MINUTES
City of Alpena Planning Commission
Regular Meeting (Council Chambers and Virtual)
January 11, 2022
Alpena, Michigan

CALL TO ORDER:

The regular meeting of the Planning Commission was called to order at 6:40 p.m. by Paul Sabourin, Planning Commission Chairman.

ROLL CALL: PLANNING COMMISSION

PRESENT: Wojda, Boboltz (attended virtually), Vanwagoner, Kostelic, Sabourin, Bauer, Peterson

ABSENT: Gilmore

STAFF: Rachel Smolinski (City Manager), Montiel Birmingham (Planning, Development, and Zoning Director), Donald Gilmet (Contractual Staff), Kathleen Sauve (Recording Secretary)

Sabourin welcomed new Planning Commission member Ashley Peterson.

PLEDGE OF ALLEGIANCE: Pledge of Allegiance was recited.

APPROVAL OF AGENDA: Agenda was approved as corrected.

APPROVAL OF MINUTES: Meeting December 14, 2021, minutes were approved as printed.

PUBLIC HEARING AND COMMISSION ACTION: Before the first case is heard, Sabourin states that he would like to recuse himself from participating in Case #22-SU-01, due to his personal and business relationship with Mr. Powell.

VanWagoner states that because of the same reasons as Sabourin, he feels he should also recuse himself from participating in Case #22-SU-01.

Wojda asks Birmingham what the by-laws say regarding a quorum for voting purposes. He asks if it is the majority of the entire board, or the majority of the members present. Birmingham states that the by-laws say that it is the majority of the total amount of members. Wojda asks how many need to be present for a vote and Birmingham confirms there is a lack of clarity in the by-laws. Wojda requests the Robert’s Rules of Order be reviewed to determine the number of votes to transact business to ensure any actions taken are valid. Wojda states that relying on an online search of Robert’s Rules of Order, assuming that our by-laws do not say that it has to be a majority of the membership, the default rule under Robert’s Rules, which our by-laws refer back to, is that the majority of those present can transact business on behalf of this commission.

Wojda makes a motion that both Sabourin and VanWagoner are permitted to abstain themselves from discussion, deliberation and voting on this public hearing #22-SU-01.

Bauer seconded the motion.

Before the vote, Gilmet states that under Robert’s Rule of Order, there is clarification on what makes a conflict of interest. It says that “No member can be compelled to refrain from voting simply because it is perceived that he or she may have some conflict of interest with respect to the motion under consideration if a member has a direct personal, pecuniary, monetary interest in a motion under consideration not common to other members. The role of Robert’s Rules of Order is that the member should not vote on such a motion, but he cannot be compelled to refrain.” Gilmet states that having a relationship with Powell, or having done work for him in the past, would not necessarily preclude you from voting.

Sabourin states that his business relationship with Powell did not pertain to specific property involved in this case. Wojda asks Sabourin if his relationship with Powell would color his decision today in this case. Sabourin says he does not think so, but he wanted to make it known that if he voted one way, how it could look, and if he voted the other way how it could look.

Wojda moves to withdraw his earlier motion and replace it with a motion to allow Sabourin and VanWagoner to continue participation in this hearing.

Kostelic seconded the motion.

Motion approved by a vote of 6-0.

**Case # 22-SU-01** – Larry Powell, has requested the property he owns at 124 E. Clark St. be rezoned from R-2 to R-T to allow for a residential duplex rental dwelling.

Montiel Birmingham presented the Finding of Fact report and recommendation of approval. (See Appendix A & B).

FAVOR: Grace Marshall, Broker/Owner of Up North Property Services, stated that they currently manage the property on Mr. Powell’s behalf. She also stated that she was the property manager for the previous owner, which also used the property as a duplex. Mr. Powell purchased it as a duplex, and the use has not changed. She stated that they are on top of any concerns that may be addressed by anyone in the neighborhood and that they maintain the property in the summer. She addressed a letter of opposition received stating that there is not enough parking and confirmed there is actually enough parking for about eight vehicles if not more. There is alley access off the back of the building for additional parking. She said there has never been a problem at 124 E. Clark Street, and she does not think Mr. Powell should be penalized because previous people had converted the unit. It has had separate access to each unit since they have managed the property, which has been at least six years, if not more. She says it adjoins the Salvation Army parking lot and the neighborhood remains quiet.

OPPOSITION: None.

With no other public in attendance in person or virtual, the public hearing was closed by Sabourin at 7:04 pm for deliberation.

Wojda asked, when it was converted to a duplex without permits, did it meet all standards in terms of building codes. Birmingham stated that is an additional review that would need to be taken if this was approved; there has been an inspector there who inspected the bottom apartment, and while he was there he did a walk-through of the upper unit to make sure there was not anything concerning. Gilmet stated that the inspection Steve did initially on the second unit was for life/health/safety and there was nothing out of the ordinary; we did not report it as an official inspection of a duplex due to the fact that it had a certificate of occupancy as a single-family home. He stated that if the board approved the rezoning request, Mr. Powell will have to apply for a building permit and anything done without building permits will be looked at; he will need a building permit for change of occupancy from single family residence to a duplex.

Sabourin asked if Mr. Powell was aware of all the above mentioned by Gilmet. Mr. Powell states that he was aware of it all except the building permit.

Gilmet said some of the things that would apply to a new duplex, would now apply to this because the last the city knew, from city records, it was a single-family residence and was never converted to a duplex through the legal process of obtaining a building permit.

Sabourin asks Mr. Powell if he understands. Powell confirms he understands.

VanWagoner asked Gilmet how often the city inspects rental properties. Gilmet said the city was at this property in 2018 and at the time it was registered by the previous owner as a single-family residence. The downstairs was being inspected, and the city’s understanding at the time was that the upstairs was not being used based on the documents he could find from Mike Kieliszewski (previous building inspector), and everything was fine. Gilmet further explains that the only reason we knew it was a duplex three years later (a little more than three years due to Covid), was due to a rental inspection of the single-family residence, as what had been paid for, and then the property agent there with the inspector asked him if he wanted to look at the upstairs. Steve agreed, but this inspection was not counted as an official inspection due to the fact that he was only there to inspect what we knew to be a single-family home. Gilmet stated that Dick Smigelski was the former owner of the property, and he had applied for a rezoning to convert it to a duplex and then he stopped the process for whatever reason; initially he had been stopped by the building official as well for illegally turning it into a duplex. He dropped his request and therefore was only issued a certificate of occupancy for a single-family residence.

VanWagoner then asks Gilmet if the Building Inspector looked throughout the entire building when doing a rental inspection. Gilmet confirmed they only look at the portion that is being rented and that a landlord could have an upstairs and only rent the downstairs. He says if it is not accessible by the tenant, then we do not inspect it.

Kostelic addresses Marshall, inquiring about handling garbage, adequate parking, and snow removal? Marshall confirmed that the tenants are responsible for snow removal. Kostelic asked if any of the tenants have ever parked on the lawn in the past, or anything similar. Marshall responded no. Kostelic stated that in the photos provided the overall upkeep of the house is very good and it wouldn’t be an issue with the new blight ordinance. She said that if you look at the upkeep, it is obvious that Mr. Powell is doing a good job of making sure the home isn’t causing any unwanted nuisance from the outside. Kostelic asks if there are tenants in the unregistered upstairs unit. Marshall responded yes, and that they have been living there for at least two and a half years. Kostelic asked if they are long term renters and Marshall responded yes. Kostelic said she believed a long-term tenant would be more likely to have pride in their space. Kostelic said she feels all potential issues have been addressed and she has no issues with it.

Gilmet adds that the City finds unregistered rental units a few times every year and the way that we generally find is through normal code enforcement such as garbage scattered, grass not cut, and sidewalks not shoveled. He explained that he went back into the records of code enforcement on the property and there were none; so, to alleviate some concerns that anybody may have, the upkeep is obviously very good on the property, otherwise we would have been there for other reasons. He said that is the reason we didn’t know about it until the inspection, because we have not had any problems of any kind at this house.

Motion made by Wojda to adopt the rezoning standards and findings regarding the rezoning standards set forth in Appendix A of the packet, and based upon that, approve the rezoning request, subject to obtaining inspections and obtaining proper permits for change of use.

Kostelic seconded the motion.

Approved by vote of 6-0.

**Case # 22-TXT-01** – Adult use Marihuana Text Amendment – Birmingham presented the board with Appendix C, which explains the changes to the City of Alpena Zoning Ordinance Articles 2, 5 and 7 to add ordinances specific to Adult Use Marihuana including but not limited to definitions, zoning districts, Use Matrix and establishments. She explained that the reason for these additions to the Zoning Ordinance is because of the approval by city council to allow recreational marihuana sales.

Discussions by board members regarding the specific age of “Adult” referenced in the Zoning Ordinance and clarification on that. It was determined to follow the definitions as outlined by the state of Michigan.

As there were no public in attendance, this public hearing was closed at 7:31pm for board discussions.

Motion made by Bauer to adopt the amendment to the City of Alpena Zoning Ordinance Article 2, Article 5, and Article 7 regarding Adult-Use Marihuana.

Motion seconded by Peterson.

Motion approved by vote 6-0.

UNFINISHED BUSINESS: New standard meeting time of 6:00 pm agreed upon by all Planning Commission members.

Birmingham gave an overview of the suggested amendments to the by-laws that were discussed at the last Planning Commission meeting as seen in Appendix D of the meeting packet. Board members discussed the proposed amendments and agreed upon having another reading at the next planning commission meeting which would summarize all changes discussed.

NEW BUSINESS: None

COMMUNICATIONS OR REPORTS: Birmingham brought the Planning Commission up to date on City Council action of approving the Conditional Rezoning Ordinance.

Birmingham also informed members of an Outdoor Dining Ordinance in the works, in collaboration with the Downtown Development Authority.

PUBLIC COMMENT: No public present

MEMBERS’ COMMENTS: Sabourin inquired about electric car charging stations and whether there has been any progress on that with the DDA. Wojda states that he believes it is still at the committee level and no action has been taken by the DDA as of yet. Bauer stated she feels Alpena needs a super charger for electric cars and feels that at some point the Planning Commission will take it up. She states that it is more about “getting ready” standards, than saying “you’ve got to do this”.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:12 p.m., by Sabourin, Planning Commission Chairman.

 Steve Gilmore, Secretary