

MINUTES
City of Alpena Planning Commission
Regular Meeting
September 12, 2017
Alpena, Michigan

CALL TO ORDER:

The regular meeting of the Planning Commission was called to order at 7:00 p.m. by Paul Sabourin, Planning Commission Chairman.

ROLL CALL: PLANNING COMMISSION

PRESENT: Mitchell, VanWagoner, Boboltz, Sabourin, Lewis, Austin, Kirschner, Gilmore

ABSENT: Wojda

STAFF: Adam Poll (Director of Planning & Development), Don Gilmet (Building Official), and Cassie Stone (Office Clerk).

PLEDGE OF ALLEGIANCE:

Pledge of Allegiance was recited.

APPROVAL OF AGENDA:

Agenda approved as printed.

APPROVAL OF MINUTES:

July 11, 2017, minutes were approved as printed.

PUBLIC HEARING AND COMMISSION ACTION:

P.C. Case #17-SU-05

Tanja Batchelder has requested a special use permit to allow a commercial/office in an R-2 Single Family Residential Zoning District located at 111 E Maple. Article 5.7B and 7.10.

Background:

The applicant operates a business called Michigan Court Reports out of a home at 111 E Maple. This business does criminal background screenings for the employment industry. The work is principally computer and phone type work. The applicant has stated that most of the clients are located in other states or other parts of Michigan and that there would be minimal traffic or clients visiting the office.

The applicant began the business as a home occupation, but as the work volume increased, outside employees were hired, and eventually the home was a dedicated office which is only allowed in the R-2 district with a special permit. The fact a special permit had not been obtained as required was brought to the attention of the Building Official from complaints about the workers parking on the street. Surrounding uses include single family residences and St Paul Lutheran Church to the west.

Zoning and Planning Issues:

The property in question is zoned R-2 One-Family Residence District which only allows certain types of businesses (including the office type requested) with the issuance of a special permit. This regulation is in place to protect the residential character of the neighborhood, by looking at issues like parking, outdoor storage and traffic generated. The regulations for commercial/office in a residential district are as follows:

1. All such businesses shall have no more than three (3) persons working on the premises at any time.
2. Outdoor storage is prohibited.
3. The total area devoted to approval uses shall not exceed two thousand (2,000) square feet for new buildings or additions. The square footage of uses in existing commercial buildings shall be limited to the size of the building. If the building is less than two thousand (2,000) square feet, an addition may be constructed so that the total square footage does not exceed two thousand (2,000) square feet, the addition matches the existing structure, and all developmental standards of the district are met or appropriate variances obtained.
4. New construction shall utilize brick, stone, wood, vinyl, or decorative concrete masonry units. Metal siding shall be prohibited. Final design shall be approved the Planning Commission as part of the Special Use approval process.
5. All goods produced on the premises shall be sold at retail on the premises where produced.
6. All business activity shall be conducted within a completely enclosed building, or in an area specifically approved by the Planning Commission.
7. Parking shall be accommodated on-site, if possible. Otherwise the Planning Commission may permit the use of on-street parking.
8. Hours of operation may be limited by the Planning Commission.
9. Signs must comply with those set forth for the residential zoning district.
10. The Planning Commission may allow a use to sell alcohol, however the Commission may limit the type of license applied for or obtained for the sale of alcohol, hours of operation, and any other restrictions intended to stabilize, protect, and encourage the residential character of the area.

The applicant has indicated that her business would meet all of the criteria, including restricting the amount of employees to a total of three, not having any outdoor storage, not construction any new buildings, and creating three off street parking space for employees. The applicant has indicated that hours of operation would be limited to Monday thru Friday from 8:00am to 6:00pm. The parking area will also be hard surfaced as required.

Recommendation:

As long as the applicant can meet the special permit criteria, the use would not appear to have a negative impact on the area. The primary complaint was the employees parking on the street and the construction of four hard surfaced parking spaces would appear to resolve that conflict.

Therefore, staff recommends **approval** of the special use permit with the following conditions:

- 1) The applicant must reapply for a special use permit if there is any change to the business type at this location.
- 2) At least 3 off street hard surfaced parking stalls are provided.
- 3) The total number of employees is limited to 3 total employees.
- 4) Hours of operation are restricted from Monday thru Friday 8:00am to 6:00pm.

Poll added that there was some building code issues that would have to be addressed including adding a wheelchair ramp and the size of the doors being increased. Gilmore questioned that the zoning had stipulations after referencing article 7.10. Poll stated that this request is for a new business operating within a residential district (not new construction but a new business). Gilmore stated that it isn't a commercial building going back to a residential. Gilmet stated that no it was a single family residential building that at some point in time the applicants purchased and started running the business out of it. Gilmet added that this special use permit was added in 2010 to allow for small businesses for example: offices, dry cleaners, barber shop, party stores, to allow in a residential neighborhood that is not high impacted as Gilmet claims when he investigated the business and addressed it as low impact. Poll stated that he did receive some phone calls inquiring about this request pertaining to what house it was and what kind of business it was. Once Poll explained, the caller was not concerned. Poll also received an anonymous letter asking questions with no return address.

Boboltz questioned if the business had (3) employees plus the owner? Technically, if the business is LLC, the owner cannot be an employee. Poll added that the zoning ordinance does limit the amount of employees to (3) total. Gilmet stated that there was 2 employees there and the owner. Poll stated that he feels the owner is an employee which would equal (3) total people working there. Lewis stated that he disagrees. Poll referred to the applicants drawing in which she only shows (3) parking spots and if she was an employee she would need those (3) plus one for a visitor. Gilmet adds that the Planning Commission could make that a stipulation in the conditions that there can only be (3) employees and that includes the owner. Poll added that the zoning ordinance says (3) employees and it doesn't state that if that includes an owner or not. Poll stated the only condition that he has is that the total number of employees is limited to (3). (No one spoke in favor or to oppose the request).

Sabourin closed the public hearing for Planning Commission deliberation. (7:16 p.m.)

COMMISSIONER'S DISCUSSION AND ACTION:

Mitchell asked if the owner was currently operating the business. Poll answered yes, that she was unaware she needed a special use permit to operate the business. Mitchell questioned what the time period would be allowed to be able to comply with the conditions. Gilmet stated that the driveway would have to be paved before deer season or it would get paved until next year. Gilmet added that the applicant is waiting on the decision of the Planning Commission before any money is being spent on the upgrades. Lewis questioned how long the business in which Poll answered with he didn't know. Gilmet said he received an anonymous call and he went to the building to investigate.

Motion made by Lewis to grant the special use permit with the clarification that the limit on the number of employees is (3) people including the owner and the other conditions set forth by staff. Seconded by Boboltz.

Yays: Austin, Mitchell, Gilmore, Lewis, Kirschner, VanWagoner, Sabourin, Boboltz

Nays: None

Absent: Wojda

Motion passed by an 8-0 vote.

P.C. Case #17-SU-O6 Jessica Urban has filed a petition requesting a Special Land Use Permit to allow for a secondary dwelling unit on her property at 1102 Ford Avenue with the owner residing in one of the units. Article 5.7B and 7.32.

Background: The property at 1102 Ford is currently a single family home located in an R-2 District. A number of years ago the home was legal non-conforming duplex. Once the house was converted to a single family unit and subsequently rented out. The applicant is requesting a special use permit to allow her to reside on the first floor and create a secondary unit on the second floor. Surrounding property uses include DPI and Lafarge to the east, single family homes and legal nonconforming duplexes to the north, south and west.

Zoning and Planning Issues: The property in question is zoned R-2 One-Family Residence District which only allows secondary residential units with the issuance of a special permit. This regulation is in place to protect the residential character of the neighborhood, preventing single family homes to be split up and rented out. The regulations for a secondary unit in a residential district are as follow:

- A. (1) secondary dwelling unit is allowed per lot.
- B. The secondary dwelling unit shall be rented or leased so the tenants are permanent residents rather than transients.
- C. The secondary unit shall not exceed 600 square feet or twenty five percent of the total floor area of the home, whichever is less, so that it remains an accessory use to the primary dwelling and does not result in the creation of a duplex or apartment building.
- D. The secondary dwelling until shall be provided electricity, plumbing and heat.
- E. The secondary until shall contain only (1) bedroom.
- F. The secondary unit shall be a self-contained unit and shall be:
 1. Located above a garage, or
 2. Attached to the primary dwelling or garage, or
 3. Totally within a primary dwelling, or
 4. A detached stand-alone structure
- G. The secondary unit shall have a separate exterior entrance which shall not be visible from the front yard.
- H. The residents of the primary structure shall maintain the secondary unit and shall ensure that no excessive noise, traffic, or blight occurs on the property.
- I. The secondary unit shall conform to the building code standards adopted by the City.
- J. (1 ½) parking spaces shall be provided on-site for each dwelling unit.

- K. Detached stand-alone structures shall be considered accessory structures. The following regulations shall apply:
1. Such structures shall be located in the rear yard and shall be consistent in appearance with the principal structure.
 2. Such structures shall be a maximum of (600) square feet in size with a minimum width of (20) feet.
 3. The property owner must reside on-site.
 4. Separate water and sewer service be provided.

The applicant has indicated the proposed secondary unit would meet all of the criteria. The applicant has indicated she understands that the secondary unit is only allow as long as she (the owner) resides in a unit of the home.

Recommendation: As long as the applicant can meet the special permit criteria, the use would not appear to have a negative impact on the area. The owner will reside at this location and understands that if she does not reside at this location the secondary unit is not permitted. Therefore, staff recommends **approval** of the special use permit with the following condition:

1. The owner of the property must reside in one of the units. If the owner no longer resides in one of the units, the property must revert back to a single family home unless rezoned for that use.

Poll states that he did receive (1) call regarding this property and the properties concerns. The caller sited that a police car was present at this address numerous times and was going to get a petition against this action which was delivered to Poll with signatures. Poll urges the Planning Commission to remember that this a land use issue where tenants can change for better or worse. Sabourin questioned what would happen to the sale of this property and the special use permit. Poll answered that the special use permit will stay active with the property regardless of the property owner. Poll also added that the owner would have to reside at the property in order to maintain the duplex standing. The only other way around this would be to rezone the property for multiple dwellings. Poll also mentioned that the owner must reside in one of the units. It does not matter if it is the primary or secondary unit as earlier stated. Austin questioned who was in charge of checking and enforcing that the owner is residing at the property? Poll stated that there is rental registration and inspections although Gilmet added that an inspection is valid for (3) years unless either the owner calls and claims the tenant wrecked something or a tenant calls claiming the owner failed to do repairs in which case it is sooner then (3) years. Lewis asked when a property of rental gets sold is it supposed to be inspected? Gilmet stated that once a rental property is sold, there is (30) days to register with the City. If the time frame is not met, the fine ranges from \$125.00, \$250.00 or \$500.00. Sabourin asked about the condition in which it states that the secondary unit must not exceed (600) square feet and if staff looked into this? Poll stated that yes he did and once stair ways, utility areas and inaccessible areas are subtracted the unit meets the 600 square feet livable area. Mitchell questioned if the units are required to have separate electric, water or gas meters in which Gilmet answered no. VanWagoner asked Gilmet if having a rental property within a residential area trigger any barrier free requirements.

Gilmet replied no unless you are building brand new. The owner, Jessica Urban, added that she has the rental inspection scheduled for the following week.

Sabourin closed the public hearing for Planning Commission deliberation. (7:35 p.m.)

Boboltz asked the owner is she was currently residing at the property in which she replied yes, that she has recently moved back in. Boboltz added that having the owner residing at the property would help keep control of what was going on at the facility.

Motion made by Mitchell to approve the application for the special use permit. Seconded by VanWagoner.

Yays: Austin, Mitchell, Gilmore, Lewis, Kirschner, VanWagoner, Sabourin, Boboltz

Nays: None

Absent: Wojda

Motion passed by an 8-0 vote.

BUSINESS: Review Sign Ordinance

Poll stated that at the last meeting the Planning Commission wanted him to look into what other communities are doing in regards to sign ordinances due to the Supreme Court Case. Poll spoke briefly about some of the highlights that he learned from Grayling about how they were regulating their sign ordinances. Poll questioned what can be done about political signage because signs cannot be regulated based on content. Grayling dealt with this issue by allowing signs without a permit that do not exceed (2) square feet in size, without a sign limit which would exempt no trespassing signs, most smaller variety political signage and Poll is waiting to hear back if this would exempt most real estate signs. Gilmet added that regulating a sign by condition could also be enforced. As soon as a sign becomes damaged it is illegal. Poll was going to make some revisions and hoped to have more of a document put together for the next meeting and be able to move closer to the sign ordinance getting approved.

COMMUNICATIONS: NONE

REPORTS:

Redevelopment Updates

All the windows are put in at Alpena Furniture. Big By Coffee is coming to town on State Street. Poll stated that he has been talking with developers and will inform the Planning Commission when he can go public with them. Poll added that he will be attending a Planning Conference this month and will update at the next meeting.

Redevelopment Ready Communities Program is about 95 percent complete.

CALL TO PUBLIC: NONE

MEMBER'S COMMENT: NONE

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:58 p.m. by Sabourin, Planning Commission Chair.



Wayne Lewis, Secretary