

# Village of Bellaire

## PLANNING COMMISSION

**Commissioners: Dan Bennett, Butch Dewey, Bill Drollinger, Fred Harris, and Don Seman**

### PLANNING COMMISSION MEETING MINUTES

February 2, 2016

5:00 p.m.

1. **Call to Order:** Chairman Drollinger called the meeting to order at 5:00 p.m.
2. **Roll Call Attendance:**
  - Present:** Chairman Drollinger, Dan Bennett, Butch Dewey, Fred Harris
  - Absent:** Don Seman
  - Staff Present:** Lori Luckett, Zoning Administrator
  - Also Present:** Mary Campbell, Planner; Donna Gundle-Kreig, Dennis Kreig, Judy White, Gary Tracey, Chris Clore, and Casey Guthrie
3. **Public Comments:** Donna Gundle-Kreig informed the planning commission that her client, Judy White, had four offers on her property but they were not able to proceed because all prospective purchasers wished to maintain the two rental units on site. Chairman Drollinger indicated that the planning commission is working on PUD provision with the new ordinance that will allow mixed-use developments. The commission will be reviewing the proposed provision minus the definitions. The zoning district is not proposed to change. Mary Campbell stated that standards are going to be addressed. Gary Tracey addressed the planning commission stating that he wished to put up a carport behind his building but the current ordinance requires eaves and soffits; these structures are not available with eaves and soffits. Chairman Drollinger stated that the requirement for eaves and soffits was added years ago when property owners were putting up pole barns.
4. **Approval of Minutes:** The minutes of the November 3, 2015 meeting were approved as written.

**Motion by Commissioner Harris, seconded by Commissioner Dewey, to approve the minutes of the November 3, 2015 meeting as written. Motion carried by unanimous voice vote.**
5. **Unfinished Business:** The order of business was changed to address unfinished business.
  - a) **Continued Review of Zoning Ordinance:** Ms. Campbell reviewed with the Planning Commission all but Article 2 of the new zoning ordinance. Typographical and some grammatical errors were corrected. Subsections within the text of the draft ordinance referencing other sections were revised as needed. There was discussion about prefabricated accessory buildings and whether eaves and soffits should be required for either minor or major accessory buildings. Chris Clore asked why there was a requirement for eaves and soffits to begin with noting that many commercial buildings are flat roofed. Language was clarified in certain provisions for ease of interpretation. Positive comments were made by planning commission members about the new layout, the charts, the color coding and map. Ms. Campbell indicated that graphics will be added, especially in the definitions. Discussion of Section 8.19 addressing Mobile Food Vending, will continue at the next planning commission meeting. Chairman Drollinger suggested that he present his concerns about this issue to the village council. Chris Clore pointed out that "Hotel, Motel or Lodge" was not permitted as a proposed use in the Central Business District even though there was one in the district. He requested that the planning commission address short term, upper floor rentals within the Central Business District. In order to complete the zoning revision timeline, the planning commission scheduled another meeting for March 8, 2016 at 5:00 p.m.

6. **New Business:**

- a) **Property Transfer Request:** The planning commission reviewed the application for Land Division and Land Transfer - Findings of Fact . Chairman Drollinger identified the exhibits – Village of Bellaire Land Division Ordinance; Village of Bellaire Zoning Ordinance; Parcel Division Application with attachments including a copy of the Warranty Deed, Real Estate Summary Sheet for Parcels 05-46-250-007-00 and 05-46-250-006-00; Aerial Photograph; Copy of Certified Boundary Survey & Site Plan and Legal Descriptions; Antrim County Property Information for each parcel; Real property tax receipts for each parcel; and an email from Benjamin Dominguez-Benner. Incorporating the attached findings of fact into the record by reference, the planning commission considered each standard for approval and made determination whether the standard had been met or whether the standard did not apply.

A. The proposed division or property transfer shall comply with all requirements of the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended.

**Motion by Commissioner Harris, seconded by Commissioner Dewey, that this standard does not apply. Motion passed by unanimous voice vote.**

B. The lots, parcels, or tracts of land that will result from the division or property transfer shall comply with all requirements of the Village of Bellaire Zoning Ordinance, as amended, including but not limited to the requirements relating to area and width for the newly created lots, parcels, or tracts of land, the requirements relating to lake and/or road frontages, and the requirements relating to setbacks if the newly created lots, parcels, or tracts of land have buildings or structures on them. The addition of land to an already lawful nonconforming lot or parcel is permitted without a zoning variance, provided that the lot or parcel from which the land is taken will not become a nonconforming lot or parcel or, if already nonconforming will not become more nonconforming.

**Motion by Commissioner Harris, seconded by Commissioner Dewey, that this standard has been met. Motion passed by unanimous voice vote.**

C. Each lot, parcel, or tract of land that will result from the division or property transfer shall have an adequate and accurate legal description certified by a land surveyor licensed by the State of Michigan.

**Motion by Commissioner Dewey, seconded by Commissioner Harris, that this standard has been met, the lots do have legal descriptions. Motion passed by unanimous voice vote.**

D. Except for the remainder of the parent parcel or parent tract of land retained by the owner each new lot, parcel, or tract of land that will result from the division, including those lots, parcels, and tracts of land greater than 10 acres, shall have a depth of not more than four times its width as measured under the requirements of the Bellaire Township Zoning Ordinance. This standard shall not apply to a property transfer. [Amended by Ord. 04-2007 on 06-06-07]

**Motion by Commissioner Harris, seconded by Commissioner, that this standard does not apply. Motion passed by unanimous voice vote.**

E. If a lot, parcel, or tract of land that will result from the division or property transfer will be a development site, then each such resulting lot, parcel, or tract of land shall have adequate easements for public utilities from each such resulting lot, parcel, or tract of land to existing public utility facilities.

**Motion by Commissioner Harris, seconded by Commissioner Bennett, that this is not a development site and that this standard has been met. Motion passed by unanimous voice vote.**

F. If the land proposed to be transferred between two (2) or more adjacent lots or parcels does not independently conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the Village of Bellaire Zoning Ordinance, as amended, and this Ordinance, then the land proposed to be transferred shall not thereafter be independently considered a development site, but may only be used in conjunction with an adjoining lot(s), parcel(s), or tract(s) of land.

**Motion by Commissioner Dewey, seconded by Commissioner Harris, that this standard has been met. Motion passed by unanimous voice vote.**

G. Each lot, parcel, or tract of land that will result from the division or property transfer shall be accessible.

**Motion by Commissioner Dewey, seconded by Commissioner Harris, that the lots are accessible and that this standard has been met. Motion passed by unanimous voice vote.**

H. The owner of the parcel or tract of land shall possess the right to divide the parcel or tract of land. This standard shall not apply to a property transfer.

**Motion by Commissioner Bennett, seconded by Commissioner Dewey, that this standard does not apply. Motion passed by unanimous voice vote.**

I. The property lines of the lots, parcels, or tracts of land that will result from the division or property transfer shall be consistent and in harmony with the property lines of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer, and/or the property lines of adjacent lots, parcels, or tracts of land.

**Motion by Commissioner Harris, seconded by Commissioner Dewey, that the proposed property lines are consistent and in harmony with existing property lines and that this standard has been met. Motion passed by unanimous voice vote.**

J. The lot, parcel or tract of land to be divided, or the lots or parcels involved in a property transfer or division, shall have no delinquent taxes, fees, or special assessment payments due or levied against it or against them. In addition, the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer, shall have not municipal liens filed against it or against them are due and payable. [Added by Ord. 4-2009 on 7-15-09]

**Motion by Commissioner Dewey, seconded by Commissioner Bennett, that there are no liens or taxes due and that this standard has been met. Motion passed by unanimous voice vote.**

The property transfer was approved.

**Motion by Commissioner Bennett, seconded by Commissioner Harris, to approve the property transfer as proposed based on the findings of fact. Motion passed by unanimous voice vote.**

b) **Election of Officers:** Officers for 2016-2017 were elected.

**Election of Chairperson** – Commissioner Dewey nominated William Drollinger to serve as the Chairperson. Commission Bennett moved that nominations be closed and an unanimous ballot be cast.

**Motion by Commissioner Dewey, seconded by Commissioner Harris, to elect William Drollinger as Chairperson. Motion carried by unanimous voice vote.**

**Election of Vice-Chairperson** – Chairman Drollinger nominated Commissioner Bennett to serve as Vice Chairperson. Commissioner Dewey moved that nominations be closed and an unanimous ballot be cast.

**Motion by Chairman Drollinger, seconded by Commissioner Dewey, to elect Commissioner Bennett as Vice Chairperson. Motion carried by unanimous voice vote.**

**Election of Secretary** – Chairman Drollinger nominated Commissioner Harris to serve as Secretary. Commissioner Dewey moved that nominations be closed and an unanimous ballot be cast.

**Motion by Commissioner Bennett, seconded by Chairman Drollinger, to elect Commissioner Harris as Secretary. Motion carried by unanimous voice vote.**

c) **Resolution for 2016-2017 Meeting Dates** – The proposed quarterly meeting dates for 2016-2017 were identified: May 3, 2016, August 2, 2016, November 1, 2016 and February 7, 2017.

**Motion by Commissioner Dewey, seconded by Chairman Drollinger to adopt Resolution #6 as presented. Roll call vote was taken. Voting in favor: Commissioners Dewey, Bennett, Harris and Chairman Drollinger.**

## 7. Correspondence/Reports

### a) Zoning Administrator's Report

Zoning Administrator's report of permits issued since the last planning commission meeting was provided to members as was information about a free Planners Education presentation on February 12, 2016 in Traverse City.

## 8. Adjournment: Meeting adjourned at 6:32 p.m.

Minutes compiled by:

Lori Lockett, Zoning Administrator & Recording Secretary

Minutes are subject to approval.

Approved: \_\_\_\_\_  
William Drollinger, Chairman

Date: \_\_\_\_\_

**Village of Bellaire Planning Commission meeting of February 2, 2016**  
**Land Division and Land Transfer – Findings of Fact**  
**Casey J. and Shelli L. Guthrie; 510 Richardi (05-46-250-007-00)**  
**Benjamin Dominguez-Benner; 512 Richardi (05-46-250-006-00)**

Zoning District..... R-1 Single Family Residential  
Minimum Lot Area ... 6000 square feet  
Minimum Lot Width...50'  
Front Setback ..... 25'  
Side Setback..... 5'; 25' for corner lots  
Rear Setback ..... 25'

**Exhibits**

Village of Bellaire Land Division Ordinance  
Village of Bellaire Zoning Ordinance  
Parcel Division Application with attachments  
    Copy of Warranty Deed  
    Real Estate Summary Sheet for Parcels 05-46-250-007-00 and 05-46-250-006-00  
    Aerial photograph  
Copy of Certified Boundary Survey & Site Plan and Legal Descriptions  
Antrim County Property Information for each parcel  
Real property tax receipts for each parcel  
Email from Benjamin Dominguez-Benner

**From the Village Code of Ordinances**  
**Chapter 49 – Land Division**

**§ 49-5. D. Procedure for division or property transfer.**

After receiving the application and the information required in subsection 5-B above, the Zoning Administrator shall refer the application to the Planning Commission for its consideration... The Planning Commission's decision to approve the division or property transfer shall be made pursuant to the standards contained in §49-6 of this Chapter. The Planning Commission may grant conditional approval of an application, subject to the applicant obtaining any necessary variances from the Zoning Board of Appeals pursuant to §49-7 of this Chapter. The Planning Commission shall specify in writing the reasons for its decision concerning the proposed division or property transfer. If the Planning Commission fails to grant approval of a proposed division or property transfer, the applicant shall then have the option of resubmitting information for approval to the Planning Commission or appealing the Planning Commission's decision to the Zoning Board of Appeals pursuant to §49-8 of this Chapter. Any approval or approval with conditions, of a division or property transfer, shall not be considered a determination that the resulting lots, parcels, or tracts of land comply with any other ordinances or regulations of the Village of Bellaire. [Amended by 04-2007 on 06-06-07]

**§ 49-6. Standards for approval of divisions or property transfers.**

An application to divide a lot, parcel, or tract of land or to affect a property transfer shall be granted when all of the following standards are met:

- A. The proposed division or property transfer shall comply with all requirements of the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended.

*The Planning Commission finds that:*

*1. According to 1967 PA 288, Land Division Act, at MCL 560.102*

*Sec. 102.(d), “. . . Division does not include a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.”*

*2. Chapter 49 Land Division in the Code of the Village of Bellaire specifically defines “property transfer” as “. . . a transfer of property between two (2) or more adjacent lots or parcels, if the property taken from one (1) lot or parcel is added to an adjacent lot or parcel and if all resulting lots or parcels conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the Village of Bellaire Zoning Ordinance, as amended, and this Ordinance. If the property transferred does not independently conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the Village of Bellaire Zoning Ordinance, as amended, and this Ordinance, then it shall not be considered a development site, but may only be used in conjunction with the lot or parcel to which it was transferred.*

*3. The property being transferred does not meet minimum area requirements but may only be used in conjunction with the parcel to which it is being transferred.*

*4. As the proposed property transfer is not a division under the Land Division Act as described in Section 49-6.A. this standard does not apply.*

**Motion by Commissioner Harris, seconded by Commissioner Dewey, that this standard does not apply. Motion passed by unanimous voice vote.**

- B. The lots, parcels, or tracts of land that will result from the division or property transfer shall comply with all requirements of the Village of Bellaire Zoning Ordinance, as amended, including but not limited to the requirements relating to area and width for the newly created lots, parcels, or tracts of land, the requirements relating to lake and/or road frontages, and the requirements relating to setbacks if the newly created lots, parcels, or tracts of land have buildings or structures on them. The addition of land to an already lawful nonconforming lot or parcel is permitted without a zoning variance, provided that the lot or parcel from which the land is taken will not become a nonconforming lot or parcel or, if already nonconforming will not become more nonconforming.

*The Planning Commission finds that:*

*1. The property is being taken from 1 parcel (Guthrie) and added to the adjacent parcel (Dominguez-Benner).*

*2. The property being transferred does not meet the minimum area requirements of the Village of Bellaire Zoning Ordinance.*

3. Once added to the adjacent Dominguez-Benner parcel as described on Sheet 2 of the Boundary Survey & Site Plan, the parcel will meet the area requirements Village of Bellaire Zoning Ordinance.

4. The remaining Guthrie parcel will not be made non-conforming by the property transfer.

5. The proposed division and property transfer complies with all requirements of the Village of Bellaire Zoning Ordinance, as amended.

**Motion by Commissioner Harris, seconded by Commissioner Dewey, that this standard has been met. Motion passed by unanimous voice vote.**

- C. Each lot, parcel, or tract of land that will result from the division or property transfer shall have an adequate and accurate legal description certified by a land surveyor licensed by the State of Michigan.

*The Planning Commission finds that:*

1. The Boundary Survey & Site Plan contains legal descriptions for the portion of Lot 2 to be acquired from Guthrie, the combined Dominguez-Benner description and the remaining Guthrie description.

2. The proposed parcels have legal descriptions as described in § 49-6.C.

**Motion by Commissioner Dewey, seconded by Commissioner Harris, that this standard has been met, the lots do have legal descriptions. Motion passed by unanimous voice vote.**

- D. Except for the remainder of the parent parcel or parent tract of land retained by the owner each new lot, parcel, or tract of land that will result from the division, including those lots, parcels, and tracts of land greater than 10 acres, shall have a depth of not more than four times its width as measured under the requirements of the Bellaire Township Zoning Ordinance. This standard shall not apply to a property transfer. [Amended by Ord. 04-2007 on 06-06-07]

*The Planning Commission finds that:*

1. This request is for a property transfer between adjacent parcels with the property being added to the Dominguez-Benner parcel.

2. The property being transferred does not independently conform to the area requirements of the Village of Bellaire Zoning Ordinance but may be used in conjunction with the lot or parcel to which it was transferred.

3. As this request is for a property transfer, according to the express terms of §49-6 D., this standard does not apply.

**Motion by Commissioner Harris, seconded by Commissioner, that this standard does not apply. Motion passed by unanimous voice vote.**

- E. If a lot, parcel, or tract of land that will result from the division or property transfer will be a development site, then each such resulting lot, parcel, or tract of land shall have adequate easements for public utilities from each such resulting lot, parcel, or tract of land to existing public utility facilities.

*The Planning Commission finds that:*

- 1. According to the email submitted by Ben Dominguez-Benner, the property is not being purchased for development but for the purpose of extending his backyard.*
- 2. The property being transferred from Guthrie to Dominguez-Benner is not a development site but is to be used in conjunction with the land to which it is transferred.*

**Motion by Commissioner Harris, seconded by Commissioner Bennett, that this is not a development site and that this standard has been met. Motion passed by unanimous voice vote.**

- F. If the land proposed to be transferred between two (2) or more adjacent lots or parcels does not independently conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the Village of Bellaire Zoning Ordinance, as amended, and this Ordinance, then the land proposed to be transferred shall not thereafter be independently considered a development site, but may only be used in conjunction with an adjoining lot(s), parcel(s), or tract(s) of land.

*The Planning Commission finds that:*

- 1. The Land Division Act does not apply to the proposed property transfer.*
- 2. The property being transferred does not meet the minimum lot area requirements established in the Village of Bellaire Zoning Ordinance.*
- 3. The property being transferred is not a development site but will be used in conjunction with the current Dominguez-Benner parcel.*

**Motion by Commissioner Dewey, seconded by Commissioner Harris, that this standard has been met. Motion passed by unanimous voice vote.**

- G. Each lot, parcel, or tract of land that will result from the division or property transfer shall be accessible.

*The Planning Commission finds that:*

- 1. The property being transferred will be added to an existing parcel that is accessible from Richardi and E. Hastings.*
- 2. The property transfer does not affect the access to the Guthrie parcel.*
- 3. The proposed parcels are accessible.*

**Motion by Commissioner Dewey, seconded by Commissioner Harris, that the lots are accessible and that this standard has been met. Motion passed by unanimous voice vote.**

- H. The owner of the parcel or tract of land shall possess the right to divide the parcel or tract of land. This standard shall not apply to a property transfer.

*The Planning Commission finds that:*

- 1. This request is for a property transfer between adjacent parcels with the property being added to the Dominguez-Benner parcel.*

2. As this request is for a property transfer, according to the express terms of §49-6 H., this standard does not apply.

**Motion by Commissioner Bennett, seconded by Commissioner Dewey, that this standard does not apply. Motion passed by unanimous voice vote.**

- I. The property lines of the lots, parcels, or tracts of land that will result from the division or property transfer shall be consistent and in harmony with the property lines of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer, and/or the property lines of adjacent lots, parcels, or tracts of land.

*The Planning Commission finds that:*

1. The property transfer will result in Mr. Dominguez-Benner owning the north 90 feet of lots 2,3,4,5 and 6, excepting a portion lying within the right-of-way of the abandoned C & O Railroad.

2. The Guthrie parcel will consist of lots 2,3,4,5 and 6 excepting the north half.

3. The proposed property lines are consistent and in harmony with the existing property lines.

**Motion by Commissioner Harris, seconded by Commissioner Dewey, that the proposed property lines are consistent and in harmony with existing property lines and that this standard has been met. Motion passed by unanimous voice vote.**

- J. The lot, parcel or tract of land to be divided, or the lots or parcels involved in a property transfer or division, shall have no delinquent taxes, fees, or special assessment payments due or levied against it or against them. In addition, the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer, shall have not municipal liens filed against it or against them are due and payable. [Added by Ord. 4-2009 on 7-15-09]

*The Planning Commission finds that:*

1. According to the property tax receipts there are no delinquent taxes, fees or special assessments on either parcel.

2. There are no municipal liens filed against either parcel.

**Motion by Commissioner Dewey, seconded by Commissioner Bennett, that there are no liens or taxes due and that this standard has been met. Motion passed by unanimous voice vote.**

**Motion by Commissioner Bennett, seconded by Commissioner Harris, to approve the property transfer as proposed based on the findings of fact. Motion passed by unanimous voice vote.**