



Memo

To: Acme Township Planning Commission
From: Patrick Kilkenny, Planner and Deputy Zoning Administrator
Date: 10/24/2011
Re: Requested Zoning Ordinance Amendment OXX – Addition of “Barn functions” to “Uses Permitted by Special Use Permit” in the A-1, Agricultural zoning district to the Acme Township Zoning Ordinance

Initial Planning Commission Discussion, August 22, 2011:

Applicant: Robert and Kathleen Garvey
6377 Deepwater Point
Williamsburg, MI 49690

Status of Applicant: Acme Township residents & property owners

Request/Project Description: Amendment to the Acme Township Zoning Ordinance of 2008 by proposing the addition of “barn functions” to the A-1 Agricultural zoning district to Uses Permitted by Special Use Permit and the addition of a definition for “barn functions.”

Attachments: Zoning Ordinance Sections 6.11 & 9.25

Project Description:

The applicant is requesting an amendment to the Acme Township Zoning Ordinance to include “barn functions” as a Use Permitted by Special Use Permit in the A-1, Agricultural zoning district. The applicant currently owns a 40 acre parcel of property on the northern most end of Lautner Road in Acme Township. The property contains a residence, barn, horse pasture, manmade trout pond, a section of Yuba Creek, regulated wetland areas, chickens, and other agricultural features.

The applicant’s barn has recently been used for events such as fundraisers parties, private parties, and most recently, a wedding. The aforementioned uses are currently in violation of the Acme Township Zoning Ordinance, as defined in the A-1, Agricultural zoning district.

The applicant’s barn was moved from a property originally located at the corner of M-72 and Lautner Road. The barn was subsequently donated to the applicant and was ultimately reconstructed on the applicant’s property at 4790 Lautner Road. The barn’s reconstruction included many structural,

cosmetic and safety updates including but not limited to; a new foundation, basement, siding, floor, roof, landscaping, décor, etc.

The barn's reconstruction has been well publicized throughout the community and requests to hold a multitude of events such as weddings, parties, and fundraisers have been sent to the property owner/applicant. Please see attached correspondence from the applicant.

Kurt Schindler, from the Michigan State University Extension, provided guidance via email to the applicant regarding "barn weddings" and informed the applicant that local regulation (zoning ordinance) would apply to "barn weddings" if allowable. As mentioned previously, the zoning ordinance does not currently allow "barn events" or any similar use in the A-1, Agricultural zoning district by right or with a special use permit.

- Staff Note I: Section 9.25, Wineries, 9.25.6 Additional Conditional Uses (b) allows for "special events" with a special use permit. "Special events" and the associated standards for review are defined in the section and could potentially be interpreted as a similar use to the applicant's amendment request.

Relevant Sections of Zoning Ordinance:

6.11 A-1: AGRICULTURAL DISTRICT [attached]

9.25 WINERIES [attached]

Staff Discussion (continued from August 22, 2011):

This is a zoning ordinance amendment request, and as such there is no site plan for you to review and consider. A zoning designation decision should be made based on whether or not it is appropriate to the community and its master land use planning for a piece of property to potentially be available to any and all uses allowed with the proposed zoning ordinance amendment. Such decisions should not be based on presentation of a particular future use concept that may or may not come to pass. It should be made based on the township's established master plan, future land use plan, potential impacts on or availability of infrastructure, potential impacts to the natural environment, and the land use needs of the community.

The Planning Commission determined at the August 22, 2011 Special Meeting that the zoning ordinance amendment request was potentially viable and warranted further research by staff. The Planning Commission noted that the request did not apply to the only the applicant and "barn functions" but instead to the entire A-1 zoning district and various "special events".

The Commission tasked Staff with the development of language that outlines options for definitions and zoning ordinance sections associated with the potential inclusion of "special events" in the A1, Agricultural zoning district. Staff researched other local zoning ordinances as well as the Right to Farm Act and associated GAAMP requirements and suggestions. Staff also studied the language in our current zoning ordinance, specifically, the "special events" allowed in Section 9.25.6 Additional Conditional Uses (Wineries).

Option I: It is Staff's opinion that the events and functions currently allowed in Section 9.25.6(b) could be modified to apply the current, "special events" allowed by SUP at wineries, throughout the A-1 Agricultural District. Staff modification of Section 9.25.6(b) is as follows:

Special Events – A-1, Agricultural Zoning District – Authorized by SUP

Special Events may be permitted in the A-1, Agricultural Zoning District after receiving approval from the Township Board. The Township Board may impose reasonable conditions on the applicant including requiring that the applicant provide written evidence of insurance in amounts that are deemed reasonable by the Township Board or the Township attorney, naming Acme Township as an additional insured. Special Events are subject to the following standards:

Special Events: Activities not directly related to agricultural or wine production, including but not limited to: wine appreciation/education seminars, non-profit benefit functions, weddings, wine and catered food events, seasonal natural events (i.e. mushroom hunts), harvest festivals, public gatherings and agricultural research.

1. The main Special Event structure or area shall be located on a parcel of no less than 40 acres and occupy no more than 4,000 square feet of floor area; floor area excludes parking area.
2. Only one Special Event may be held on the parcel on any given day.
3. Off-street parking areas shall meet the following additional standards:
 - i. All off-street parking areas shall be set back 40 feet from all lot lines.
 - ii. All exterior lighting shall conform with the current requirements of Section 7.5.4b6. Exterior lighting shall only be in use during the hours of operation permitted by item D below.
 - iii. All light poles shall be no taller than 20 feet in height.
 - iv. All exterior light and lighting fixtures shall be subject to review and approval by Acme Township.
 - v. Parking areas associated with any banquet hall or public gathering area may consist of gravel or another pervious surface, provided it meets the approval of the Township Board.
4. The property owner/manager must have a written statement from the County Health Department indicating the maximum number of persons that can be accommodated with existing toilet facilities. If allowed by the Township Board, portable toilets may be used for special occasions to accommodate guests exceeding the aforementioned number. Any temporary restroom facilities must be removed within two business days of the Special Event.
5. Agricultural activities may be performed at any hour required in accordance with the Michigan Right to Farm Act. Retail sales and tours must observe the following hours

of operation:

- i. Daylight Savings Time: 9:00 a.m. to 9:00 p.m.**
 - ii. Standard Time: 9:00 a.m. to 7:00 p.m.**
- 6. Special Events may take place between the hours of 9:00 a.m. and 10:00 p.m. Sunday through Thursday and between 9:00 a.m. and 11:00 p.m. Friday through Saturday.**
 - 7. With the exception of hors d'oeuvres, snacks, or products regularly produced on the premises, food provided for the event must be prepared off site.**
 - 8. Any music or entertainment provided for the Special Event must be for background purposes and not a featured item of the event. Sound amplifiers may be permitted as determined by the Township Board. The Board, in its review of any Special Event, may require that the noise levels be monitored and limited if necessary.**
 - 9. An "Event Plan" for Special Events containing the following information shall be submitted and must be approved by the Township Board upon review by the Planning Commission as a part of the initial Special Use Permit:**
 - i. Plan drawn to an appropriate scale for effective interpretation.**
 - ii. Property boundaries, onsite parking areas, and access roads.**
 - iii. Existing uses on adjacent properties and distance of dwellings within 500 feet of the property boundary.**
 - iv. Maximum number of Special Events to be conducted per calendar year.**
 - v. Existing and proposed structures with maximum capacity of each building where guests have access as established by the Fire Marshal.**
 - vi. Location of any temporary toilet facilities that may be required.**
 - vii. A written description of the planned Special Events providing type of gathering such as wine appreciation, education seminar, wine and catered food event, vineyard harvest festival, non-profit benefit, wedding, seasonal natural event and/or agricultural research and demonstration project.**
 - viii. Maximum number of guests for any event.**
 - ix. The property owner /manager will maintain a log of the Special Events occurring on the property including dates, group identity, times, and number of guests.**

- x. **The location and amount of time prior to an event for erection of temporary structures which are allowed and time for removal after the event.**
 - xi. **The property owner/manager shall submit an events calendar to the Planning Commission once per calendar year. The submitted calendar shall be reviewed at a public hearing only if the originally approved maximum number of events per year has generated nuisance complaints from area residents and/or property owners.**
- 10. Standards for Review: The Planning Commission shall review the Event Plan for conformance with the standards of the zoning district in which located and shall verify that the following standards have been satisfied:**
- i. **One accessory building, to the main Special Event facility, may be erected for Special Events. The maximum size of the building shall be as determined according to item vii below.**
 - ii. **No outdoor Special Events shall be permitted, except as may be permitted according to item vii below.**
 - iii. **Any building to be used for Special Events shall be located at least 100 feet from any property line and at least 200 feet from any pre-existing neighboring residence.**
 - iv. **The number of people allowed to attend Special Events shall be limited to the number of people allowed to occupy the structure as regulated by the Fire Marshall, except as may be permitted according to item vii below.**
 - v. **Adequate parking shall be required per Section 7.5.3. Exceptions for Special Events, with respect to the surfacing and lighting, may be permitted by the Township Board.**
 - vi. **Additional conditions for vegetative screening, lighting, odor control, dust control, noise control, traffic, trespass, hours of operation or other impacts may be required by the Township Board upon recommendation by the Planning Commission to mitigate potential impacts on neighboring properties.**
 - vii. **Additional retail or Special Event building size may be allowed according to the following conditions:**
 - a. **For each additional and contiguous ten acres provided above the minimum parcel size, an additional 1,000 square feet of building may be allowed.**
 - b. **For each additional 100 feet the buildings and parking areas are set back from the property line above the minimum setback, an**

additional 500 square feet of building may be allowed.

- c. If 50 percent or more of the property is permanently protected via a conservation easement, an additional 1,000 square feet of building may be allowed.**
- d. For each additional ten percent of the total property that is protected above the fifty in item c. above, an additional 250 square feet building may be allowed.**
- e. Allowance for outdoor events may be considered provided they will not negatively impact neighboring properties. Any and all outdoor events and Special Events shall be considered and may be approved as part of the Event Plan.**

11. Any Special Events other than those included in the original approval must have additional review by the Planning Commission. The scope of the additional review will be determined by the Commission at a preliminary or public hearing with final approval to be granted by the Township Board in the form of a Special Use Permit (SUP) amendment.

The above is an example of prospective ordinance amendment language from Staff. The language provided is preliminary, and is therefore meant to be discussed thoroughly with the Planning Commission and legal counsel, and is intended to initiate the development of language best suited for a potential zoning ordinance amendment. The Planning Commission has the ability to reject or revise the above Staff modification of Section 9.25.6(b) in its entirety, and/or develop language independent from the current zoning ordinance.

If the Staff developed language, or a subsequent version thereof, is to be adopted by the Planning Commission, Staff recommends that Section 9.25.6(b) be removed from its current location (Wineries) and inserted as an addition to Section 6.11.3 Uses Permitted by Special Use Permit (A-1, Agricultural) as new subsection "X". This relocation would allow for the "special uses" to be permitted uses throughout the A-1 zoning district, including but not exclusive to, wineries.

- **Staff Note II:** in certain Option I situations, it may be appropriate to permit staff to approve or deny requests for individual or case by case "special events" without meeting with the Planning Commission or Township Board, and at minimal cost to the resident, provided the applicant supplies ample information and liability, for the property and associated event structures, proving the event will pose no impact to the health, safety, and welfare of the general public or Acme Township.
 - Example: if a Township resident were to request permission to hold a single "special event" with such as a harvest festival, it may be advantageous (time, money, etc.) to all parties involved (Resident, PC, Board, Staff, etc.) to afford Staff the ability to approve or deny the residents request without requiring meetings

and associated approval or denial from both the Planning Commission and Township Board.

Option II: The Planning Commission could develop a definition for “Special Events” and add “Special Events” to the Uses Permitted by Special Use Permit in the A-1, Agricultural zoning district. The “Special Events” SUP in the A-1 district could contain the condition that each “Special Event” SUP must be presented to the Commission with an “event plan” where individual “Special Event” regulation would be set to each SUP request. Option II would allow the Commission to regulate individual “Special Events” on a case by case basis and provide approval or denial of both individual and multiple events with “event plans”. Option II would differ from Option I by granting the Planning Commission the right to provide individual regulation to “Special Events” rather than the Acme Township Zoning Ordinance providing regulation for all “Special Events.”

- Example: A Township resident or property owner/manager in the A-1 district could come before the Planning Commission and apply for an SUP to hold a “Special Event(s)” such as a wedding(s) in a barn on their property. The Commission would then have the right to provide regulation on the event(s) such as parking, lighting, restrooms, handicap accessibility, etc. The Commission would then have the opportunity to approve or deny the SUP after discussing the regulations with the Township resident or property owner/manager.
- Staff Note III: The current charge to applicants for the Planning Commission to Review a Special Use Permit is \$800 and is valid for one year. Potential consideration by the Planning Commission could be made to adjust the cost of SUP review with regard to “special events” in the A-1 district. Costs could potentially be attributed to individual events, events per month/year/season, per approved “event plan”, etc.
 - Example: using the staff developed language above; one wedding in a barn would cost \$800 for review of the SUP and approval of the “event plan”, similarly, 20 weddings at the same barn with an approved SUP and “event plan” would cost the same \$800 for Commission review.

To assist the Planning Commission in determining whether the requested zoning ordinance amendment is further warranted, if and when a public hearing is set, staff will provide information to assist the Commission’s review and deliberation. The resulting report will be provided to both the Commission and applicant as far in advance of the scheduled meeting as possible.

Potential Courses of Action:

Move to schedule a public hearing at a regular Planning Commission meeting date following the development and adoption of language satisfactory to Acme Township legal counsel relating to the potential inclusion of “special events” in the Acme Township Zoning Ordinance.

[If the Commission decides to move forward with a public hearing on the proposed zoning ordinance amendment, it is Staff's opinion that because of the nature of the amendment request and number of properties potentially affected, public notice should not only include property owners within 300', but also, members of the local agricultural community/zoning district, associated local agriculturally focused boards and committees, etc.]

Or

Move to schedule a preliminary hearing to a regular Planning Commission meeting date following the development of amendment language satisfactory to the Planning Commission and Acme Township legal counsel relating to the potential inclusion of "special events" in the Acme Township Zoning Ordinance.

Or

Move to deny the applicant's request for the zoning ordinance amendment, providing findings of fact from tonight's meeting.

Or

Table the discussion for a later meeting.