

**BURT TOWNSHIP**  
**Planning Commission Minutes**  
**May 16, 2016**

The Regular meeting of the Burt Township Planning Commission was called to order by Chair Chris Kindsvatter on May 16, 2016, at 7:00 pm at the Burt Township Hall, 7029 Birchwood Road, Cheboygan, Michigan.

Members present: Chris Kindsvatter, Gene Hodulik, Matt Landon, David Hutto, Paul Janness  
Absent: None

Also attending: Stuart Cheney, Jim Larson, Randy Frykberg, Brad Gerlach, Sherry Gerlach, Fred Hall, Abbie Hawley, Harold Koviak, Katie Parker, Dave Patterson, Jill Patterson, Edlin Quandt, Dr. Grenetta Thomassy, Donna McDougall, Recording Secretary/Clerk

Chair Chris Kindsvatter welcomed new Planning Commission member Paul Janness who replaces Robert Babcock.

Kindsvatter read a Code of Conduct statement that the Planning Commission is governed and operates on conduit of its meetings and hearings based on the Burt Township Board and Planning Commission rules and further operates under Roberts Rules of Order. General Policies, Adopted August 6, 2015 and the Planning Commission Bylaws adopted August 8, 2008 and under Roberts Rules of Order. The meeting will be conducted with curtesy and respect for all who are in the audience, who testify or those on the commission. If during the hearing process, someone strays off point, or says anything inflammatory, or becomes disorderly, they will be warned. If it continues or persist, then authorities will be contacted to remove.

**Agenda – Kindsvatter**

**MOTION:** Moved by Hutto, supported by Landon to approve the Agenda with the following additions: signage along roadside; discussion about putting in newspaper about getting permits; Public Hearing

**MOTION APPROVED**

**Declaration of Any Conflict of Interest on the Agenda - None**

**Minutes – March 14, 2016**

**MOTION:** Moved by Landon, supported by Hodulik to approve the minutes of March 14, 2016 with the following correction suggested by Hutto.

Change to read in Mr Cheney's comments on the vegetation strip discussion, "that if we have an ordinance, then the whole ordinance needs to be enforced and the board should have a fund for legal enforcement of the ordinance".

**MOTION APPROVED**

**Presentation on Septic and Water Quality Inspection – Dr. Grenetta Thomassy**

Dr. Thomassy, Tip of the Mitt Watershed Council, distributed a report she is working on funded by the DEQ called The Septic Question Project Report: Cheboygan County.

Dr. Thomassy said there has been evidence of increased cladophora on various sections of Burt Lake in recent years. Cladophora growth can be traced to lawn fertilization, soil erosion and malfunctioning septic systems.

She said the board can consider from any of the following policy options:

- 1) Maintain the status quo
- 2) Time of transfer ordinances
- 3) Mandatory pumping ordinances
- 4) Mandatory inspection ordinances

Or, using above options, compose something that fits Burt Township. She encourages using a “pilot program” or trial a program for a year or two, or an overlay district, such as 500’ of a lake or stream to test the program.

Septic haulers in Charlevoix said they couldn’t handle the extra business but Cheboygan haulers say they can handle it and should be brought into conversation.

Questions –

Hutto asked which other counties have ordinances. Dr. Thomassy said Benzie –Leelanau and Milton and have time of transfer ordinances.

Patterson said this is a subject that has been talked about before, and he hopes action will be taken now. BLPA wants Burt Township to be involved.

Cheney asked why Emmet isn’t involved and Dr. Thomassy said Emmet has a code in terms of design and has the same standards as the others.

Koviak asked if there is a pumping schedule from homeowners. Dr. Thomassy said it is in the report.

Kindsvatters asked what is the biggest hurdle to implementation. Dr. Thomassy said the board needs to reach out to realtors to get them on board.

Parker asked if the Health Dept. would need to hire more people for septic inspections. Dr. Thomassy said they probably would need to hire more people to handle the work load.

Kindsvatter asked how many sales or transfers there are in a year. Dr. Thomassy said they will be getting that information in the near future.

It was announced to the public members attending that Dave Hutto is heading a committee to look at the suggested options.

**Board Representation** – Hodulik

Hodulik said the majority of the board meeting was discussing Enbridge pipeline 5 and the board adopted a resolution to request that Governor Snyder utilize the State’s authority by acting immediately to cause the Line 5 to be restricted to not more than 300,000 bbl per day and its cargo be limited to non-oil products until the recommendations of the Michigan Petroleum

Pipeline Task Force have been satisfied and an independent panel of pipeline experts has certified that Line 5 is safe.

### **Zoning Board of Appeals – Parker**

Two dimensional variances were granted at the ZBA meeting on April 29<sup>th</sup>. Three variance requests will be discussed on May 20<sup>th</sup> at 7:00 pm.

### **Old Business**

#### Vegetation Strip – Kindsvatter

Kindsvatter presented to all present a history of this issue before the Planning Commission and further stated that members of the commission understand and believe in the need for greenbelt/vegetation strip. Discussion on the vegetation issue was one of many ordinances looked into that was part of the commission projects on out dated ordinances back in 2014. The Vegetation/Greenbelt discussion began at the July 20, 2015 Planning Commission meeting as a result of a report given on non-compliance. Those permits issued were primarily by the former zoning administrator and became due following the 2 year completions timeline, with many dating back to 2007. The new zoning administrator did follow up on old and the more recent permit vegetation/greenbelt requirement. From 2007 to present there are 31 required vegetation/greenbelt that are required to be completed. Nine letters were issued in 2015 by the new zoning administrator. Due to little or no response by those property owners, action was taken by zoning administrator for compliance. This resulted in potential threat of legal action due to no action previous to enforce the ordinance.

Every PC meeting since the issue of enforcement was brought up, a more in-depth look was made of the vegetation ordinance and was on the Planning Commission agenda. Each meeting more questions on language, enforcement problems, no latitude for special topography consideration, why funding of vegetation/greenbelt by lake property owners only and a need for a strong education component and possible shared funding for installs. The recent enactment of the Cheboygan County ordinance in November 2015 as a voluntary greenbelt in the county heightened more discussion on the Burt Township vegetation/greenbelt ordinance.

An enforcement issue was presented to one property owner in fall of 2015 and a fine that lead to reinforce the non-discretionary issues in the ordinance is not being flexible enough to provide a reasonable solution for those topography. In one case installation would be counter active to the intent of the vegetation/greenbelt ordinance. The PC continues the process to look at the entire section 6.12 and specifically wording in sub 4.

To provide more input to the commission and direction, a survey was prepared and conducted on February 12, 2016 to all 465 lake property owners from the property tax rolls list and based on who has to pay for the ordinance when installed.

The survey was developed for a three process reply and options for survey responses to cover the present ordinances by classifying as 1) Keep present ordinance 2) make modification and 3) make voluntary .

All responses were recorded by the date received and recorded according to their response on a summary sheet.

The tally as of May 15, 2016 was:

- 22 for option A – keep as is
- 29 for option B – make a modification
- 96 for option C – make it voluntary
- 

This being an important issue to all Township taxpayers, as well as the watershed, and the PC wanting to receive all information and public input of township taxpayers, this type of hearing process will continue on this issue so that anything done is given complete and total consideration.

Those wanting copies of the survey summary results can contact [Chris@kdafirm.com](mailto:Chris@kdafirm.com)

Dr. Thomassy said the common bond of all residents is love of the lake and maintaining high property values. She said Tip of the Mitt Watershed Council can help with reworking the ordinance. She also said the Cheboygan County ordinance is too weak as it says “may” instead of “shall” in its language.

Kathy Bricker said Michigan’s natural shores partnership helps people establish green belts through education. She said the survey did not do anything to educate people. Kindsvatter said the intent was to keep the survey short.

Sherry Gerlach said they have a great greenbelt and it cost \$0.

Stuart Cheney said there is no point in having ordinance if it is voluntary – make mandatory with fines.

Paul Janness asked about vegetation kits. Dr. Thomassy said Huron Pines is giving these out for free to individual property owners through BLPA. Patterson said this will be looked at the next BLPA meeting.

This issue was tabled for discussion at future meetings.

#### Irregular Shaped Lots Proposed Ordinance – Frykberg

Larson said there is a problem when property owners carve out sections of their lots to make two irregular shaped lots. He would like this to not be an option. Frykberg said although property owners should be able to do this, he can propose a small change to the wording of the ordinance. Also, he will make a diagram to be inserted with the ordinance.

#### **New Business**

Public Hearing - Kindsvatter

**MOTION:** Moved by Hutto, supported by Landon to recommend the following proposed Zoning amendments revisions to the Burt Township Board for adoption and forward them to the Cheboygan County Planning Commission for review and comment.

### **Section 6.04.3 (3) Amendment of Article VI - Additional Permitted Accessory Structures**

#### **6.04.3(3) – Additional Permitted Accessory**

Strike present section:

~~3. A fire area defined as a fire pit and surrounding buffer zone, shall be permitted in any residential district in compliance with required district setbacks, except on waterfront parcels. Such fire areas shall also be permitted within the front (lakefront) setback. In the lakefront setback, fire area shall be limited to a total footprint of no more than sixty four (64) square feet, and buffer zone shall be totally permeable surface. The fire pit shall not exceed fourteen (14) square feet. The fire area shall not exceed a height of one (1) foot above finished grade.~~

And insert new section and language

#### **3. Fire Pit**

(A) **Non-waterfront lot.** A fire area, defined as a fire pit with surround area, shall be permitted in any non-waterfront residential district in compliance with required district setbacks. The fire pit shall not exceed fourteen (14) square feet. The fire area shall not exceed a height of one (1) foot above the low point of natural grade. Any surround area exceeding two hundred (200) square feet shall require a zoning permit from Burt Township.

(B) **Waterfront lot.** A fire area, defined as a fire pit with surround area, shall be permitted in any waterfront lot under the following restrictions:

(1) **Outside the 75 foot lakeside setback requirement,** a fire area shall be permitted in compliance with the remaining district setbacks. The fire pit shall not exceed fourteen (14) square feet. The fire area shall not exceed a height of one (1) foot above the low point of natural grade. Any surround area exceeding 200 square feet shall require a zoning permit from Burt Township.

(2) **Within the 75 foot lakeside setback requirement,** a fire area shall be permitted in compliance with required district setbacks with the following restrictions:

(a) All **new or reconstructed** fire areas will require a zoning permit from Burt Township.

(b) The fire pit shall not exceed fourteen (14) square feet.

(c) The fire area shall not exceed a height of one (1) foot above the low point of natural grade.

(d) All material utilized to construct the surround area shall allow proper, natural drainage. Non-porous or Impervious Surfaces or solid materials (example: concrete or asphalt) shall not

be allowed.(example: concrete or asphalt) shall not be allowed. See Article II, definition section on Impervious Surfaces.

(e) The surround area shall be sloped for drainage to the far side from any waterfront.

(f) **Lots with one hundred (100) feet of frontage or less** may construct a surround area not to exceed one hundred forty-four (144) square feet with no side exceeding twelve (12) feet in length.

(g) **Lots exceeding one hundred (100) feet of frontage** may construct a surround area not to exceed two hundred twenty-five (225) square feet with no side exceeding fifteen (15) feet in length.

## **Section 2.02 add to Article II Definitions**

**Ordinary High Water Mark (OHWM)-** is the line on the shore of Burt Lake established by fluctuations of water and indicated by physical characteristics such as a line impressed on the bank, shelving, destruction of terrestrial vegetation, presence of litter or debris, or changes in the character of soil. If the soil, configuration of the surface, or vegetation on the shoreline has been altered by man's activity, the high water mark shall be located where it would have been if this alteration had not occurred. If the above visual determination is unclear, then the OHWM of 594.5 feet as determined by the United States Army Corp of Engineers (USACE) IGLD of 1985 will be used as the ordinary high water mark.

## **Amendment Article IV, Site Plan Review, Section 4.03 Site Plan Review (All Districts) subsection 4-A Application Submittal Procedures:**

A. ~~Ten (10)~~ (8) copies **and a digital PDF copy of all files** of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered. The Zoning Administrator shall review the application and information submitted to determine if all required information was supplied. If the Zoning Administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for site plan approval shall not proceed until all required information has been supplied. Once a complete application meeting the requirements of this ordinance has been submitted, the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting.

## **Amendment of Article V Uses Subject to Special Use Permit, Section 5.02 – Uses Subject to Special Use Permit**

### **1. Applications:**

Application shall be submitted through the office of the Zoning Administrator, to the Planning Commission, on a form provided for that purpose, and shall include the following:

A. Site plan prepared under the requirements of **Section 4.03 – Site Plan Review (All Districts) - Site Plan Data Required** **and to include 8 copies and a digital PDF copy of all files**

**Amendment of Article VII: Supplemental Site Development Standards**

**Section 7.01.12 C(2) Requirements of Preliminary Plan**

Following the Pre-application Conference, the applicant may file a PUD application with the Zoning Administrator in order to receive a formal Planning Commission review of a Preliminary Planned Unit Development Plan for the subject property. The applicant shall submit eight (8) copies and a digital PDF copy of all files of Preliminary Planned Unit Development Plan with the PUD application, at least thirty (30) days prior to the date of the Planning Commission meeting at which a Public Hearing on the Plan is to be scheduled. The Zoning Administrator shall review the submitted site plan application and if determined to be complete, (all required information provided), shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting. If the application is not complete, the Zoning Administrator shall send a letter to the applicant identifying the deficiencies.

**Amendment of Article VIII: Zoning Board of Appeals, Section 8.01 – Zoning Board of Appeals, subsection 6. Zoning Board of Appeals submittal:**

The applicant is required to submit eight (8) one (1) copies and a digital PDF copy of all files of surveys, plans and data as required

**MOTION APPROVED**

Timbercut - Larson

Larson said this item can be canceled. He had originally requested Alan and Roger Schneider to attend the meeting regarding their timber cut but after further evaluation realized it had been done four years ago and excused.

Realtor Signs - Kindsvatter

An increase in the number of realtor signs in the road right-of-way has been observed. A copy of the ordinance requirements has been sent to them.

Zoning Administrator - Larson

A stop-work order was given on White Goose to a contractor putting in two slate patios, one violating the 75' setback as well as other setbacks.

**Public Comment** – None

Next meeting is July 18, 2016 at 7:00 pm.

**MOTION:** Moved by Landon, supported by Hodulik to adjourn.

**MOTION APPROVED**

Adjourned at 8:49 pm.

Respectfully submitted,

Donna McDougall, Recording Secretary/Clerk

