

Highland Township Planning Commission
Record of the 1374th Meeting
Highland Township Adult Activity Center
May 20, 2021
Electronic via Zoom Platform

Roll Call:

Scott Green
Eugene H. Beach, Jr.
Grant Charlick (absent)
Kevin Curtis
Chris Heyn
Beth Lewis
Roscoe Smith
Scott Temple
Russ Tierney

Also Present:

Elizabeth J. Corwin, Planning Director
Shawn Bell, Fire Marshal and Code Enforcement Officer
Justin Lado, Zoom moderator

Visitors: 6

Chairman Scott Green called the meeting to order at 7:30 p.m.

Public Hearing:

Agenda Item #1:

Parcel #:	11-34-301-016
Zoning:	ARR, Agricultural & Rural Residential
Address:	2810 S. Milford Rd
File#:	RZ 21-06 PH
Request:	Rezoning from ARR to R-3, Single Family Residential
Applicant:	Andrew Pyles
Owner:	Andrew Pyles

Mr. Smith introduced the request for rezoning of a 9.68 acre parcel at 2810 S. Milford Road, parcel 11-34-301-016 from ARR, Agricultural and Rural Residential Zoning District to R-3, Single-Family Residential Zoning District. The property is master planned for RM, Multiple-Family Residential land use. The stated intent of the property owner is to accommodate a land division.

Mr. Andrew Pyle, applicant was present to discuss the request with the Planning Commission. He confirmed that his goal is to split a 3.5 acre parcel for his sister and her husband to build a home.

Mr. Green opened the public hearing at 7:35 p.m. There was no public comment. Mr. Green closed the public hearing at 7:37 p.m.

Mr. Beach noted that the proposed zoning represented less intense land use than the Master Plan provides for. He believed it was appropriate to preserve open space where possible, and that establishing another single-family house was appropriate for the surrounding area. Other Planning Commission members expressed their support for the request.

Mr. Smith moved in case RZ21-06, for parcel 11-34-301-016, to recommend approval for rezoning from ARR, Agricultural and Rural Residential Zoning District to R-3, Single Family Residential, 3 acre lot size Zoning District. Mr. Tierney supported the motion. Roll Call vote: Temple-yes; Curtis-yes; Heyn-yes; Tierney-yes; Lewis-yes; Smith-yes, Green-yes; Beach-yes. Motion carried. (8 affirmative votes.)

Agenda Item #2:

Parcel #	11-28-100-006
Zoning:	ARR, Agricultural & Rural Residential
Address:	3290 S. Hickory Ridge Rd
File#:	SPR 21-06
Request:	Amendment of Special Use Permit
Applicant:	Scott and Andrea Sarasin
Owner:	All-Stars Preschool, LLC

Mr. Beach introduced the amendment of the site plan for the All Star Preschool at 3290 S. Hickory Ridge Rd.; parcel 11-28-100-006. The project involves the addition of a pole barn with an office. He noted that the site plan has been marked to clarify that the daycare addition proposed and approved in 2017 is not part of the current proposal, and that no expansion of the child care operations has been proposed. Therefore, it is deemed unnecessary to amend the Special Use Permit. The proposed pole barn is clearly accessory to the child care operations and would be allowed with other permitted uses in this Zoning District.

The applicants, Scott and Andrea Sarasin were present to discuss the project.

Mr. Beach noted that any lighting proposed for the yard must be fully shielded and downward directed in accordance with the zoning ordinance. Mr. Green offered that Highland Township is a dark sky community and cautioned the applicants to discuss their choice of fixtures with staff before they are purchased.

Mr. Beach noted that if the building will be heated there will be implications for the design of the footings.

Mr. Curtis offered that he had visited the site and believes the project will be consistent with the neighborhood character.

Mr. Beach moved to approve the site plan amendment for the All-Star Preschool 3290 S. Hickory Ridge Road, parcel 11-28-100-006, for a new accessory structure and office, conditioned upon lighting being provided consistent with zoning ordinance regulations and upon the understanding that the accessory structure will not be used to expand the capacity of the daycare operations unless a Special Use Permit is first obtained. Mr. Smith supported the motion. Roll call vote: Temple-yes; Curtis-yes; Heyn-yes; Tierney-yes; Lewis-yes; Smith-yes, Green-yes; Beach-yes. Motion carried. (8 affirmative votes.)

Agenda Item #3: Discussion of proposed text amendment Medical Marijuana

Ms. Corwin provided an overview of the topic. The Board of Trustees has recently discussed a myriad of issues surrounding both medical marijuana and adult use marijuana. At this time, their only interest is in clarifying regulations regarding the home occupation of caregiver of medical marijuana, as allowed in our current zoning ordinance and in the State of Michigan Medical Marijuana Act (MMMA). She explained that the Township receives many inquiries each week regarding the regulations and many complaints about odor and commercial activity in neighborhoods. She explained that the draft ordinance presented for discussion this evening was prepared by the Township attorney in consultation with the Code Enforcement Officer.

Mr. Shawn Bell, the Township Code Enforcement Officer and Fire Marshall was present to explain his observations and answer questions from the Planning Commission. He explained that the major complaint is about odor, but that there are also concerns about fire safety associated with home grow operations. Although the State of Michigan regulates commercial growing operations, it is left to local units of government to deal with residential operations. He has found in his dealings with property owners, that most are cordial and compliant once he discusses that nature of complaints or violations. But he is concerned about unknown hazards that first responders face when called to deal with electrical fires, particularly given that some growers use CO2 canisters which create a risk of explosion. He is looking for tools that would provide a right to inspect all permitted operations to ensure that safety measures are in place.

There was considerable discussion of the number of plants involved, and how such grow operations would differ from other plants like tomatoes. Each registered caregiver is entitled to grow 72 plants—12 each for his 5 patients, and 12 for himself. The plants are generally staged so that some are always in bloom, which is the “smelliest” phase of the operations. Mr. Bell also explained that every part of the plant is used from seed to stem, with some parts of the plants used for oils and edibles. So whereas there is only a 4 to 6 week period when a plant is in bloom, there is nearly always some plants in bloom, creating an ongoing nuisance for neighbors.

Mr. Temple and Mr. Tierney were particularly concerned about the rights of inspection, given that this activity occurs within private homes. They asked how one would determine the percentage of the house dedicated to growing marijuana and whether inspectors would be allowed to enter all other parts of the home to verify compliance.

Mr. Beach suggested that it was appropriate to require inspections at all reasonable times, given that the applicants were requesting permission to conduct an activity not typical of other households. This activity differs from other home occupations in that it involves chemicals and electrical services not typical of a single family home, as well as the gas canisters discussed earlier.

The Planning Commission also discussed the concepts of home “occupation” and “commercial activity” surrounding medical marijuana. Mr. Bell explained that the MMMA does not allow for the activity to become a profitable business, although it is clear that “medical marijuana” does enter into the marketplace through illicit means. Mr. Beach thought it unfortunate that the use is deemed a home “occupation” since the concerns are not about the money changing hands, but rather the negative impacts on the neighborhood, which would be similar even if the activity were conducted as a fully benevolent activity with no economic incentive.

Mr. Beach noted many concerns about the draft ordinance and its form. First, he noted an inconsistency in the use of the terms “marijuana” and “marihuana.” The State has decided to use the spelling “marihuana” and our ordinances should follow suit. He also noted that the list of findings could be problematic, as they endeavor to interpret and restate the current State legislation. Such recitals are easily challenged if our interpretation differs from that of other parties. He also noted that Section 2.B.1 and 2.B.3 are identical. He believed Section A should be replaced with a discussion of potential negative externalities including odor nuisance, fire protection and public safety.

Mr. Beach also suggested that our ordinance language need not discuss protection from federal prosecution.

Ms. Corwin and Mr. Beach discussed also whether it was even necessary to amend the Zoning Ordinance which already allows for medical marihuana caregiver as a home occupation, or whether it would be a better approach to add a new license and regulations in the General Code “police powers”. Mr. Beach believed it would be easier to enforce as a police powers ordinance. He also noted that as a home occupation only, there are restrictions on using chemicals or tools not typically found in a household. These operations seem to warrant a different permit process.

Ms. Corwin explained that permits are not required for every home occupation. She believes they are issued only where the public enters onto the premises. The Zoning Ordinance limits that onsite presence to two customers at any given time. There was further discussion of whether a patient would be allowed to come to the caregivers home, or how their product might be delivered. The current ordinance does not limit that beyond the number of customers at one time. The proposed ordinance does not permit the qualified patient from visiting the home to obtain or consume the product.

Mr. Tierney again stated his dissatisfaction with regulations that seek to limit what one can do in one’s private home. He was also concerned that broadening rights to inspect could lead to harassment of homeowners for other complaints, such as the odors caused by animals. He thought that the Board of Trustees should consider allowing commercial activities in the industrial zones so as to reduce the demand for grows in residential settings.

Mr. Beach reiterated that reasonable requirements do not infringe on an individual’s rights. Mr. Green added that reasonable requirements to ensure health, safety and welfare are not much different than building codes. The Township requires that builders use the appropriate size lumber to support loads; it is appropriate to ensure that operators have provided the appropriate electrical service, odor control and space for their marijuana grow operation.

Mr. Curtis asked if the Township would only be inspecting where people have applied for their licenses as caregiver. Mr. Bell explained there would also be investigations of complaints from neighbors, but that it is difficult to determine whether the concern is one that should be handled locally or turned over to the State. He said the intent of these regulations are to provide some extra teeth for enforcement. For instance, the proposed ordinance requires scrubbers, whereas the current ordinance relies on the descriptions of nuisance in the police powers ordinance.

Mr. Temple was concerned that the regulations for medical marijuana caregivers should not be turned into an operation to harass recreational users.

Mr. Beach confirmed that the intent of the evening's discussion was to provide feedback to staff and the attorney to consider in revising the draft. Mr. Beach moved to table the topic without date. Mr. Tierney supported the motion which passed by voice vote. (8 affirmative, 0 negative).

Agenda Item #4:

- Committee Updates
- Zoning Board of Appeals:
- Township Board:
- Highland Downtown Development Authority:
- Planning Director's Update

Committee updates were discussed.

Agenda Item #5:

Mr. Curtis moved to approve the minutes of April 22, 2021 as presented. Mrs. Lewis supported the motion which passed by voice vote.

Mr. Green moved to adjourn the meeting at 9:03 p.m.. The motion was supported by Mrs. Lewis and passed by voice vote.

Respectfully submitted,

A.Roscoe Smith, Secretary

ARS/ejc