PUD overlay district or re-zoning"*.
19. The purpose of the R-2, Single Family District, as stated in the Melrose Township Zoning Ordinance Section 6.1, is as follows: *"The purpose of this district and its accompanying regulations is to provide for a stable and sound residential environment on lots of sufficient area to accommodate the safe and healthful use of on-site water and waste disposal systems."*
20. The purpose of the R-1, Single Family Residential District Lake and Stream, as stated in the Melrose Township Zoning Ordinance Section 6.1, is as follows: *"The purpose of this district and its accompanying regulations is to provide for a stable and sound residential environment on lots of sufficient area to accommodate the safe and healthful use of on-site water and waste disposal systems. This zone district is intended to encourage the proper development of lands along the shores of Walloon Lake and other water-bodies within the township, to avoid pollution of these water-bodies and to preserve the natural resources of the township."*
21. The Purpose of the Melrose Township Zoning Ordinance, as stated in Section 1.0, is as follows: *"It is the purpose of the Zoning Ordinance to promote the public safety, health, convenience and general welfare, to encourage the use of lands and natural resources in the township in accordance with their*

character, adaptability and suitability for particular purposes, to maintain social and economic stability, property values and general character and trend of Melrose Township development, to limit the improper use of land, to avoid overcrowding of population, to provide for adequate light and air, to lessen congestion of the public streets and highways, to reduce the hazards to life and property, to facilitate adequate provision for a system of transportation, sewerage, drainage, safe and adequate water supply and distribution, education, recreation and other public requirements, and to conserve the expenditure of funds for public improvements and service to conform with the most advantageous uses of land, resources and properties by establishing herein standards for township development in accordance with these objectives and by providing for the enforcement of such standards. It is the further purpose to adopt provisions for each designated zoning district which, within each location, the size and uses of buildings, land and minimum open spaces, sanitary measures required, and the number of families to be housed in certain areas, in buildings erected or altered in the future, are specified”.

22. The Basis for Determination for approval or denial of a Special Use Permit, as stated in Section 10.2, is as follows: *“The Township Planning Commission shall review the proposed special use in terms of the standards stated within this Ordinance and shall find adequate evidence that such use in the proposed location:*
- A) Will be designed, constructed, operated and maintained so as to be harmonious with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed to be located.*
 - B) The location and size of the proposed use, the nature and intensity of the principal use and all the accessory uses, the site layout and its relation to the streets giving access to it, shall be such that traffic to and from the use, the assemble of persons in connection therewith, will not be hazardous or otherwise detrimental to the neighborhood or its normal traffic.*
 - C) Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.*
 - D) Will not create excessive additional public costs and will not be detrimental to the economic welfare of the Township.*
 - E) Will be consistent with the intent and purposes of the Ordinance.”*

23. The Conditions and Safeguards that may be imposed by the Planning Commission, as stated in Section 10.3, are follows: *“The Township Planning Commission may impose such additional conditions and safeguards deemed necessary for*

the general welfare, for the protection of individual property rights of nearby parcels, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the special use is proposed will be observed. Special use permits may be issued for specific time periods as determined by the Township Planning Commission.”

24. Possible issuance of a Special Use Permit, as stated in Section 10.1B)5), are as follows: *“The Township Planning Commission, after public hearing, may issue a special use permit. The Commission shall render its decision denying, approving, or approving with conditions, a request for a special land use, which decision shall incorporate the conclusions reached by the Commission, which formed the basis for their decision, and any conditions imposed.”*
25. To date, 106 letters have been received, 105 against the Special Use Permit, as proposed and 1 in support.
26. In 97 letters, the writer(s) mentioned that the use, as proposed, would not be “Harmonious” with the existing or intended character of the general vicinity and will change the essential character of the area.
27. In 55 letters, the writer(s) mentioned that the use, as proposed, will not be consistent with the intent and purposes of the ordinance.
28. In 28 letters, the writer(s) mentioned that adequate safeguards are lacking.
29. In 11 letters, the writer(s) mentioned that the, as proposed, use may have a negative economic impact.
30. In 34 letters, the writer(s) mentioned that the use, as proposed, will result in excessive public costs.
31. A Public Hearing Notice, announcing the January 27 hearing and briefly explaining the request, was published in the Petoskey News Review on January 4, 2020.
32. On January 3, 2020. I mailed Special Use Public Hearing letters to the owners of 21 properties within 300’ of the requested Special Use Permit.
33. The Township Master Plan provides detailed explanations of land-use categories and states the Farm Forest category *“is designed to maintain the Township’s present rural character by maintaining an ecologically sound balance between human activities and the environment and to retain the existing quiet, scenic, rural, and historic character of Melrose Township”* The Master Plan is incorporated in these Findings of Fact by reference.

APPLICATION REVIEW TO STANDARDS OF ZONING ORDINANCE SECTION 10.2

Bart noted the application will now be evaluated against the standards of Section 10.2 and proceeded to read each standard before beginning discussion:

A) Will be designed, constructed, operated and maintained so as to be harmonious with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed to be located. Bart read Findings of Fact #18 through #21 and noted the language in chapter 6 describing objectives and goals. Bob

stated the proposed use is not consistent with the current use of this property. Charley indicated his own review of the application, as well as consideration of earlier public comments, has led him to determine the proposal is not harmonious with the general area. Tim quoted the General Goals started in chapter 6 of the Master Plan providing for retention of the existing quiet, scenic, rural, and historic character of the Township. He suggested this could at times be achieved, but not always. Tim also expressed concerns for safety, especially with hunters in the area. With the current lack of sidewalks this will change the area's dynamics for residents and neighbors. As a First Responder he understands these issues. Tim also expressed concern the facility will over-burden these services and doesn't believe it will meet Master Plan requirements. Dan stated he doesn't believe the proposal compliments the community. Bart noted many letters referenced a concern with meeting Zoning Ordinance standards. Bart read the standard again and asked all members to vote. All 5 Planning Commission members indicated the application does not meet the first standard.

- B) The location and size of the proposed use, the nature and intensity of the principal use and all the accessory uses, the site layout and its relation to the streets giving access to it, shall be such that traffic to and from the use, the assemble of persons in connection therewith, will not be hazardous or otherwise detrimental to the neighborhood or its normal traffic.* Bart expects some increase in traffic due to emergency vehicles but questioned if this is significant enough to be considered hazardous or detrimental. He believes it may be. Charley expressed agreement. All members agreed the proposed use may be detrimental.
- C) Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.* Bart noted the application does not provide for any essential services, either provided or funded, by the applicant. Randy indicated he could research this but noted the Zoning Ordinance does address the possibility. When asked, the applicant (Dan Hartman) indicated he had nothing to add but did suggest medical calls to the new facility would not be as common due to the nature of treatment. On a voice vote all members agreed the new facility would be adequately served by existing public services.
- D) Will not create excessive additional public costs and will not be detrimental to the economic welfare of the Township.* Tim noted 34 letters expressing an opinion that additional public cost would be significant. He quoted the number of incident response calls to the existing facilities over the last three years and expects these numbers will increase, along with related costs. Bart addressed the additional financial and emotional cost to firemen and other responders. All agreed a second facility would result in additional public cost.
- E) Will be consistent with the intent and purposes of the Ordinance.* Bart noted our earlier discussions and conclusions concerning conformance with the Master Plan and Zoning Ordinance, as well as letters received and public comment at this meeting. All 5 members agreed the proposal is not consistent with the ordinance.

Tim Lagasse motioned to deny a Special Use Permit Application dated 12/19/2019 from Bear River Health to operate an institution for human care at the property now occupied by the Elvyn Lea Lodge, 03780 & 03798 M-75 N (Tax ID 15-010-017-017-10). This denial is based on a lack of evidence the operation would comply with the standards required in section 10.2 of the Zoning Ordinance; as determined through a review of the application and accompanying narrative, findings of fact, and objectives of the Master Plan. Seconded by Charley Zimmer. All voted "Yes," motion carried.

V. **NEW BUSINESS:**

A. **Election of Officers for 2020**

Bart turned the meeting over to Randy Frykberg who explained the process for election of officers. Randy indicated he would ask three times for nominations for Chair and the State Planning Enabling Act does not allow an elected Township Trustee to serve as an officer. Bob nominated Bart Wangeman, with a second from Charley. Randy then asked for any additional nominations. Following a third call for nominations, and none being offered, a roll call vote was taken on the one supported nominee and **Bart Wangeman was elected Chair with a vote of all ayes.** Randy then turned the meeting back over to Bart.

Bart asked for nominations for Vice-Chair. Charley nominated Bob Bourassa, with a second from Tim LaGasse. Following two more calls for nominations, and none being offered, Bart called for a roll call vote and **Bob Bourassa was elected Vice-Chair with a vote of all ayes.**

Bart then asked for nominations for Secretary and Bob nominated Charley Zimmer, with a second from Dan Nowland. Following two more calls for nominations, and none being offered, Bart called for a roll call vote and **Charley Zimmer was elected Secretary with a vote of all ayes.**

B. **Establish Meeting Dates and Times for April 2020 through March 2021**

Randy noted the 4th Monday at 5:30 PM has been our traditional schedule but can be changed. All agreed to continue with the 4th Monday of every month, except May will be the 3rd Monday due to Memorial Day and the November and December meetings will be scheduled as one meeting on the 1st Monday in December. All meetings will begin at 5:30 PM.

C. **Acknowledgement of Conflict of Interest Provisions**

Following a review of By-Law language in section 8 requiring an annual acknowledgement of understanding and intent to adhere to conflict of interest rules, all 5 Planning Commission members signed individual statements to this affect.

VI. **UNFINISHED BUSINESS:** None

VII. **OTHER COMMUNICATIONS / REPORTS:** None

VIII. PLANNING COMMISSIONER COMMENTS:

Bart suggested we consider review of potential Zoning Ordinance amendments.

IX. CITIZEN COMMENTS ON NON-AGENDA ITEMS: None.

X. NEXT MEETING: Scheduled for February 24, 2020 but may be canceled if no application is received.

XI. ADJOURNMENT: At 7:35 PM

Prepared by

Planning Commission Approval by:

Tom Mackie, Recording Secretary

Charley Zimmer, Secretary

Copies: Melrose Township Board, Planning Commission Members, www.melrosetwp.org