

**CHARTER TOWNSHIP OF COMMERCE
PLANNING COMMISSION MEETING**

Monday, June 4, 2018
2009 Township Drive
Commerce Township, Michigan 48390

A. CALL TO ORDER: Chairperson Haber, called the meeting to order at 7:00pm.

ROLL CALL: Present:

Larry Haber, Chairperson
Russ Schinzing, Vice Chairperson
Brian Winkler, Secretary
Tom Jones
Bill McKeever
Brian Parel

Absent:

George Weber (excused)

Also Present:

Dave Campbell, Township Planning Director

B. APPROVAL OF AGENDA

MOTION by Jones, supported by Schinzing, to approve the Planning Commission Regular Meeting Agenda of June 4, 2018, as presented.

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MINUTES

MOTION by Jones, supported by Schinzing, to approve the Planning Commission Regular Meeting Minutes of May 7, 2018, as presented.

MOTION CARRIED UNANIMOUSLY

D. UPDATE OF ACTIVITIES

Brian Winkler – Downtown Development Authority

- The May meeting of the DDA was pretty routine.
- David, was there anything outstanding from the May DDA meeting that you recall?

David Smith – Not really. The Downtown Development shopping center area is starting to go through. I think Dave Campbell mentioned that we may be starting Phase 2 of the memory care unit. At the shopping center convention in Las Vegas, we had a pretty positive response to Commerce. I think everything is going full steam ahead. It's a pretty positive development.

Brian Winkler – Thank you, David.

Bill McKeever – Zoning Board of Appeals

- The ZBA did have a meeting, we did have an agenda.
- I was unable to make it to the meeting, so I will defer to Mr. Campbell.

Dave Campbell – We had a ZBA meeting on the Thursday before Memorial Weekend.

- There were four cases on the agenda.
- One was for a detached garage in the front yard on Chambourne. That one was tabled so that the petitioner could work with the Building Department to come up with some options that would not require a variance.

- Another was for a detached garage on Lagoon Street, which is off Cooley Lake Road. That one was too close to the road. That one got approved.
- Another was for a pool that was built into the side of the hill, leading down to the canal in the backyard. Because of the grade of the hill leading down to the water, the pool was too tall. That one got approved.
- The other, and perhaps the most interesting, was a house on Mimosa, which is a street coming off Oakley Park Road. It was a nonconforming house that they were approved to put an addition on, so long as they kept the existing legal nonconforming house and the protections that went along with it. During the course of construction, the builder tore down the original house, which meant it lost its nonconforming protection. The homeowner had to come to the ZBA to get approval to reconstruct the house that had already been there, that his builder inadvertently demolished.

E. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None.

F. TABLED ITEMS

None.

G. OLD BUSINESS

None.

H. SCHEDULED PUBLIC HEARINGS:

ITEM H1: PSU18-003A & B – WILSON MARINE – SPECIAL LAND USE

Wilson Marine of Brighton MI is requesting a Special Land Use for a vehicle repair establishment and accessory outdoor storage located at 4266 Haggerty Road.

Sidwell No.: 17-13-400-048

Chairperson Haber – Dave, after you address these, we'll discuss both A & B at the same time, but we will vote on them separately?

Dave Campbell – Yes.

Dave Campbell, Planning Director, gave a review and provided the history behind this request. Wilson Marine acquired the property in late 2014, and occupied the site in early 2015. Mr. Wilson's business is servicing, maintaining, repairing, and in the process, temporarily storing boats, boat trailers, and some of the accessory items that go along with that. Throughout 2015 and 2016, the Building Department had correspondence with Wilson Marine about some of the items related to their taking occupancy of the building and trying to retroactively secure permits for plumbing, heating and electrical inspections, some wall signage, and some portable signage along Haggerty Road. Wilson Marine has been working with the Building and Planning Departments, and with the ZBA on retroactively addressing some of those issues. One of the most significant issues is the issue of the outdoor storage on the property.

The aerial, from April 2017, shows that the west and south perimeters have boats and accessory equipment. Because this property is zoned TLM, outdoor storage is only allowed as a Special Land Use in this district, and only under some particular criteria. The Building Department was withholding Wilson Marine's final Certificate of Occupancy, or the C of O, until the Special Land Use issue was addressed. The way it was to be addressed was to get Special Land Use from the Planning Commission for the outdoor storage. Wilson Marine applied for the outdoor storage in March. In the course of reviewing their application, the Planning Department and the Township Attorney did some research into the issue.

Going back as far as the 70s, there has been outdoor storage on this property, through all of the predecessors leading up to 2015 when Wilson Marine took occupancy. That outdoor storage historically has always occurred within this green area. The issue is that when Wilson acquired the property, the outdoor storage from that historic area was expanded into what is referred to as the panhandle, the red area on the overhead. In April, staff sent Wilson Marine a letter, explaining that their Special Land Use application had been received, and that they could consider the option of keeping the outdoor storage area (OSA) in the historic green area, where it had been allowed for 50 plus years, as a nonconforming use; but, if they opted to expand into the red, panhandle area, they would need to go before the Planning Commission for a public hearing for an expansion of the outdoor storage area. Wilson Marine replied in early May to confirm that they wanted to go before the Planning Commission to seek a Special Land Use for expansion of the OSA. Therefore, the public hearing was scheduled, notice was published in the newspaper, and letters were sent to everyone within 300 feet for the OSA expansion.

Again, the property is zoned TLM. Accessory outdoor storage is only allowed as a Special Land Use in the TLM zoning district. One of the key criteria of that is outdoor storage is only allowed on specific portions of the property; particularly, it's only allowed in the non-required rear yard, and it cannot be within the rear yard setback.

Our Planning Consultant came up with the schematic, given the unique nature of this property, which by definition has two fronts. It has a front on Haggerty Road, via a shared drive off the west side of Haggerty, but it also has frontage on Plant Drive, the cul-de-sac that ends toward the south. That gives the property a unique configuration, and access off two roads, so we asked our consultant to help us define what the front, side and rear yards are on this property. Their determination, and staff agrees, is that everything shown in purple is the rear yard, and the dashed line indicates the approximate setbacks of the rear yard. This is relevant because if Wilson Marine were starting from scratch, there would only be a small square area allowed for an OSA. In addition, they would only be able to have outdoor storage in that area if the OSA were completely screened with an opaque masonry wall that's meant to be at least as tall as the material being stored behind it, so long as the material is no taller than 8 feet. The 8 foot threshold is relevant because most boats on a trailer are going to be taller than 8 feet. They would not be able to meet that criteria.

Another criteria for outdoor storage in the TLM zoning district is that the materials being stored can't be covered with any non-permanent material, a tarp or otherwise. Most boats in storage have the shrink wrap on them, which is a non-permanent tarp-like material. Therefore, they would struggle to get Special Land Use approval for outdoor storage, on this particular property, in this zoning district. But, Wilson Marine benefits

from taking occupancy of a building that has had outdoor storage historically for at least 50 something years, as shown on the rendering in the green area, where they would be allowed to continue nonconforming outdoor storage. They have opted to expand to the red area and seek Special Land Use.

The way the Zoning Ordinance is structured, the expanded area has to conform with the current standards of the Zoning Ordinance, the 8 foot masonry wall with nothing behind it taller than 8 feet, and, the remainder of the site is intended to be brought into reasonable compliance with the Zoning Ordinance. Reasonable compliance is up to the Planning Commission to determine, with the idea that they bring the site up to current standards based upon the scale of what they're asking to do.

Dave Campbell pulled up Wilson's site plan and explained what they were proposing to do to screen the expanded outdoor storage area. The site plan was created by Mr. David Smith's office. In lieu of a masonry wall or any other screening measures, they propose to plant a row of about 24 arbor vitae on the east end of the panhandle, behind an existing 6 foot chain link fence. It shows they will be on a berm, but the berm height is not specified.

There are notes on the site plan that state they don't feel screening is necessary or appropriate on the other sides of the site. Wilson's contends that it doesn't accomplish much to put in a screen wall on the west side of the property as that is the Detroit Gun Club which is a wooded area. On the north side, the property line is shared with CA Hull, the bridge building company that came to the Planning Commission about three years ago for an expansion of their building that they're finishing up. Then there's the service hub for AT&T. They do storage of their service vehicles and other equipment in their yard; therefore Wilson's contends that screening there wouldn't be necessary or appropriate. Then there's a shared drive/service area between the Wilson's building and the Volvo repair business, and Volvo requested circulation through Wilson's to access his truck deck. So, for Wilson's to put a wall or landscaping on that side would impede access by Volvo. Wilson's Marine and Mr. Smith were present and could also speak on their own behalf with regard to limiting the screening to only the east side of the panhandle.

The other Special Land Use sought by Wilson's was for a vehicle repair establishment, and these are only allowable under certain criteria as a Special Land Use in the TLM district as provided in the May 31st review letter.

Dave summarized the two Special Land Use requests and explained that the Planning Commission should first consider the vehicle repair establishment, and then secondary to that would be consideration of the outdoor storage area expansion, which would be accessory to the primary use, the principal use of vehicle repair. They're interdependent upon each other; if the vehicle repair establishment were not approved, the outdoor storage almost becomes a moot point as there wouldn't be a need for temporary storage of the vehicles that are awaiting service. Both Special Land Use requests require a public hearing.

Chairperson Haber opened the public hearing.

Dave Campbell noted, for the public record, that an email was received from the property owner to the south, the insulation place next door, Multi-Lake Enterprises, Inc., 4295 Plant Drive, Commerce Township. The owner's comment was that, whatever the

Planning Commission decides this evening, he does not want his existing retention pond, on the east side of his building, to be impacted. He does not want any of his neighbor's water draining into his detention basin.

David P. Smith, Surveyor & Engineer, 8615 Richardson Road, Ste. 100, Commerce Township, was present along with Ron Wilson of Wilson Marine.

David Smith – Thank you, Dave. That was a very thorough job. In relation to all of the facts that Mr. Campbell has brought to us, is there really any rule we did not break when it comes to the TLM zoning district.

Chairperson Haber – You've covered them all.

David Smith – I think he covered everything we did, and I think we broke every rule that there is. The only thing we can fall back on is that Mr. Wilson wants to be an asset to the community. He doesn't sell boats out of there.

Chairperson Haber – Okay, so you've violated every possible rule there is. What's the next thing?

David Smith – Per this ordinance. Now, as Mr. Campbell has stated so emphatically, that since ... I'm a county surveyor, and I have access to Access Oakland. This site, even before Plant Drive was built, has been a storage and some type of automotive repair type of facility. We want to sit down and bring it up to code. We want it to be nice toward the neighborhood. This is a unique situation.

You have to come down about 450 feet from Haggerty before you even see the repair facility and the storage. The storage is minimal, you know how that goes. We bring a boat in, it sits there for a week, it gets tarped, and it gets moved off. We're not going for permanent storage.

One other point I want to address, per Multi-Lake's Insulation, the retention pond, I did their building too. There's absolutely no way we could impact their drainage, because the unfortunate part about this site is that it's the lowest point in that entire area and there's no outlet for water. Mr. Wilson will have to deal with that forever.

There's not much more I can add. Mr. Wilson obviously bought the property on this intended use, as it has always been. We have no problems with trying to sit down and make this asset conform to what the Township wants, but we're limited to what we are. I'd be happy to answer any questions.

Richard Covall, 4300 Haggerty Road, Commerce Township – We are the building that's next to Jensen Aluminum, and Multi-Lake's Insulation backs up to our property.

The point I want to bring up is, my dad and my brother, we opened up the business in 1979, where we're currently at. We physically watched when King Marine opened up thereafter in 1980. We've known Dave Rosenkrantz and Steve McCarthy who were the owners of it. People laughed at them when they decided to open up there and sell boats; too small, would never be done. I watched the gentleman turn it into a pillar of this community, as far as selling boats, servicing this area, making people's lives a lot happier with the lakes around here. Through that period of time, I've watched where

they've had service, boat storage and worked on boats back there. Then he leased out to other companies, including the sprinkler company.

I've also watched too, other neighbors I won't name, who have not kept their stuff nice and tidy. Over this period of time, I know Mr. Rosenkrantz decided to sell. I watched Mr. Wilson come in. My dad and I remarked about the amount of effort and money he's poured into the whole thing. It's been really nice. I watched where he's personally made certain people clean it up a little bit, and where he cleaned up the shared road and graded it. I've been to their service center and I've seen the amount of effort he's put inside the building.

I hope you can work something out, because personally, I think it's something that needs to continue and it's good for this area. I think it's good for the people who live on these lakes. They've done an outstanding job of upgrading it. I know there's rules and guidelines that need to be followed, but in this case, I just really hope there's some sort of compromise that can be made. It would be sorely missed if he had to shut down or move. This is a business that has serviced this area for a long time. People in this area love their boating and the lakes around here. I'm impressed with the remodeling and I hope something gets worked out.

Phillip Hoyt, 3223 Kennicott, Commerce Township - I'm a long-time resident. I came up to the Township for something else, but I'm also a patron at Wilson Marine. I'm also an insurance agent. When he mentioned the sprinkler company, I used to insure that company. I can attest that the condition of their lot is thousands of times better with what they're putting into that building. As an insurance agent, we get loss control recommendations as far as how to fix things. The sprinkler company was virtually canceled because they were not in compliance with just being unattractive. Without knowing a lot about what's going on there, what they've done to that property makes me proud to be a resident of Commerce Township. I wish we could get more of them to do what they're doing.

Chairperson Haber closed the public hearing as there were no additional questions or comments.

Commission Comments:

Winkler – Without going into the details of the Planner's report, I would find it difficult to vote in favor of this, given the situation has manifested itself after a number of items took place within the building that weren't permitted and weren't reviewed until the Township Building Official found that the work had been done, and inspected it after the fact.

There's also the concern of setting a precedent in the TLM district. In this particular case, given the fact that we at the Township updated the Master Plan to include TLM, with the whole public hearing process in regard to that updated Master Plan, to give the public, including this petitioner, a chance to comment on it.

David, please correct me if I'm wrong, but the current site without the panhandle is what's considered a nonconforming use in the TLM district. There is a solution, and that is to keep the nonconforming use in place, but not use that panhandle.

In the current form, I'd be uncomfortable voting for it.

Jones – I agree with Brian. Dave, the fact that they came in here in 2014/2015, and did nothing about all of our requirements, does this set a precedent as well, that people buy a property and do not get in contact with the Township in order to see if what they have is in compliance or what else they may need to do immediately on purchasing?

Dave Campbell – A couple thoughts. They did acquire the property late 2014. Based upon aerial photography, it looks like they moved in early 2015. The Building Department, based on the records that I have access to, first had correspondence with them in 2016. It wasn't until mid-2017 that Jay James and I actually had an opportunity to sit down with Mr. Wilson.

Yes, whenever a commercial entity is looking to occupy a commercial space, the first and best thing they can do is come talk with the Planning Department to ensure that it's a land use that's permitted within that zoning district, and come talk to the Building Department to talk about the permits necessary for any of the work they're going to do on the property. As best I can tell, and Mr. James would be able to speak to this more firsthand, but my understanding is that most of those things did not happen in this instance. It was a surprise to our Building Department, to our Code Enforcement people, to see the work that had been done inside this building when they first came upon it, sometime after Wilson's took over. They were surprised to see the changes to the building, and they were surprised to see the boat storage that was going on outside the building.

There is an argument that to allow someone to get forgiveness, instead of getting permission, does set a poor precedent.

Jones – Okay. The next thing I'd like to say is that this is my 20th year on the Planning Commission. David Smith knows me from way back when. I've never run into this situation previously. I'm not here to scold you, but I'm just saying, I've never seen this before, where all of these things were ignored. However, ignoring that, I don't really have a problem with the second part of it, with regard to the repair work they want to do, but I'm not in favor of this going forward.

Schinzing – Dave, can you go to the bigger picture? I had some questions.

Dave Campbell advanced to the color slide on the overhead.

Schinzing – The northeast quadrant, there's boats being stored there, out to Haggerty Road, in the orange area. Yes, there's boat storage there.

Dave Campbell – There certainly appears to be.

David Smith – It's not ours.

Dave Campbell – That's not Wilson's property. That's Allied Welding, and I think Allied is actually a tenant. I don't know that they own their building.

Schinzing – Okay, so that's not part of all of this?

Dave Campbell – It is not, other than Allied, Volvo Repair and Wilson Marine all share access to this shared commercial drive, Fulmers Drive. Wilson actually has legal access off of Plant Drive; they have a driveway coming off the end of the cul-de-sac in the southwest corner of their property.

Chairperson Haber – (Addressing a member of the public) Normally we don't do this, but what's the comment you have?

Resident – That piece of property belongs to Jensen Aluminum.

Chairperson Haber – Is he storing boats on there?

Resident – Yes.

Schinzing – Dave, I think you were being nice by saying, "In a perfect world, all this stuff would be done." No, in a normal world, all this stuff is done. I'm a business owner in Commerce Township and I pull permits. The only reason why not to pull permits is to save money; that's why business owners don't pull permits, because they want to save money and time. I have a problem when business owners bypass that, because when I don't bypass that, I'm in a competitive disadvantage of doing things right. It's in a normal world this is done, not a perfect world.

Here's another question, Dave. If precedence is, storage can be done in that area, regardless of setbacks, can storage also be done greater than 8 feet, and with non-permanent covering?

Dave Campbell – It would be difficult for us to determine what materials historically have been stored there, and at what height, without having a record of it. That means we would have to go back and find pictures, going back 20 years, that we frankly don't have. The best we have is the aerial photography that shows that at least it was on the ground, but it doesn't show height.

Schinzing – Is the burden on us to prove that it wasn't, or is the burden on the ...

Dave Campbell – If you ask the Township Attorney, it is. The burden is on the Township to prove that a nonconforming use has ceased. Frankly, and I've talked about this one plenty with the Township Attorney, it would be difficult for the Township to prove that the outdoor storage on this property ever ceased for a duration of time significant enough for us to say, okay, no more outdoor storage.

Schinzing – Maybe a little different; I would like to see this project go forward, with bringing it up to compliance, and not just one little berm. I think you've got major issues with shielding, even on the west side where you say, today that is a gun club, but tomorrow it could be a housing development. There's no way we're going to come back and say, well now it's a housing development, we need a berm. No, we need it done right from the beginning. We do the same thing with sidewalks; it doesn't go anywhere, but someday it could. I think the proposed work to be done is significantly lacking in what needs to be done to bring this up to par. That's my issue.

I also have no issue with it being a repair facility, but if we're going ahead with this ... I feel like the only reason why we're here is because they want more, and we wouldn't be here if they didn't want more.

Dave Campbell – The key reason this is in front of you is because of the expansion of the historic outdoor storage area.

Schinzing – Right, which I think there's things that need to be done anyway. I would say, I don't have a problem moving forward with this project, but there needs to be a lot more work done than what's being proposed.

Parel – I too found it very odd; it was 3 years they went without a C of O, Dave?

Dave Campbell – I believe, and Mr. Wilson can confirm or correct, I believe they moved in the early part of 2015.

Parel – Was it upon the Township's request that it started moving in that direction?

Dave Campbell – I honestly don't know how the Township became aware of the fact that there was a new user in the building that was doing improvements in the building and doing outdoor storage on the property-

Mr. Wilson – I'd like to address this when I can.

Dave Campbell – I do know that it occurred early part of 2016, at least from the notes in our system, that we had our first correspondence with the property owner.

Parel – Larry, did you hear him?

Chairperson Haber – Yes, but-

Mr. Wilson – I'd like to address this, because I don't think you guys have got all the facts.

Chairperson Haber – You're going to have to hang on for a second, sir.

Mr. Wilson – Sure.

Parel – That portion of it obviously doesn't rub me the right way. That said, I do think that some type of compromise could work here. I don't know if we've seen it today. I don't think one berm in one small area is going to resolve it for me. Real quickly, I have no issue with the vehicle repair, as long as it's indoors and it's compliant with all the items required for that.

What I would like to see, and a couple of the other Commissioners I think had mentioned it, is a more extensive way to screen the property if we were to expand into what Dave calls the panhandle of the storage area.

McKeever – I'm actually in agreement with Brian. I would be opposed to expanding the storage. The legally nonconforming storage that's been there for so long, I guess there's not a whole lot we can do about that, but given what's being proposed to upgrade the site, I think it falls far too short of what is required. I wouldn't be in favor of it.

Chairperson Haber – Mr. Wilson, before I speak, is there something you want to say?

Mr. Wilson – I would, thank you. First of all, when we approached the Township, we did, we bought both buildings. We did get a C of O. We had no knowledge that they hadn't come to this building. They never showed up.

Now, we were in constant contact with Kathleen. I don't know if you guys remember Kathleen or not, and Jay James. They came down. They even told me we could even do this entrance. They knew exactly what I was doing.

Now, what we didn't do is anything more than a remodel. The place was absolutely uninhabitable, so it had to be painted and had to be cleaned up, just like you would ... I didn't expand or do anything to the building, other than clean it and make it look better. Your water – we've gone to everybody. Your water comes down Haggerty Road. We came to the Township. We wanted to expand. We wanted to continue to invest in your community. That's when we got walloped. That's when we got pulled in, they said your signs are nonconforming, you don't have a C of O. We immediately invited them on. We did everything on their checklist, immediately.

We didn't know we were in violation. Nobody sent us any notices. I run multiple dealerships. The last thing I want to do is be in noncompliance.

So, your water comes down my driveway and makes that whole back end uninhabitable, so I can't use it. Now, I'm asking to use this piece of high ground, which is all screened by the cars, which is no different than this, because I can't deal with your water any other way than to let it sit there and become a cesspool.

So, this was always used for storage. All I did was fence it, because we have a theft problem in the neighborhood. If you go back and take a look, Dave Rosenkrantz used this for storage. All I did was fence it. I don't break the law.

I'm very unhappy. We just don't do what you guys are telling me I did.

Schinzing – Did you pull permits for the work you did inside that building?

Mr. Wilson – You tell me what I did inside that building that required a permit, other than painting –

Schinzing – Did you do any electrical work?

Mr. Wilson – Any electrical work?

Schinzing – Any electrical work, any plumbing work, anything you would pull permits for?

Mr. Wilson – You know, at the end of the day, I guess we did probably re-route a plumber.

Schinzing – Okay, so you did, and you did not do it right.

Mr. Wilson – At the end of the day, it's homeowner stuff.

Schinzing – You can say, "At the end of the day" all you want. You didn't do it right.

Mr. Wilson – There you go.

Schinzing – If you're mad that you didn't do it right, and you got caught, that's one thing.

Mr. Wilson – I didn't get caught. I didn't know we had to even do it.

Schinzing – You did get caught because you didn't do it right.

Mr. Wilson – They came into Building #1, they didn't come into Building #2. It's not my fault. I didn't know we didn't get a C of O.

Schinzing – It's your responsibility to pull permits for work being done.

Mr. Wilson – But as soon as we were brought in, we immediately complied. There was no ... You can talk with Jay James. You can talk with Dave. We immediately jumped forward. We didn't hide. We didn't run.

Chairperson Haber – Okay, let's move on here. I was there. I spent about 45 minutes walking the property, driving around and looking around. It needs to be cleaned up. I'd like to see something done here. We have one crack to make this better, and that's all we're going to get, and I don't see that happening here with just the plantings that you're proposing. I don't think that's going to happen. If you're willing to clean up that whole place there, I think we can look at this in another way too. I talked with Dave earlier today; I was looking for a compromise. Frankly, I can't find one.

Mr. Wilson – Fair enough.

Chairperson Haber – I really tried. I wasn't able to find something other than compliance to the ordinance. I'd like to help you out, but I don't see how I can. You're not meeting us halfway. You're putting in some shrubs and that's about it-

Mr. Wilson – Well, if you take a look at the berm in the back-

Chairperson Haber – Sir, I listened to you, now it's our turn.

Mr. Wilson – All right, fair enough.

Chairperson Haber – If you want make it compliant, or if we can work something out with some alternatives here, I'll consider it; otherwise, I feel as everybody else does here. I don't think it's the right thing to do. So, you have a couple of choices-

Mr. Wilson – What is it you want to see?

Chairperson Haber – Did you read this ordinance, about the decorative walls and all that sort of stuff, and what the ordinance says? If you're willing to comply to that, I think people here are going to be much more receptive.

Mr. Wilson – That's where we wanted to put the berm?

Chairperson Haber – I think you may have to do the whole area.

Mr. Wilson – Oh, for that little piece it wouldn't make sense. I mean the cost-

Chairperson Haber – I can't say that it would. I think that's what Dave's been trying to tell you, that for you to pick up that little piece and make it compliant-

Mr. Wilson – How do I deal with the water? Who do I go to see about the water?

David Smith – That's a separate issue.

Chairperson Haber – That's not what we're addressing here. You can take that up with the Building Department.

David Smith – What they're saying is, if we leave right now, you still get the same, but you don't get to use the little red area, which is the line they drew in the sand, because in 1974...

Chairperson Haber – If you're willing to comply with the ordinance, then I think we can look at this a little differently. If not, and if it's just going to be what you've offered us, I don't think we're interested in that. I'll put that back in your court. Do you want to think about this? We could table this and you could come back to us at some point if you'd like. If not, we can vote on it today.

Mr. Wilson – Well, at the end of the day, I guess I'm still looking where we ... since the rest of it was granted, that little piece of property in front, we looked at the berm with the arbor vitae, it'll grow. I have no control over the size of boats in the future. We just thought something that was growing would be more user friendly and more green to the community than a masonry wall. The cost is the same, by the way. If you want the wall, he already showed us an example down on CA Hull. We'll just do what they did, across the front and be done with it.

Jones – Dave made a list of the things that are the minimum that would have to be corrected.

Chairperson Haber – Why don't you read that so we're all on the same page.

Jones – *The proposed screening is not adequate. The materials being screened exceed the 8 foot ...*

Chairperson Haber – From here?

Jones – That one. That's per Section 22.02.K, (1 through 5), which Mr. Wilson should begin to copy.

The expansion area is on the front yard where outdoor storage is not allowed in a TLM zoning district. The expansion area is expected to include boats covered with tarps and other non-permanent coverings, which are prohibited.

Those are some things that are in the standard. We've got to apply to everyone, not just you. Those are things that, as Larry suggested, we could table that portion of the item and vote on the request for the repair. We either will vote to table that, or deny it. I think it would be in your best interest if it was tabled, for you to work with Dave and Jay James to see if you can come to a compromise in that area, such that you meet these requirements.

Chairperson Haber – We're willing to compromise here. We're not looking to penalize you with a lot of stuff, but we have an obligation to the community to do the right thing for the community, and to live by the ordinance as best we can. Now, we're willing to bend it somewhat, but I don't think we've met here. There's alternatives; we can table part of it, we can pass part of it, or we can vote on the whole thing.

David Smith – Why don't we go back to what we've got?

Dave Campbell – There's the potential for two motions, or two actions. One is action on the vehicle repair establishment, and the second is action on the expansion of the outdoor storage area.

Chairperson Haber – You need time to talk about this?

David Smith – No, we have a couple of options here. We're probably going to table our request at this time.

Chairperson Haber – For the outdoor storage, or the whole thing?

David Smith – But you also realize that if we withdraw, then we go back to the green area and you have really no ...

Chairperson Haber – You're right.

David Smith – We want to improve the situation. Now, trying to put a wall 450 feet away from Haggerty, because of an ordinance that came into effect on a property that was in use, for storage and repair, since 1974, you know it really sometimes doesn't make sense. You have two storage facilities to the north, you have the AT&T, and then you also have the bridge company's facility, which they store vehicles, equipment, they do the same thing. I just want to bring that point to your attention.

Chairperson Haber – The difference is that they're not coming here to ask for something. When they come in to ask for something, we're going to do the same thing.

David Smith – Well, they already came in and asked for it, and they still store it.

Dave Campbell – You'll recall, Mr. Haber, when CA Hull came in to put an expansion onto their building, they did make some significant alterations to their storage yard as a condition of that approval.

David Smith – Theirs was a fence.

Chairperson Haber – We're not asking anything from you that we don't ask from anybody else. We have an obligation to do that.

David Smith – Is there something that I didn't see on CA Hull that they were supposed to put in, that I didn't realize? I mean they just put a fence in.

Dave Campbell – I have not checked on their progress in the last month or so, but about half of their yard is meant to be an opaque concrete wall, and the other half is slatted chain link.

Chairperson Haber – The west part was the concrete, wasn't it, and the east was the chain link?

Dave Campbell – Yes, and that was to screen their parking lot and their storage area. I can show you the site plan and the upgrades that they made, relative to the request. Again, it's meant to be in reasonable proportion, so relative to the expansion they wanted to make to their existing building, they came to a compromise, as we're talking about tonight. Bringing them into reasonable compliance relative to what they wanted to do.

Chairperson Haber – I need to know from you folks what would you like us to do?

David Smith – At this moment, we wish to table our request so that we may come back with possibly a better site plan, or a more reasonable request that we all could work with.

Chairperson Haber – Okay, that's what we'll do.

Jones – What about the repair thing? Would you accept that we would approve that tonight?

Chairperson Haber – There's two portions of this; there's a storage and a repair facility. We're prepared to move forward on the repair facility, and not the storage. Personally, I don't think it makes sense to do one or the other. I think they both should be done. My advice is to work with Dave and the Building Department to see where you will go with this, but that's your decision.

David Smith – I feel that we should probably table our position right now.

Dave Campbell – Mr. Haber, if you were to make a motion consistent with that, I recommend that we put some sort of a timing to it so that this does not drag out for months.

Chairperson Haber – We can do that. We can make it for the next meeting in July.

Dave Campbell – It will be on July 9th.

Jones – Would you be prepared to come back that soon?

David Smith – Well, if we don't come back at all, business goes on as usual.

Schinzing – Are they out of compliance with the repair facility today?

Dave Campbell – They do not have Special Land Use approval for the repair facility.

Schinzing – Why don't we do that tonight so they can get that established, so then it doesn't become a timing thing. If they want to keep green, they keep green, right? And if they want red, then that's on them.

Dave Campbell – I would agree. I can't come up with a good reason why, if you all are inclined to approve the repair establishment ...

David Smith – I agree. Then, we would follow through on your recommendation, please.

Schinzing – So, you can either keep the green area, and then you're completely in compliance after tonight.

David Smith – We fall on your wisdom.

Chairperson Haber – Dave, there won't be another public hearing after this?

Dave Campbell – No, we've satisfied the requirement for the public hearing.

Chairperson Haber – All right. Let's move forward with the vehicle repair establishment in the TLM Zoning District.

Schinzing – Do you want to table the storage first?

Chairperson Haber – We can table that, it doesn't make any difference, but the repair just came up first. That's the way it's listed, A & B, so we'll do A first, then we'll table B.

MOTION by Jones, supported by Parel, that the Planning Commission **approves, with conditions**, as outlined in the Planning Department's report, Item PSU18-003A, the request by Wilson Marine of Brighton MI for a Special Land Use for a vehicle repair establishment located at 4266 Haggerty Road.

Sidwell No.: 17-13-400-048

Move to approve PSU #18-003A, a special land use for Wilson Marine, to allow a vehicle repair establishment within the TLM – Technology & Light Manufacturing zoning district at 4266 Haggerty Road.

Special land use approval is based on the following findings:

1. The applicant has demonstrated to the satisfaction of the Planning Commission that the proposed use complies with the general standards for special land use approval within Sec. 34.08 of the Zoning Ordinance;
2. The applicant has demonstrated to the satisfaction of the Planning Commission that the proposed vehicle repair establishment satisfies the intent of the Use Standards of Sec. 26.303 of the Zoning Ordinance so long as the conditions of approval listed below are satisfied.

Special land use approval for a vehicle repair establishment is subject to the following conditions:

1. Perpetual compliance with the requirements of Sec. 26.303 of the Zoning Ordinance, including but not limited to:
 - a. All repair work to be conducted within an enclosed building;
 - b. No outdoor storage, sales, and/or displays except within an area bound by the terms of a separate special land use approval for accessory outdoor storage;
 - c. Vehicles shall not be stored for a period exceeding 30 days;
 - d. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored completely within an enclosed building;

AYES: Jones, Parel, McKeever, Haber, Schinzing, Winkler

NAYS: None

ABSENT: Weber

MOTION CARRIED UNANIMOUSLY

MOTION by Schinzing, supported by Jones, to **table** Item PSU18-003B, the request by Wilson Marine of Brighton MI for a Special Land Use for accessory outdoor storage located at 4266 Haggerty Road. Sidwell No.: 17-13-400-048

AYES: Schinzing, Jones, Winkler, Haber, Parel, McKeever

NAYS: None

ABSENT: Weber

MOTION CARRIED UNANIMOUSLY

David Smith – Thanks for your time and consideration. Always a pleasure.

Chairperson Haber – We're trying.

David Smith – Have a good night everybody.

I. NEW BUSINESS:

ITEM 11. TEXT AMENDMENT DISCUSSION:

Chairperson Haber – It's my understanding that we're just going to have a brief discussion about this today. We're not going to move forward.

Dave Campbell – I do want to have a preliminary discussion on two text amendments, but both of them really impact the work of Mr. James and his Building Department, so I

do want to have another discussion about this in greater detail when he's available to join us.

Both potential text amendments are items that Mr. McKeever can verify are things that come in front of our Zoning Board of Appeals fairly regularly. They're really interpretation type issues that we'd like to get clarified within the Zoning Ordinance.

1. Article 6, Front Yards – Existing Neighborhoods

There's a section of the Zoning Ordinance that says, when you've got a block of houses, and every house is X number of feet from the front lot line, even if that X number of feet does not meet the minimum front setback, if somebody wants to build a new dwelling, and new dwelling being the key word here, they can build it at the average setback of the other houses on their block.

This, as you could probably guess, comes up mostly in some of our older lake and cottage communities where people want to replace an old cottage with a new house, and they want to build it consistent with the development pattern of the neighbors around them. What happens often though is someone doesn't necessarily want to tear down the cottage, but they want to add onto the cottage, or they want to put a detached garage in front of the cottage, and we can't let them beat the average setback of the houses on either side of them because it's not a new dwelling. It's an addition to an existing dwelling, or it's a detached structure, in addition to the existing dwelling.

We want you to consider amending that section of the Zoning Ordinance so that it's not just limited to new dwellings, but to limit it to new structures. So, if someone does want to put an addition onto their house, and it's consistent with every other house on that block, or if someone does want to put in a new garage, and it's consistent with every other garage on that block, then they would be able to do that without having to go to the ZBA for a variance.

If I was going to argue against it, I would say that, if we want to achieve compliance, then allowing people to put on a non-compliant addition, it doesn't necessarily achieve compliance, even if it's consistent with every other house on the block. If we eventually want to get to the point where every house on that block is compliant with the setback requirements, then we have to draw lines at some point. That would be maybe the counter argument to this potential change, but it's more an issue of equity and fairness. If everybody else on the block has a house that's 20 feet from the road, and I want to put an addition on my house that's 20 feet from the road, it doesn't feel right to say, "Well, you can't do it because it's not a brand new house, but he was able to do it because it was a brand new house."

Schinzing – I would say that since we allow a brand new house to do that out of conformance, what's the difference?

Dave Campbell – That's why I'm bringing it to you.

McKeever - How often do we run into full scale redevelopment of a neighborhood to where ...

Dave Campbell – Mr. McKeever, do you remember, there was a homeowner, Ms. Manning. She was on Union Lake Road, and actually is on Union Lake, the body of water.

McKeever – The one with the garage?

Dave Campbell – Yes, exactly. It was an attached garage, and I think it had living space above it. It was an addition. Hers was an older house, and then there's some very nice houses up and down that same block. They were allowed to build without having to go to the ZBA because those were brand new houses.

She wanted to put an addition onto her existing house, and she had to go to the ZBA because it wasn't a new house. It did get approved, and then she never built it, but that's one of the examples that makes us want to bring this to you for discussion.

Does it really make a difference whether it's an addition to an existing house, or whether it's a new house, as far as how we apply the Zoning Ordinance? If you don't feel it really makes a difference, then this would be an opportunity to amend that particular section of the Zoning Ordinance.

Chairperson Haber – All right, and we're going to see this next time?

Dave Campbell – Yes, but I'm happy to answer any preliminary questions, or gather preliminary thoughts.

Jones – It makes sense because we hate to create things that force them to go to the ZBA. That's been our goal for all the time I've been here, so I'm in agreement with what you want to do.

Dave Campbell – Anytime something comes up at the ZBA more than a few times, it gives us reason to say, "Well, maybe it's the ordinance we need to look at, rather than repeatedly taking things to the ZBA."

McKeever – That would mean doing away with setbacks all together.

Dave Campbell – Do away with setbacks all together? Well, then I'm out of a job.

Schinzing – You still could do all these nice color-coded maps, this is really good.

2. Article 39, Alterations to nonconforming structures

Dave Campbell – The second one is fairly similar. Picture a house that's say, 20 feet wide and it's 5 feet into the side yard setback, and the owner of that house wants to put an addition onto the house to make it 30 feet wide, and it's not going to be any closer to the setback, but it will now be a 30 foot long wall in the setback where it used to be 20 foot. The Zoning Ordinance says, *If you've got a nonconforming structure, you can put an addition onto it as long as it doesn't increase or intensify the nonconforming nature of the structure.*

The way the Building Department has long interpreted that is, if the addition is no more nonconforming than the previous portion of the structure, then it's not intensifying the nonconformity. But, if the Planning Commission, and ultimately the Township Board is in agreement with that interpretation, then we'd like to clarify it within the Zoning Ordinance so that the Ordinance is clear and consistent with how the Building Department has long made that interpretation.

Chairperson Haber – We're going to go into this in much more detail.

Dave Campbell – Yes, but again, if there's any preliminary thoughts, I need to hear it now.

McKeever – I agree with it totally.

Jones – I do too.

Winkler – The general feel and language seems acceptable.

J: OTHER MATTERS TO COME BEFORE THE COMMISSION:

Schinzing – When are they going to demolish the Library?

Dave Campbell – Great question.

Chairperson Haber – Somebody's in there working now.

Schinzing – A sign was supposed to go up, right?

Dave Campbell – The sign for Aikens is supposed to go up as soon as the Library comes down. My understanding with the Library is, we've got a contractor ready to go to take down the building, but he's not a contractor that is qualified to abandon the existing water and sewer service to the building. So, we have a demolition company that can knock it down, but not until the excavator can abandon the water and sewer. Excavators are very busy these days, and we finally got a quote from an excavator who is willing and able to do it. Last time I talked to Jay, it was my understanding it was going to happen very soon.

Jones – Aikens was going to Vegas in May. Have we heard any good news out of all that?

Chairperson Haber – He just got back.

Dave Campbell – I don't know if there was news. I will send him an email tomorrow asking that very question; How'd it go? How are things looking? What kind of timeline should we be prepared for?

Yes, the convention was the last week in May. Now would be a good time to get back in touch with him.

Chairperson Haber – If you hear from him, will you shoot us an email?

Dave Campbell – Yes.

Discussion continued regarding the potential gourmet market at Five & Main, and securing tenants for the development.

K: PLANNING DIRECTOR'S REPORT

- **NEXT REGULAR MEETING DATE: JULY 9, 2018 @ 7PM**

Dave Campbell - Somebody mentioned traffic; I think it was Mr. Smith, traffic as it relates to Five & Main. We are having a meeting with the RCOC and MDOT, both of whom have jurisdiction over the big roundabout. It's a state highway, that then merges with county roads. On June 12th, we are having a meeting with them at the RCOC offices in Beverly Hills on Lahser. Hopefully a high-level meeting with the managing director of RCOC, and a director from MDOT, along with the Township Supervisor. We have a traffic study that we think is a sound study that shows what needs to be done with that roundabout. We have a developer who is willing to contribute a significant amount of money out of his pocket to make those improvements, but we have to get the RCOC and MDOT to agree to it.

Chairperson Haber – What date was that?

Dave Campbell – June 12th.

Also, Gildea Woods is having a ground breaking ceremony on June 14th. If anyone is interested, I'll confirm the date and time for you. It's right here onsite. I have the invitation on my desk.

We also had a nice article in the Oakland Press the other day, with a nice picture of the Township Supervisor.

Chairperson Haber – Include that in the email.

L: ADJOURNMENT

MOTION by Schinzing, supported by Jones, to adjourn the meeting at 8:08pm.

MOTION CARRIED UNANIMOUSLY

Brian Winkler, Secretary