

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A MEETING HELD FEBRUARY 8, 2018

Agenda

**PUBLIC HEARING: KALAMAZOO COUNTY CONSOLIDATED DISPATCH
AUTHORITY FENCE REQUEST
CONSIDERATION OF AN APPLICATION FROM KALAMAZOO COUNTY
CONSOLIDATED DISPATCH AUTHORITY FOR A SPECIAL EXCEPTION USE
CONCERNING SECURITY BARBED-WIRE FENCING OUTSIDE OF AN
INDUSTRIAL-ZONED DISTRICT, PURSUANT TO SECTION 78.210 OF THE
TOWNSHIP ZONING ORDINANCE, FOR THE SUBJECT PROPERTY
LOCATED AT 7040 STADIUM DRIVE, WITHIN THE C: LOCAL BUSINESS
DISTRICT. PARCEL NO. 3905-14-230-049.**

ANY OTHER BUSINESS

- a. ADAM GARLAND CONSTRUCTION CONCEPT PLAN REVIEW**
 - b. BTR PARK 2.0 ROAD NAME APPROVAL**
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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, February 8, 2018, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Chairperson
Fred Antosz
Ollie Chambers
Dusty Farmer, Secretary
Micki Maxwell
Bruce VanderWeele, Vice Chairperson

MEMBER ABSENT: Mary Smith

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney and Martha Coash, Meeting Transcriptionist. Five others were in attendance.

Call to Order and Pledge of Allegiance

Chairperson Bell called the meeting to order at approximately 7:00 p.m.; the "Pledge of Allegiance" was recited.

Agenda

Chairperson Bell asked if there were any additions, deletions or corrections to the agenda as presented. Mr. Antosz asked that the subject of "Planning Commission Work Sessions" be added to #8 – Any Other Business. The Chair asked for a motion to approve the agenda as amended to include Mr. Antosz' request.

Mr. VanderWeele made a motion to approve the revised agenda as presented with the addition of "Planning Commission Work Sessions" to #8 - Any Other Business. Mr. Antosz supported the motion. The motion passed unanimously.

APPROVAL OF THE MINUTES OF THE MEETINGS OF JANUARY 11, 2018 AND JANUARY 25, 2018.

Chairperson Bell asked if there were any additions, deletions or corrections to either the Minutes of the Regular Meeting of January 11, 2018 or the Joint Workshop with the Township Board held on January 25, 2018.

The Chair noted page one of the Minutes of January 25 listed Mr. Antosz as Vice-Chairperson rather than Mr. VanderWeele. She asked for a motion.

Mr. Antosz made a motion to approve the minutes of the Regular Meeting of January 11, 2018 and the minutes of the Work Session of January 25, 2018 as presented, with the correction as noted. Mr. Chambers supported the motion. The motion was approved unanimously.

Public Comment on Non-Agenda Items

Chairperson Bell asked whether anyone in the audience cared to comment regarding non-agenda items. Hearing none, she moved to the next agenda item.

PUBLIC HEARING: KALAMAZOO COUNTY CONSOLIDATED DISPATCH AUTHORITY FENCE REQUEST CONSIDERATION OF AN APPLICATION FROM KALAMAZOO COUNTY CONSOLIDATED DISPATCH AUTHORITY FOR A SPECIAL EXCEPTION USE CONCERNING SECURITY BARBED-WIRE FENCING OUTSIDE OF AN INDUSTRIAL-ZONED DISTRICT, PURSUANT TO SECTION 78.210 OF THE TOWNSHIP ZONING ORDINANCE, FOR THE SUBJECT PROPERTY LOCATED AT 7040 STADIUM DRIVE, WITHIN THE C: LOCAL BUSINESS DISTRICT. PARCEL NO. 3905-14-230-049.

Chairperson Bell asked Ms. Johnston to present the staff report.

Ms. Johnston explained Kalamazoo County Consolidated Dispatch Authority (KCCDA) recently purchased the property at 7040 Stadium Drive as their new

headquarters. Renovations are currently underway to help secure the facility from hazards, vulnerabilities and any resultant risk to their emergency operations. As part of these renovations, KCCDA would like to secure the building with fencing, some of which would include 6-feet of chain-link with three strands of barbed wire. She noted per the requirements of 78.210.E. that the property is located in C: Local Business District, which requires special exception use approval for any fencing with barbed wire. In addition, 78.230.C. indicates that fences in this district exceeding six (6) feet in height shall be subject to approval by the appropriate reviewing body.

She said the more decorative fencing shown on the site plan is 8-feet in height. The chain link fence will also reach 8-feet once the barbed wire is attached. Therefore, Planning Commission approval is also required for the height of the fence. The applicant has indicated this security fencing is needed due to the essential 9-1-1 and public safety service provided at the site.

Ms. Johnston indicated *Section 60.100* of the Zoning Ordinance provides additional review criteria for consideration when reviewing a Special Exception Use request. Since this special exception use deals specifically with the fence and not the use of the building, she said Staff's response to the criteria is targeted to that issue:

A. Is the proposed use compatible with the other uses expressly permitted within the Local Business District zoning classification?

Section 78.200 outlines the specific requirements for fences for all the Township's zoning districts. Fences with barbed wire or taller than 6-feet are not permitted by right within Local Business District: *Section 78.210. Construction, Material and Maintenance* states the following:

C. No barbed wire, spire tips, sharp objects, or electrically-charged fences shall be erected in or abutting any residentially zoned district.

D. Bona fide agricultural uses may use barbed wire or charged fences to control livestock.

E. Security fences six feet high and above in industrial-zoned districts may include an additional 18 inches of barbed wire. Such barbed wire shall slant inward toward the property or be straight up. Security fences with barbed wire in other zoning districts shall require special exception use approval.

It is clear from the Zoning Ordinance that a fence of this type is not permitted by right outside of bona fide agricultural uses and industrial districts. The location of the new KCCDA building, within a prominent business and residential district of the Township, makes placement of this type of fence problematic. While more decorative fencing is located along the street rights-of-way, barbed wire is proposed along the west and north faces of the building.

B. Will the proposed use be detrimental or injurious to the use or development of adjacent properties or to the general public?

The difficulty with this application is the competing concerns of security for the site and the impacts this type of construction has related to compatibility. Adjacent uses are residential and low-intensity office and commercial. The continued operation of this building as an office fits perfectly into the fabric of this area of the Township. It is the placement of both the decorative and barbed wire security fencing that pushes the issue of compatibility and places a spotlight on what would otherwise be a compatible use.

The applicant indicated to Staff that securing the perimeter of the building is standard best practice for emergency operation centers. The importance of protecting the first responders is critical in the event of an attack. It is our understanding that the placement of the fencing is intended as a deterrent to stop anyone from actually approaching the building.

Staff conducted some research into what constitutes a “secure” facility of this type. While not exhaustive, some information was found related to emergency operation centers. The National Emergency Number Association (NENA) published a document called NENA Resource, Hazard and Vulnerability Analysis Information Document published on September 10, 2016, which has a section on facility security, as follows:

Security into and within the facility includes at the minimum:

- *The ability to remotely secure areas or provide access to them.*
- *Keys, badging, levels of permission to gain access to specific areas of the facility.*
- *Door control security systems should have redundant UPS power to assure ongoing controlled access capability if primarily power backup systems fail.*
- *Surveillance video and recording in high security areas.*
- *Vendor control and procedures to monitor visitor and employee access.*

Fencing or other security measures could be installed that is more compatible with adjacent uses. The requested fencing along Stadium Drive and 8th Street has a more residential character than the chain-link with barbed wire

The use of barbed wire fencing in the locations shown on the site plan was chosen because of limited visibility from the road rights-of-way. Existing landscaping will help to screen the fence along the west property line. Additionally, the setback of the fence and existing landscaping may also help to screen the fence from the residential property to the north.

C. Will the proposed use promote the public health, safety, and welfare of the community?

Enhanced security measures help to protect the emergency responders working within the dispatch center, promoting public health, safety and welfare.

D. Will the proposed use encourage the use of the land in accordance with its character and adaptability?

The Ordinance requirement that fencing of this type must be reviewed by the Planning Commission was to ensure compatibility with neighbors. The current character of the site and area is aligned with the aesthetic of the C: Local Business District. Fencing could be accommodated for this site that continues to support the overall intent of the C: Local Business District.

Ms. Johnston said based on current Ordinance requirements, Planning Commission approval would not be required if the applicant constructed a fence that is 6-feet in height or less and is without barbed wire. However, if barbed wire is utilized and/or if the fence is taller than 6-feet in height, Planning Commission approval is required.

She offered the several options open to the Planning Commission regarding this application from Staff's perspective:

1. Approve the application as presented.
2. Approve the application but require the decorative fencing, as presented, around the entirety of the site.
3. Request a different type of fence be installed, but continue to allow a height greater than 6-feet.
4. Request the applicant provide other alternatives to secure the site.
5. Deny the request.

She concluded her report, explaining the concern with denying the application outright is that a 6-foot chain-link fence could then be installed without Planning Commission review. While an 8-foot fence is considerably taller, the more decorative nature of the proposed fence may be a preferred alternative to chain-link. Although it should be noted that Staff is unsure if the applicant would construct a 6-foot chain-link fence as it is not likely to meet their stated security needs.

Chairperson Bell thanked Ms. Johnston for her report and asked whether Commissioners had questions for her.

In response to a question from Ms. Farmer, Ms. Johnston confirmed six-foot decorative fencing topped with spires that bring the fence to eight-feet tall would require Planning Commission approval.

Mr. Chambers wondered whether this fencing might not symbolize the expectation of high crime.

Ms. Johnston said the applicant might be better to answer that question, but noted the requested fencing would be out of character for this area of the Township.

Hearing no further questions, Chairperson Bell asked the applicant to speak.

Mr. Jeff Troyer, Executive Director of Kalamazoo County Consolidated Dispatch Authority, 7040 Stadium Drive, explained an eight-foot fence surrounding the core operation is "best practice" for 911 centers. This building, a former Consumers Credit Union, provides the opportunity to utilize the lower level as the call center, the core operation. However, it is adjacent to the exterior of the building and completely exposed at the back side. Security fencing is necessary to prohibit individuals getting close to the core operation to protect both personnel and HVAC and back-up generator equipment. He said a six-foot fence is easier to scale than an eight-foot fence and the attention a facility may draw as a result of fencing is far outweighed by the protection it offers.

The decorative fence proposed is very similar to nearby fencing of the day care center currently in place, and features a curved outward angle at the top. The chain link fence proposed would be black powder-coated vinyl with three strands of barbed wire at the top bringing the fence to eight feet tall.

Chairperson Bell asked if Commissioners had questions for the applicant.

In answer to a question from Mr. Antosz, Mr. Troyer said the reason for the chain link fencing at the areas proposed is that those areas are wooded and not as visible and it would likely cost \$25,000-\$30,000 less to install a chain link/barbed wire fence there.

In response to a question from Chairperson Bell, Attorney Porter explained the primary discussion for the Board to consider was zoning; cost is not a factor for them, although a mitigating factor is that in this case the applicant is a tax supported entity. Despite that, it is not the Planning Commission's responsibility to consider cost.

The Chair asked for clarification regarding the ability of an intruder to scale the decorative fence vs. a chain link/barbed wire fence.

Mr. Troyer said the decorative fence had pointed spires on the top that would provide security equivalent to barbed wire.

Ms. Johnston noted when the applicant talked with Staff at the beginning of the process chain link/barbed wire fencing was proposed all around. Staff did not feel the Planning Commission would accept that and the applicant adjusted the proposal to include decorative fencing adjacent to the right of way.

In response to questions from Chairperson Bell, Mr. Troyer said the Consumers Credit Union ATM is still functional; they are leasing from KCCDA and plan to maintain the ATM in the future.

Ms. Farmer asked about best practices other than fencing that might be utilized to protect the core operation.

Mr. Troyer said there is currently a lot of glass on the lower level; most will be removed and filled with brick and mortar; remaining glass will be replaced with level-four glass, and ballistic paneling will be used on the lower level exterior. In addition, roof truss work will be done to protect it from uplift as a result of tornadic activity, and two levels of security, card swipe and keypads, will be put in place for gates and doors.

Ms. Farmer indicated she was not supportive of barbed wire.

Mr. Troyer noted their original proposal called for all chain link/barbed wire fencing, primarily because of cost considerations. Since taxpayer dollars are involved they are trying to be as cost effective as possible.

In response to questions from Chairperson Bell, Mr. Troyer said he has been with the KCCDA since February of 2016; he was not aware of any security problems at any of the five centers in Kalamazoo County and noted they are all very secure.

There were some suggestions from Commissioners regarding how some fencing might be moved more toward the interior of the site in order to reduce costs.

There were no further questions for Mr. Troyer; Chairperson Bell moved to public comments and asked whether any members of the public wished to speak.

Mr. Mike Schwartz, Prein & Newhoff, 7123 Stadium Drive, said P & N owns property immediately south of the parcel being discussed. They do not object to fencing in general, but did object to chain link/barbed wire fencing that is not compatible or in character with what currently exists.

Chairperson Bell noted correspondence was received from Mr. Keith Konvalinka, who owns property directly to the west. He indicated he did not object to fencing, but was not in favor of a six-foot chain link fence or the modification with barbed wire.

There were no further public comments; the Chair moved to Board Deliberations.

It was the consensus of Commissioners that they were in favor of KCCDA being located in the Township, but that an eight-foot decorative fence would be just as effective as chain link/barbed wire fence, that decorative fencing was more in character with the area, and chain link/barbed wire fence is not acceptable.

They encouraged Mr. Troyer to consider ways to adjust the fencing path to reduce the footprint in order to reduce costs.

Chairperson Bell said to her mind, continuing to maintain an ATM on the property was contrary to the stated security necessitating the eight-foot fence for the site.

Ms. Farmer made a motion to approve the decorative eight-foot fence as described on the site plan provided with the KCCDA application. Mr. Chambers supported the motion. The motion was approved unanimously.

OLD BUSINESS

There was no old business; Chairperson Bell moved to the next agenda item.

ANY OTHER BUSINESS

a. ADAM GARLAND CONSTRUCTION CONCEPT PLAN REVIEW

Chairperson Bell moved to the next item on the agenda and asked Ms. Johnston for the Staff review.

Ms. Johnston reported Adam Garland Construction is currently housed at 6825 Stadium Drive, which is zoned within the Village Commercial District and is included in the Village Form Based Codes. Mr. Garland would like to complete some improvements on his property, which include:

1. Aesthetic improvements to the existing residential home which has been converted to an office.
2. Asphalt drive from Stadium Drive moving south to terminate behind the home.
3. The development of some onsite parking for staff and the occasional client.
4. The addition of a 40-foot by 60-foot (2,400 square foot) storage building attached to the existing accessory structure on site.

She explained the location of this parcel within the Village Fringe area of the Form-Based Codes provides some difficulties for expansion of the accessory structure. The building is considered nonconforming to the requirements of the Form-Based Code. The two main concerns are the requirement regarding location and placement of the accessory building and that the size shall not exceed the primary structure.

First, she said, the regulations for placement of accessory buildings are difficult to understand. Section 34.420.D.4 indicates that accessory buildings should be in the rear yard but the later regulation (Section 34.420.D.5) states they should adhere to all

location and placement standards of the primary building. According to Section 34.410.B.2, "Workplace Buildings" within the Village Fringe, similar to the converted residential home where Garland Construction is housed, should have a build-to line of five to 10 feet from the right-of-way. Per Section 34.420.D.5, the accessory building should have a similar placement. As this request is an addition to an existing structure, meeting this requirement is impossible.

The second concern relates to the limitation on size. The residential home located on this parcel, which has been converted into an office building, is approximately 1,016 square feet. There are currently two existing accessory buildings on the parcel, a garage and a storage building, totaling 672 square feet. Any accessory structure addition could not exceed 344 square feet, which would not meet the needs of the construction company.

The Form-Based Codes provide some flexibility for nonconforming structures; however, language clearly indicates any additions should comply with the Ordinance.

Ms. Johnston said based on the *34.930 Nonconforming uses and structures* regulation, Mr. Garland's addition would not be possible because of its size and location. However, the Form-Based Codes also includes a Section that allows the Planning Commission to modify the standards of the Ordinance. Per Section 34.920.B.3 and 4, build-to zone and the architectural standards of the Form-Based Code may be modified. In addition, Section 34.920.C states the following:

- C. *Modification due to adjacent development. The Planning Commission may consider modifications to the development standards of this Overlay District so that the proposed development will better fit with adjacent development. When considering the modification, the Planning Commission shall consider the following:*
1. *The anticipated lifespan of the adjacent development,*
 2. *Whether the development with the proposed modification is of equal or better quality than without the modification, and*
 3. *Whether the modification will limit the ability of the Township to achieve the goals of the Overlay District.*

Ms. Johnston explained adjacent development to 6825 Stadium Drive consists of a single-family home to the immediate east of the subject parcel, Williams Distributing to the immediate west, a cell tower facility to the south and Pinehurst Apartments across Stadium Drive to the north. The general formation of parcels along the south side of Stadium Drive is narrow and exceeding long. The parcel in question has 150 feet of frontage but is 1,232 feet long. Adjacent parcels are very similar in configuration. This contributes to the limitation of development on these lots.

The concept plan proposed by Mr. Garland will improve the site tremendously from its existing condition. It is not likely that this parcel would convert back to a

residential home. Therefore, any improvements to the site to bring it to current standards for development for such things as an asphalt drive and parking, resolution of storm water runoff, improved appearance of the structures, landscaping, etc., required as part of site plan review, would be an enhancement to the area.

Based on the modification allowance under Section 34.920.C, Staff recommended Mr. Garland present his concept plan to the Planning Commission for consideration. Ms. Johnston said Mr. Garland was looking for feedback from the Planning Commission before investing in the development of site plans and elevation drawings for a formal submittal. If the Planning Commission were amenable to the expansion of the accessory building on site, Mr. Garland would submit a formal application to be reviewed by the Planning Commission with the understanding that the request could be approved under Section 34.920.C. If not, he will not move forward.

Chairperson Bell thanked Ms. Johnston for her review and asked whether there were questions from Commissioners.

Mr. VanderWeele asked about the status of Form Based Codes.

Ms. Johnston said she is working with a sub-committee on the draft of a new Village Theme Development Plan, which will have recommendations regarding the Form-Based codes; she would like to have a work session with the Township Board, Planning Committee and DDA to review it and get everyone on board.

The Chair asked whether the applicant wished to speak.

Mr. Adam Garland, 6825 Stadium Drive, said he has owned the property for twelve years, it is centrally located for his business needs, and he needs the new accessory building for storage for equipment and tools. Only employees access the building; there will not be customers involved. Much of the rear of the property is leased for location of a cell phone tower until 2040, which limits other use.

The Board encouraged Mr. Garland to speak with the owner of the single-family home to the west of his property to inform them of his intention.

It was the consensus of the Board that as long as ordinance requirements are met, they are supportive of the modifications as described.

b. BTR PARK 2.0 ROAD NAME APPROVAL

Chairperson Bell moved to the next item on the agenda and asked Ms. Johnston for her report.

Ms. Johnston said Western Michigan University would like to begin construction of infrastructure for the new Business Technology Research (BTR) Park 2.0 in the

summer of 2018. They would like to name the new public road as part of the development, "Robert Jones Way."

According to Mr. Robert Miller, the road name was chosen because Mr. Jones was an advocate for the BTR Parks and because of his positions as Mayor of Kalamazoo and State legislator. Mr. Jones' family has been made aware of the name request.

The proposed name has been submitted to the Road Commission of Kalamazoo County and the County Planning and Development Department. Both agencies are in agreement.

The request tonight is for the Planning Commission to consider the name and then make a recommendation to the Township Board. Ms. Johnston said staff has no concerns at this time.

Chairperson Bell noted she had worked for Mr. Jones for a long time and was very pleased and supportive of this naming because of his vision for the community, which included this type of development.

Mr. Antosz said he worked with Mr. Jones at Upjohn and was also supportive.

Mr. Chambers made a motion to recommend the Township Board approve naming the new BTR public road "Robert Jones Way." Ms. Bell supported the motion. The motion was approved unanimously.

c. PLANNING COMMISSION WORK SESSIONS

Mr. Antosz said he would like to see regular work sessions scheduled for 6:00 p.m. before the second regularly scheduled PC meeting each month.

Chairperson Bell agreed and felt it would also help with team building. She confirmed with Ms. Johnston that Staff could accommodate this addition to workload.

Ms. Johnston said her biggest 2018 goal is completion of revisions to the Zoning Ordinances, which could be the subject of discussion at a February work session. Implementation of the revised Master Plan depends upon effective supporting ordinance. The sooner we can revise ordinance, the faster the Master Plan can be supported and implemented.

The Board was in consensus to begin regular 6:00 pm work sessions on February 22nd.

PLANNING COMMISSIONER COMMENTS

Ms. Johnston noted the Township had received a request to weigh in on the Portage recreation and open space plan as well as a communication from the County who is distributing the Master Plan they are ready to adopt.

ADJOURNMENT

Hearing no further comments, Chairperson Bell adjourned Planning Commission meeting at approximately 8:45 p.m.

Minutes prepared:
February 11, 2018

Minutes approved:
February 22, 2018