

**OTSEGO COUNTY  
PLANNING COMMISSION**

July 15, 2019  
6:00 PM

**MEETING WILL BE IN THE PLANNING AND ZONING MEETING ROOM LOCATED AT 1322 HAYES ROAD**

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF MINUTES: From June 17, 2019 meeting
5. CONSENT AGENDA
6. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA:  
(Please identify yourself for the record. All comments will be limited to two (2) minutes)
7. OTHER
8. PUBLIC HEARINGS:
  1. **Section 21.1 - Accessory Buildings** –Otsego County Zoning Ordinance –Text amendments  
*Proposed language pertaining to building size*
    - a. Open Public Hearing
    - b. Applicant Summary
    - c. Public Comment (3 minute limit)
    - d. Close Public Hearing
    - e. Planning Commission Discussion – Motion
  2. **Section 21.26 – Nonconformities** – Otsego County Zoning Ordinance –Text amendments  
*Proposed language pertaining to replacement of existing nonconforming structures*
    - a. Open Public Hearing
    - b. Applicant Summary
    - c. Public Comment (3 minute limit)
    - d. Close Public Hearing
    - e. Planning Commission Discussion – Motion
9. ADVERTISED CASES:
  1. **Section 21.1 - Accessory Buildings** –Otsego County Zoning Ordinance –Text amendments  
*Proposed language pertaining to building size*
  2. **Section 21.26 – Nonconformities** – Otsego County Zoning Ordinance –Text amendments  
*Proposed language pertaining to replacement of existing nonconforming structures*
10. UNFINISHED COMMISSION BUSINESS
11. NEW BUSINESS
12. REPORTS AND COMMISSION MEMBER'S COMMENTS:
  1. Otsego County Parks & Recreation report / Judy Jarecki
  2. Land Use Services  
Chris Churches: *Pines 45 Gaylord Apartment Project*  
Jim Mouch:
13. ADJOURNMENT

# Otsego County Planning Commission

Proposed Minutes for June 17 2019

**Call to Order:** 6:00pm by Chairperson Hartmann

Pledge of Allegiance

**Roll Call:**

Present: Mr. Hartmann, Mr. Arndt, Mr. Borton, Mr. Brown, Mrs. Norton, Mr. Scott, Mr. Bauman, Ms. Corfis

Absent: Mrs. Jarecki, Mr. Hilgendorf, Mr. Caverson

Staff Present: Mr. Churches, Ms. Boyak-Wohlfeil

Public Present: David Scrimger, Dollar General representative, Connie Kwapis, Ernest Kwapis, Penny Banaszak, Dan Kwapis, Brenda Kwapis, Lisa Pifer, Tim Dowker, neighboring property owners, Pete Maxwell, Randy Stults

Others Present: Haider Kazim, Otsego County Attorney, Michelle Noiro, Bagley Township Supervisor, Mike McCarthy, Charlton Township Trustee

**Approval of minutes from:** May 20, 2019

Chairperson Hartmann requested discussion on the minutes.

Mr. Scott stated he had attended the meeting but was not listed as such.

Motion made by Mr. Scott to approve minutes as presented with additions; Seconded by Mr. Arndt.

Motion approved unanimously.

**Consent Agenda:** None

**Other:** None

**Public participation for items not on the agenda:** None

**Public Hearing:**

1. *Wesley & Holly Atkinson, owners, being represented by an agent from Dollar General, applicant, request a Rezone for properties located in Charlton Township:*

021-020-100-020-01  
M-32 East  
Johannesburg, MI 49751

023-170-018-004-00 - part of  
M-32 East  
Johannesburg, MI 49751

023-170-019-003-00  
M-32 East  
Johannesburg, MI 49751

- a. *Open Public Hearing*
- b. *Applicant Summary*
- a. *Public Comment (3 minute limit)*
- b. *Close Public Hearing*
- c. *Planning Commission Discussion – Motion*

Chairperson Hartmann stated the case before them, opened the public hearing and requested comment from the applicant.

*Public hearing opened: 6:03pm*

David Scrimger, engineer for Dollar General, stated they were proposing a rezone for three (3) parcels in Charlton Township. He had attended the Township meeting and the rezone coincided with their Master Plan and had been recommended for approval to the County.

Dan Kwapis, neighboring property owner, stated he owned horses on the property next door and had concerns with the increase in public activity. The horses attracted people to his property and he did not want to be liable for anyone

# Otsego County Planning Commission

Proposed Minutes for June 17 2019

getting hurt. He felt a business on that property would increase this liability and he was also concerned with more garbage being left in the area.

Randy Stults stated the rezone request followed the Master Plan's future use for that property and it was a good use for that property.

Penney Banaszak, neighbor to the north, stated she had concerns with an increase in traffic and drivers not observing the traffic laws; it currently was a hazard. She had concerns as well with the increase in garbage.

Chairperson Hartmann asked for further comments from the public; hearing none, closed the hearing.

*Public hearing closed: 6:08pm*

## Advertised Case:

*1. Wesley & Holly Atkinson, owners, being represented by an agent from Dollar General, applicant, request a Rezone for properties located in Charlton Township:*

021-020-100-020-01  
M-32 East  
Johannesburg, MI 49751

023-170-018-004-00 - part of  
M-32 East  
Johannesburg, MI 49751

023-170-019-003-00  
M-32 East  
Johannesburg, MI 49751

Chairperson Hartmann requested comment from Charlton Township representative, Willard Brown.

Mr. Brown stated Charlton Township had reviewed the County Future Land Use Map along with Charlton's Future Land Use and both depicted that area as commercial use. Charlton Township had the entire corridor along M-32 connecting to the town center designated for business use. They had unanimously recommended the rezone to the Township Board and the Board had recommended the rezone of the three (3) parcels to the County.

Mr. Churches restated that the use was consistent with the future land use and felt it important to remain consistent with that future land use.

Mr. Arndt questioned the corralling of the horses.

Mr. Kwapis stated the horses were corralled some ways away and he had two (2) fences in place but it still did not deter people from wanting to approach the horses. He was concerned with the increase of the general public being right along his property line.

Mr. Scrimger stated Dollar General took into consideration the neighboring property owners and would work toward a solution.

Mrs. Banaszak questioned property values with the addition of the business.

Mr. Arndt, local appraiser, stated in his experience convenience stores did not affect tax values one way or the other.

Chairperson Hartmann requested further discussion; hearing none, requested a motion to accept the Finding of Fact.

Motion made by Mr. Brown to accept the Finding of Fact as presented; Seconded by Mr. Arndt.

Motion approved unanimously. *SEE ATTACHMENT 1*

Chairperson Hartmann requested two (2) motions for case PZRZ19-001, one for each zoning district.

Motion made by Mr. Brown to recommend PZRZ19-001 to the Otsego County Board of Commissioners for the rezone of two (2) parcels 021-020-100-020-01 and 023-170-019-003-00 in Charlton Township from a R1 Residential Zoning District to a B2 General Business Zoning District; Seconded by Mrs. Norton.

Motion approved unanimously.

Motion made by Mr. Brown to recommend PZRZ19-001 to the Otsego County Board of Commissioners for the rezone of a part of parcel 023-170-018-004-00 in Charlton Township from a R2 General Residential Zoning District to a B2 General Business Zoning District conditional on the division of said parcel; Seconded by Mrs. Norton.

Motion approved unanimously.

# Otsego County Planning Commission

Proposed Minutes for June 17 2019

**Unfinished Commission Business:** None

**New Business:**

1. Text Amendments – Section 21.1, Section 21.26

**Section 21.1 Accessory Buildings:**

Chairperson Hartmann requested comment from Mr. Churches.

Mr. Churches stated the proposed amendments regulating accessory buildings were as follows:

1. Changes the maximum size restrictions to be governed by the setback and lot coverage requirements in Article 17.
2. Eliminates zoning permit requirements for accessory buildings less than 200 square feet (sheds).
3. Limits the height of accessory buildings in Residential Districts within 500' of any waterfront to one story with sidewalls not exceeding 14'.

After discussion on the proposed changes, it was decided the amendment to limit the height of accessory buildings in Residential Districts within five hundred feet (500') of any waterfrontage would be sent back to committee for further discussion. The remaining changes would move forward for a public hearing at next month's meeting.

**Section 21.26 Non-Conforming Structures:**

Chairperson Hartmann requested comment from Mr. Churches.

Mr. Churches stated the proposed amendments would allow replacement of a nonconforming structure if the new structure utilized the original footprint. He had completed an analysis of all residential districts and discovered forty percent (40%) of all the residential lots had areas less than the minimum required in the Ordinance and were responsible for over twenty percent (20%) of the County's total tax receipts.

After much discussion concerning the rebuilding of existing nonconforming structures, Chairperson Hartmann stated these changes would also be placed on July's agenda for a public hearing.

**Reports and Commission Member's Comments:**

1. Otsego County Parks & Recreation report/Judy Jarecki
2. Land Use Services report

Chairperson Hartmann requested any comments from Commission members.

With nothing further, Chairperson Hartmann adjourned the meeting.

**Adjournment:** 7:14pm by Chairperson Hartmann

Ken Arndt; Secretary

Christine Boyak-Wohlfeil; Recording Secretary

# Otsego County Planning Commission

Proposed Minutes for June 17 2019

ATTACHMENT 1:

## OTSEGO COUNTY PLANNING COMMISSION

PZRZ19-001

REZONE

021-020-100-020-01, 023-170-018-004-00 – part of, 023-170-019-003-00

### FINDING OF FACT

1. This is a proposal for a rezone of a three (3) parcels located in Charlton Township along M-32 East Johannesburg, MI 49751. *Exhibit #1, Exhibit #5*
2. The properties are located in a R1/Residential and R2/General Residential Zoning District. *Exhibit #1, Exhibit #2*
3. The proposed rezone is to a B2/General Business Zoning District. *Exhibit #1*
4. Adjoining properties are zoned R1/Residential and B2/General Business. *Exhibit #2*
5. The purpose of the rezone is to allow the construction of a retail store. *Exhibit #1*
6. Any general recognized retail business within an enclosed building less than one hundred thousand (100,000) square feet, excluding bars and restaurants serving alcoholic beverages is a permitted use in a B2/General Business Zoning District. *Exhibit #3*
7. The proposed properties are 2.43 acres. *Exhibit #4*
8. Lots 4-6 Block 18 Village of Johannesburg part of parcel 023-170-018-004-00 are not included in the project. *Exhibit #1, Exhibit #5, Exhibit #6*
9. The proposed properties are currently under the ownership of Wesley & Holly Atkinson, applicants. *Exhibit #4*
10. The applicants are being represented by Dollar General, Rusty Doss. *Exhibit #7*
11. The Future Land Use Map depicts this area as a Mixed Use/Town Center Zoning District. *Exhibit #14*
12. Approval of the proposed rezone would be consistent with the adjoining properties and consistent with the Otsego County Future Land Use Map. *Exhibit #2, Exhibit #14*
13. The Public Hearing Notice was published in the Herald Times on May 31, 2019. *Exhibit #8*
14. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #9, Exhibit #10*
15. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*
16. The Planning Commission has the authority to approve a *Rezone* request after review and compliance with the Otsego County Zoning Ordinance, Future Land Use Map and Master Plan. (Section 25.7) *Exhibit #3, Exhibit #14*
17. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*

**Exhibit 13**

\*\*\* Motion made by Mr. Brown to recommend PZRZ19-001 to the Otsego County Board of Commissioners for the rezone of two (2) parcels 021-020-100-020-01 and 023-170-019-003-00 in Charlton Township from a R1 Residential Zoning District to a B2 General Business Zoning District; Seconded by Mrs. Norton.

Motion approved unanimously.

\*\*\* Motion made by Mr. Brown to recommend PZRZ19-001 to the Otsego County Board of Commissioners for the rezone of a part of parcel 023-170-018-004-00 in Charlton Township from a R2 General Residential Zoning District to a B2 General Business Zoning District conditional on the division of said parcel; Seconded by Mrs. Norton.

Motion approved unanimously.

**OTSEGO COUNTY  
Planning Commission**



**ADVERTISED CASE EXECUTIVE SUMMARY**

|   |  |
|---|--|
| AGENDA ITEM: 9  | AGENDA DATE: 7/15/2019                 |
| AGENDA PLACEMENT:<br>Advertised Cases, Item 1   | ACTION REQUESTED:<br>Motion to Approve |
| STAFF CONTACT(S):<br>Chris Churches, Planning & Zoning,<br>Capital Projects Director<br>Christine Boyak-Wohlfeil, Zoning<br>Officer | ATTORNEY REVIEW:<br>Yes                |

**BACKGROUND/DISCUSSION:**

The proposed text amendment to Article 21 of the Otsego County Zoning Ordinance changes the provisions listed in Section 21.1, Accessory Buildings.

**RECOMMENDED MOTION:**

Motion to recommend the text amendment to Article 21, Section 21.1 Accessory Buildings, as presented to the Otsego County Board of Commissioners for their approval.

**OTSEGO COUNTY  
PLANNING COMMISSION**

**PUBLIC HEARING NOTICE**

July 15, 2019

The Otsego County Planning Commission will hold two (2) public hearings on Monday, July 15, 2019 at 6:00 pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

The purpose of the public hearings will be to obtain citizen comment on the following:

**1. SECTION 21.1 ACCESSORY BUILDINGS**

*Proposed amendments to the above section of the Otsego County Zoning Ordinance pertaining to building size*

**2. SECTION 21.26 NON CONFORMITIES**

*Proposed amendments to the above section of the Otsego County Zoning Ordinance pertaining to replacement of existing non conforming structures*

Proposed amendments can be viewed on the Otsego County website link below:

<https://www.otsegocountymi.gov/county-government-2/land-use-services/planning-zoning/>

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at 989.731.7400.

**\*\*\*Original Amendment changes / additions are highlighted in yellow**

**\*\*\*Amendment deletions are struck**

*Proposed Language:*

**SECTION 21.1 ACCESSORY BUILDINGS**

- 21.1.1 Accessory buildings in the [R1](#), [R2](#), [R3](#) & [RR](#) Districts shall be subject to the side and front yard setback requirements as regulated in [Article 17 SCHEDULE OF DIMENSIONS](#), but need not be farther than ten (10) feet from the rear property line.
- 21.1.2 In residential districts all accessory buildings and uses shall be in the rear yard except in the case of one detached private garage which may be allowed in the side or front yard, provided it maintains the setback requirements as regulated in [Article 17 SCHEDULE OF DIMENSIONS](#).
- 21.1.3 Accessory buildings two hundred (200) square feet or less do not require a zoning permit. Such buildings must maintain the setback requirements defined in [Article 17 SCHEDULE OF DIMENSIONS](#). ~~Detached accessory buildings for residential use in any district shall not exceed a total ground floor area of: twelve hundred (1,200) square feet in [R1](#), [R2](#) and [RR](#), and two thousand (2,000) square feet in [R3](#), [FR](#) and [AR](#), except:~~
- 21.1.3.1 ~~Where the lot is larger than the minimum size for that zoning district, the total accessory building square footage may be increased proportionally to the lot size in the following manner: twenty five (25) square feet increase in allowable accessory buildings for every one thousand (1,000) square feet that the lot exceeds minimum lot size, up to a maximum of four thousand (4,000) square feet.~~
- 21.1.4 Agricultural buildings and structures incident to use for agricultural purposes are exempt from accessory building requirements.
- 21.1.5 Accessory buildings shall not be used for residences.
- 21.1.6 Accessory buildings may not be used for commercial storage. Accessory structures incident to a permitted or special use in the zoning district which it is located are permitted (for example, an accessory building for the storage of golf carts would be allowed on an approved golf course in a [RR](#) District).

# Bagley Township Planning Commission

## Bagley Township, Michigan

Established 1868

March 15, 2019

*Subject: Meeting Minutes and record of decisions for Scheduled Special Meeting on March 15, 2019.*

*Members Present:*

*Ken Arndt  
Brian Goebel  
Wally Loney (Skype)  
Celeste Szymanski  
Larry Beckett*

*Item:*

- 1. Special Use Permit for self-storage unit expansion at 4855 West Otsego Lake Drive in Gaylord. Otsego Lake Drive, case PZSU19-0001*
- 2. Recommendation for changes allowing increased communication tower height (No formal submission, narrative attached).*
- 3. Consensus approval of building height increase for proposed construction of a residential apartment unit on Dickerson Road with 18 units to 3 stories from the original 2 story plan.*
- 4. Discussion and approval of proposed text changes to Section 21.1, Accessory Buildings (attached)*

*Other Attendees:*

*Michelle Noirof, Supervisor  
Celeste Szymanski, Voting Trustee*

*Citizens Attending: Dave Drews, Northern Michigan Engineering, (representing Item 1.) None*

*Meeting Opened at 7:00PM by Arndt*

**Item 1**

Members viewed the pictures of the site and examined the layout of the addition which is to extend north of the existing building. Entrance is to be maintained on Henry Drive. Zoning supports the current and proposed addition, noting that there are dwellings east of the current use. Owner plans to keep open storage on the east side the buildings. Units will be 10x10 and nothing larger is planned. Discussion followed, mood was favorable and Loney offered a motion, Burkett seconds: Chair records a vote all in favor, none opposed.

Motion passes.

**Item 2 Proposed Increase to Communication Towers (21.46)**

This proposal responds to a request to increased allowable tower height to 190 feet initially, but the conflict arises because the change brings any tower extension over 200 feet with lighting protection and the height will require lighting. That this issue has an impact on surrounding housing was considered undesirable by the original committee. The height will be proposed at 179 feet and will require supporting statement by an engineer to justify any greater height.

The fall-down setbacks were reviewed as well as removal provisions, and certain other requirements have been added to the section. It will be heard in March.

There appeared no apparent objections once the members read the proposed language changes. We send the proposed change forward awaiting further comments.

**Item 3 Text Changes Accessory Buildings (21.1)**

This proposed text change does several things: it limits the permit requirement for small accessory buildings, it limits wall height of accessory buildings to 14 feet within 500 feet of water front and reduces the rear and side setback in certain zoning districts to 10 feet.

Discussion followed. Goebel offered motion to accept item 3, Loney seconded and the motion passed without opposition.

There being no further business or discussion,

Meeting closed by the chair at 7:55 PM.

Respectfully Submitted,



Kenneth Arndt, Chairman

*Item 1: **Approved as Recommended**    Approved with Edits    Not Approved*

Elmira Township  
Otsego County  
7252 Alba Road  
Gaylord, MI 49735

March 15, 2019

RE: Otsego County Zoning Article 27, Township Participation

RE: Otsego County Zoning Article 21.1, Accessory Buildings

Elmira Township held their regular board meeting on March 13, 2019 and approved the ETPC's recommendation to the Otsego County Planning Commission which will improve communication between County and Township Planning Commissions by allowing for electronic mail and including the Chairpersons of the Township PC's as well as the Township clerks.

The Elmira Township board also approved the ETPC's recommendation to the Otsego County Planning Commission **Article 21.1, Accessory Buildings**; allowing for smaller (less than 200 sq. ft.) accessory buildings to be built without a building permit; doing away with the 4000 sq. ft. maximum size of the accessory building(s); and limiting the height of RR District accessory buildings within 500 ft. of any waterfront to 14 ft.

Thank You,

Susan Schaedig  
Elmira Township Clerk  
(989)732-2920

**Elmira Township Planning Commission**  
**Draft of minutes for the**  
**February 26, 2019 Meeting**

Present: Vice Chairperson Syl Tomaszewski, Ann Vogel, Paul Hartmann  
Excused: Jessica Henke, Duane Hoffman

Syl opened the meeting at 7:00 p.m.  
Minutes of the October, 2018 meeting were approved as written.

Just before the meeting began, Diane Franckowiak stopped by to give us a copy of the letter that she received from the Dalton Tomich, a law firm hired by DCS Tower Sub, LLC, a wholly-owned subsidiary of American Tower Corp. The letter recommends that Elmira Twp. oppose the proposed 179 ft. (+ 20 ft.) tower to be built on Fr. Steve Recker's property. American Tower's lawyers have tried to stop their competitor from building the tower for AT&T previously. However, the proposed tower will serve an underserved area: Glen Meadows and the homes and subdivisions near the Gaylord Country Club. Our Elmira Twp. Planning Commission is on record having approved the proposed tower and encouraging its construction.

During this meeting, the Planning Commission has approved the following amendments recommended by the Otsego County Planning Commission:

**Article 27, Township Participation in County Zoning**

Improving communication between County and Twp. Planning Commissions by allowing for electronic mail and including the Chairpersons of the Twp. PC's as well as the Twp. clerks.

**Article 21.1, Accessory Buildings**

Allowing for smaller (less than 200 sq. ft.) accessory buildings to be built without a building permit; doing away with the 4000 sq. ft. maximum size of the accessory building(s); and limiting the height of RR District accessory buildings within 500 ft. of any waterfront to 14 ft.

The meeting was adjourned at 7:40.  
Paul Hartmann, Secretary

## Christine Boyak-Wohlfeil

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**From:** Christopher Churches  
**Sent:** Monday, March 04, 2019 11:39 AM  
**To:** Christine Boyak-Wohlfeil  
**Subject:** FW:

-----Original Message-----

From: [msanders@freeway.net](mailto:msanders@freeway.net) [<mailto:msanders@freeway.net>]  
Sent: Monday, March 04, 2019 11:38 AM  
To: Christopher Churches; James Mouch  
Subject:

Good Morning,

I have reviewed the brief paperwork for the accessory buildings and noted that they do not need to have a zoning permit. I believe that if the building is less than 200 square feet, it does not need a building permit as there is no longer a fee for that size.

However, as the assessor, I would need to know that that building is being constructed or placed on the property. I had discussed this issue with Christine previously and she did forward me information for my township.

I would appreciate it if a simple notification would be forthcoming of the "sheds" being built with property code number, name and address.

I agree with the proposed changes for the updates as presented.

Mary

March 12, 2019

Mr. Christopher Churches  
Director of Planning and Zoning  
Otsego County Land Use Services  
1322 Hayes Road  
Gaylord, Mi, 49735

Dear Chris,

The Otsego Lake Township Planning Commission does not recommend adoption of 21.1 Accessory Buildings as submitted. Some examples of our concerns (but not all) are as follows:

1. The rationale is lacking for the proposed limit of 14 foot side walls to a one story accessory building within 500 feet of waterfront. It does not appear to be supported by the requirement of zoning to promote the health, safety, and welfare of the public.
2. In 21.1.2, we would recommend --- In residential districts all accessory buildings for residential use shall be in the rear yard..... Also for 21.1.3 -- Accessory buildings for residential use two hundred.....
3. In the RR district there are certain commercial uses allowed such as marinas and golf courses that should be considered in 21.1.6. They could possibly require accessory buildings for storage. Would these uses be allowed accessory buildings?
4. The Otsego Lake Township Planning Commission recommends the Lots on Waterfront subcommittee review this text change before it is recommended for adoption.

Sincerely,

Nora Corfis  
Secretary

## Christopher Churches

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**From:** Christopher Churches  
**Sent:** Wednesday, March 06, 2019 8:58 AM  
**To:** Nora Corfis - Otsego Lake Twp  
**Cc:** Christine Boyak-Wohlfeil  
**Subject:** Revised Accessory Building Language  
**Attachments:** SECTION 21.1 edit 1.pdf

Good morning Nora,

Please see revised language for the accessory building text amendment in the Otsego County Zoning Ordinance. Thank you for pointing out the fact that not all residential lakefront property is zoned RR, this was a great catch! Our intent was to limit the height of accessory buildings in **residential** districts, therefore we changed the text revision to ensure clarity. The reason for not imposing such a height restriction in AR/FR districts around a lakefront was that many of these parcels are large (average parcel size for AR and FR districts in Otsego County is 26.9 acres and 38.0 acres, respectively). The intent of the height restriction was to ensure that in removing the size limit on accessory buildings, we would not inadvertently cause the loss of lakefront views for waterfront lot owners in close proximity to one another. We do not want to unnecessarily regulate the height of an accessory building for property owners who own large tracts of lakefront property, as building such a structure would not result in the loss of any views, etc. for their neighbors.

Please do not hesitate to contact me with any questions.

Thanks!

Christopher Churches

*Director of Planning & Zoning, Capital Projects & Grants*

OTSEGO COUNTY

[cchurches@otsegocountymi.gov](mailto:cchurches@otsegocountymi.gov)

Admin Office: 989-731-7515

Land Use Office: 989-731-7400

**OTSEGO COUNTY  
Planning Commission**



**ADVERTISED CASE EXECUTIVE SUMMARY**

|   |  |
|---|--|
| AGENDA ITEM: 9  | AGENDA DATE: 7/15/2019                     |
| AGENDA PLACEMENT:<br><br>Advertised Cases, Item 2   | ACTION REQUESTED:<br><br>Motion to Approve |
| STAFF CONTACT(S):<br><br>Chris Churches, Planning & Zoning,<br>Capital Projects Director<br><br>Christine Boyak-Wohlfeil, Zoning<br>Officer | ATTORNEY REVIEW:<br><br>Yes                |

**BACKGROUND/DISCUSSION:**

**The proposed text amendment to Article 21 of the Otsego County Zoning Ordinance changes the provisions listed in Section 21.26, Nonconformities.**

**RECOMMENDED MOTION:**

Motion to recommend the text amendment to Article 21, Section 21.26 Nonconformities, as presented to the Otsego County Board of Commissioners for their approval.

**OTSEGO COUNTY  
PLANNING COMMISSION**

**PUBLIC HEARING NOTICE  
July 15, 2019**

The Otsego County Planning Commission will hold two (2) public hearings on Monday, July 15, 2019 at 6:00 pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

The purpose of the public hearings will be to obtain citizen comment on the following:

**1. SECTION 21.1 ACCESSORY BUILDINGS**

*Proposed amendments to the above section of the Otsego County Zoning Ordinance pertaining to building size*

**2. SECTION 21.26 NONCONFORMITIES**

*Proposed amendments to the above section of the Otsego County Zoning Ordinance pertaining to replacement of existing non-conforming structures*

Proposed amendments can be viewed on the Otsego County website link below:

<https://www.otsegocountymi.gov/county-government-2/land-use-services/planning-zoning/>

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at 989.731.7400.

**\*\*\*Original Amendment changes / additions are highlighted in yellow**

**\*\*\*Amendment deletions are struck**

## **SECTION 21.26 NONCONFORMITIES**

### **21.26.1 INTENT**

It is recognized that there exists within the districts established by this Ordinance and/or by subsequent amendments, lots, buildings, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

It is the intent of this Ordinance to permit these legal nonconforming lots, buildings, structures, or uses to continue until they are removed but not to ~~encourage their survival~~ **allow new nonconformities**. ~~Minimum front, side and rear setbacks, minimum lot width and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator upon a written finding that such a modification will have no adverse impact on the use or development of adjoining lots or threaten the public health or safety in any way.~~

### **21.26.2 NONCONFORMING LOT**

A nonconforming lot is a lot that the boundaries of which are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this Ordinance and the width, depth, and/or area of which does not meet the minimum dimensional requirements of the District in which it is located.

A single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the District in which such lot is located. Minimum front, side and rear setbacks, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator. Modifications greater than twenty-five percent (25%) may be obtained only by approval of the Board of Appeals.

Where two (2) or more adjoining nonconforming lots are in existence under single ownership, such lots shall be used only in combinations which most closely satisfy the minimum lot size standards prescribed for the District in which said lots are located.

For definition purposes, "most closely" shall apply in situations where, for example, two (2) lots combined do not meet the minimum, but a third (3) lot would exceed the minimum by a greater amount than two (2) lots would fall short; hence, only two (2) lots need to be combined in this case.

### **21.26.3 NONCONFORMING USE OF LAND**

Nonconforming uses of land may be continued, so long as they remain otherwise lawful, subject to the following provisions:

21.26.3.1 No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

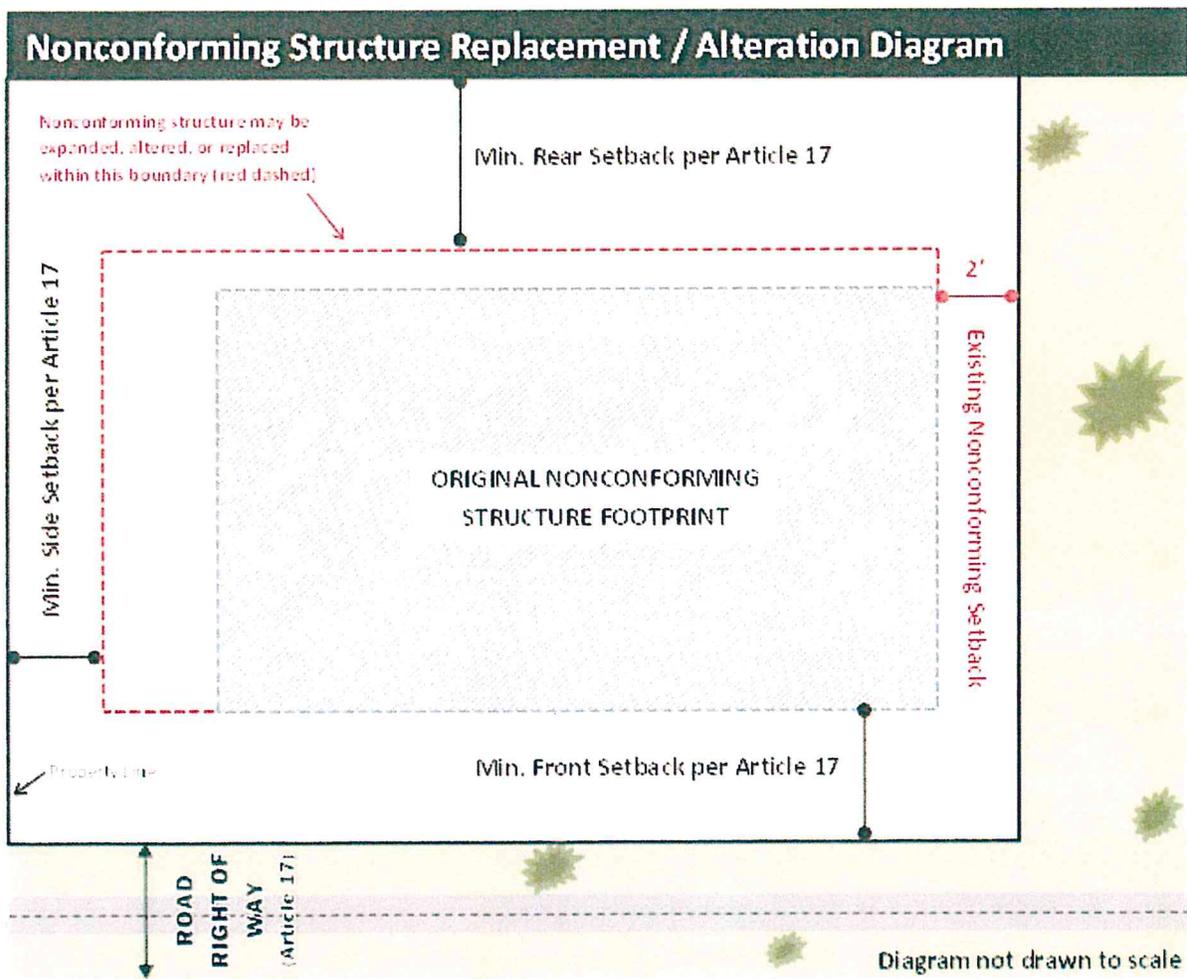
#### 21.26.4 NONCONFORMING STRUCTURE

Nonconforming structures may be continued so long as they remain otherwise lawful, subject to the following provisions:

21.26.4.1 No nonconforming structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.

21.26.4.2 ~~Should such structure be destroyed by any means to an extent of more than sixty (60) percent of its volume or floor area, exclusive of the foundation, or basement, it shall be reconstructed only in conformity with the provisions of this Ordinance.~~ A nonconforming structure may be restored, rebuilt, repaired, or replaced provided it utilizes the footprint of the original structure. Enlargements or alterations to the original structure's footprint may be made pursuant to section 21.26.4.1.

21.26.4.3 Should such structure be moved for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.



#### **21.26.5 NONCONFORMING USES OF STRUCTURES AND LAND**

Nonconforming uses of structures and land may be continued so long as they remain otherwise lawful, subject to the following provisions:

- 21.26.5.1 No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied, other than to remove or lessen nonconforming conditions.
- 21.26.5.2 Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.
- 21.26.5.3 Any nonconforming use of a structure, land, or structure and land, may be changed to another nonconforming use provided that the other use is equally or more appropriate to the district than the existing nonconforming use.
- 21.26.5.4 Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed. A change in tenancy and ownership of nonconforming premises is permissible.
- 21.26.5.5 When a nonconforming use of structure, land, or structure and land in combination, is discontinued or ceases to exist for eighteen (18) consecutive months, the use, structure, or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- 21.26.5.6 Removal or destruction of the use and/or structure shall eliminate the nonconforming status.

#### **21.26.6 REPAIR AND MAINTENANCE**

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

#### **21.26.7 SPECIAL LAND USE IS NOT A NONCONFORMING USE**

Any use for which a special use permit is issued as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

CHARLTON TOWNSHIP  
OTSEGO COUNTY

P.O. Box 367 • Johannesburg, Michigan 49751 • Phone: (989) 731-1920 • Fax (989) 731-1070

To: Christopher Churches  
Otsego Co. Planning & Zoning

16 May 2019

From: Ivan H. Maschke, Clerk

Dear Chris,

At the regular May meeting of the Charlton Township Board held on May 13, 2019, there was discussion regards to proposed changes to the Zoning Ordinance in reference to Article 2, 4, 5, 7, 8, 9, 10, 21 (Care Facilities) and Article 21 text amendments (reference nonconforming structures).

The board approved the recommendations of the township Planning Commission for the proposed changes.

Thanks for your time and consideration.

Sincerely,



Ivan H. Maschke, Clerk

CC: Township Planning  
File

## Christopher Churches

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**From:** Christopher Churches  
**Sent:** Wednesday, May 15, 2019 11:33 AM  
**To:** Debbie Whitman  
**Cc:** Christine Boyak-Wohlfeil  
**Subject:** RE: RE: Non conforming Structures

Thank you Debbie!

**From:** Debbie Whitman [<mailto:dawhitman@hotmail.com>]  
**Sent:** Wednesday, May 15, 2019 9:15 AM  
**To:** Christopher Churches <[cchurches@otsegocountymi.gov](mailto:cchurches@otsegocountymi.gov)>  
**Subject:** Re: RE: Non conforming Structures

Chris,

The Corwith Township Planning Commission reviewed the proposed changes to Section 21.26 and recommended approval of these changes. The Township Board voted in concurrence with their recommendation.

Debbie Whitman  
Corwith Township Clerk

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**From:** Christopher Churches <[cchurches@otsegocountymi.gov](mailto:cchurches@otsegocountymi.gov)>  
**Sent:** Monday, April 15, 2019 10:40 AM  
**To:** Christine Boyak-Wohlfeil; James Szymanski - Bagley Twp ([bagclk@yahoo.com](mailto:bagclk@yahoo.com)); Ivan Maschke ([ivanmaschke@hotmail.com](mailto:ivanmaschke@hotmail.com)); Melissa Szymanski ([chestertwpclerk@frontier.com](mailto:chestertwpclerk@frontier.com)); Debbie Whitman ([dawhitman@hotmail.com](mailto:dawhitman@hotmail.com)); Janet Kwapis ([jckwapis@hotmail.com](mailto:jckwapis@hotmail.com)); Susan Schaedig ([clerk@elmiratownship.com](mailto:clerk@elmiratownship.com)); Richard Ross ([rbross@freeway.net](mailto:rbross@freeway.net)); Liz Mench ([livingstontwp@gmail.com](mailto:livingstontwp@gmail.com)); Margaret Black ([otslkclerk@charter.net](mailto:otslkclerk@charter.net))  
**Subject:** RE: RE: Non conforming Structures

Good Morning,

Attached is a memo which provides a brief description behind the motivation of the language change to Section 21.26 of the Zoning Ordinance sent earlier. Moving forward, these memos will be provided with each proposed amendment in an effort to provide a more thorough background as to the reasons for each proposed text change.

As always, please do not hesitate to reach out with any questions or concerns.

Thank you,

Christopher Churches  
*Director of Planning & Zoning, Capital Projects & Grants*  
OTSEGO COUNTY  
[cchurches@otsegocountymi.gov](mailto:cchurches@otsegocountymi.gov)  
Administration Office: 989-731-7515  
Land Use Office: 989-731-7400

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**From:** Christine Boyak-Wohlfeil  
**Sent:** Monday, April 15, 2019 7:59 AM  
**To:** James Szymanski - Bagley Twp ([bagclk@yahoo.com](mailto:bagclk@yahoo.com)); Ivan Maschke ([ivanmaschke@hotmail.com](mailto:ivanmaschke@hotmail.com)); Melissa Szymanski ([chestertwpclerk@frontier.com](mailto:chestertwpclerk@frontier.com)); Debbie Whitman ([dawhitman@hotmail.com](mailto:dawhitman@hotmail.com)); Janet Kwapis ([jckwapis@hotmail.com](mailto:jckwapis@hotmail.com)); Susan Schaedig ([clerk@elmiratownship.com](mailto:clerk@elmiratownship.com)); Richard Ross ([rbross@freeway.net](mailto:rbross@freeway.net)); Liz Mench ([livingstontwp@gmail.com](mailto:livingstontwp@gmail.com)); Margaret Black ([otslkclerk@charter.net](mailto:otslkclerk@charter.net))  
**Cc:** Christopher Churches  
**Subject:** RE: Non conforming Structures

Good morning,

After being reviewed by the County Attorney, the proposed language changes for Section 21.26 Non-Conformities is attached. Please review and send township input per Article 27 Township Participation in County Zoning. If you have any questions, please don't hesitate to contact us.

Thank you,  
Christine



Christine Boyak-Wohlfeil  
Otsego County Land Use Services  
Phone: 989.731.7407  
Fax: 989.731.7419  
[cboyak-wohlfeil@otsegocountymi.gov](mailto:cboyak-wohlfeil@otsegocountymi.gov)

## Christine Boyak-Wohlfeil

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**From:** msanders@freeway.net  
**Sent:** Thursday, April 25, 2019 8:08 AM  
**To:** Christine Boyak-Wohlfeil  
**Subject:** RE: Non conforming Structures

>After the review of the proposed changes for the non conformities to provide clarity, I agree with the changes suggested. Mary Sanders, Hayes Twp.

Good morning,

>  
> After being reviewed by the County Attorney, the proposed language > changes for Section 21.26 Non-Conformities is attached. Please review > and send township input per Article 27 Township Participation in > County Zoning. If you have any questions, please don't hesitate to contact us.

>  
>  
>  
> Thank you,  
> Christine

>  
>  
>  
> [logo%20header]  
> Christine Boyak-Wohlfeil  
> Otsego County Land Use Services  
> Phone: 989.731.7407  
> Fax: 989.731.7419  
> [cboyak-wohlfeil@otsegocountymi.gov](mailto:cboyak-wohlfeil@otsegocountymi.gov)<mailto:cboyak-wohlfeil@otsegocountymi.gov>  
> mi.gov>

>  
>  
>

May 7, 2019

Mr. Christopher Churches  
Director of Planning and Zoning  
1322 Hayes Road  
Gaylord, Mi 49735

Dear Chris,

The Otsego Lake Township Planning Commission held its meeting on May 2, 2019. At its meeting, the proposed changes to Section 21.26 were reviewed. The Otsego Lake Township Planning Commission is unable to support the text as written. The proposed changes to section 21.26 appear to encourage survival of nonconforming structures which is in conflict with the intent of Section 21.26.1.

Sincerely,

Nora Corfis  
Secretary