

## Bear Creek Township Planning Commission Meeting February 26, 2020

- I. Called to order:** 7:15 p.m.
- II. Roll Call:** Mays, Kendziorski, Urman, Haven, Coveyou, Brown, Olliffe
- III. Others in Attendance:** Connie Golding, Ken Golding, Mark Grubaugh, Nancy Grubaugh, Kyle Wright, Kendal McCarthy, Kristi Schuil, Jim Malewitz, Jonathan Scheel
- IV. Pledge of Allegiance**
- V. Approval of Minutes**
- a. Motion** by Mays to approve the minutes as presented from the Planning Commission Meeting of January 29, 2020. 2<sup>nd</sup> by Haven. **Passed**
- VI. Case PSUP 19-017 Kristi Schuil, Special Use Permit- Accessory uses on Farm, 2800 E Mitchell Rd, Section 3, Bear Creek Township**
- a. Tammy Doernenburg gave a background to the case:**
- i. Doernenburg noted that this case is a request for a Special Use Permit for an Accessory Use on a Farm at 2800 E Mitchell Rd. This is the second formal hearing for this case. The acreage has been resolved, and this property is officially 20.02 acres. This property is part of a PUD. There is housing proposed to the south of this parcel but there is none at this time. There are some houses across the road and to the east and the west. Currently there is a barn, house, accessory dwelling unit and another accessory building on the property. The proposed access off Mitchell would need to be improved if this were to be approved. Doernenburg noted that the first revised site plan was dated Jan 9<sup>th</sup>, but the newest site plan is dated Jan 28<sup>th</sup>. Shown on the site plan is the location of the canopy, barn and parking. The setbacks are all met. All music is proposed to be inside the building. Shown on the site plan is two seating options: Option A with seating inside the barn and Option B with seating on the deck. There is screening on the west side with large evergreen trees and vines and other plantings in the front of the house. Approximately 6.25 acres appear to be active agricultural based on the 2017 aerial image. The property is zoned R-1 with a PUD overlay. The proposal is to allow for social events from May-Oct, up to 2 large events per month with a maximum of 150 people, and 12 small events per month with a maximum of 50 people. The site is a mixture of farmland and wetlands. There is a conservation easement on the property and there is confirmation from Little Traverse Conservancy that the use is an authorized use. That is a private agreement between the two parties. Adjacent uses to the property are residential and vacant. There are no new structures being proposed, however, there is a tent/canopy shown on the site plan. The Fire Dept has reviewed and they have no concerns. 91 parking spaces are provided. The nearest off premise residence is approximately 480 ft from the barn. The proposed hours of operation are 8am-11pm. There is private septic and private well on the site. There was a petition turned in with 287 signatures supporting the request. During the last meeting, there was a discussion surrounding the definition of a “fully enclosed building”. While the Emmet County Zoning Ordinance does not define a “fully enclosed building”, the zoning administrator (Doernenburg) found the following definition from another zoning ordinance and feels it is a proper interpretation: “‘Fully enclosed building’ shall mean a permanently located structure having a roof, four walls and doors and windows that close, all of which conform to the Uniform Building Code.” Doernenburg noted that on June 16, 2015, the ZBA interpreted that a tent is building. She also noted that she prepared a draft of a Special Use Permit if this case were to be approved. She updated the acreage on the draft.
- b. Jim Malewitz (Performance Engineers) addressed the Planning Commission regarding the parcel in question:**
- i. Jim Malewitz started by passing out a map which showed the houses within 1000 ft of the barn. The houses were colored green if the residents were in support of this proposal, red if the residents were in opposition, and no-color if the resident was not asked for their opinion. The majority of the homes were green (in favor). Malewitz noted that he feels the intent of these zoning provisions is key. The intent states: “to promote and maintain local farming, preserve open space and farmland, maintain the cultural heritage and a rural character, maintain and promote tourism, and protect residential uses from negative impacts of commercial use.” Malewitz noted that it is their goal to protect residential uses. They will do this by having music inside the barn and that the music will not exceed 75 dB at the property line. Although there may be questions regarding open or closed windows/doors, Malewitz feels it is a mute point, because, regardless of if the windows/doors are open or closed, they will ensure that the sound will not be greater than 75 dB at the property line. According to Doernenburg’s interpretation of a fully enclosed building, he feels that the barn qualifies, whether the doors/windows are open or closed. He feels that the open tent promotes the natural area, and noted that typically, only one side of the tent is down to block wind. He noted that a tent is not a fully enclosed building, because it does not have four

walls. Malewitz also noted that when you look in the zoning ordinance at the definition of a building, it states that it is a roof with columns. He spoke with Jack Turner about this, and Turner referenced the minutes from the Emmet County Zoning Board of Appeals, when they interpreted if the definition of a building includes tents. Malewitz referenced these minutes as follows:

1. Malewitz expressed that the Emmet County Zoning Ordinance defines a building as “any structure, either temporary or permanent which has a roof supported by columns or walls intended for the shelter or enclosure of persons or property of any kind.” To determine whether a tent is a building, the Zoning Board of Appeals first noted that a tent was a “portable shelter made of fabric or other material stretched over a supporting framework of poles” or a “collapsible shelter of fabric stretched and sustained by poles”. It was then stated during the discussion that the definition of a column is different than a tent pole. After further discussion, a motion was made to interpret that a tent is a building if it contains a roof and columns or poles based on the definitions in the zoning ordinance for building and structure, and based on the customary meanings of a tent. As noted above, the Emmet County Zoning Ordinance defines a building as a structure with a roof supported by columns or walls. The Zoning Ordinance definition of building does not include “pole”. The Zoning Ordinance definition of building does not include a structure supported by poles. The Zoning Board of Appeals does not have the authority to alter the definition of a building to include a structure supported by poles. During the Zoning Board’s discussion, they came to the conclusion that tents were supported by poles, and that poles are not columns. Therefore, in Malewitz’s opinion, the proper determination of the Zoning Board of Appeals in this case, because buildings are a structure with a roof supported by columns or walls, and because tents are supported by poles and not by columns (and poles are different than columns) that a tent is not a building.
- ii. Malewitz noted that in the site plan, the tent is referenced as a “canopy” because it does not have sides. If a side was lowered, it would be to restrict the wind from that direction. Regardless of if it is called a tent or a canopy, it is Malewitz’s position that it is not a building. He feels that the appeal to refer to a tent as a building is not valid. Malewitz noted that the Schuil family has provided all the details on the site plan that were asked for, including some details which were not. The parking meets and exceeds the requirements. The 200ft setback does not require screening, plus there is wetlands there to provide natural screening. There are grapevines to screen on the other side. The portion of parking that is “overflow” will not have cars in it the majority of the time. The building itself is less than 2400 sq. ft. All the setback requirements have been met. The handicap accessibility standards have been met. The Road Commission will need to approve the location of the driveway and then a commercial driveway will need to be constructed. In the Building Limitations portion of the ordinance, Malewitz noted that “larger buildings may be considered by the Planning Commission based on site specific conditions and characteristics of the neighborhood.” In this condition, the site would be limited to 150 people. 100 people could be in the barn with 50 in the tent. There would be no amplified music in the tent. Amplified music would only be in the building. This would be a limited use as the large 150 people events would only be 2 times a month.
  1. Urman questioned the email from Marty VanBerlo, the Emmet County Building Official.
    - a. Malewitz noted that the building code has a section just for structures (Section 3103). He noted that a tent could be called a building by building code, however, building code is different than zoning code. He noted that there would need to be a building permit for a tent, however, that does not necessarily make a tent a building in his opinion. He noted that the definition for a building in building code includes the following sentence: “The term does not include a building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade.” Malewitz noted that the canopy on the site plan will not be used for retail trade. However, the point is mute, because the zoning code stands by itself.
  2. Coveyou asked if the deck was covered. Malewitz confirmed it is not covered.
  3. Doernenburg noted that the Zoning Board of Appeals is a body which interprets the ordinance when it comes to a question of interpretation. There is a process to appeal the decisions of the ZBA. However, as it stands currently, their interpretation of a tent as a building has not been appealed. So currently, according to the Emmet County ZBA, a tent is a building. Doernenburg noted that the Building Department at Emmet County does not have jurisdiction here and there may be differences of opinion between the Emmet County Building Official and the Bear Creek Township Building Official. She noted that the Emmet County Building Department does require permits for tents with people gathering under it.

- a. Mays asked if the tent would require a permit. Doernenburg noted that it would be up to the Bear Creek Township Building Official.
4. Malewitz reminded the Planning Commission of the intent of this ordinance. There would only be 150 people at maximum for large events. If it is debatable as to the building limitations, he reminded the board that larger buildings may be considered. He noted that dinner at these events would be outside in the tent, and the barn would be used for dancing. Malewitz also noted that potentially the tent could be moved.
- c. Audience Comments:
  - i. Kendal McCarthy noted that she stayed in the apartment above the garage during an event. She was not a guest of the event, just a guest to the apartment. She noted that she did not hear the music at the event and was not bothered.
  - ii. Johnathan Scheel noted that he has property at 506 and 530 Division Rd in Bear Creek Township. He was part of the Emmet County Planning Commission when the ordinance was put together. He believes that the intent has been met and that this is a good plan to bring money into our area.
- d. Board Discussion and Questions:
  - i. Mays noted that she thinks this is a beautiful piece of property and a great concept, but she is concerned with the music. There are homes that are so close, and amplified music may be a disturbance to them.
  - ii. Brown asked about the distance to the houses. How far away is Petoskey East? How far away are the lots to the south?
    1. Clarification that the closest lot to the south is 160 ft from the barn (plus a 35 ft setback). However there are no houses built yet.
  - iii. Haven asked if there has ever been an event with amplified music on the property before.
    1. Schuil clarified that yes, there had been events with amplified music in the past.
    2. Mays asked if there were complaints to those events. She also noted that 14 events a month is quite a few if you booked it completely.
      - a. Schuil noted that there were no complaints in this past year from weddings that were held. The complaints came from the year before and were from Schuil's personal music. Schuil also noted that bachelorette parties, birthday parties, etc. (other small events) don't typically have amplified music.
  - iv. Kendziorski asked if there was a large 150 person event, would there be set up and clean up the day before/after the event? If there was, would those set up/clean up days be considered two small events or would they go along with the one large event?
    1. Schuil clarified that there would be set up/clean up. Malewitz noted that this would not count as two small events.
    2. Urman asked if the 150 people would be for an entire weekend event.
      - a. Schuil noted that the 150 people would be for one day only. The day before and after would not have 150 people.
  - v. Urman noted that the reason the Planning Commission originally chose 2400 sq. ft. was to keep the guest count to around 75-100 people. The intention of this was to keep it less detrimental to the neighborhood. He noted that per the Michigan Right to Farm Act, "the uses permitted within this section must be clearly incidental to a 'Farm Operation'" This standard has been met. He wondered if 14 events a month is too many for the neighborhood.
    1. Malewitz noted that Dave Coveyou's case was allowed 12 events per month.
    2. Urman reminded Malewitz that every case is different and should be treated as such. Our goal is to follow the 5<sup>th</sup> bullet point in the intent section, which reads to "protect residential uses from negative impacts of commercial uses."
      - a. Malewitz noted that the buffers are to help protect the neighboring residents.
    3. Schuil asked if other wineries in the area have to have approval for small events, such as bachelorette parties. She asked if she should take those 12 small events out of the proposal. She also asked what the difference is between 75 and 150 people.
      - a. Haven does not think Schuil should remove her request for 12 small events.
      - b. Urman clarified that the 2400 sq. ft. was to keep the noise from the guests to a limit.
      - c. Mays also noted that it is tough to limit an event to 150 people, as sometimes guest lists get out of control.
        - i. Schuil noted that her contract states 150 people maximum, and while she does not count people, she counts the number of tables and chairs she sets up.
      - d. Kendziorski asked Connie Golding if the building permit is for 99 people.
        - i. Golding clarified that the permit is for 99 people.

- e. Kendziorski asked how we can allow 150 and safely assume that only 99 will be in the barn.
  - i. Schuil noted that sometimes people leave after dinner or wander the grounds instead of dancing.
  - ii. Haven noted that we would have to trust the owner to be self-policing.
- vi. Coveyou remarked that the venue operator must be in control of the number of people on the grounds. He feels that the reason for the building limitation size in the ordinance is to limit the impact of the event. If we approached these events slowly, we would build trust in the community and not negatively impact the neighbors. In regards to the portion of the ordinance which reads that “larger buildings may be considered”, he feels that the places which will impact the most neighbors could be held to the 2400 sq. ft. size limit, and the event barns which are out far enough that they do not impact many (or any) neighbors could be given the variance to have a larger space. Coveyou noted that this is the closest farm to a significant number of neighbors, and some of these neighbors have been objecting to the noise! It is important to remember the people who have come before the board with their complaints. Coveyou also remarked that although the print says 2400 sq. ft., our notes read 2418 sq. ft. He also reminded Malewitz that the Zoning Board of Appeals has given us the interpretation that a tent is a building, and for now, that is the direction we have to go with. He feels there may be some merit in clarifying tents vs. canopies in the future. For this case, Coveyou feels the slow approach may be to just have events in the barn. They could come back with a tent in the future. For a start, they could use the barn and deck. Coveyou also noted that we set a precedent in the previous case that the barn doors would have to be closed with the amplified music inside.
  - 1. Malewitz believes that Coveyou’s approval did not require the doors and windows of the barn to be closed. He noted that while it may have been part of the discussion, it was not part of the motion. Malewitz reminded the board that on the site plan, a canopy is listed (rather than a tent).
    - a. Mays noted that a canopy does not have sides. If you were to roll down the sides, it would become a structure.
- vii. Doernenburg suggested going through the ordinance step by step.
- viii. Haven read through Section A “Permitted Accessory Uses”. All agreed that weddings are social events and the standards appeared to be met for the Michigan Right to Farm Act.
- ix. Haven read through Section B “Outside Activities”. He noted that the sound at the property line could be no louder than 75 dB during the select hours. All other hours “decibel levels may not exceed ambient sound levels”.
  - 1. Coveyou noted the precedent from the previous case, in which the sliding barn doors had to be closed during events. Mays agreed that she was under the same impression that the barn doors would have to be closed. Doernenburg noted that this is difficult to enforce. Mays agreed. Doernenburg noted that even if it was discussed, if it was not part of the motion, it is not enforceable. Haven noted that in the definition of a “fully enclosed building” it does not state that the doors and windows must be closed. Brown reminded the Planning Commission that even if the windows and doors are open, they are limiting themselves to 75 dB at most at the property line.
- x. Haven read through Section C “Owner Occupancy”. This standard appears to be met.
- xi. Haven read through Section D “Site Size and Setback”. The standard appears to be met.
- xii. Haven read through Section E “Hours of Operation”. He asked if everyone was okay with the number of events.
  - 1. Urman agrees with the 2 large events, but wants more information regarding the 12 small events. Could we cut back on the number of small events?
    - a. Schuil noted that these small events would be inside the barn, there would not be a tent set up.
  - 2. Coveyou noted that the small events are fine by him, it is the large ones with amplified music that concern him, as this will bother the neighbors.
  - 3. Haven agrees that the number of events is a problem.
- xiii. Haven read through Section F “Building Limitations”. He feels that 2418 sq. ft. meets the spirit and intent, and noted that the deck is excluded from the square footage, because it is not covered, and therefore is not a building. According to the site plan, they are proposing a canopy, not a tent (no walls), so any draft Special Use Permit will need to reflect this.
  - 1. Urman feels we need clarification from the Zoning Board of Appeals on the definition of a canopy, tent, building and structure. Are a canopy and a tent the same thing?
  - 2. Doernenburg asked if the tent could be located somewhere else.

- a. Schuil noted that it cannot. The canopy would only be used twice a month, for the large events.
  - i. Urman clarified that the canopy would be limited to two times a month for large events. The 12 small events would not have a canopy.
  - ii. Haven noted that it is not the amount of time the tent is up or the size of the tent that is the problem. It is the number of people that drive the noise.
- 3. Mays asked where caterers go.
  - a. Schuil clarified that they are located in front of the barn.
- 4. With the canopy/tent and the barn, the square footage would be roughly 5600. Urman asked Schuil if she would be okay with this.
  - a. Schuil noted that it would be whatever the barn and the tent/canopy added up to.
  - b. Doernenburg noted that it would have to be stated in the draft Special Use Permit that the canopy could only be used twice a month.
  - c. Coveyou noted that the draft Special Use Permit should also include the fact that the tent must be removed after the weekend event.
  - d. The Planning Commission/applicant settled on a square footage of 5618 sq. ft. twice a month for large events (the barn and the tent/canopy).
    - i. NOTE: This will need to be changed on number 13 in the draft Special Use Permit.
    - ii. NOTE: Number 9 on the Draft Special Use Permit will need to read “3200 sq. ft.” as the tent size.
- xiv. Haven read through Section G “Parking” and found that the parking exceeds requirements.
  - 1. Urman noted the Emergency vehicles must be taken into account.
- xv. Haven read through Section H “Screening” and found that screening must remain in place as is.
- xvi. Haven read through Section I “Lighting” and noted that there is “no lighting detail provided. Lighting, if used, would be required to be fully cut-off, fully shielded and must be reviewed by Zoning Administrator”.
- xvii. Haven read through Section J “Signs” and noted that there is “no signage proposed at this time. This can be reviewed at a future time.”
- xviii. As a last note, Coveyou remarked that number 11 in the draft Special Use Permit needs to clarify that the applicant would be responsible for managing 150 people and the occupancy of the barn for fire code. We recognize that 99 people is the current occupancy load for the barn and we are not condoning 150 people in the barn. The applicant will be responsible for meeting fire code.
  - 1. Additionally, number 18 on the Draft Special Use Permit will need to be updated to use the site plan dated January 28, 2020.
- e. **Motion** by Haven to approve case # PSUP19-017, Kristi Schuil for a Special Use Permit for social events within the existing barn/deck area for accessory uses on a commercial farm at 2800 E Mitchell Road, Section 3, Bear Creek Township on tax parcel 24-01-19-03-100-014, as shown on the site plan dated stamped January 28, 2020 based on the facts presented in this case and with the verbiage conditions on the updated Special Use Permit draft provided by Doernenburg. 2<sup>nd</sup> by Olliffe.
  - i. Roll Call: Mays, Haven, Urman, Olliffe, Kendziorski, Coveyou, Brown
    - 1. Yes- Mays, Haven, Urman, Olliffe, Kendziorski, Coveyou, Brown **Passed**

**VII. Case PPUDF19-05 Robert Drost, PUD Agreement Amendment, 2157 Howard Rd, Section 17, Bear Creek Township**

- a. Applicant requested case be postponed.

**VIII. Case PSUP20-002 Mark Grubaugh, Special Use Permit & Site Plan Review Amendment-Contractor’s Use, 1992 Harbor-Petoskey Rd, Section 27, Bear Creek Township**

- a. Tammy Doernenburg gave a background to the case:
  - i. Doernenburg noted that this case was reviewed last month. This parcel is located on M-119 next to BMay Bags. There is also a house and an attached garage on the property. The proposal is to change the use to a contractor’s use and to add an additional building. All the setbacks have been met. The applicant has updated the site plan with the Planning Commission’s requests. The updated site plan shows the northerly driveway to be closed and the island to be removed. The dumpster will be screened by concrete blocks as the ordinance requires. The elevation plans were provided. Doernenburg did look at BMay Bags’ site plan to check on the runoff issue, but it is frozen, so it will have to be looked at in the spring. We would like to ensure that the storm water from another site is not affecting this parcel. The Fire Chief had no concerns and everything that was requested has been satisfied.
    - 1. Coveyou asked if there is a BMay Bags driveway closing.

- a. Doernenburg noted that their site plan indicates that the southerly driveway is closing. She asked Grubaugh if he was in the process of purchasing the property.
  - i. Grubaugh noted that he is ready to purchase when zoning passes.
- 2. Coveyou asked about water flow on the parcel.
  - a. Grubaugh noted that there are three different retention firms.
- 3. Brown asked if the parking spaces will be 9 or 10 ft.
  - a. Tammy noted that they will be 9ft. She also remarked that she has a sealed plan.
- b. Mark Grubaugh addressed the Planning Commission regarding the parcel in question:
  - i. Grubaugh noted that everything the Planning Commission requested has been taken care of.
- c. Board Discussion and Questions:
  - i. Urman noted that asphalt should be done upon occupancy.
  - ii. Brown asked if all service vehicles will be inside the building.
    - 1. Grubaugh noted that for the most part, they will.
- d. **Motion** by Mays to approve case # PSUP20-002, Mark Grubaugh for a Special Use Permit to allow a contractor's use as proposed in the application packet dated received 1-13-2020 and Site Plan Review-amendment at 1992 Harbor-Petoskey Rd, Section 27, Bear Creek Township, tax parcel 24-01-16-27-400-041, as shown on the revised site plan dated Feb 10, 2020 because the standards of Articles 11, 20 & 21 have been met, and on condition that any exterior lighting be brought into compliance with the Zoning Ordinance, that the drainage plan is acceptable based on site conditions and review of drainage calculations, that a performance guarantee in the amount of \$850 be submitted prior to issuance of a zoning permit, and that the number of accesses onto M-119 be reduced to one as shown on the site plan, and that asphalt be done upon occupancy and that service vehicles could be parked outside on occasion if necessary. 2<sup>nd</sup> by Brown.
  - i. Roll Call: Haven, Urman, Olliffe, Kendziorski, Coveyou, Brown, Mays
    - 1. Yes- Haven, Urman, Olliffe, Kendziorski, Coveyou, Brown, Mays **Passed**

**IX. Case PSUP20-003 Kyle Wright, Special Use Permit- Contractor's Use, 1855 E Bear River Rd, Section 33, Bear Creek Township**

- a. Tammy Doernenburg gave a background to this case:
  - i. Doernenburg noted that this is a request for a contractor's use. This is a change of use at 1855 E Bear River Rd. This parcel is on the north side of the road and it has been recently split from another parcel. The previous use for this parcel is an auto repair shop. This property has been occupied by the applicant for several years. The existing building is proposed to be used. The use would be an excavation business (contractor's use). It has been used in this capacity in the last several years, but this would bring it into conformance. There has never been a complaint about this use in the past. The driveway is not a commercial driveway, so the road commission would most likely require that to be updated. The parcel is zoned FF-1 and is almost 7 acres in size. The applicant does not live on the parcel, so that would be an exception that would need to be made. The existing structure was approved by the ZBA as an expansion of a non-conforming use. No new structures are proposed. The proposal is to change the non-conforming use from auto-repair to landscaping/excavation business. The site has minimal screening on Bear River Rd and no screening from the north, west or east other than the berms. Outdoor storage of material stockpiles are proposed. Adjacent land uses are residential and farming. Hours of Operation have not been provided. No parking is shown on the site plan, but there is room for parking. 6 parking spaces will be required. No sign is proposed at this time. Road Commission Review would be necessary. Snow storage would not be an issue.
- b. Kyle Wright addressed the Planning Commission regarding the parcel in question:
  - i. Wright noted that he has a landscaping business. This parcel would be used for storage and equipment.
    - 1. Urman asked how many employees Wright has. He has 2-4.
    - 2. Brown asked if there will be any public sales on the property. Wright clarified that there will not be any public sales there.
    - 3. Coveyou asked if Wright does landscape design. Wright noted that he does.
    - 4. Mays asked if he does excavating. Wright noted that he does because it goes with the landscaping business, however, he is not excavating this property.
    - 5. Haven noted that the Road Commission will most likely require the driveway to be updated.
      - a. Doernenburg noted that the township board may be able to give Wright more direction as to if they would require curbs, or just pavement on the road right of way. She mentioned that Wright could also request a waiver from the Road Commission.
    - 6. Mays asked if Wright owned the property. He does. Doernenburg noted that this is not a change of site plan, just a change of use.

7. Haven noted that in many cases with landscapers, the concern is outdoor material storage. Will it be screened? We will need those areas designated and defined, to avoid a non-compliance issue in the future.
    - a. Brown asked what materials will make up the stockpiles and how high and wide they would go. He noted that typically the site plan defines a height and width of the materials.
  8. Mays asked if any debris is brought back to the site. Wright noted that the only debris which is brought back to the site is that which is usable (extra rocks and such).
  9. Brown asked if the applicant has been doing this for 7 years. He has. Doernenburg noted that this only came to light because the property owner wanted to split the house away from this parcel. Doernenburg noted that this use had not been approved.
  10. Coveyou noted that the stockpiles would be okay if they were limited in height. He also remarked about outside storage. Wright noted that there is some fabric for sea-walls outside at the moment, which would normally be inside.
  11. Brown asked Doernenburg if we asked for height, but not width, if she could regulate the width using the plans. Doernenburg noted that it is scalable, but it would also be simple to add notations to the site plan to address those concerns.
  12. Urman noted that he should come back with an updated site plan. The site plan needs more definition. The dumpster needs to be screened (or taken away) per the county ordinance (concrete enclosure not wood). He will need Road Commission approval. Urman asked Wright's hours of operation.
    - a. Wright noted that the hours of operation will be Monday-Friday 7:30-6, Saturday 8-12, and closed on Sunday. He does have revised site plans with hours, parking, dumpster and sign.
  13. Urman noted that Wright should seek to make the site presentable, with some screening on the front side. He would also like to see screening to the east for the sake of the stockpiles.
    - a. Wright noted there are berms on the front side. Mays suggested shrubbery on top of the berms.
  14. Mays asked if the parcel was used much in the winter. Wright noted that it is mainly used in spring, summer and fall, but it is used sometimes in winter (two times a week or so).
- c. Board Discussion and Questions:
- i. Brown noted that many things are out of compliance. However, he appreciates that the applicant is trying to right a wrong. Additionally, there have been no complaints in the last 7 years. If we pass this case, are we setting a precedent for owners not living on the property?
    1. Doernenburg noted that many landscapers do not live on site. Additionally, this would be more conforming than the previous use.
  - ii. Coveyou noted that the applicant does not want to expand, just to make the current use more conforming.
  - iii. Wright noted that he would not mind doing the screening, however, he does not think the driveway could happen right away.
    1. Urman noted that this would be an issue that would have to be taken up at the county level. They may waive curbing at the Road Commission, but most likely will not waive asphalt.
  - iv. Coveyou noted that he does not want much outdoor storage.
    1. Wright noted that he does not plan to allow others to store things on this parcel. This would only be for his business' use.
  - v. Urman noted that this is a healthy improvement of the property. He would like to see the following things brought back to the Planning Commission:
    1. Clarification of stockpiles- height and materials
    2. No recycled material to be brought back in
    3. Show other materials such as pipe storage
    4. Hours of Operation
    5. Screening to the East and along the Road (maybe a few trees by the entrance? Applicant should present something to the Planning Commission)
    6. Dumpster (remove it or up to specifications)
- d. **Motion** by Mays to postpone until the next regular Planning Commission meeting case PSUP20-003, Kyle Wright for a Special Use Permit for a contractor's use to operate a landscaping business on property located at 1855 Bear River Rd, Section 33, Bear Creek Township, tax parcel 24-01-19-33-300-019, as shown on the site plan dated stamped Feb 7, 2020 for the following reasons: the site plan is incomplete, to allow the applicant time

to provide additional information: clarification of stockpiles (height and materials), hours of operation, screening on east boundary and on the entrance going in, to either remove the dumpster or bring it up to code, that no recycled material be brought back in, and that there be no burning of any kind. 2<sup>nd</sup> by Olliffe.

1. **Passed** by Unanimous Voice Vote

**X. Next Meeting:** March 25, 2020, 7:15 p.m.

**XI. Public Comment**

- a. Coveyou would like to see a zoning review of the definitions of tent, canopy, building and structure for clarification for the future. Doernenburg noted that we could put in a few definitions. Coveyou asked if we will need to change the ordinance to say tents/canopies? We don't necessarily want businesses using tents for retail (unless it was a short period of time like a weekend sale). He is seeking clarification in the ordinance.
- b. Doernenburg noted that she put out a request for proposals to hire a planning firm to assist with things like this. One of the firms is coming before the board at the March meeting. We would put together a work plan of things we would want to accomplish this year with them.
- c. Also noted: in the ordinance, ground floor area should be changed to gross area.

**XII. Enforcement Report**

- a. Doernenburg noted that she is working on a site plan with Daniels (1475 Cedar Valley Rd).
- b. At 2153 Cedar Valley Rd, Haven noted that they hauled out several trailers worth, so it may be in compliance now.
- c. Doernenburg noted that the enforcement issue at 4772 US 131 Hwy is as follows: their site plan allows for winter storage of boats behind the building. However, they have lots of storage outside aside from the boats. They may choose to come in for a site plan modification.
- d. Doernenburg noted that if a site has a blatant violation, it would be nice for them to come into compliance to their current site plan before requesting a change.
- e. Urman asked when Skop's needs to be in compliance by. Doernenburg believes it was August 1<sup>st</sup>.

**XIII. Other Business**

**XIV. Adjournment:** 10:10 p.m.

Respectfully Submitted,

*Emma Kendziorski*

Emma Kendziorski, Bear Creek Township Clerk

Jeff Haven, Recording Secretary