

MINUTES OF THE COOPER CHARTER TOWNSHIP
PLANNING COMMISSION HELD
WEDNESDAY, MAY 18, 2022

A meeting of the Cooper Charter Township's Planning Commission was held on Wednesday, May 18, 2022 pursuant to the Open Meetings Act.

Members Present: Asselmeier, Boekhoven, Corke, Fooy, Frederick, Feil, and Wiersma.

Members Absent: None.

Also Present: Leslie Abdo, of Foster, Swift, Collins and Smith, attorneys for Cooper Charter Township; Julie Johnston, Township Planner and Zoning Administrator.

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

Approval of Agenda

A motion was made by Comm. Boekhoven, supported by Comm. Corke, to approve the agenda. Motion carried 7-0.

Review and Approval of Minutes

Members of the Planning Commission reviewed the minutes of the March 16, 2022 meeting.

A motion was made by Comm. Frederick, supported by Comm. Corke, to approve the minutes of the March 16, 2022 meeting. Motion carried 7-0.

Citizen Comments

None.

New Business – Ground Mounted Private Solar Energy Systems

Township Planner and Zoning Administrator, Julie Johnston stated that the Township has had several Zoning Board of Appeals meetings where the board was reviewing variance requests regarding ground mounted solar panels. Ms. Johnston explained that the Township's current zoning ordinance requires ground mounted solar arrays to be located in the back yard. The purpose of which was to reduce glare on neighboring properties and streets and keep unsightly solar arrays from public view. This has been a challenge due to the layout of some of the properties within the township. For example when a home is built towards the rear of a lot it would lack adequate space to locate a solar array in the rear of the property. The Zoning Board of Appeals passed a motion to ask the planning commission to review the zoning ordinance pertaining to ground mounted solar

arrays and suggested the ordinance be updated to allow front yard solar arrays in the same way the Township currently allows front yard accessory structures.

Ms. Johnston stated that she drafted proposed language updating the solar ordinance and stated that the Planning Commission did not need to review it immediately. If the Planning Commission were willing to review and ordinance and draft updates, she proposed that they consider language similar to the language in the accessory structure ordinance. Ms. Johnston stated that the accessory structure ordinance allows accessory structures in the front yard under certain circumstances, including the property size, and double setback. Ms. Johnston explained that the ZBA has currently heard two variance requests pertaining two solar arrays and they received a third request that was withdrawn. Ms. Johnston explained that receiving multiple similar variance request within a short period of time is unusual for the Township, thus prompting the ZBA to recommend the Planning Commission review the ordinance.

Chairman Asselmeier asked if the size of the array had any impact on the request to which Ms. Johnston responded that all solar arrays are required to be either roof mounted or located in the rear yard regardless of their size.

Comm. Corke stated that he was not thrilled with the idea of locating solar arrays in the front yard as they are unsightly and cause issues with glare but was willing to review the ordinance to see what would make sense for the Township. The remaining members of the Commission all agreed to reviewing the ordinance.

Comm. Frederick asked if it would be possible when the Planning Commission reviewed the solar ordinance to have an individual from a solar company come in to present information on ground mounted solar arrays.

Old Business - Zoning Ordinance Updates – R-2, R-3, R-4, and R-5 Districts

Julie Johnston stated that at the last meeting the Planning Commission asked how many properties would be non-conforming if the Township eliminated multi-unit housing and/or duplexes in the R-1 district. After speaking with the Assessor, they identified 17 properties that would be impacted by the change. Ms. Johnston explained that just because they were impacted did not mean that they couldn't use the duplex, or update it, they just could not increase the non-conformity.

Comm. Boekhoven asked how that will impact property owners if they choose to sell, since the Township experienced issues within the business district when homeowners tried to sell their homes. Lenders wouldn't lend money for a home because they thought only businesses were allowed in the district creating hardships on sellers.

Julie Johnston stated that if the Planning Commission was concerned about making multiple properties legally non-conforming, she could look into how other communities handled similar situations and stated that the Township could potentially adopt language allowing the use for properties that were already duplexes prior to the updated zoning ordinance.

R-2 District Ordinance Update

Ms. Johnston stated that she did not make any significant changes to the current R-2 ordinance beyond the reorganization. Uses that had conditions attached to them were moved to the conditional use section. The only thing Ms. Johnston recommended be eliminated from the R-2 district was allowing an accessory structure without a principal residence. Ms. Johnston stated that she thought it would be best for all accessory structures to fall under the accessory structure ordinance to eliminate confusion. Another thing that was added under special exception uses were adult foster care facilities which under the zoning enabling act must be permitted by right. Adult foster care facilities which have 6 or less individuals are permitted by right, and over 6 individuals have to get approval from the Planning Commission as a special exception use.

Ms. Johnston mentioned that all of the residential districts had similar terminology when describing the districts that refer to family life. Due to the fact that the term “family” has a very specific connotation that may not describe all living arrangements, Ms. Johnston suggested the term “family” be replaced with “residential”.

R-3 District Ordinance Update

Ms. Johnston stated that the changes made to the R-3 district were the same as those she outlined in the R-2 district.

R-4 District Ordinance Update

Ms. Johnston stated that the changes in the R-4 district were more complicated than the previous districts. For instance there are several areas where multiple family dwellings are mentioned, but they are all described differently in each place. This includes planned apartment dwellings that need approval of the planning commission. Ms. Johnston suggested that a building with a maximum of 4 units be allowed per parcel, and anything over that require permission from the planning commission. Again Ms. Johnston moved special and conditional uses. Another consideration Ms. Johnston pointed out was that the multiple unit buildings are allowed to have 2 stories above the basement. This became an issue with the Cooper’s Landing project where the builder wanted to add a 3rd story attic on the units because the Township didn’t specify a maximum height. To prevent issues like this in the future, Ms. Johnston suggested that the Township add a maximum height to the ordinance which she suggested being 26 feet. Ms. Johnston stated that she felt like 26 feet would provide enough flexibility.

Comm. Boekhoven asked how the 26 feet would be measured above the basement, because if the basement was half above grade and then an owner was allowed another 26 feet, the fire department may have issues accommodating an emergency if one were to arise. Ms. Johnston stated that height is measured from the average point of the grade to the mid-point of the roof. Since height is measured from the mid-point of the roof, Ms. Johnston stated that the Planning Commission could move the maximum back to 24 feet which would still comfortably allow builders flexibility when designing properties. Comm. Boekhoven suggested that the Planning Commission talk to the fire department to get their take on the maximum height prior to finalizing that portion of the ordinance.

In the parking section of the ordinance Ms. Johnston stated that requiring 2 parking spaces for a 1 bedroom may be overkill and suggested lowering the parking requirements. Ms. Johnston stated that she is going to be re-wording the ordinance, but that in essence it states that you are not allowed more than 8 units per building, additionally if you are less than 100 feet away from properties located within the R-1, R-2, and R-3 districts then you are only allowed 4 units per building.

Ms. Johnston also added language regarding structures associated with multi-family dwellings such as swimming pools and fitness centers which requires them to be properly screened if they are within 100 feet from a residentially zoned area, and dictates that the Planning Commission review any such plans during the site plan approval process. Ms. Johnston also changed language regarding approach lanes for entrances and exits from being under the ZBA's authority to being under the purview of the Planning Commission. Instead of outlining all of the special exception uses in the ordinance, Ms. Johnston stated that she updated the language to state that all the same special exception uses as in the R-3 districts are allowed in the R-4 district.

In the planned apartment development section of the R-4 district, Ms. Johnston updated language regarding the intent of the district. Ms. Johnston stated that she added language allowing the planning commission to approve deviations from the Zoning Ordinance during the site plan process which is designed to allow flexibility and provides the Planning Commission the authority to do what they believe is in the best interest of the community.

R-5 District Ordinance Update

Similar changes were made in the R-5 district as those made in the R-4 district. Ms. Johnston stated that she allowed the same special exception uses in the R-5 district as she did in the R-4 district.

R-6 District Ordinance Update (Mobile Home District)

Again Ms. Johnston stated that she moved the permitted uses and allowed similar special exception uses that she did in the previous multi-unit districts. Due to this district being for Mobile Homes Ms. Johnson added conditions that they have the required state and local licenses to operate.

Upon finishing the review of the residential district updates, Ms. Johnston asked if the planning commission would like to have a public hearing on the ordinance amendments for the residential districts, or if they would like to wait and hold one public hearing on all of the zoning amendments at one time. The board voiced their approval in holding one public hearing after they finish all of the amendments in order to conserve public funds.

Commissioner Comments

Comm. Frederick asked if there ever was a property that had an un-buildable lot within the Township. If so, would the Township have the authority to state that any such lot is just unbuildable. Attorney Abdoo stated that if the lot could be used for one of the special exception uses, then it would not be considered an unbuildable lot. Ms. Johnston explained that if a property met the Township's frontage and size ratios then the lot would be considered buildable.

Attorney Abdoo stated that if a property owner had issues, such as due to topography, then they could seek a variance from the ZBA to help the owner find a buildable solution to comply with zoning.

Ms. Johnson stated that some communities have adopted natural features ordinances to combat issues with unbuildable lots, but they come with several pitfalls. The Township would have to review all of the natural features within the Township and determine which they were trying to protect. Additionally the Township would have to evenly distribute protections, which still could be challenged. Attorney Abdoo stated that the State of MI may already be regulating some natural features which would be a challenge if they desired to move forward with a natural features ordinance.

Adjournment

A motion was made by Comm. Boekhoven, supported by Comm. Frederick, to adjourn the meeting. Motion carried 7-0.