

MINUTES OF THE COOPER CHARTER TOWNSHIP
PLANNING COMMISSION HELD ON TUESDAY, NOVEMBER 13, 2018

A meeting of the Planning Commission of Cooper Charter Township was held on Tuesday, November 13, 2018, at the Cooper Charter Township Hall, 1590 West D. Avenue, Kalamazoo, Michigan.

Members Present: Asselmeier, Boekhoven, Bricker, and Frederick,

Members Absent: Corke and Crosby (Commissioner Reynolds resigned in writing on November 12 and therefore one seat on the Planning Commission is vacant)

Also Present: Michael Homier of Foster, Swift, Collins & Smith, attorneys for Cooper Charter Township; Russ Wicklund, Township Planning Consultant; James Marquardt, counsel for the Kalamazoo Rod and Gun Club; Andrew Wolf, Chief Safety Officer for the Kalamazoo Rod and Gun Club, and Randy Hendricks, Vice President of the Kalamazoo Rod and Gun Club.

Chairman Asselmeier called the meeting to order at 7:00 p.m.

Agenda Item

Chairman Asselmeier stated he would like to switch the order of items a. and b. A motion to approve the agenda, as amended, was made by Comm. Frederick, supported by Comm. Bricker. Motion carried 4-0-3, with two members absent and one seat vacant.

Comm. Crosby arrives at 7:04pm.

Review and Approval of Minutes

A motion to approve the Minutes of the October 9, 2018, meeting of the Planning Commission was made by Comm. Frederick, supported by Comm. Boekhoven. Motion carried 5-0-2, with one member absent and one seat vacant.

Citizen Comments

No citizen comment.

Open Public Hearing

A motion to open the public hearing to discuss text amendments was made by Comm. Boekhoven, supported by Comm. Crosby. Motion carried 5-0-2, with one member absent and one seat vacant.

No public comments.

Discussion of draft ordinance amendments

Mr. Wicklund gave an overview of general amendments. There are minor changes to the Definitions section, parking standards, paving and cross access for total calculation of parking

numbers, signage, fencing and swimming pools, and to add a Knox Box to the site plan revisions.

Close Public Hearing

A motion to close the public hearing was made by Comm. Bricker, supported by Comm. Crosby. Motion carried 5-0-2, with one member absent and one seat vacant.

Text Amendment Changes

A motion to recommend to the Township Board the text amendment changes was made by Comm. Frederick, supported by Comm. Bricker. Motion carried 5-0-2, with one member absent and one seat vacant.

Open Public Hearing

A motion to open a public hearing to discuss text amendments related to Shooting Ranges was made by Comm. Boekhoven, supported by Comm. Bricker. Motion carried 5-0-2, with one member absent and one seat vacant.

Kalamazoo Rod & Gun Club

James Marquardt, attorney for the Kalamazoo Rod & Gun Club, addressed the Commissioners. He first questioned the special exception uses in the AG District A. The amendment language appears to be directed to the Rod and Gun Club, but he pointed out that they are not located in the AG District if they read the zoning map correctly. They believe they are in R-1.

Attorney Homier stated that they are aware that the Rod and Gun Club is in R-1. The reason the Commissioners separated them out was to address other potential clubs in the future, not necessarily the Kalamazoo Rod and Gun Club. The intent was to have a club designation and a commercial designation and then to apply standards to those, mostly looking on a forward basis to those other potential clubs that could locate in the township and adopting regulations for that use. The amendment that most directly impacts the Rod and Gun Club is Section VI, the amendment of Section 120.330(A). The general rule is that a legal non-conforming use could not be expanded. The proposed amendment would allow the Planning Commission to decide, on a case-by-case basis, whether to allow expansions, additions, and alterations for items such as bathroom facilities and other things that meet the criteria set forth in the proposed amendment.

Mr. Marquardt stated that they believe that under the Michigan Shooting Ranges Act, they already have the right to do all of the things proposed in the text amendment.

Mr. Homier stated that an example of what would probably be allowed under the new language would be to add bathroom facilities to the Gun Club. This addition would not change the non-conformity and would be in the best interest of the health, safety and welfare of the public.

Mr. Andrew Wolf asked whether these provisions would include the construction of a new range. The definitions given are extremely vague for what is or is not permissible. Mr. Wolf said that state law would allow the expansion without permission from the Township. He also asked what would stop the Township from going back into litigation if something is denied.

Attorney Homier stated that if the Rod and Gun Club submitted a provisional application and reserved their rights and defenses to any requirement that the Gun Club actually submit an

application, that would allow the Planning Commission the opportunity to look at the application and decide if it otherwise meets the requirements of the proposed ordinance. Each application would be decided on a case-by-case basis.

Mr. Marquardt wanted to confirm that the Township would recognize a reservation of rights on the Gun Club's part; that the Gun Club is not giving away the legal view that they have on how the state statute applies in this case. If that is the case, he believes that that resolves one issue they have; that they are not going to give up or concede the interpretation that the Gun Club has that the Michigan statute applies. Andrew Wolf presented several scenarios of changes/improvements and asked how they would be handled. Mr. Marquardt believes the amendments to Section 120.420(E) are too vague (i.e., target areas, activities). He said it sounds as though the intent of the amendments apply directly to the Rod and Gun Club. Attorney Homier stated that because the Rod and Gun Club is not in the AG District, but rather in the R1 District, the Township already considers it a non-conforming use and there is a genuine disagreement about the scope of the state law and whether new ranges could be constructed. Mr. Marquardt also questioned No. 12, which states that the site shall be a minimum of 65 acres in size. He stated that two tax parcels that they own in Cooper Township are 65.2 or 65.3 acres and technically this item does not apply to the Rod and Gun Club, to which Mr. Homier agreed. Attorney Homier stated that there had been prior discussions as to what the minimum acreage should be. The fact is that the Rod and Gun Club is in the wrong district as a result of time. The Township had been getting complaints about the law enforcement training activities.

Mr. Hendricks stated that there is no proof of any complaints against the Rod and Gun Club and all of the police training happens in Richland Township. Attorney Homier stated that when the residents are hearing the sounds, it is difficult to tell from where it is coming. Mr. Hendricks said that that is not their concern. Attorney Homier stated there have been complaints. The review of the ordinance was driven by those complaints. Because of the review, the Township wanted to establish rules and regulations in the event someone else wanted to do what the Rod and Gun Club has done and it is the general consensus that a gun club should not be located in a residential district. Going forward, there will be separate regulations for the AG District and the Residential District. The language in Section 6 will give the Planning Commission some flexibility in dealing with zoning issues in the Residential District. The Township has the authority to amend its ordinance and is trying to do so to allow the Rod and Gun Club to continue to operate without much interference, except the Township also wants to establish some reasonable boundaries about where this is going to be and how it is going to be configured, since the Rod and Gun Club is in a Residential District.

Mr. Marquardt stated that they still believe the Michigan Shooting Ranges Act is a lawful exclusion in favor of the Rod and Gun Club and against the zoning that would otherwise apply.

Chairman Asselmeier asked Mr. Marquardt to read the Michigan Shooting Ranges Act that he has referred to several times.

Mr. Wolf asked what the Township's noise ordinance is.

Attorney Homier stated that the noise issue doesn't necessarily drive the land use issues.

Mr. Wolf asked when the zoning was adopted, to which Mr. Homier stated approximately 1943. When asked if the zoning ordinances were available today, Mr. Homier stated that they have been amended several times but it would have been amended around the time that Michigan adopted the Rural Township Zoning Act which was 1943. Mr. Marquardt stated that the Rod and Gun Club has been in that location since the 1950's. The Club was incorporated in 1954 and was originally located in Richland Township in 1957. The Club expanded into Cooper Township in 1961.

Mr. Marquardt stated he would like a copy of the proposed amendments to Section 5, number 11, in which it states that the setback for target areas, buildings and activities shall be at least 1,000 feet from adjacent dwellings and at least 500 feet from the property line.

Mr. Wolf stated that the overall length of the current shooting operation in Cooper Township is greater than 500 feet; however, from property line to property line, the range sits within 500 feet of the property line. The second parcel purchased in Cooper Township and one in Richland Township are not utilized for shooting at this time. They are used for a buffer zone. He would like to have it reduced from 500 feet so that the current ranges could stay in operation. If that is not the case, all of their operations would have to be shifted to the north. Mr. Marquardt stated he thinks the Township is conceptualizing another club coming in and what the rules would be that the Township would want to apply to another club, not the Rod and Gun Club, because the Rod and Gun Club is not in the AG District.

Attorney Homier stated the Club's current status is considered by the Township as a legal non-conforming use in the R-1 zoning district, not the AG zoning district, that may be continued.

Mr. Wolf asked if a new range was installed, would it have to abide by the 500 feet rule?

Mr. Homier stated that, although he doesn't know what a future planning commissions would do, it is this Planning Commission's intent to allow everything that the Rod and Gun Club has there now in Cooper Township and allow, on a case-by-case basis, a review of future improvements the Club may want to make. He also said that to the extent that someone has multiple parcels that have not been combined into one, then the Township may want to consider that parcels owned by the same owner not be set back 500 feet from those property lines because it wouldn't make sense where you own multiple parcels to make it 500 feet from internal lines that one owns anyway. In the context of Section 6, number 11 wouldn't necessarily apply to the Gun Club.

Mr. Marquardt asked if the Planning Commission would feel comfortable setting forth its intent in the Minutes so that future Boards would know what the intent of this Planning Commission was, to which Chairman Asselmeier stated that he would take it up with the Planning Commission and, if agreed upon, they would do so. Chairman Asselmeier stated that this process is not meant to be adversarial, but rather they would like to be good neighbors. Mr. Wolf asked if the amendments are approved by the Planning Commission and the Township Board, would the cease and desist order be rescinded, to which Mr. Homier indicated that it probably would because there would be no basis for it at that point since the activities are going on in Richland Township, not Cooper Township. Mr. Homier stated he would discuss the issue with the Township after the proposed amendments are considered by the Township Board.

Chairman Asselmeier asked for the Commissioners' comments.

Comm. Frederick assured the Rod and Gun Club that this wasn't done as a threat to them. He appreciates the gun owner safety programs they promote. These amendments are meant to help the Township address future similar situations.

Comm. Crosby reiterated Comm. Frederick's comment that these actions are not done as a threat to the Gun Club.

Comm. Bricker had no comment at this time.

Comm. Boekhoven said he is a proponent of putting something in the Minutes that is clear about what the Planning Commission's intentions are in moving forward.

Close Public Hearing

A motion to close the public hearing was made by Comm. Boekhoven, supported by Comm. Bricker. Motion carried 5-0-2, with one member absent and one seat vacant.

A motion to recommend approval of the text amendments to the Township Board was made by Comm. Bricker, supported by Comm. Boekhoven. Motion carried 5-0-2, with one member absent and one seat vacant.

Adjournment

A motion to adjourn the meeting was made by Comm. Frederick, supported by Comm. Crosby. Motion carried 5-0-2, with one member absent and one seat vacant.

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