

**Barry County Planning Commission
Meeting Minutes
November 25, 2019**

The meeting was called to order at 7:00 p.m. by Chairperson Clyde Morgan in the Community Room of the Tyden Center located at 121 South Church Street in Hastings. The Planning Commission members in attendance included: Morgan, John LaForge, Jack Miner, Joyce Snow, Ben Geiger, Robert Vanderboegh, and Jack Nadwornik. Others in attendance included Karen Echtenaw, Sheila Wheeler, Jeff Mead, Barry County Planning Director James McManus, and many other interested people.

Motion by Geiger to approve the agenda as printed. Support by Vanderboegh. All ayes - motion carried.

Motion by LaForge to approve the Minutes of October 28, 2019 as written. Support by Miner. All ayes - motion carried.

BUSINESS

Morgan explained the procedures of a public hearing.

Rezoning

Map Change A-2-2019

Karen Echtenaw

Morgan recessed the Planning Commission, opened the public hearing, and asked Echtenaw to present her request.

Echtenaw noted she recently purchased a home that was originally built in 1919. She said it has a lower value and it sits very close to the road. She said she is classified as commercial, but the property may not be good for commercial use. She believes the highest and best use of the property is residential.

Morgan asked if anyone wished to speak in favor of the request. There was no response.

Morgan asked if anyone was opposed. There was no response.

Morgan closed the public hearing and reconvened the Planning Commission.

Miner suggested the Planning Commission review the area around the four houses when the new plan is completed. McManus said the whole mile should be reviewed. McManus noted the rezoning is proposed to change from GC to MU. He noted MU allows residential housing by right and still allow commercial uses. He also noted the setbacks for MU are closer than the GC district. He noted zoning to a true residential district could not be done because there are no other residential districts in the area.

Miner asked if the request could be considered spot zoning. McManus said yes. Miner questioned if spot zoning was illegal. McManus said it was not necessarily illegal, but there needs to be justification.

Snow commented that it would be mixed use, and there are houses across M-66. McManus noted Eaton County has jurisdiction across M-66.

Geiger asked how close the nearest residence was. Echtenaw said immediately to the North was another home.

Geiger noted M-66 was not a residential area. Echtenaw commented not at the corner.

Vanderboegh thought the request qualified as spot zoning. He asked if Echtenaw was getting the tax exemption for homestead residential. Echtenaw said yes.

Vanderboegh questioned if the value of the property was \$121,000. Echtenaw said that was on Zillow, but she paid less.

Vanderboegh asked if she had been to the assessor's office. Echtenaw said no.

Vanderboegh questioned if the rezoning would impact the taxes. Echtenaw said the home has value, but she noted financing is not available if the property is zoned commercial. She said a person would need a cash sale, but she noted she has no intention to sell.

Vanderboegh said it would be difficult to compare tax rates with neighboring properties due to the length of ownership.

Vanderboegh asked if she thought the tax value would be the same as the sale price.

Echtenaw knew she was being taxed at a commercial rate.

Morgan asked how many acres Echtenaw owned. Echtenaw said 1/2 acre.

Morgan said the issue could be taken up with the Master Plan update. McManus agreed.

Snow asked about the other residential zoning. McManus noted the properties are not zoned residential. All of the properties in the area are zoned commercial or industrial. He noted it may be taxed as residential.

Miner verified that the request was not an immediate issue. Echtenaw agreed.

Miner noted there could be relief in a couple of years.

Geiger noted the zoning selection was intentional, and Mixed Use should be mixed.

Motion by Geiger to recommend denial of Map Change A-2-2019 to the Barry County Board of Commissioners. Support by Snow.

Roll call vote taken: 7 ayes - 0 nays - motion carried. Rezoning recommended for Denial.

Special Uses

TABLED Case No. SP-13-2019

Larry Doezema (Property Owner)

Motion by Miner to remove Case No. SP-13-2019 off the table. Support by Geiger.
All ayes - motion carried.

Morgan asked Doezema to present his request. Doezema was not present.

Motion by Miner to deny Case No. SP-13-2019. Support by LaForge.

Roll call vote taken: 6 ayes - LaForge, Miner, Morgan, Nadwornik, Snow, Vanderboegh;
Geiger nay - motion carried. Special Use Denied.

Case No. SP-14-2019

Sheila Wheeler (Applicant)

Timothy & Tracy Baker (Property Owners)

Morgan recessed the Planning Commission, opened the public hearing, and asked Wheeler to present her request.

Wheeler noted she has several Siberian Huskies in her home, and she has two litters for sale. She noted she is disabled. She said she has a fence around the yard, and she keeps the dogs in the home.

Nadwornik asked how many adult dogs she had. Wheeler said 11.

Morgan asked if anyone wished to speak in favor of the request. There was no response.

Morgan asked if anyone was opposed.

David Miller noted he moved into the neighborhood in 2018. He noted he can hear the dogs barking, and the kennel may be against the association rules. He noted she has had as many as 20 dogs.

Alisha Miller noted there are community properties in the neighborhood, and you have to walk by Wheeler's house to get to them. She said the smell is repugnant. She noted she has concerns of her grandchildren running around.

Andy Elzworth noted there are too many dogs. He questioned if a renter was allowed to have a kennel. He said there are sections about fencing and commercial business in the association documents. He noted the dogs have gotten loose.

Cynthia Getz noted adult dogs stay in Wheeler's basement, and the puppies are in the garage. She was concerned that property value will decrease. She noted the dogs bark, and they are groomed in the yard. She said they cannot open the windows in the summer.

Yvonne Ferrara called the kennel a wild pack of dogs. She noted the stench from the house extends to her property, and the dog fur has reached her property.

Julie Carlson also mentioned the dog fur in the neighborhood. She said dog waste is left along the side of the road, and the noise is excessive.

Joe Ferrara said it is very noisy and noted Wheeler is running a puppy mill.

Tom Getz complained about the stench and noise. He noted the association is legitimate as dues have been paid and documents have been filed with the State of Michigan. He commented that the bylaws do not allow commercial businesses, yet puppies are being bred and sold. He said there are rules for fencing, and a dog run is not allowed. He noted citations have been issued, and she has had as many as 30 dogs.

Cynthia Getz played an audio for the Planning Commission.

McManus read a letter of opposition from the Cathcart's.

Wheeler rebutted by saying she is on a land contract. She said the Association is no longer valid. She said other families in the subdivision are in violation of the bylaws. She noted she has fencing for her pets.

Morgan closed the public hearing and reconvened the Planning Commission.

Nadwornik asked how many adult dogs were in the home. Wheeler said 11.
Nadwornik asked how many times they go outside a day. Wheeler said three.
Nadwornik asked how big the home was. Wheeler said approximately 3400 sq ft.

Vanderboegh asked what breed the dogs were. Wheeler said Huskies.
Vanderboegh asked about the loose dog. Wheeler said her helper opened the door, and the dog got out. She noted there have been three instances of a dog getting loose.
Vanderboegh asked about the breeding. Wheeler said she has a couple of litters of pups per year, and there are typically 6-8 pups per litter.
Vanderboegh asked if she was renting the home. Wheeler said she has a land contract.
Vanderboegh asked if she walks the dogs. Wheeler said she will go for walks and bring a dog in the fall and spring.
Vanderboegh asked about the stench. Wheeler said she cleans the dog area with bleach and Rescue.
Vanderboegh asked how long Wheeler has had 11 dogs. Wheeler gave a history of her dog ownership.
Vanderboegh asked how many dogs Wheeler had when she moved into the home. Wheeler said eight.

Geiger asked Wheeler if there were any other businesses in the association area. Wheeler said she did not know.
Geiger asked if Wheeler's vision issues would hinder her cleaning. Wheeler said she brings in help to clean.
Geiger asked if there were any cats in the home. Wheeler said yes.
Geiger asked if there had been a kennel on the property prior to her purchase. Wheeler said no.
Geiger asked if there were any current police investigations ongoing. Wheeler said no.

Snow questioned why Wheeler would enter into a contract without investigating the details.
Snow asked how many female dogs were breeding. Wheeler said two would be retiring of the four total.
Snow asked if there were any other people in the house. Wheeler said no, but noted she does babysit.
Snow noticed the dogs were barking when she visited the site.

Miner asked if she has a kennel license. Wheeler said no.

Larry Green, from Animal Control, said she does not qualify as a kennel and noted a kennel license is for the dogs, not the facility.

Miner asked how many puppies were at the home. Wheeler said nine.
Miner asked how the dogs were sold. Wheeler said by word-of-mouth and referrals.
Miner asked how many dogs were sold last year. Wheeler said 12.

Miner asked if she had any restrictions. Wheeler said no and said the Association may not be valid.

LaForge asked Green how many times he had visited the site. Green said five times since 2018.

LaForge asked Green if he noticed the smell. Green said yes.

LaForge asked Green how long he had been employed. Green said four years.

LaForge commented that one barking dog will lead to other barking dogs.

LaForge reviewed the Section for kennels and noted grooming would not be permitted in the front yard. He noted the noise level must be ongoing for four hours before enforcement could be done. He noted a kennel must be in an enclosed building.

LaForge questioned the association guidelines and asked to see dates of reinstatement. Getz provided him with a copy.

LaForge noted that it appeared Wheeler would be in compliance with many of the rules.

Morgan asked why a kennel permit was needed. McManus noted zoning rules and animal control guidelines are different. He noted Wheeler is breeding puppies for profit which is a business. McManus stated that the number of pets is not regulated. He also noted that zoning cannot enforce Association rules.

LaForge asked Green why he had visited the site. Green noted it was for harassing livestock and barking.

Miner asked if Wheeler bred the dogs for business. Wheeler agreed.

Geiger stated the request should not be approved. He said it is not consistent with the condominium, and there are rules on less densely used land.

Geiger asked what would happen if the request is denied. McManus noted this issue is already an enforcement issue and if denied, the sale of puppies would not be permitted. He noted the association would have to enforce their own rules.

Morgan asked if Wheeler could lessen her dog numbers. Wheeler said she did not want to sell her pets.

Geiger said 20 dogs is too many.

LaForge asked if breed is an issue.

Geiger questioned if a stipulation would be adhered to.

Morgan cited the kennel in Hickory Corners and how quickly it got out of hand.

Geiger reiterated his concern about stipulation enforcement.

Miner commented that standards 2, 3, and 5 cannot be met.

Miner asked Green at what age a dog license is required. Green said four months.

Vanderboegh read Section 2302 A.1.-7.

Motion by Miner to deny Case No. SP-14-2019 per Section 2302.A.2., 3., and 5. of the Barry County Zoning Ordinance of 2008, as amended. Support by Snow.

Roll call vote taken: 7 ayes - 0 nays - motion carried. Special Use Denied.

Morgan recessed the Planning Commission at 8:30 p.m.

Morgan reconvened the Planning Commission at 8:35 p.m.

Case No. SP-15-2019

**Fifty Shades of Farmhouse LLC (Applicant)
Jeffrey & Julie Mead (Property Owners)**

Morgan recessed the Planning Commission, opened the public hearing, and asked Mead to present the request.

Mead said they buy and refurbish antiques. He noted they have a booth in Lake Odessa, and they want to go to additional shows. He also noted they have occasional barn sales. He said they had advertised for a grand opening, but it is essentially a garage sale.

Morgan asked if anyone wished to speak in favor of the request. There was no response.

Morgan asked if anyone was opposed. There as no response.

Morgan closed the public hearing and reconvened the Planning Commission.

LaForge asked how many sales there would be in a year. Mead said 2-3, but he noted there would be no winter sales.

McManus noted the advertised event appeared to be a large event including music. He noted selling antiques is a business, and there was a similar request in Barry Township. He noted the special use will allow Mead to have sales without worry.

Miner noted there was good sight vision off of Lacey Road.

Snow said it was a good set up.

Motion by LaForge to approve Case No. SP-15-2019 per Section 2302 A.1.-7. of the Barry County Zoning Ordinance of 2008, as amended. Support by Vanderboegh.

Roll call vote taken: 7 ayes - 0 nays - motion carried. Special Use Granted.

Farmland Agreement

#19-19

Mr. & Mrs. Tom Eckert

McManus noted the properties in Section 7 of Carlton Township are planned and zoned Agriculture which allows agricultural use by right.

Motion by Nadwornik to recommend approval of Farmland Agreement #19-19 to the Barry County Board of Commissioners. Support by LaForge. All ayes - motion carried.

Motion by Geiger to adjourn. Support by Snow. All ayes - motion carried.

Meeting adjourned at 8:50 p.m.

Respectfully submitted,



Joyce Snow, Secretary