

REGULAR MEETING The Norway Area Zoning Board of Appeals of Norway and Norway Township met in regular session at 6:30pm, May 3, 2018 in the Norway City Hall, Curtis J. Bracket Council Chambers.

ROLL CALL Members present were: J. Temrowski, L. Bietila, S. Marks, L. Meneghini, and L. Bal

ABSENT T. Baciak

OTHERS PRESENT Others present were: Ray Anderson, Norway City Manager; Trish Plante, City Clerk; Mr. & Mrs. Austin Kalcec, NACP Members M. Skog, A. Kalcec, and B. Thorne; and Don Byczek, Township Supervisor

APPROVE AGENDA A motion was made by Member L. Bietila, supported by Member S. Marks and unanimously approved agenda for May 3, 2018.

APPROVE MINUTES A motion was made by Member S. Marks, supported by Member J. Temrowski and approved minutes of March 29, 2018.

 Ayes: L. Bietila, S. Marks, L. Meneghini, J. Temrowski
 Nays: None
 Abstain: L. Bal

PUBLIC HEARING None.

BOARD DISCUSSION Zoning Code Determination – The Zoning Board of Appeals entertained a request forward by the Norway Area Planning Commission. At their regular meeting on April 4, 2018, the Norway Area Planning Commission heard a petition from Mr. Austin Kalcec, owner of property located at the intersection of US Highway 8 and Piers Gorge Road regarding confirmation or clarification on the Highway Commercial Overlay District (HC-O) which is identified in Article IV, Section 321 of the zoning code as well as on the Norway Area Zoning Map. The property in question is in a Residential Two (R2) Zoning District and in a Highway Commercial Overlay Zone (HC-O). Mr. Kalcec would like to submit an application to start a business on the property.

ZONING ADMINISTRATOR The Zoning Administrator updated the board on the HC-O District which is identified in Article IV, Section 321 of the zoning code as well as on the Norway Area Zoning Map. The zoning map clearly identifies the property as part of the HC-O however the language in the zoning code, section 321 has definition of the HC-O only on US 2 and not on US 8. There is a clear conflict between the zoning map and the zoning code. Under section 302 paragraph a “the zoning map along with all notation and explanatory matter shall become as much a part of this ordinance as if fully described herein.” The NAZBA is responsible for adjudicating and making judgment and

determination as to whether or not the property is or is not within the HC-O. If the property is deemed within the HC-O then the petitioner can proceed with placing a business on the property provided it fits within the parameters of the principle or permitted uses identified for the district.

The zoning map has as much standing as the language in the zoning code so they are equally relevant. The determination of the Zoning Administrator was that the omission or error was in the zoning code language and not the map. The HC-O was originally developed in the old Norway Township Zoning Code and was applied only along US 2 through Vulcan. When the NAPC was created and the city and township zoning codes were combined then the HC-O followed suit and continued within the code. During the last major code revision process the NAPC approved adding the HC-O along US 8 as well as having the overlay district remain along US 2. The rationale was that with the Piers Gorge Park being developed by the Michigan Department of Natural Resources that there would be the potential for businesses to start in the area at the intersection of Piers Gorge Road. The intent of the NAPC was to also include US 8 in the HC-O and consequently the Zoning Administrator ruled that the zoning code language was in error by not including US 8 in the definition. The Township Supervisor disagreed and requested a determination be made at the planning commission to clarify. The NAPC agreed that this was an issue for determination by the NAZBA.

NORWAY
TOWNSHIP
SUPERVISOR

Don Byczek, Norway Township Supervisor and zoning administrator had questions regarding the validity and standing of the error in the written code. He was concerned about applying a business overlay the entire length of US 8. He was clear that he had no issue with the new business going in to the location by Piers Gorge Road. He wanted the NAPC to address his issues for a possible code revision.

BOARD
COMMENT

Meneghini – Agrees with Zoning Administrator that it was the Norway Area Planning Commissions intent to have US 8 included in the overlay, and that the map is correct.

Bal – Remembers discussing US 2, but not US 8.

Zoning Board of Appeals further reviewed the petitioners request and agreed with the Zoning Administrator that the text is in error, and that US 8 should be included in the text, the map is correct.

CITIZEN
COMMENT


Austin Kalcec – Mr. Kalcec purchased the property by looking at the map. He felt like he purchased the property under false intent when he was challenged on the legitimacy of the use.

APPROVE
DETERMINATION
HC-O

A motion was made by Member L. Bal, supported by Member S. Marks and unanimously approved that the zoning code language was in error by not including US 8. The zoning map clearly identifies the property as part of the HC-O.

ADJOURN

A motion was made by Member S. Marks, supported by Member L. Bietila and unanimously approved to adjourn the meeting.


Leonard Bietila III, Secretary


Attest: Trisha Plante, City Clerk