

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING  
November 12, 2018**

**PRESENT:** Blough, Batchelor, Simmonds, Clements, Edwards  
**TOWNSHIP PLANNER:** Tim Johnson  
**CITIZENS IN ATTENDANCE:** 8

The Regular Meeting of the Lowell Charter Township Planning Commission was called to order by Chairperson Simmonds at 7:00 pm.

**APPROVAL OF MINUTES:**

The Minutes of the Regular Meeting and Public Hearing of October 8, 2018 were presented for approval. Mr. Edwards suggested several changes. He then moved to approve the Minutes as amended. Motion seconded by Mr. Batchelor. All in favor and the Minutes of October 8, 2018 as amended are approved.

**CHANGES OR ADDITIONS TO THE AGENDA:**

There were no changes to the Agenda.

**PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:**

The meeting was opened to public comment at 7:08 pm. No one spoke. Public comment was closed at 7:08 pm.

**OLD BUSINESS**

**Request from Ryan Riebel for a Special Land Use to establish a Home Based Business at 1767 Parnell Avenue SE**

The Planning Commission received from RRR Lawn & Landscape LLC a written response to the Report of Planner Johnson dated October 3, 2018. Mr. Riebel reviewed the response with the Planning Commission.

The Riebels will install a lean-to style structure for parking trucks, so as to block the view of the trucks from the neighboring property to the North owned by the Thompsons. The new structure will be immediately to the East of the existing pole barn on the Riebel property, and will measure approximately 45-50 feet wide and 35 feet deep. Also proposed was the planting of ten spruce trees to the West of the pole barn to screen employee vehicles. Chairperson Simmonds asked about the spacing of these trees, and was advised they would be on eight-foot centers. A closer spacing of five to six feet was requested by the Planning Commission.

Mr. Riebel advised that noise and nuisance would be minimal as workers' vehicles would only enter and exit the property once a day. Snow removal services have been discontinued by the

Riebels. There are no lights on the North side of the Riebel property which would shine into the Thompson's home.

The lean-to will be built in 2019. Chairperson Simmonds asked that more specific dates for the construction and planting of trees be determined by the Applicant.

Mr. Edwards has observed that the existing six-foot fence between the two properties is not visible from the Thompson property and provides no screening. There is also some debris in front of the pole barn. He stated that parking on the East side of the pole barn needed to be addressed. Mr. Blough felt that the lean-to would block the sight of the equipment parked East of the pole barn, and would also muffle noise. He asked if the lean-to would meet the needs of the Thompsons.

Mr. Batchelor confirmed that the lean-to would not conflict with Ordinance setback requirements. Mr. Edwards questioned the need for trees to the West of the pole barn. The Thompsons did not feel the trees were needed, so these will no longer be a condition of an issuance of a Special Use Permit.

Planner Johnson noted that the proposed Home Based Business would need to meet the requirements of the Ordinance, and could not be a nuisance to the neighbors. Mr. Edwards discussed screening further, and the need to set hours of operation. Hours of operation have already been provided. The vehicles to be parked in the lean-to structure will be those currently on the property. There is a drawing showing the distance of this Home Based Business from other nearby residences. Mr. Blough noted that the new structure would be 36 feet from the property line.

Tim Johnson presented a list of standards which need to be met before a Home Based Business could be approved. Before proceeding with that review, Chairperson Simmonds asked the Thompsons if the proposed changes would meet their needs. The Thompsons indicated that they would.

Mr. Batchelor advised that the sound of back-up alerts were the result of State law. Mr. Riebel indicated that only two vehicles had such alarms.

The Applicant asked about some flexibility with respect to their hours of operation. After discussion, it was decided that 7:00 am to 7:00 pm weekdays, with no weekend hours, would be satisfactory to everyone.

With respect to the number of non-resident employees, it was stated that it would be capped at three at this site (Mr. Riebel has other sites related to the business). Chairperson Simmonds confirmed that any additional business-related vehicles would need to be stored in the lean-to. Mr. Edwards asked where the resident agent was located, and was told it was on Cascade Road.

Chairperson Simmonds returned to the question of when construction of the lean-to should be completed. Mr. Clements proposed a completion date of July 1, 2019, and if construction was

not completed by then, the equipment should be parked elsewhere until construction was completed. Planner Johnson advised Applicants that a new Site Plan, showing the location and size of the lean-to, would be required. Mr. Blough added that the structure would need to look good when completed, specifically, similar to the structure shown in the photograph provide by the Riebels.

There being no further questions or comments, Chairperson Simmonds moved that Lowell Township Planning Commission approve a Special Use Permit for a Home Based Business to RRR Lawn and Landscape LLC on property located at 1767 Parnell Ave SE, based on the following Standards in Section 4.46(e) of the Ordinance for allowing a Home Based Business:

- (1) Compliance with the requirements of this Section, including any conditions of the Special Land Use permit. Met, with specific conditions to be listed as part of the approval.
- (2) Whether the vehicle traffic generated by the business will worsen the travel condition of the road serving the business or if the business vehicles will create unsafe travel conditions for other vehicles using the road. Met, as disruption will not be an issue.
- (3) Whether the business will be disruptive to nearby residents due to noise, vehicle traffic, lights, visibility of employees and equipment taking into consideration the number of nearby dwellings, the distance of the dwellings from the business, the condition of the roadway used by business vehicles and the visibility of the business to residents of nearby dwellings. Met, as disruption will not be an issue.
- (4) The impact which the business may have on the operation of nearby farming operations. Met, as the impact on farming operations is not an issue.
- (5) The general standards for a Special Land Use approval found in this Ordinance. The Special Land Use Approval Standards of Section 20.03 were reviewed as follows:

Standard A. The Special Land Use shall be established, designed, and operated so as not to have a substantial adverse effect upon adjoining or nearby lands or any of the uses thereof, and will be compatible with the character of the area in which the Special Land Use is proposed. This Standard is satisfied.

Standard B. The Special Land Use must not have a substantial adverse effect on water and sewer services, storm water drainage, road capacity, volume of traffic, traffic safety and circulation, and pedestrian safety and shall not result in lighting which is contrary to the purposes of the lighting regulations of this Zoning Ordinance. This Standard is satisfied.

Standard C. The Special Land Use must not have a substantial adverse effect on police and fire services and other public safety and emergency services. This Standard is satisfied.

Standard D. The Special Land Use must not have a substantial adverse effect on the need and demand for other public services. This Standard is satisfied.

Standard E. The Special Land Use must not have a substantial adverse effect on the natural environment of the site and nearby properties. This Standard is satisfied.

Standard F. The Special Land Use must be consistent with the intent and purposes of this ordinance and the Lowell Charter Township Master Plan. This Standard is satisfied.

Chairperson Simmonds confirmed that the Special Land Use meets all of the specific standards of Section 20.03 and /or other specific special land use standards of the Ordinance.

Granting of the Special Land Use will be with the following conditions:

1. There will be no snow plowing operations at this location.
2. Hours of operation will be 7:00 am to 7:00 pm Monday through Friday only.
3. A maximum of three non-family, non-resident employees are allowed.
4. ~~There must be~~ The applicant shall construct [TC] a lean-to type structure for the storage of equipment, 40 to 50 feet wide, 35 feet deep, and matching [TC] the height of the existing pole barn as illustrated in the materials presented by Applicant at the November 12, 2018 meeting, in which all business related vehicles and equipment must be stored.
5. Completion of the lean-to type structure must be completed by July 1, 2019. If not completed by that date, landscaping vehicles and equipment must be kept off site until the structure is completed.
6. ~~Provision of a revised Site Plan with the dimensions, setback, location on property, and construction details of the structure by January 1, 2019.~~ A revised and dated Site Plan shall be submitted to the Township by January 1, 2019 showing setback and building dimensions, location on property, and construction details of the structure. [TC]
7. The distance of the lean-to type structure from the existing pole barn shall not exceed three feet.
8. There shall be an annual review of the Special Land Use in December of each year.

Motion seconded by Mr. Clements. All in favor and the Special Land Use is granted subject to the conditions above.

Planner Johnson indicated that the Minutes and the Findings of Fact will be prepared in the next month.

**Continued review of proposed amendment to permit AFC homes in the R-2 Zoning District by Special Land Use.**

Tim Johnson reviewed his Memorandum of November 6, 2018 and Draft 3 of the proposed amendments to the Zoning Ordinance.

Supervisor Hale expressed his concerns about allocation of the currently available sewer capacity, and that he doesn't want to unnecessarily block the current developer requesting this change to the Zoning Ordinance. The Supervisor will take the question of sewer capacity to the Township Board for discussion at the earliest opportunity.

It was suggested that the property expected to be part of the request for a Special Use Permit for an Adult Foster Care Large Group Home is located one-half to three-quarters of a mile from the nearest sewer line. Mr. Blough felt that the distance was closer to 1000 feet, given the line servicing Lowell High School.

Mr. Edwards observed that the current R-2 amendment request might not be approved by the Township Board. He has no desire for the Township to get sued. Mr. Clements inquired at length about the authority of the Kent County Health Department to impose requirements on an Adult Foster Care Large Group Home for sewage treatment before it passes to the drain field. Sarah Ross, speaking for the Applicant, said that she was ultimately responsible for the design of a functioning septic system. Mr. Clements was assured that the Kent County Health Department could require sewage treatment as part of an approved septic system. Mr. Edwards noted the email discussion involving Jason E. Buck, REHS, Environmental Health Sanitarian Specialist, Kent County Health Department, and Mr. Buck's suggestion that the disposal system sizing be based on pounds of organic waste per square foot per day. A detailed proposal for the septic system with treatment to lower the strength of the wastewater to residential equivalency has not yet been received by Mr. Buck for review.

Mr. Blough asked about the need for specific septic systems in the Township Ordinance. Ms. Ross feels this is not necessary as this has been addressed elsewhere. Planner Johnson suggested that the language in Draft 3 of the proposed Ordinance changes be reviewed, to see if the necessary language is there. Draft 3 was then reviewed.

Article 1 contains the proposed addition to the Ordinance to allow Adult Foster Care Large Group Homes in the R-2 Zoning District. No changes were made.

Article 2 sets out the language which would be added to Section 22.03 (k) of the Township Ordinance:

1. The words 'a minimum of' will be added ahead of the current 'five acres' language.
2. Mr. Edwards felt that the maximum number of units per acre should be eight rather than ten. Mr. Blough suggested it should be the same as a recently allowed apartment complex on M-21, which would be 11 units per acre. The question of units per acre with sewer rather than a septic system was discussed. Chairperson Simmonds asked for a show of hands on which density was preferred by members of the Planning Commission. Four members favored the original 10 units per acre, and one favored 8 units per acre. There will be no change to the current language. Mr.

Edwards felt strongly that 8 units per acre should be the maximum, and asked that his objection be noted in the Minutes.

3. The reference to connection of available utility lines within 1000 feet of the parcel containing the facility will be changed to 1300 feet.

4. The reference to services within 1000 feet will be changed to 1300 feet.

5. The reference to services within 1000 feet will be changed to 1300 feet. Mr. Edwards, referring to the Planner Johnson's Note contained in this section, thought that if an advanced system for sewage treatment has been installed, connection to the sewer system should not be required. After discussion, the punctuation at the end of the second paragraph is changed to a comma, and the words 'unless otherwise excepted by state law.' are added after the comma.

6. No changes were made.

Article 3 addresses the severability of individual provisions of the Ordinance by a court with jurisdiction. No changes were made.

Article 4 specifies the effective date of these changes to the Ordinance. No changes were made.

Chairperson Simmonds raised the question of whether the changes made were minimal, or if another Public Hearing should be set. Mr. Blough favored another public hearing. Mr. Clements noted that the original hearing did not discuss the use of septic systems by these facilities in the R-2 zone. After discussion, it was decided that another public hearing would be set for December 10, 2018, and that a decision by the Planning Commission may or may not be made the same evening as the hearing is held. There would then need to be a review and tentative approval of the Site Plan for a requested Special Land Use before a public hearing would be scheduled.

There being no further questions or comments, Chairperson Simmonds moved to set a Public Hearing for December 10, 2018 on the revised amendments to the Lowell Township Ordinance for the R-2 zoning district, being Draft 3 of the proposed amendments dated November 12, 2018, as amended, which would allow Adult Foster Care Large Group Homes in the R-2 Zone by Special Land Use and which would provide specific requirements for such use. Motion seconded by Mr. Edwards. All in favor and the proposed amendments will be set for public hearing on December 10, 2018.

#### **NEW BUSINESS**

There was no new business.

#### **COMMISSIONER COMMENTS**

There will be no special meeting on November 24, 2018.

Mr. Edwards noted the passage of Proposal 1 regarding the recreational use of marijuana, and that the current Ordinance language barring medical marijuana sales will need to be amended to include recreational use sales. Planner Johnson is already working on the necessary language to make this change.

Mr. Blough noted curb cuts made by Impact Church which could allow use of the Walgreens drive for access to the church. Nothing has been submitted to the Township showing that such an easement has been given. Mr. Clements suggested that conveyance of an interest in land required a written document, preferably recorded with the Register of Deeds for Kent County.

It was noted that the proposed Fairgrounds showed work on a new entrance to the property. However, the Planning Commission was advised that this land will remain a golf course in 2019.

Mr. Batchelor reported that Impact Church was anticipating a move-in date of June 2019 for their new facility.

#### **ADJOURNMENT**

Mr. Edwards moved to adjourn. Motion seconded by Mr. Batchelor. All in favor and the Regular Meeting of the Lowell Charter Township Planning Commission was adjourned at 9:45 pm.

Submitted \_\_\_\_\_ Secretary

Timothy Clements

Approved \_\_\_\_\_