

**OSHEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A VIRTUAL MEETING HELD DECEMBER 10, 2020

Agenda

PUBLIC HEARING: REZONING REQUEST

BETHANY CHRISTIAN SERVICES OF MICHIGAN IS REQUESTING SPECIAL USE AND SITE PLAN APPROVAL TO ESTABLISH A CHILD CARING INSTITUTION TO SERVE UP TO 12 MINOR CHILDREN IN THE EXISTING BUILDING LOCATED AT 6350 W. KL AVENUE.

NEW BUSINESS

- a. Code Amendment Discussion: Pools on Corner Lots (Front yard Setback)**
 - b. Code Amendment Discussion: Child and Adult Day Care Centers**
-

A virtual meeting of the Oshtemo Charter Township Planning Commission was held Thursday, December 10, 2020, commencing at approximately 6:01 p.m.

COMMISSION MEMBERS

PRESENT:

Bruce VanderWeele, Chair
Kizzy Bradford
Micki Maxwell, Vice Chair
Mary Smith
Anna Versalle
Chetan Vyas

COMMISSION MEMBERS

ABSENT:

Deb Everett

Also present were Iris Lubbert, Planning Director, Colten Hutson, Zoning Administrator, James Porter, Township Attorney, and Martha Coash, Meeting Transcriptionist.

Jim Hoekstra, Bethany Christian Services and Kyle Visker, Land and Resource Engineering were in attendance as were neighbors Thomas and Diane, 6240 W. KL Avenue.

Call to Order and Pledge of Allegiance

Chairperson VanderWeele called the meeting to order at approximately 6:01 p.m. and invited those in attendance to join in reciting the Pledge of Allegiance.

Approval of Agenda

Hearing no changes, Chairperson VanderWeele let the agenda stand as published.

Approval of the Minutes of the Meeting of November 12, 2020

The Chair asked if there were additions, deletions, or corrections to the Minutes of the Meeting of November 12, 2020. Hearing none, he asked for a motion.

Ms. Versalle **made a motion** to approve the Minutes of the Meeting of September 24, 2020 as presented. Ms. Maxwell **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbert for her presentation.

BETHANY CHRISTIAN SERVICES OF MICHIGAN WAS REQUESTING SPECIAL USE AND SITE PLAN APPROVAL TO ESTABLISH A CHILD CARING INSTITUTION TO SERVE UP TO 12 MINOR CHILDREN IN THE EXISTING BUILDING LOCATED AT 6350 W. KL AVENUE.

Ms. Lubbert introduced Colten Hutson, Zoning Administrator, who made a presentation and recommendation to the Commission.

He explained Bethany Christian Services of Michigan was requesting Special Use and Site Plan approval to establish a Child Caring Institution to serve up to 12 minor children in the existing building located at 6350 W KL Avenue. The applicant was proposing to provide housing services, offices, and conference/training rooms throughout the facility for children and staff. Currently occupied by a financial consulting firm, the 14,722 SF one-story building would allow the youth to receive counseling, learn life lesson and management skills, along with other critical services.

6350 W KL Avenue falls within both the R-2 Residence District and the 9th Street and West Main Overlay Zone. The proposed Child Caring Institution is a permitted Special Use within the 9th Street and West Main Overlay Zone listed under Larger Facilities for Child and Adult Foster Care.

Any proposed Special Uses require review and approval from the Planning Commission. The office component of this proposal is a permitted use within the 9th Street and West Main Overlay Zone.

Mr. Hutson noted when reviewing this Special Use request, there are three sets of criteria that need to be considered: the general Special Use review criteria outlined in Section 65.30, the specific requirements for *Larger Facilities for Child and Adult Foster Care* outlined under Section 49.140, and the 9th Street and West Main Overlay Zone review and development criteria outlined in Article 35. He provided the following analysis of the proposal against these three Sections. Overall he indicated most of the requirements of Section 65.30, Section 49.140, and Article 35 have been met.

Section 65.30: Special Use Review Criteria

A. Master Plan/Zoning Ordinance: The proposed use will be consistent with the purpose and intent of the Master Plan and Zoning Ordinance, including the District in which the use is located.

The 9th Street Sub-Area Plan is one of five designated sub-area plans incorporated within the Township's adopted 2011 Master Plan. The 9th Street Sub-Area Plan allows for both commercial and residential uses, with the primary focus of commercial uses being situated near the corridor and then slowly transitioning into medium to low density residential (see map to the right). The proposed project falls within the district's 9th Street Commercial designation. This designation reflects a commercial vision along 9th Street that complements the rural nature of the Township as a whole. Uses outlined as permitted in the plan for this land use designation consist of office buildings and low intensity commercial uses. The overall intent for the 9th Street Sub-Area, however, is to maintain the capacity and function of the corridor by having an efficient transportation system to maintain the existing rural character of the area, including the protection of existing natural features, and to improve the quality of life in and around the Sub-Area. Enhancing the quality of life in the surrounding area is a crucial component to the 9th Street Sub-Area Plan.

From a zoning perspective, the subject property is located within the 9th Street and West Main Overlay Zone, within which Child Caring Institutions are permissible with Special Use approval from the Planning Commission within the 9th Street and West Main Overlay Zone.

B. Site Plan Review: The Site Plan Review Criteria of Section 64

A site plan was provided. Evaluation to be provided with Site Plan Review.

C. Impacts:

1. The proposed use would be compatible, harmonious and appropriate with the existing or planned character and uses of adjacent properties; meaning the proposed use can coexist with neighboring uses in a stable fashion over time such that no neighboring use is unduly negatively impacted.

Other than a single-family residence and a site condominium adjacent to the project area, all other surrounding properties within the 9th Street Overlay Zone are undeveloped. An established commercial use already exists on site. With the proposed use continuing to operate as a commercial space with minimal to no site changes proposed, and being in accordance with both the Master Plan and the Zoning Ordinance, staff has no concerns that the proposed use will negatively affect neighboring uses.

2. Potentially adverse effects arising from the proposed use on adjacent properties would be minimized through the provision of adequate

parking, the placement of buildings, structures and entrances, as well as the location of screening, fencing, landscaping, buffers or setbacks.

Staff does not foresee a significant impact of the proposed use on neighboring properties. The site layout is not changing as the applicant is not proposing any additions to the building. Minor additions of an outdoor basketball court and soccer field are being proposed north of the principal building (rear yard). The applicant is proposing to utilize the existing parking on the property. The proposed site plan exceeds the amount of parking required, exceeds minimum setbacks, and has satisfactory landscaping.

3. The proposed use would not be detrimental, hazardous, or disturbing to existing or future adjacent uses or to the public welfare by reason of excessive traffic, noise, smoke, odors, glare, or visual clutter.

Staff anticipates that the proposed project will not generate such negative impacts on adjacent properties as a commercial use has already been established on this site. A commercial use has occupied the building on site since the date of its construction in 2001. The applicant will be utilizing the existing building on site for its operations.

D. Environment: The natural features of the subject property shall only be cleared or altered to the extent necessary to accommodate site design elements, particularly where the natural features assist in preserving the general character of the area.

The proposed project will be occupying the existing building on site. The applicant proposed the addition of an outdoor basketball court and soccer field; however, the site modifications that are proposed would not disturb any natural landscaping or natural features. The current percentage of open space on this site will remain at approximately 88.7%.

E. Public Facilities: Adequate public and/or private infrastructure and services already exist or would be provided, and will safeguard the health, safety, and general welfare of the public.

The building located at 6350 W KL Avenue is connected to public water and public sanitary sewer and is currently being billed for said services. Regarding the transportation network, the intersection to the east at W KL Avenue and S 11th Street is well controlled by a traffic signal. The intersection to the west where W KL Avenue crosses N 9th Street is also controlled by a traffic signal. W KL Avenue already supports several commercial and industrial uses. If the Special Use request is granted, it will not negatively affect the area as the proposed use will not generate noise (aside from children playing outside), pollution, traffic, smoke, or odors. Impacts from this proposed use would not exceed the impacts of the commercial/office uses that have been established on this site since 2001.

The Township's Non-Motorized Transportation Plan does identify a 10 Ft wide Shared Use Path adjacent to the subject site on the north side of W KL Avenue. **The applicant requested a deferment for the 10 Ft wide Shared Use Path**

and has agreed to file a Shared Use Path (SAD) form with the Township as a condition of Site Plan and Special Use approval. This means that when the Township deems it appropriate to install the path and implement a Special Assessment District to fund the installation of the path, the owners and future owners of this site cannot oppose it. It should be noted that three foot wide bike lanes have already been established in both westbound and eastbound directions in this portion of W KL Avenue.

F. Specific Use Requirements: The Special Use development requirements of Article 49.

These requirements are listed in the next section.

Section 49.140 Larger Facilities for Child and Adult Foster Care

- 1. Shall not be located closer than 1,500 feet to any of the following:**
 - a. Another licensed group childcare home or Child Caring Institution;**
 - b. An adult foster care small group home or large group home;**
 - c. A facility offering substance use disorder services to seven or more people;**
 - d. Community correction center, Half-way house, or similar facility**

Location of site satisfies these four requirements.

Using GIS software, staff created a map illustrating a 1,500 Ft buffer surrounding the project area. After analyzing the properties within the 1,500 Ft buffer, staff was able to determine the placement of the site is feasible and satisfies the specific requirements in terms of distance from other similar services.

2. Outside play or social areas are appropriately fenced for the safety of the residents.

Regarding the requirement for fencing, the applicant made the following request:

“Bethany is requesting that fencing not be required for this site for the following reasons: (1) the site provides a natural barrier around the outside play area with the existing trees / forested area, (2) the site is very large (15 acres) and the play area is in the middle of the property. (3) the closest property line to the play area is over 90 feet in distance through a densely wooded area, (4) the children often come from refugee camps which are fenced. This property can provide a safe natural barrier for the children without the negative connotations of fencing.”

Attorney Porter noted there are no state requirements that would require fencing.

Mr. Hutson said the requirement for fencing is to provide safety and security, not only to the children, but to surrounding properties as well. It is true that there is a considerable amount of wooded area between the side property lines and outdoor play areas in which can act as a buffer. The applicant’s argument has merit. However, he said staff is not fully convinced that the surrounding wooded area meets the safety

intent of the fencing required by this section. As this is a new section of the code and this is the first request of this nature, Mr. Hutson recommended the Planning Commission discuss this request to determine its validity.

3. The residential character of the property shall be preserved and maintained. Any building must be compatible in size, height, external design, landscaping, and surrounding open space as other residential buildings in the area.

Requirements have been satisfied. The existing building (14,722 feet) meets the requirements in terms of size due to the footprint of the single-story building not exceeding 25,000 SF in floor area. The building is also oriented correctly facing the interior drive and parking lot. The property has approximately 88.7% of open space.

4. No signs are permitted.

The applicant is proposing to utilize the existing monument sign near the entrance off W. KL Avenue and the existing directional sign along the interior drive near the parking lot. The applicant requested to add one incidental sign near the main entrance. The applicant has expressed that the existing monument sign would advertise Bethany Christian Services in terms of the other services they provide. The applicant acknowledged that the signage cannot advertise the Child Caring Institutions use on premises. Directional signs are to be 2 SF or less. The incidental sign they are proposing to place near the main entrance door to the building is 9 SF. Per Section 55.130, incidental signs are to be a maximum of 6 SF or less. The proposed signage will need to be altered accordingly. Mr. Hutson said staff will review signage again in detail at the time of the sign permit application submission as a condition of approval.

5. One parking space, in accordance with Article 52, shall be provided for each non-resident employee working on site at any one time.

Child Caring Institutions require one parking space per employee and one parking space per every five children. There are 14 employees and 12 children being proposed. This would require a total of 17 parking spaces for the Child Caring Institution aspect of the facility. There are currently a total of 84 parking spaces onsite.

Section 64: Site Plan Review

General Zoning Compliance:

Zoning: 6350 Mr. Hutson noted W. KL Avenue is zoned R-2: Residence District and falls within the 9th Street and West Main Overlay Zone. The proposed Child Caring Institution and Office abuts an undeveloped wooded parcel to its west, two site condominiums to its north, and a single-family home to its east. All of them are zoned R-2: Residence District and are within the 9th Street and West Main Overlay Zone with the exception of one site condominium to the north. Adjacent to the south is an auto collision center zoned I-1: Industrial District. The proposed Child Caring Institution is permitted as a Special Use within the 9th Street and West Main Overlay Zone. Additionally, the percentage of land on the proposed site covered by buildings is 2.2%. The percentage of land reserved for open space purposes is 88.7% (5% minimum is required by the overlay code).

Access and Circulation

Access: Mr. Hutson said the proposed site already has an established access drive adjacent to W KL Avenue. All aisles within the proposed site plan are 24 Ft wide and have safe turning radii. The Fire Marshal has reviewed the proposed layout and has no concerns. An access easement is also already in place though the site that would allow for the installation an internal access drive when the neighboring sites develop.

Parking: In terms of parking, he explained the site currently has 84 parking spaces in total, four of which being ADA accessible. All existing spaces are 10' x 20'. The application proposed 5,415 SF of the existing building to be used as Office and the remainder for the Child Caring Institution. Child Caring Institutions require one parking space per employee and one parking space per every five children. There are 14 employees and 12 children being proposed. This means 17 spaces would be needed to support this use. Business and General Offices require one parking space per each 150 SF of net floor area. There is 5,415 SF being proposed as office space. The result is that 36 parking spaces are required for this use and 53 parking spaces for the entire site. Therefore, the site will have approximately 160% of the minimum required parking spaces necessary. To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of stormwater runoff, Oshtemo's off street parking code only allows parking lots to have parking spaces totaling no more than 110% of the minimum parking spaces required, unless otherwise approved by the reviewing body (Section 52.50 (H)). These proposed uses would put the site out of compliance in terms of the number of spaces.

Mr. Hutson noted the applicant has indicated that there would be quarterly gatherings of up to 100 people for training/volunteer services as a part of their office operations. The existing impervious surfaces onsite are not being altered whatsoever, with the exception of the addition of a 45 Ft x 33 Ft basketball court in the rear yard. Per Section 52.140, the reviewing body may grant a deviation in the parking requirement and provide an exception to an existing developed property if practical difficulties or unnecessary hardship are presented. As the parking lot is existing, no significant changes are being made the site, and the additional parking spaces would support the mentioned training conferences, it could be argued that a deviation would be appropriate. **He said Staff recommended the Planning Commission grant the requested deviation to permit the applicant to keep the existing parking.**

He said it should also be noted that the site was established prior to the Township requiring all ADA spaces to be made of concrete. Given standard practice in this type of situation the current asphalt ADA parking spaces can remain, contingent upon passing cross-slopes and other pertinent ADA requirements.

Easements: There is an existing 20 Ft easement in place for the municipal water on site and a 63 Ft wide easement in place for Consumer's Power Company.

There is also a 40 Ft wide ingress/egress easement which is located west and east of the parking lot and access drive. All easement requirements are met.

Shared Use Path:

Per Section 57.90, sidewalks indicated on the Township's Non-motorized Plan shall be installed by the developer when properties adjacent to planned nonmotorized facilities receive site plan approval from the municipality. The Township's adopted Non-motorized Plan shows a 10 Ft wide path along this section of W KL Avenue. **The applicant has requested a deferment for the 10 Ft wide Shared Use Path and has agreed to file a Shared Use Path SAD form with the Township as a condition of Site Plan and Special Use approval.**

Sidewalk:

Part of section 57.90 sidewalks requires that an interior sidewalk network be provided at the time of a site plan review unless the reviewing body grants a deviation from this provision as such a sidewalk connection from the building to the road would enhance accessibility of the overall non-motorized network. The applicant was requesting the Planning Commission grant them a deviation from this requirement for the following reasons: the sidewalk would be approximately between 400-500 Ft long and may present grading challenges. **He recommended the Planning Commission discuss this request to determine its validity. If the Planning Commission were to grant the deviation, he recommended the Planning Commission add a stipulation of approval that said sidewalk connection be installed when the 10 Ft wide path along the north side of W. KL Avenue is constructed.**

Building Design

Building Information: The 14,722 SF, one-story building was constructed in 2001. The height of the building is 24 Ft tall and has a first floor elevation of 942.21. As this is not new construction, this requirement is not applicable at this time.

Lot Dimensions: The site under consideration is about 15.13 Acres (659,062 SF) and has approximately 504 Ft of road frontage along W KL Avenue and is 1,300 Ft deep. No lot dimension requirements are outlined in the 9th Street and West Main Overlay Zone. Therefore, lot requirements in the underlying zoning district must be met. The parcel exceeds in both property area (50,000 SF min.) and frontage (200 Ft min.) in the R-2: Residence District.

Setbacks: Properties within the 9th Street and West Main Overlay Zone have a minimum front yard setback of 100 Ft. The building is setback approximately 430 Ft from the front yard property line. The minimum setback distance between any building and any interior side property line shall be 10 Ft. The minimum setback distance between any building and any rear property line shall be 15 Ft. However, if the height of the building exceeds said measurements, the height of the building from grade level of the property line to the building's highest point shall be used as the appropriate setback measurement (Section 50.60). The

proposed building is 24 Ft in height on an overall flat terrain, requiring a 24 Ft side and rear yard setback. Based on the scale provided on the site plan, the proposed building is setback 133.6 Ft from the eastern property line and setback 51.6 Ft from the western property line. The building is setback from the rear property line approximately 750 Ft.

Fencing: See discussion under Section 49.140 Larger Facilities for Child and Adult Foster Care (2) of this staff report. He noted this item would require discussion.

Lighting: No changes to current onsite lighting were proposed. This portion of the review is not applicable.

Signs: See discussion under Section 49.140 Larger Facilities for Child and Adult Foster Care (2) of the staff report. The proposed signage will need to be altered accordingly. Signage will be reviewed again in detail at time of the sign permit application submission.

Landscaping and Photometric Plan

No additional landscaping was required with this Special Use request because of the ample existing vegetation onsite and because neither the building nor the parking area are increasing in size. Landscaping requirements have been satisfied.

Engineering

The applicant proposed utilizing the existing drainage basin on the property. Prein & Newhof and the Oshtemo Public Works Department have reviewed the project site plan and have noted that all of the onsite engineering concerns have been addressed. As a condition of approval, Engineering requested that **a Soil Erosion and Sedimentation Control Permit from the Kalamazoo County Drain Commissioner's Office be obtained prior to any site modifications.**

Fire Department

The Township Fire Marshal is satisfied with the overall design of the site; however, he requested that **as conditions of approval: (1) all commercial kitchens are required to have hood and fire suppression systems and (2) will be required to upgrade the current alarm system to meet the Oshtemo Township Fire Alarm Ordinance and current code requirements prior to occupancy.**

Section 35: 9th Street and West Main Overlay Zone and Development

Mr. Hutson explained the proposed Child Care Institution and Office uses are consistent with the 9th Street Sub-Area Plan and meet the design development standards and specifications. Since the building is not new, the criteria have already been reviewed or not applicable. See Section 65.30 A for more details.

Section 35.50: 9th Street and West Main Overlay Zone Development Standards.

He indicated the standards of this section reiterate the requirements outlined in the previous sections covered in this staff report or are not applicable as this is not new construction. In summary: the proposed use of a Child Care Institution and Office meet the intent of the 9th Street Sub-Area Plan, setback and buffer requirements have been met, circulation has been met, the existing building is being utilized (new building requirements are not applicable), the proposed parking and pedestrian pathways will need to meet ordinance requirements, landscaping and open space requirements have been met, review of lighting is not applicable at this time as existing lighting will not be altered, appropriate utilities are in place, and signage will need to comply with current zoning standards.

RECOMMENDATION:

Mr. Hutson recommended the Planning Commission approve the proposed Special Use and Site Plan for the Bethany Christian Services Child Caring Institution with the following deviations and conditions.

- 1) FENCING DEVIATION: The Planning Commission would need to grant or deny the applicant's deviation request from Section 49.140(2). If approved, fencing will not be required for this Special Use.
- 2) PARKING DEVIATION: The Planning Commission would need to grant or deny the applicant's deviation request from Section 55.100. If approved, parking on-site may remain as it exists.
- 3) SIDEWALK DEVIATION: The Planning Commission would need to grant or deny the applicant's deviation request from Section 57.90. If approved, the sidewalk connection from the roadway to the building will not need to be put in at this time. If approved, staff recommended the Planning Commission add a stipulation of approval that said sidewalk connection be installed when the 10 Ft wide path along the north side of W KL Avenue is constructed and the site plan is updated to illustrate this future sidewalk connection prior to building permit issuance.
- 4) A Shared Use Path SAD form shall be submitted to the Township prior to issuing a Certificate of Occupancy.
- 5) Applicant to submit an updated application with property owner signature or proof of purchase prior to building permit issuance.
- 6) Applicant to update signage plan and to submit and receive approval from the Planning Department prior to occupancy.
- 7) A Soil Erosion and Sedimentation Control Permit from the Kalamazoo County Drain Commissioner's Office be obtained prior to building permit issuance.
- 8) All commercial kitchens shall be required to have hood and fire suppression systems prior to occupancy.
- 9) The current alarm system shall be updated to meet the Oshtemo Township Fire Alarm Ordinance and current code prior to occupancy.

Chairperson VanderWeele thanked Mr. Hutson for his report and asked whether Commissioners had questions for him. Hearing none he asked whether the applicant wished to speak.

Mr. Joel Bell, Bethany Director for SW Michigan, the agency proposing the site plan, said Mr. Hutson's site plan review captured their intent and thanked the Commission for its consideration. He said although it is the case that they plan to house 12 refugee minors, they hope to provide up to 14 beds to allow for about 30 days to identify an appropriate program to provide time to find the minors a new situation.

Mr. Vyas asked where the children were residing previously.

Mr. Bell said there are varied circumstances that would require temporary housing for refugee or immigrant youth. They could be at the border waiting or coming from foster homes and may need therapeutic care.

Ms. Maxwell asked whether the floor plan shows space for 14 beds.

Mr. Bell said that is the intent; he deferred to the architect, who said the state license for a small 12 bed facility is planned. The floor plan shows 14 beds.

Ms. Smith wondered whether the 14 beds needed to be formalized in the approval.

Ms. Lubbert indicated that most of the time a maximum of 12 beds would be occupied. Since the two additional beds are for transitional purposes, which is standard operation, they would not need to be addressed in that way.

Ms. Versalle said she understood that fencing might be upsetting to immigrant children as it would visually remind them of fenced refugee camps, but asked whether other options that might be more aesthetically pleasing but still providing the safety benefit had been considered.

Mr. Bell said they had considered a fence but feel it would not do much good given the ages of the children who will be adolescents and that a fence would have minimal impact and would not benefit either the youth or the community, both in or out. There is also a challenge of installing fencing in a wooded area. Kicking a ball over a fence into the wooded area could also be a problem.

Mr. Vyas said he has had experience in the business of child mental health and said there is significant potential for children, especially adolescents to run away, especially when outside during recreational activities. He felt a fence would be helpful in keeping them from running away and added road traffic is a concern.

Hearing no further comments, the Chair moved to Public Hearing.

Thomas Corpus and Diane Peeke, who own the property at 6240 W. KL Ave. and are interested in purchasing the property east of that to open a wedding venue, are concerned that the project may not be fenced. They constantly have people crossing their property who are walking to WalMart from the nearby trailer park and Copper Beech. There are also people who hunt next to their property, are concerned about children who might wander into the woods during hunting season, and do not understand why a fence would not be installed. They are close to a busy road and worry for children's safety. There have been multiple break-ins and theft from people who constantly walk through the woods east of their property as well as homeless people who live to the north and east of them. They are worried about the safety of the children. Section 8 is a mile down the road. It was noted there is only one foot between the bike lane and the road shoulder. They wondered why a child caring center would be built on such expensive property near an extremely busy crossway and a collision shop. If they develop a wedding venue they will not be able to get a liquor license and their property would be devalued.

Hearing no further comments, Chairperson VanderWeele closed the Public Hearing, moved to Board Deliberations and suggested the request for deviation from the fencing requirement as the first topic for discussion.

Ms. Smith said she did not think this is an approved area for hunting and that issue should be addressed with the Sheriff.

Ms. Maxwell asked whether the fencing being discussed would enclose the entire property or just the recreation areas.

Mr. Hutson said the ordinance addressed enclosing only the outdoor play and social areas.

Attorney Porter said that that was correct and explained there are no State regulations regarding fencing in general; any fencing would be only what the Oshtemo ordinance and the Planning Commission impose.

Ms. Maxwell felt fencing around the entire property would be unreasonable; Ms. Versalle agreed that would be excessive, but felt fencing the recreational areas should be considered.

Mr. Vyas said there is a big concern regarding escape and there should be some degree of fencing with this population. Children with mental problems are likely to try to escape during outdoor activities. He also felt the neighbor's concerns were appropriate for the safety of their property. He would not approve a fencing deviation, especially for outdoor activity areas.

Ms. Versalle said she sees fencing as safety for the children in order to keep others out of their recreational space rather than to keep them in. She thought the application had been carefully considered for observation needs, but living close to this

intersection she has a lot of concern for unwanted foot traffic entry into the recreation area if it is not fenced.

Ms. Bradford said she has worked with adolescent youth, including those with mental illness, and felt if the whole area was fenced in it would not always keep people either in or out. If children are determined, they will get out. If people want to get in, they will. If the State has no guidelines, Commissioners need to start with what is mandated by Oshtemo's ordinance.

Chairperson VanderWeele said it sounded like it was the consensus of the Board that some fencing was needed for the activity areas and agreed. If approved, it could be left to Staff to work with the applicant to develop the area to be fenced. He asked for a motion.

Ms. Versalle **made a motion** to deny the request for deviation and to require fencing per Ordinance, Section 49.140(2) for the outside play and social areas, to be worked out with Planning Department staff. Mr. Vyas **seconded the motion**. The **motion was approved** unanimously by roll call vote.

The Chair asked for comments regarding the request for deviation from Section 55.100 to allow the parking on-site to remain as it exists.

Ms. Maxwell said as the parking area already exists, she would not vote to remove it; Commissioners indicated they were in consensus with that position.

Chairperson VanderWeele asked for a motion.

Ms. Smith **made a motion** to approve the request for deviation from Section 55.100 to allow on-site parking to remain as it is currently. Ms. Versalle **seconded the motion**. The **motion was approved** unanimously by roll call vote.

The Chair said the next item to discuss was the request for the sidewalk deviation from the building to W. KL Avenue.

Ms. Versalle said since the Planning Commission has granted similar requests in the past, allowing applicants to defer sidewalks until a future time when a non-motorized path is put in, she would approve the same for this application.

Mr. Vyas confirmed that the time a sidewalk would be required was when a path that extends from the building to W. KL Avenue is installed and that the recommendation from staff was to approve this request.

Ms. Maxwell was concerned that the area where a path/sidewalk would be required is very steep.

Chairperson VanderWeele agreed, saying it might require switchbacks.

Ms. Versalle **made a motion** to approve the request for deviation from Section 57.90 regarding the requirement for a sidewalk along the north side of KL Avenue until such time as a 10 foot wide non-motorized pathway is installed, and based on the staff recommendation. Mr. Vyas **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Ms. Versalle **made a motion** to require submission of a Shared Use Path (SAD) form to the Township prior to issuing a Certificate of Occupancy. Ms. Maxwell **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Ms. Maxwell **made a motion** to approve the Site Plan request to establish a child caring institution to serve up to 12 minor children in the existing building located at 6350 W. KL Avenue based on the staff recommendations and conditions in the staff report and the four Commission decisions listed above. Ms. Versalle **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Ms. Maxwell **made a motion** to approve the Special Use request to establish a child caring institution to serve up to 12 minor children in the existing building located at 6350 W. KL Avenue based on the staff recommendation and conditions and the four Commission decisions listed above. Ms. Versalle **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item.

NEW BUSINESS

a. Code Amendment Discussion: Pools on Corner Lots (Front yard Setback)

Ms. Lubbert provided background and a draft of amendment language to the code addressing pools on corner lots for discussion and feedback.

Background:

On November 17th the Zoning Board of Appeals reviewed a variance request to permit an in-ground pool to protrude 20 feet into the required 30-foot front yard setback. The property in question, 5359 Sweet Briar Drive, is a small corner lot located within Rose Arbor plat No. 2. After review and discussion, the Zoning Board of Appeals approved the request. This was not the first variance approved to allow an in-ground pool to protrude into a corner lot's front yard. However, it should be noted this variance was the first of its type approved under the current setback code adopted in 2011. As a result of this meeting, the Zoning Board of Appeals requested that a request be sent to the Planning Commission to consider an update to the code that provides some flexibility to in ground pools on corner lots.

She said the current setbacks for pools are outlined in section 50.60 Setback Provisions of the code. In this section, pools are given a side yard setback of 10 feet and a rear yard setback of 15 feet. As the code sets forth a side and rear setback for

pools but does not mention a front setback, the generally accepted interpretation is that no pools are permitted in front of a house. However, corner lots, as they have frontage on two streets, have two front yards. Assuming the house is built up to the two 30-foot front yard setbacks, this means that, a 30-foot front setback is required for a potential pool along each street frontage (at minimum to line up with the house). This is a larger setback area than is required of properties not located on a corner, where only a 10 foot side yard setback is required on each side; meaning that usable rear yard space is reduced at least by approximately 20 feet' along the corner lots' side with street frontage. The Zoning Board of Appeals felt that this unique hardship of corner lots should be taken into consideration and in-ground pools should be treated differently than the standard primary or accessory structure. It should be noted that only public comments in support of the variance request were received.

Proposal:

Based on input from the Zoning Board of Appeals and past precedence of approved pools within Oshtemo Township, staff and legal counsel are recommended a code amendment that would provide additional guidance and flexibility for pools on corner lots. The amendment includes adding a definition of a corner lot, differentiating between what is considered a corner lot's front and side street frontage, and allowing a 10' front yard setback for in-ground pools on corner lots in subdivisions or site condominiums if it is along the Side Street Frontage of the lot, provides the required fencing, and is screened from the road with landscaping. This proposed amendment also clearly notes that any other pools are not permitted in a front yard.

She provided Commissioners with a copy of the "Proposed Pools on Corner Lots (front yard setback) Text Amendment Document."

Chairperson VanderWeele asked for comments from Commissioners.

Ms. Smith asked if the utility right of way was included in the required setback.

Ms. Lubbert said the required setback begins behind the utilities right of way.

Ms. Bradford asked if there might be a vision problem for motorists at corners resulting in a safety hazard.

Ms. Lubbert said there are vision triangle rules regarding placement tied to the Township's fence regulations so front yard pools on corner lots should not cause problems.

Ms. Maxwell said she was fine with the proposed language and noted since the Zoning Board Authority has already received several requests, they will likely keep getting them in the future. She wants people to understand what they are getting into when pursuing a pool on a corner lot.

Ms. Lubbert noted the proposed amended language would affect only subdivisions or site condominiums because other sites are typically very large so not

likely to have pools by the road. They would be able to apply for variances. She chose to start with subdivisions and condominium corner lots.

Mr. Vyas was satisfied with the amended language and thought it was reasonable to move forward to set a public hearing.

Chairperson VanderWeele asked for a motion.

Ms. Versalle **made a motion** to move the proposed code amendment regarding Pools on Corner Lots, as presented, to a public hearing. Mr. Vyas **seconded the motion**. The **motion was approved unanimously by roll call vote**.

Chairperson VanderWeele moved to the next agenda item.

b. Code Amendment Discussion: Child and Adult Day Care Centers

Ms. Lubbert provided a proposed text amendment to the Planning Commission for discussion and to provide feedback to staff.

She said recently the Planning Commission reviewed a conditional rezoning request that asked to rezone a property to a higher intensity in order for the site to have a Child Care Center. Although the rezoning request was denied as it was considered spot zoning, the topic of Child Care Centers piqued both the Planning Commission's and Public's interest. There was a general agreement that childcare options are important and more flexibility was needed that would allow for more of this type of service. Planning Staff was asked to review the code and see if there was a way to appropriately allow for more Child Care Centers in Oshtemo.

Coincidentally, around the same time as the rezoning discussion, a site plan for initial discussion was submitted to staff that entailed an Adult Care Center. After reviewing the code, staff found that it was unclear where and if this use was permitted. After discussion with legal counsel it was determined that this use was comparable to a Child Care Center and that a code amendment would be appropriate. For the sake of efficiency, staff incorporated language to address deficiencies in the code regarding Adult Care Centers with the proposed Child Care Center code amendment discussion.

Proposal:

Child Care Centers: There are three different intensities of childcare uses that are permitted by the code within Oshtemo: Family day care home (allowing up to 6 children), Group day care home (allowing up to 12 children), and Child Care Center (with no maximum number of children permitted via zoning). All three of these uses provide childcare for periods less than 24 hours a day. Family day cares and Group day cares are permitted in all agricultural and residential zoning districts. This is appropriate as they are small in scale, are required to utilize private residential residences, and must preserve the residential character of the area. Child Care Centers are allowed in the R-3, Residence zoning district and higher. This is appropriate as they are more

institutional in scale and nature. Child Care Centers are often equated to a commercial/office type use. Staff believes the current placement of these three types of childcare uses is appropriate and would not recommend altering the current groupings or placements in the code.

However, the rezoning request that brought this topic to the forefront was unique as the site in question was a large church that has a private preschool. In this case the facility already has accepted characteristics that stand out from a standard low-density residential area: a large parking area, a large nonresidential building, obvious traffic flow, and the regular presence of children onsite. One of the comments that residents in support of the rezoning kept bringing up was their desire to have one location where they could drop off their children for the day. Parents who had children enrolled in the private preschool elaborated on how being able to also drop off their preschool age child at this same location would be advantageous to them. Given the nature of public and private schools, staff did not see a reason why schools could also not support a Child Care Center. With the scale of schools, their already providing services to children, site design/layout, general appropriateness in residential areas, and already established traffic patterns - allowing Child Care Centers at these sites as an accessory use is logical. The addition of a Child Care Center to a school would have little to no negative impact on the surrounding residences. The proposed text amendment would allow all private and public schools in Oshtemo to have Child Care Centers as an accessory use.

Adult Care Centers: Adult Day Care Centers are non-residential facilities, properly registered or licensed with the State, and support the health, nutritional, social, and daily living needs of adults in a professionally staffed group setting for periods less than 24 hours a day. These facilities typically provide adults with transitional care and short-term rehabilitation following hospital discharge. Currently in the code the only area that lists Adult Care Centers as an allowed use is the - Neighborhood Overlay zone (Article 37). In this overlay “Child or Adult day care centers” are a special use. It should be noted that no areas of Oshtemo are currently part of this overlay (staff will do research on this at a later date). Adult Care Centers are comparable to Child Care Centers – the only real difference is that they are providing care for a different age group. Both planning staff and legal counsel recommend allowing Adult Care Centers as a primary use in the same zoning districts as Child Care Centers. The proposed text amendment does this.

In addition to the above code amendments, she recommended adding and amending some definitions in the code to help clarify what Child Care Centers and Adult Care Centers are. These proposed definitions were included in the proposed text amendment document.

Chairperson VanderWeele asked for Commissioner comments.

Mr. Vyas wondered about churches opening day care centers and operating to standards.

Attorney Porter said he was concerned that if the definition of what churches can do for money is broadened, we would be moving away from the land use planning principle and where we would draw the line. Would we also allow health centers and gyms, for example? It could be a slippery slope and could change the nature of churches in residential districts. The scope could be changed by opening up these types of operations that might not fit in a residential zone.

Ms. Maxwell wondered why Child Care Centers were not allowed in the R-2 District.

Ms. Lubbert noted family daycares (up to six children) and group daycares (up to 12 children) are allowed in throughout the district. We would need to be careful of larger facilities to ensure compatibility.

Ms. Maxwell thought limits could be imposed; most child care centers are smaller. She felt strongly that we need child care centers where we have population. She felt R-2 is a reasonable transitional area.

Ms. Lubbert noted that the R-3 district is defined as the transitional zone and that was not the intent of the R-2 district. But added that this could be explored further if the Commission wished to go that direction.

Ms. Versalle said she felt Ms. Lubbert was moving in the right direction regarding childcare facilities in schools, especially Centerpoint. If a church is looking to provide day care they usually also have some type of school. It seems appropriate to tie childcare to school requirements. If we get a lot of Child Care Centers without their meeting a school requirement it could be a can of worms and we would need to revisit the subject.

Mr. Vyas and Ms. Smith agreed with Ms. Versalle.

Chairperson VanderWeele said it looked as though most were in agreement except Ms. Maxwell who was hoping for a broader interpretation, and asked for a motion.

Ms. Versalle **made a motion** to move the proposed text amendment to public hearing as presented. Mr. Vyas **seconded the motion**. The **motion was approved unanimously by roll call vote.**

The Chair moved to the next item and asked Ms. Lubbert for her presentation.

2021 MEETING DATES

Ms. Lubbert provided the following proposed meeting schedule for 2021 for consideration

Planning Commission
Second and Fourth* Thursdays of every month @ 6PM

2021 Meeting Dates

<u>2nd Thursday of the Month</u>	<u>4th Thursday of the Month</u>
1/14	1/28
2/11	2/25
3/11	3/25
4/8	4/29*
5/13	5/27
6/10	6/24
7/8	7/29*
8/12	8/26
9/9	9/30*
10/14	10/28
No meeting	11/18*
No meeting	12/16*
1/13/2022	1/27/2022

*Dates shifted to avoid holidays or for consistency with the Development Schedule of Applications.

Chairperson VanderWeele asked for a motion.

Mr. Vyas **made a motion** to approve the 2021 Planning Commission Meeting Schedule as presented. Ms. Maxwell **seconded the motion**. The **motion was approved** unanimously by roll call vote.

PUBLIC COMMENT

Chairperson VanderWeele determined there were no members of the public wishing to speak and moved to the next agenda item.

OTHER UPDATES AND BUSINESS

Ms. Lubbert told the group this was the last meeting for Ms. Smith who is leaving the Commission and thanked her for her service.

Ms. Smith said it was an honor to have worked with the Planning Commissioners. Everyone has always provided thoughtful deliberation and did the very best they could and that was what the people of Oshtemo Township could hope for.

Ms. Lubbert said Ms. Farmer had also left the Planning Commission as liaison from the Township Board and thanked her for her service.

Ms. Farmer was present and said it had been her feeling that after eight years on the Planning Commission it was time for someone else to fill the Township Board liaison position. She did not realize that the November meeting was her last. She said it had been her honor to serve and that she had learned so much. She will now be the Board's liaison to the Zoning Board of Appeals. She said the Planning Commissioners were all so great and care so much about the Township and thanked them for everything.

Chairperson VanderWeele said it was good to have had both Ms. Smith and Ms. Farmer on the Planning Commission and they would be missed.

The Chair mentioned he thought the Holiday Inn had been told they were not allowed to utilize the up lights on the building but has seen them on for the last two weeks.

Ms. Lubbert said she would inform Code Enforcement.

She wished everyone happy holidays and said she hopes 2021 will be better than 2020. Governor Whitmer will likely extend virtual meeting requirements into the new year.

ADJOURNMENT

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 7:45 p.m.

Minutes prepared:
December 14, 2020

Minutes approved:
January 14, 2021