Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

Call to Order: 6:00 pm by Chairperson Sagasser

Roll Call:

Present: Chairperson Sagasser, Vice-Chairperson Hoffman, Secretary McCarthy, Ms. Bono, Mr. Colosimo, Mr. Brown, Mr. Glasser

Absent: None

Staff Present: Ms. Boyak-Wohlfeil

Public Present**:** Brittany Stripp, Seidell Architects representative, Denny Freeman, Melissa Zaborowski, Alison Mogle

Chairperson Sagasser welcomed the new members to the Zoning Board of Appeals and asked each to speak.

Each member gave a short introduction of themselves.

Approval of Minutes from November 24, 2015:

Motion made to approve minutes as presented by Mr. Hoffman; Seconded by Mr. McCarthy.

Motion approved unanimously.

Citizen Comment Regarding Items not on the Agenda: None

Public Hearing:

Interpretation of Comparable Use:

A request for an interpretation on the allowance of a banquet hall as a comparable use in the AR/Agricultural Zoning District
PZBA16-001 Freeman
080-036-400-005-09
2838 Wilkinson Rd Gaylord, MI
Section 21.44 Unlisted Property Use

Public hearing open: 6:05 pm

Brittany Stripp, Seidell Architects representative, stated they were working with Mr. Freeman to remodel his existing barn into a venue for weddings. She presented a drawing of the barn and stated it would be open to the public on a seasonal basis for weekend use. There would be a deck for pictures and possible dining but the entertainment would remain inside. She explained they were looking for interpretation of a comparable use in the zoning district stating the Knights of Columbus Hall was right down the street in the same district. The K of C Hall was allowed as a venue for weddings and other banquets and was open year round.

Denny Freeman stated they had recently enjoyed holding several family weddings and gatherings on his property and as part of his downsizing, the family discussed allowing other people to enjoy the facility for

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that same use. He stated he had heard from one of his neighbors who objected because of the possibility of fireworks and noise but after discussing the issue with them, they were satisfied.

Chairperson Sagasser asked for comments from the public present.

Melissa Zaborowski and Alison Mogle stated they were attending the meeting to show support for the wedding venue. Ms. Zaborowski stated she thought it was a good idea for the area and would be enjoyed by many brides. She was also hoping to hold her own wedding at the venue.

Public hearing closed: 6:17pm

New Business:

Interpretation of Comparable Use:

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Section 21.44 Unlisted Property Use

Chairperson Sagasser stated it was the role of the Zoning Board of Appeals to interpret whether this was a comparable use to the zoning district but not listed as such.

Chairperson Sagasser read the Exhibit List and also the letter from Mr. and Mrs. Olson, neighboring property owners, voicing their concern for loud noise. He requested it be added to the Exhibit List as *Exhibit 13* as well. *SEE ATTACHMENT 1, ATTACHMENT 2*

Chairperson Sagasser presented the Finding of Fact. *SEE ATTACHMENT 3*

He stated because the use for a *'wedding venue/banquet hall'* was not specifically listed in the Zoning Ordinance, they needed to interpret if it was an unlisted use and if so, if it was a permitted use or permitted use subject to special conditions in the AR Zoning District.

Ms. Bono stated she thought if the Ordinance allowed recreational facilities, restaurants, country clubs or private parks, she did not see much of a difference and felt it was comparable to those.

Vice Chairperson Hoffman stated they were not approving the venue itself, only whether it was considered a comparable permitted use to '*fraternal lodges*' or *'churches'* that sometimes rent out their halls or comparable to a permitted use subject to special conditions such as '*restaurants/taverns without drive-through service'*, *golf courses or country clubs*, or *'recreational facilities'*. He felt it was the latter because it would then be up to the Planning Commission to decide items such as hours of operation, noise levels permitted and other specifics.

Mr. McCarthy stated he agreed with Mr. Hoffman that it was more comparable to Section 9.2 than section 9.1 in the AR Zoning District.

Mr. Brown stated he was also in agreement with the use being more similar to uses in Section 9.2.

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Mr. Glasser stated his interpretation was a little more liberal and thought the use fell under Section 9.1. It was very similar and was a cross between a fraternal lodge and a church, which both were a permitted use by right.

Chairperson Sagasser stated he agreed it was very similar to a fraternal lodge and a church and also felt it was a permitted use. Most fraternal lodges and churches held banquets and he didn't see a need to place conditions on the use. He felt it gave the Planning Commission more room to govern.

Vice Chairperson Hoffman stated the Agricultural Resource Zoning District was designed as a quiet, rural area with less traffic; those types of things can be controlled with a special use permit. If it is a permitted use, then there is no control over the use in that zoning district and he felt it was something that should be decided by the Planning Commission.

Motion by Mr. Hoffman to interpret the wedding venue/banquet hall use as a comparable use to other *Permitted Uses Subject to Special Conditions* in the AR/Agricultural Resource Zoning District; Seconded by Mr. McCarthy.

Chairperson Sagasser asked if there was any further discussion.

Mr. Glasser thought it should be allowed by right, stating we are overregulated now and did not feel the Planning Commission should decide the scope of the operation.

Ms. Bono concurred.

Mr. Brown stated he wondered why fraternal lodges and churches were listed under Section 9.1 and other similar uses were restricted under Section 9.2.

Chairperson Sagasser stated he agreed with Mr. Glasser as having enough regulations; he did not feel another layer of bureaucracy was needed for something as benign as a banquet hall.

Ms. Boyak-Wohlfeil stated some of the uses listed under Section 9.2 were more restricted because of possible alcohol usage.

Mr. Glasser stated the scope of the use increased also in Section 9.2 along with traffic flow. The intent of the AR Zoning District is to preserve the farmland and the rural beauty of the view.

Vice Chairperson Hoffman stated the rural character of the AR Zoning District could only be preserved if some control was retained.

Chairperson Sagasser requested a roll call vote for the motion on the floor:

Roll call vote:

Sagasser:	no
Hoffman:	yes
McCarthy:	yes
Bono:	no
Colosimo:	yes
Brown:	yes
Glasser:	no

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Yes-4
No-3
Motion passes

Chairperson Sagasser told Mr. Freeman he could continue with the special use permit process.

1. Election of ZBA Officers

Mr. Sagasser nominated for Chairperson by Mr. Glasser; Seconded by Ms. Bono
Vote unanimous

Mr. Sagasser elected Chairperson

Mr. Hoffman nominated for Vice-Chairperson by Mr. Glasser; Seconded by Mr. Sagasser
Vote unanimous

Mr. Hoffman elected Vice-Chairperson

Mr. McCarthy nominated for Secretary by Ms. Bono; Seconded by Mr. Hoffman
Vote unanimous

Mr. McCarthy elected Secretary

2. Expiring Terms/Reappointment
   a. Bono
   b. McCarthy

Ms. Bono and Mr. McCarthy completed applications to be submitted to the County. They will be reappointed by the Board of Commissioners at term end.

Old Business: None

Communications: None

Adjournment: 6:42 pm by Chairperson Sagasser

Mike McCarthy, ZBA Secretary

Christine Boyak-Wohlfeil, Recording Secretary

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ATTACHMENT 1:

OTSEGO COUNTY
ZONING BOARD OF APPEALS

PZBA16-001 INTERPRETATION
FREEMAN

Exhibit List

Exhibit #1: Application for case PZBA16-001 submitted by Applicant

Exhibit #2: Otsego County Zoning Map Effective Date March 20, 2010/Amended November 25, 2014

Exhibit #3: Otsego County Zoning Ordinance Effective March 20, 2010/Amended December 15, 2015

Exhibit #4: Copy of Otsego County Equalization Department record card/Warranty Deed 0542/713

Exhibit #5: Site Plan/PZBA16-001 submitted by Representative

Exhibit #6: Letter of representation dated April 26, 2016

Exhibit #7: Public Hearing Notice

Exhibit #8: Email dated May 10, 2016 from Livingston Township Planning Commission

Exhibit #9: Maps/Dimensional, Aerial

Exhibit #10: Map and list of parties notified

Exhibit #11: Receipt #01309221

Exhibit #12: Finding of Fact/PZBA16-001

Exhibit #13: Letter from neighboring property owner dated May 23, 2016

PROPOSED

ATTACHMENT 2:

May 23, 2016

To whom it may concern:

Regarding the wedding/ venue/ banquet hall request made by Dennis Freeman:

As neighbors we would like to request the following:

So that we may continue to enjoy the sounds of nature in this rural area we ask that all loud noises be restricted to sound proofed well insulated buildings so we don't hear the noises outside .It is especially important that there be no noise after 10 P.M. .

Also we would like to request that there be no fireworks.

Karen Olson

Karen Olson

David Olson

David Olson

Exhibit 13

05/23/2016 15:10 9897323777 KAREN KOBY OLSON PAGE 01/01

ATTACHMENT 3:

OTSEGO COUNTY
ZONING BOARD OF APPEALS

PZBA16-001 INTERPRETATION
FREEMAN

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FINDING OF FACT

1. Livingston Township was presented with a case and is requesting an interpretation of the permitted use subject to special conditions; *Article 9 Section 9.2.12 Restaurants and/or taverns (without drive-through service),* listed in the AR/Agricultural Resource Zoning District as a comparable use to the *proposed wedding venue* before making their recommendation to the Planning Commission. *Exhibit #8*

2. The property is located in an AR/Agricultural Resource Zoning District. *Exhibit #2*

3. The proposed use is a lesser use than the permitted use and permitted uses subject to special conditions already listed in the AR/Agricultural Resource Zoning District. *Exhibit #3, Exhibit #5*

4. The proposed case is for a remodel and addition of an existing barn for a seasonal wedding venue. *Exhibit #1, Exhibit #5*

5. The property is 26.86 acres. *Exhibit #4*

6. The property is currently under the ownership of Dennis & Sandra Freeman. *Exhibit #4*

7. An existing banquet hall resides in the same zoning district west of the proposed property. *Exhibit #2*

8. The Public Hearing Notice was published in the Herald Times on May 17, 2016. *Exhibit #7*

9. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #10*

10. The required fees have been collected by Otsego County Land Use Services. *Exhibit #11*

11. The application deemed complete by Land Use Services May 12, 2016. *Exhibit #1*

Exhibit 12

ARTICLE 21 SPECIFIC REQUIREMENTS FOR CERTAIN USES

SECTION 21.44 UNLISTED PROPERTY USE

The County Zoning Board of Appeals shall have power on written request of a property owner in any Zoning District to classify a use not listed with a comparable permitted use in the District giving due consideration to the provisions of Article 19 of this Ordinance when declaring whether it is a use permitted by right or by special permit. If there is a comparable use, then the procedures established in this ordinance for approval of a permit for that use must next be initiated in order for the applicant to apply for the necessary permit(s). If there is no comparable use then the applicant shall be so informed and an amendment to the text of the ordinance or a rezoning would be necessary prior to establishing requested use on the property.

ARTICLE 9 AR AGRICULTURAL RESOURCE DISTRICT

INTENT

The Agricultural Resource District is intended to encourage the maintenance of productive farm and agricultural land for growing, raising or production of food stuffs. It is further intended that the productive agricultural land base of the County be maintained in agricultural activities. Other land uses and activities may be permitted if they meet the objective of retaining farmlands in an open land character.

SECTION 9.1 PRINCIPAL USES PERMITTED

No buildings or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

9.1.1 One (1) family dwelling unit

9.1.2 Two (2) family (duplex) dwellings subject to the one (1) family density requirements with a minimum lot width of three hundred (300) feet.

9.1.3 Two (2) detached single-family dwelling units may be permitted, subject to the following conditions:

9.1.3.1 There is a separation between the two (2) dwellings so the lot may be divided into two (2) legal lots with each lot having a lawful minimum width and area, with each dwelling still maintaining the front, side and rear setback as regulated in the District.

9.1.3.2 The County Health Department approves the sanitary system.

9.1.4 Growing, raising, and harvesting of agricultural products and farm livestock.

9.1.5 Woodlots, tree farms, nursery field stock, and harvesting activities

9.1.6 Buildings for storing or housing machinery, equipment, and/or livestock, including repair operations when accessory to agricultural and farm operations.

9.1.7 Experimental agricultural activities and uses related to farm research

9.1.8 Wildlife habitat and plant species preservation areas

9.1.9 Farm industries may include saw mills of a permanent or temporary nature, with assembly of green or untreated wood to a usable item for marketing, provided the operation is conducted as an accessory to a farm and that the use is two hundred (200) feet from property lines.

9.1.10 Bed and breakfast/tourist homes

9.1.11 Family and group care facilities

9.1.12 Forest production and forest harvesting operations including temporary sawmills, temporary log storage yards and related facilities.

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9.1.13 Fraternal lodges

9.1.14 Aircraft Landing Strips

9.1.15 Churches

9.1.16 Cemeteries [Permit criteria include Article 21.4]

9.1.17 Dwellings less than sixteen (16) feet wide [Permit criteria include Article 21.22]

9.1.18 Riding academies or stables [Permit criteria include Article 21.35]

9.1.19 Roadside stands (agricultural-temporary) off the road right-of-way, provided that the stand be operated only seasonally, that hours not exceed dawn to dusk, that large equipment, including semi-tractor-trailers, not be parked at the site, and that the parking requirements of Article 21.27 be observed.

9.1.20 Veterinary hospitals, clinics with indoor kennel [Permit criteria include Article 21.45]

9.1.21 Travel trailers (on private property) [Permit criteria include Article 21.33]

9.1.22 Home occupation

9.1.23 Farm buildings, in existence at the time of the adoption of this amendment and no longer used in support of agricultural interests, may be used as rental property for storage of individually owned items.

9.1.23.1 So as to alleviate noise and traffic associated with commercial activities and thus maintain the rural, open space, character of the area, the rental shall not be made into commercial enterprises.

9.1.23.2 All applicable sections of the zoning Ordinance apply.

9.1.23.3 The Zoning Administrator may opt to refer the application to the Planning Commission if there are unusual circumstances.

9.1.24 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights [Permit criteria include Article 21.46]

9.1.25 Structures for storage of the owner's personal non-farm possessions and non-commercial activities. These structures shall not be used as dwellings. Structures shall meet the size requirements of Section 21.1.3.

9.1.26 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

9.1.27 WTG Small: Permitted as an accessory use to an allowed Principal Use.

9.1.28 WTG Medium: Permitted as an Accessory Use to an allowed Principal Use.

SECTION 9.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

9.2.1 Public and private parks, recreational facilities, and public or private non-profit schools offering courses in general education when the use is not, to the extent practical, placed on soils predominantly rated as having high agricultural productivity in comparison with other farm land in Otsego County.

9.2.2 Recreation farms, dude ranches (so called), and sportsmen's clubs provided the farm land base remains essentially intact, that the number of new and/or expanded buildings be limited in scale, in so far as is practical, to that typical of a farm, and further, no activities shall cause the depletion or erosion of agricultural soils (dust, vehicle tracks, stream bank breakdown, etc.).

9.2.3 Permanent forest industries, including permanent sawmills, planing mills, veneer mills and related operations, provided:

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9.2.3.1 There is a complete clean-up of discarded wastes following the cessation of activity.

9.2.3.2 There are no nuisances imposed upon tourist service facilities or outdoor recreation uses in the immediate vicinity.

9.2.3.3 The site of the proposed use encompasses an area of at least five (5) acres.

9.2.4 Auction yards for livestock and/or agricultural equipment with accessory buildings on a minimum forty (40) acres site with a minimum width of six hundred (600) feet, provided that there is no nuisance imposed upon the surrounding farms or dwellings.

9.2.5 Commercial outdoor sport and recreational facilities, outdoor musical entertainment

9.2.6 Driving ranges

9.2.7 Game preserves

9.2.8 Gasoline stations with or without store

9.2.9 Detention facilities

9.2.10 Shooting ranges (outdoor)

9.2.11 Recreation camps, resorts or housekeeping units

9.2.12 Restaurants and/or taverns (without drive-through service)

9.2.13 Dog grooming and kennel facilities [Permit criteria include Article 21.45]

9.2.14 Golf courses and country clubs [Refer to Articles 4.2.5 and 21.11]

9.2.15 Hunt clubs (commercial)

9.2.16 Airport with appurtenant facilities, when approved by the Planning Commission after a hearing, provided the operating characteristics are deemed not to conflict with wildlife habitat areas, wilderness areas, housing areas, and facilities or uses having high concentrations of people (schools, hospitals, etc.).

9.2.17 Surface mining of gravel, sand, clay, topsoil or marl [See Article 21.25 for criteria]

9.2.18 Travel trailer courts

9.2.19 Campgrounds (commercial)

9.2.20 Race tracks

9.2.21 Wireless Telecommunications Towers and Facilities over one hundred ninety (190) feet in height, or with lights [See Article 21.46]

9.2.22 WTG Large

9.2.23 Anemometer Tower [See Article 21.47]

9.2.24 Unlisted property uses if authorized under Article 21.44.

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Exhibit 12