

**Minutes of the regular meeting of the Georgetown Township Planning Commission, held
Wednesday, October 2, 2019**

Meeting called to order by Chairman Smit at 7:00 p.m.

Present: Jessica Ulberg, Tim Smit, Josiah Samy, Tom Healy, Jeannine Bolhouse, Richard VanderKlok,

Absent: Donna Ferguson

Also present: Mannette Minier, Zoning Administrator

#191002-01 – Agenda for October 2, 2019

Moved by Richard VanderKlok, seconded by Jessica Ulberg, to approve the agenda as submitted.

MOTION CARRIED UNANIMOUSLY.

#191002-02 – Minutes of the September 4, 2019 meeting

Moved by Richard VanderKlok, seconded by Jessica Ulberg, to approve the minutes as presented.

MOTION CARRIED UNANIMOUSLY.

#191002-03 – Public Hearing - (SUP1904) Richard Strengholt, 6371 Walton Heath Dr., is requesting to have a bed and breakfast establishment, under Sec. 8.3(M) and Sec. 20.4(D), on a parcel of land described as P.P. # 70-14-30-201-001, located at 6371 Walton Heath Dr., in a (LDR) Low Density Residential district, Georgetown Township, Ottawa County, MI ([application](#), [survey](#))

The chairperson stated that the Township did not have the authority to enforce the Homeowners Association covenants.

Richard Strengholt, 6371 Walton Heath Dr., presented the request and noted the following. He would rent out two to three rooms and planned to mostly just use the lower level. He has parking in his driveway for up to six cars. His house is the first one in the subdivision off Port Sheldon.

The Zoning Administrator presented a [staff report](#) and noted the following. The Township has no authority whatsoever to enforce Homeowners Association covenants. The Township received numerous letters and emails from residents who are opposed to the bed and breakfast special use permit. Most mention that this use violates their Homeowners Association covenants. The Township has no authority to administer those covenants. The Township gets its authority to zone from the Michigan Zoning Enabling Act and the Township adopts ordinances in accordance with the State Law. The Planning Commission only has the authority to administer the Zoning Ordinance. The Michigan Zoning Enabling Act states that a special use permit shall be approved if it meets the standards in the Zoning Ordinance. The Planning Commission plans to discuss possible revisions to the Bed and Breakfast ordinance. However, the applicant applied under the ordinance that is currently in effect and his application will be reviewed as per the standards that are currently in effect.

Richard VanderKlok said that all the standards in the Zoning Ordinance have been met and none are questionable. He said that if the decision is to approve the special use permit, condition should be added.

Jeannine Bolhouse asked if this was the applicant's primary residence and was told yes. She asked if the lower level was the rental and if the applicant used the rest of the house as his residence.

The applicant stated that the two bedrooms in the lower level were rented out and occasionally the third bedroom on the main level was used.

Jeannine Bolhouse clarified that the vehicles would all be parked in the driveway and she asked about the check in and check out times.

The applicant stated that the check in was no later than 7:00 p.m. and departure was at 1:00 p.m.

Jeannine Bolhouse asked if he would be serving breakfast and was told no. She asked if the special use permit went with the person or the property.

The Zoning Administrator said that it stayed with the property.

Josiah Samy stated the following. He visited the property and read all the letters. He was concerned about the hill and the safety question. The cars need to be kept in the driveway. All the standards appear to be met. The Planning Commission has no authority to enforce the Homeowners Association covenants.

Tim Smit said that all the standards in the ordinance have been met and the parked vehicles should only be in the driveway.

Jessica Ulberg said that the request meets the standards and that parking should only be in the driveway. She said that the number of rooms met the ordinance.

Tom Healy stated the following. He concurred that the specific standards and the general standards in the ordinance were met for a special use approval. If the standards of the ordinance are met, the Planning Commission is compelled by the requirements in the Zoning Enabling Act to approve the special use permit. The parking situation has been addressed by requiring vehicles to only park in the driveway. He supports granting the special use permit.

The chairman opened the public hearing and stated that the numerous letters received by the Township would be entered into the record.

Hugh Eisen, 6031 Sunningdale Dr., stated the following. If cars are parked on the street people driving cannot see oncoming traffic. There are problems with excessive speed. You cannot see the area. If someone rents a room there, they will want to drive through the neighborhood to see it and there are problems with speed.

Tom Topolski, 6295 Summerhill Dr., asked if the resident had to be home.

Lief Haugen, 6104 Summerhill Dr., said that he had sent a letter and he chose this development to build his custom home. The reason he built here was because of the Homeowners Association covenants.

James Jorgensen, 6347 Walton Health, stated the following. He is the direct neighbor. His property values will decrease and be damaged. He is living next to a Motel 6. This is supposed to

be a single family neighborhood and this is outside the bounds. Enforcement has to be there. The reviews on the website stated to text him if he was needed.

David Deavila, 6344 Summerhill, stated the following. They say they have no power to override. What happens if a registered sex offender abducts and murders his grandchild. He would go after the applicant and he would go after the Planning Commission members.

Kate Phelps, 4460 Sunningdale Ct., stated the following. If it meets the requirements it sounds like it is a done deal. They didn't buy into this. It changed the look. A rental can have up to ten people. It is not a nice thing to have, especially in a community where people know their neighbors.

Bryan Mecklenburg, 6339 Walton Health Dr., said that he wanted to be sure that this was his principal residence.

Sherrie Brink, 6220 Summerhill Dr., stated the following. This is an upscale community with covenants. They never thought that a business would open in this residential area. She was concerned with parking. The Homeowners Association covenants say that signs are not allowed.

Cheryl Deavila, 6344 Summerhill Dr., stated the following. When the laws for zoning were set, were they relevant before AirBnBs were available and were there subsequent laws. She was concerned for the health, safety and welfare and for the safety of the children. She didn't want to have to worry about excess traffic. If he has homestead on this property, is this address on his driver's license.

David VanWyk, 6315 Walton Health Dr., said that he supported the covenants for 22 years that this is a single family community with no signs. He took them to be counted upon, but they were being overruled and there should be 750 feet between the bed and breakfast establishments.

David Deavila, 6344 Summerhill, said that there is no power for the association if they were not allowed to prohibit this and the Planning Commission cannot approve this because they should not have the power to overrule the association.

Jay Phelps, 4460 Sunningdale Ct., said that this is only for the benefit of Mr. Strengholt and it will have negative effects.

Ken Liupakka, 6196 Summerhill Dr., asked why he wants to come and break the covenants and if he wants to do this he should go to an area where it is allowed.

Don Goodger, 6268 Wynestone Ct., said that the reason he bought a house in this development was because of the covenants.

The chairman closed the public hearing.

Tim Smit stated the following. There have been many comments about the Homeowners Association and the Planning Commission only has the authority to enforce the Zoning Ordinance. The HOA belongs to the residents and they own it. The Planning Commission has no authority to enforce the covenants. That is up to the residents in the HOA. To address the parking and safety concerns, the vehicles will be required to parking in the driveway. If the applicant breaks a

condition of approval of the special use permit, it would become an issue for zoning enforcement. This is his principal residence but he has the right to be gone for weeks on vacation.

The applicant said that he likes to be there to supervise.

Tim Smit stated the following. This falls under the current bed and breakfast ordinance. It is like a special use permit for a group daycare where the Planning Commission has to grant it if all the conditions are met. As per the Michigan Zoning Enabling Act, if it meets the standards in the Zoning Ordinance, the Planning Commission is required to approve it. They will be reviewing the ordinance, but this ordinance is currently in effect. The last application for a bed and breakfast had no one come to the public hearing.

Richard VanderKlok stated the following. If this is approved, a condition of approval will be added that they can only have one four-square foot sign and it would be required to be affixed to the residence. The sign cannot be lit. If this is approved, a condition will be added that all parking will be required to be located on the driveway and not on the street. This addresses the safety of cars parking on the street and obstructing the view for vehicles. If the applicant does not abide by the conditions of approval and there are complaints, the special use permit can be revoked.

Jeannine Bolhouse stated the following. There seems to be confusion with the residents about the laws and ordinances dealing with the Township versus the laws for Home Owners' covenants and by-laws. The Township has all kinds of different zoning ordinances which regulate things such as the size of a house and lot, having chickens, and accessory buildings, all of which are allowed if they meet the set standards in the ordinances. If they meet the zoning requirements, they are allowed. In contrast, the Homeowners Association is a personal contract between the people and has nothing to do with Township ordinances. The Planning Commission cannot enforce a contract signed by the residents. Even if the Township allows things such as chickens or a sign, the Homeowners Association can say no; however, it is the Homeowners Association's responsibility to enforce their covenants and by-laws. The Township can only enforce the Zoning Ordinances and the State Law. The Homeowners Association has to enforce their own covenants. The Township has no ability to require anyone to abide by the covenants and by-laws. Rather it is up to the Homeowners Association, as a group, how to enforce their own contract and covenants. The Planning Commission has laws and ordinances to following and that is what they do. If this doesn't meet the contract, the Homeowners Association needs to enforce their contract.

Josiah Samy said that as per the Michigan Zoning Enabling Act, the Planning Commission has the authority to enforce the Township Zoning Ordinances and has to grant the special use permit if it meets the zoning standards; however, the Planning Commission cannot enforce the Homeowners Association by-laws.

Tom Healy stated the following. The information provided by Jeannine Bolhouse was helpful. If the Homeowners Association has covenants which prohibit parking on the road and prohibit signs, they would have to provide an avenue for the enforcement for their covenants.

Moved by Richard VanderKlok, seconded by Josiah Samy, to adopt the staff report as finding of fact and to approve Special Use Permit Special Use Permit (SUP1904) Richard Strengholt, 6371 Walton Heath Dr., to have a bed and breakfast establishment, under Sec. 8.3(M) and Sec. 20.4(D), on a parcel of land described as P.P. # 70-14-30-201-001, located at 6371 Walton Heath Dr., in a (LDR) Low Density Residential district, Georgetown Township, Ottawa County, MI, based on the findings that all applicable standards of the ordinance

have been met including the general special use standards in Sec. 20.3 and the specific standards in Sec. 20.4(N), and with the following conditions:

1. The use of a bed and breakfast shall only be established in the detached single family dwelling.
2. Parking for the use shall be located off-street and on the paved driveway or in the garage.
3. Exterior refuse storage facilities beyond what might normally be expected for a detached single family dwelling shall be prohibited.
4. The property shall be maintained in a manner compatible with the surrounding neighborhood.
5. Only one sign shall be allowed for identification purposes. Such sign shall be non-illuminated and un-animated, be mounted flat against the wall of the principal building and not exceed four (4) square feet in area. A sign permit shall be obtained for any sign.
6. The establishment shall contain the principal residence of the operator.
7. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and so forth.
8. Breakfast (as part of this use) may be served only to the operator's family, employees, and overnight guests,

Richard VanderKlok stated that the ancillary use of renting bikes is not allowed as per condition number 7 and the option must be removed from the website. He said that as everyone is aware, as per the Michigan Zoning Enabling Act, the special use shall be approved if it meets the standards and that is what the ZBA has done.

Jeannine Bolhouse said that she appreciates the frustration of the residents because this is difficult since they don't want it, but the Planning Commission is compelled to approve it based on law if it meets the standards.

Josiah Samy said that the Planning Commissioners are members of the community who live and work here, and they have to follow State Law. He said that the residents have the option to enforce their own covenants as a group.

Tim Smit thanked the residents for coming and said that they are required to follow the Zoning Enabling Act. He said that the Homeowners Association would have to follow through to enforce their covenants.

Jessica Ulberg said that although she shares their frustration, they have to follow the law.

Tom Healy thanked the residents for the civil discourse.

MOTION CARRIED UNANIMOUSLY.

Moved by Richard VanderKlok, seconded by Josiah Samy, to adopt the staff report as finding of fact and to approve the GIS drawing and submittal materials, as presented, based on the findings that all applicable standards of the ordinance have been met, and with the items not shown on the plan as listed in Sec. 19.4 waived.

1. The Planning Commission accepts the drawing as presented showing only the items on the plan.

2. The Planning Commission waives all elements in the Zoning Ordinance that the proposal does not meet, **except for the conditions of approval.**

MOTION CARRIED UNANIMOUSLY.

#191002-04 – Other Business

The Zoning Administrator presented options for discussion for revising the Bed and Breakfast ordinance. There was discussion.

Moved by Richard VanderKlok, seconded by Jessica Ulberg, to initiate the process to begin the review the ordinance as presented, including removing the requirements for public water and sanitary sewer service and to remove the requirement that the establishment is located on a paved street.

The Planning Commission directed the Zoning Administrator to obtain sample ordinances for review at a future meeting.

Jeannine Bolhouse said that the ordinance should contain a requirement that the establishments be located a certain distance apart, but they should research the number.

MOTION CARRIED UNANIMOUSLY.

#191002-05 – Public Comments

There were public comments.

#191002-06 – Adjournment

The meeting was adjourned at 8:15 p.m.