

**PLANNING COMMISSION**  
**Minutes for Regular Meeting of**  
**December 1, 2016**

**AMENDED**

**PRESENT** Commissioners Dave Roesler, Tom Thompson, Leslie Sprott, Ina Ray, John Warner, William Josephson and Mike Holman.

**ALSO PRESENT** Clerk Rillema and 17 interested parties.

**ABSENT** Zoning Administrator Jensen

**CALL TO ORDER** Chairperson Roesler called the December 1, 2016 meeting to order at 6:30 p.m. and led those in attendance in the Pledge of Allegiance. He welcomed and introduced newly appointed Commissioner Holman to the commission.

**AGENDA** Motion by Commissioner Warner, second from Commissioner Sprott, **ADOPTED**, to accept the agenda as written.

**7 AYES**

**MINUTES** Motion by Commissioner Warner, second from Commissioner Sprott, **ADOPTED**, to accept the November 3, 2016 meeting minutes as written.

**7 AYES**

**PUBLIC COMMENT** – None

**PUBLIC HEARING**

1. Parcel # 61-06-105-400-0002-10, 6570 Burton Woods Drive, Jennifer Venema requests a Special Land Use Permit according to Article XIV Special Land Uses, Section 14.04 M. Group and commercial day care homes and facilities to operate a Group day care home (7-12 children) in the Medium Density Residential District.

**PUBLIC HEARING OPEN 6:33 P.M.**

Applicant Jennifer Venema, 6570 Burton Woods Drive, stated she is currently operating a day care for 18 children. Currently she has eight families with one family of four children, two families of three children, three families of two children and two families of one child. Seven cars transport these children twice a day (morning & afternoon) between the hours of 5:00 AM and 4:00 PM, Monday thru Friday year round. She is licensed to care for up to 12 children at a time, so children are rotating on/off the schedule during a day care day. She would like to take care of all her current children and not have to pick who she can care for or not care for.

**PUBLIC COMMENT**

- 1) Alan Abrams, 6647 Burton Woods Drive – strongly opposes the day care for a number of serious traffic risks due to pedestrian traffic, sharp angles in the road, children/pets that use the cul-de-sac for a play area, number of day care vehicles traveling through the subdivision (50 vehicle movements daily on and off Burton Woods Drive) and lack of snow plowing in the winter months.
- 2) Todd Venema – 6570 Burton Woods Drive – reiterated that at this time, it would only be 7 vehicles twice a day. If they are forced to only have six or less children, second shift or weekends may have to be utilized.
- 3) Carol Mathews, 4716 Doug Drive – presented the Commission with 36 signatures on a signed petition in opposition to operating a group day care stating it is inconsistent with a residential area.
- 4) George Taylor, 6681 Burton Woods Drive – opposes the proposed day care as he purchased his home after retiring. Being the driveway of 6570 Burton Woods Drive is dirt, often times after a rainstorm or snow thaw, the dirt gets dragged out onto the pavement causing a mess.
- 5) Jack Brown, 4276 Doug Drive – opposes the day care and supports Alan Abrams comments earlier.
- 6) Patty Ferguson, 4725 Doug Drive – opposes the day care, concerned about more traffic using the two tracks to Clark Street and does not support the rezoning to commercial.
- 7) Brad Bruns, 4663 Doug Drive – opposes the day care and supports the other comments made by neighbors. Has lived in his home for nearly 24 years which has been a substantially quiet residential area.
- 8) Marilyn Brown, 4276 Doug Drive – opposes the day care and stated that the State has strict guidelines on number of children allowed.

**CORRESPONDENCE**

1. Dave & Lyn Rypma, 6686 Burton Woods Drive – opposed
2. George Taylor, 6611 Burton Woods Drive – opposed
3. Alan M. Abrams, 6647 Burton Woods Drive (email/letter) – opposed
4. R. Glenn & Carol Mathews, 4716 Doug Drive – opposed
5. Scott Huebler, City of Whitehall Manager – support
6. Autumn & Matthew LeaTrea – support
7. Alethea Blaske - support
8. Pam Churchill – support
9. Emily Peraza – support
10. Emma Greenwood, 107 Tulgeywood – support

11. Jeremy Dykman – support
12. Joseph & Patricia Ferguson, 4725 Doug Drive – opposed
13. Gabrielle Ferski, 5010 Nestrom – support
14. Jennifer Venema, 5670 Burton Woods Drive – support
15. Raychel Berry – support
16. Paul Bouman MCRC Highway Engineer – deny recommendation for installation of a stop sign at the intersection of Burton Woods Drive & Doug Drive

### **PUBLIC HEARING CLOSED 6:59 P.M.**

Chairperson Roesler read from Zoning Administrator Jensen's opinion letter to the Commissioners as follows: Jennifer Venema has submitted an application to operate a "Group Day Care" at 6570 Burton Woods Dr. The intended use will provide for care of 7 to 12 children. The home is listed as 2,465 square foot of finished living area. This includes an area with separation on the west end of the home that contains 752 square feet of area. This area has a bathroom located off the stairwell to the basement, accessed from this room. The exterior driveway outside this west room is paved. Regulations to address to follow local and state laws pertaining to this use are as follows; Article VI of the Fruitland Township Zoning Ordinance, Michigan Zoning Enabling Act 110 of 2006, Act no. 116 of the Public Acts of 1973, as amended (Regulation of Child Care Organizations)..

**Township Law regarding the MDR zone;** The MDR zone is regulated by Article VI of the Fruitland Township Zoning Ordinance. The following describes uses;

#### **Section 6.02 USES PERMITTED BY RIGHT**

Land and/or buildings in the MDR District may be used for the following purposes as

Uses Permitted by Right:

- B. Family day care homes.
- C. Family group care homes.

#### **Section 6.03 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the MDR District may be used for the following purposes following review by the Planning Commission as a Special Land Use, as regulated by this ordinance.

- B. Group day care homes.

***ZA Opinion;** The ordinance language in section 6.02 and 6.03 conflict. The Fruitland Township Ordinance defines "Day Care Homes" in section 2.05 (page 2-6). The definition section (2.05) does not define "Permitted Use; C. Family group care homes" listed as a permitted use in Article VI, Sec. 6.02 Uses Permitted by Right. Because the application is requesting review as a "Special Use, Group home day care", the review is proceeding as a Special Use request.*

**A. FAMILY DAY CARE HOME-** A dwelling licensed by the state (in conjunction with the private residence of the operator) in which care is provided for more than one (1) but

less than seven (7) minor children or adults for periods less than twenty-four (24) hours in a day, unattended by a parent or legal guardian, excluding children related to and adult member of the family by blood, marriage or adoption. This definition includes a dwelling in which care is provided to an unrelated minor child for more than four weeks during a calendar year.

**B. GROUP DAY CARE HOME-** A dwelling licensed by the state (in conjunction with the private residence of the operator) in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, excluding children related to an adult member of the family by blood, marriage or adoption. This definition includes a dwelling in which care is provided to an unrelated minor child for more than four weeks during a calendar year.

*ZA Opinion; The State of Michigan has regulations regarding Child Care. This is under the State of Michigan Department of Human Services, Bureau of Children and Adult Licensing. The State Law controlling Child Care Organizations is; ACT NO. 116 OF THE PUBLIC ACT OF 1973, AS AMENDED.*

*ZA Opinion; The State of Michigan local office regarding Child Care is; Child Care Licensing Consultant, Bureau of Children and Adult Licensing, 350 Ottawa N. W., Grand Rapids, MI 49503-2337, (616) 356-0100*

*Today, 11-29-16, I called and spoke with Kathy West, Child Care Licensing Consultant at the Grand Rapids office (above). I was informed that any residential home is permitted by right to have a Family Day Care Home (1 to 6 children) if approved by the state. The approval and oversight is performed by Bureau of Children and Adult Licensing, with Muskegon County handled by the Grand Rapids office (above). Municipalities do not have any right to approve or contest this permitted use [a Family Day Care Home (1 to 6 children)]. A municipality can have a Special Use provision for the "Group Day Care Home" which is defined as a child care home with 7 to 12 children. The approval for this "Special Use" is outlined in the Michigan Zoning Enabling Act 110 of 2006, section 125.3206 (copy attached). The review requirements are listed, and if the group child care home meets all the listed standards, you "shall issue a special use permit", MI Zoning Enabling Act 110 of 2006, (4) through (10).*

Chairman Roesler read the criteria for the listed standards from the Michigan Zoning Enabling act, Act 110 of 2006 to the commissioners.

## **DISCUSSION**

Commissioner Thompson inquired about where the school bus stop was located and stated that he was uncomfortable with the revolving number of children being cared for by the facility.

Commissioner Holman stated that he had no comments at this time being that he was just appointed to the commission.

Commissioner Ray inquired about the fence requirement and if the subdivision had restrictive covenants.

Commissioner Warner stated that if all the criteria are met, there is no way to disapprove the Special Land Use.

Commissioner Sprott agreed with Commissioner Warner’s comment and felt that this operation would not be excessive although she is compassionate about the traffic concerns as she is a walker in her own neighborhood.

Commissioner Josephson agreed and reiterated Commissioner Warner’s comment and inquired if this special use permit stays with the Venema’s.

Chairman Roesler explained to Commissioner Thompson that the Planning Commission does not control the amount of children, it falls under the State of Michigan and that the commission’s task is to review if criteria ~~meet or not to~~ are met then we must grant the request. He also stated to earlier public comment that the two track usage to Clark Street is Muskegon County Road Commission jurisdiction and that no rezoning was taking place to make the area commercial. There are allowed uses in districts either by use by right or special land uses. The role of the Planning Commission is to abide by the laws/ordinances of the township to protect the health, safety and welfare of the community.

Motion by Commissioner Josephson, second from Commissioner Holman, **ADOPTED**, to approve the Special Land Use Permit according to Article XIV Special Land Uses, Section 14.04 M. Group and commercial day care homes for parcel #61-06-105-400-0002-10, 6570 Burton Woods Drive, Jennifer Venema to operate a group day care home (7-12 children) in the Medium Density Residential District pending the approval and construction of the fence requirement.

**6 AYES  
1 ABSTAIN**

Chairman Roesler agreed to allow audience member Mr. Abrams to state that he felt this hearing should be thrown out due to Chairman Roesler participating in this hearing because of his involvement with the Spring Valley Estate Subdivision and Mr. Abram’s research that Jennifer Venema is not listed on the deed to the property. Chairman Roesler dully noted his comments.

## OLD BUSINESS

Chairman Roesler stated that Attorney Even reviewed the proposed changes to the following language and would like the subcommittee to revisit as it is unclear, ambiguous language. (Article II, Definitions – Section 2.22 Definitions – W, Article III, General Provisions - Section 3.11 Fences, Wall, Hedges, Berms and Screens (A.) (Amend), Article XX, Administration and Enforcement – Section 20.06 Zoning Permit Required (A.) (amend), Article VIa, Lake Michigan Shoreline District – Section 6.04a Site Development Standards, Article VIA Lake Michigan Shoreline District – Section 6.05a Waterfront Access, Use and Related Matters (3)(b), Article VIIa, Inland Lakes District – Section 8.02a Site Development Standards (3.), Article VIIa, Inland Lakes District – Section 8.02a Site Development Standards (8.), and Article VIIIb, North Duck Lake Overlay District – Section 8.02b Limitations on Construction (2.), (7.)

## COMMISSIONER COMMENTS

Commissioner Thompson stated that he had attended a Blue Lake Township Planning Commission meeting in which the commission denied the change in usage of a residential property because of the master plan for a training academy. Commissioner Holman stated that this was an exciting meeting. Commissioner Ray had no comments. Commissioner Warner and Commissioner Sprott welcomed Commissioner Holman to the commission. Commissioner Josephson stated that he had attended a White River Township Planning Commission meeting for a project he was involved with.

## PLANNING/ZONING UPDATE

No updates

## ADJOURNMENT

Motion by Commissioner Josephson, second from Commissioner Warner, **ADOPTED**, to **ADJOURN** the December 1, 2016 regular meeting at 8:03 p.m.

**7 AYES**

Respectfully Submitted,

Karolyn Rillema, Clerk  
Township of Fruitland