



# CHARTER TOWNSHIP OF PORT HURON

3800 Lapeer Road  
Port Huron Twp., Michigan 48060

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## Zoning Board of Appeals Agenda

Thursday, March 18<sup>th</sup> 2021 at 7:00pm

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Agenda Approval
5. Public Comment
6. Approval of Minutes – February 25<sup>th</sup> 2021
7. Correspondence
8. New Business
9. Old Business:
  - a. INTERPRETATION REQUEST: To hear all comments relative to The Zoning Administrators' request to the ZBA for a review and interpretation of the zoning ordinances to determine the requirements and/or regulations for the establishment of a Medical Marijuana Care Giver Facility and related Uses.
10. Report's
  - a. Kirk Lavigne – Planning Administrator
  - b. Bill Livingston – Board Trustee
  - c. Jerry Sebastian - Planning Commission
11. Adjournment





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## MINUTES OF THE REGULAR MEETING FOR THE CHARTER TOWNSHIP OF PORT HURON ZONING BOARD OF APPEALS HELD THURSDAY, MARCH 18, 2021, 7:00 P.M., TOWNSHIP HALL, 3800 LAPEER RD, PORT HURON, MI 48060

### 1. *Call to Order*

The Meeting was called to order by Chairman Jerry Sebastian at 7:00 P.M.

### 2. *Pledge of Allegiance*

### 3. *Roll Call*

Attended: Kirk Churchill, Warren Flynn, Jim Robinson, and Jerry Sebastian.

Absent: Trustee Bill Livingston and David Sickles.

Also Present: Building/Planning/Zoning Administrator Kirk Lavigne, Deputy Derick Watson, Stephen Tetreau and Recording Secretary Betty Child.

### 4. *Agenda Approval*

Motion by Member Churchill, support by Member Robinson, to approve the agenda as distributed. Hearing no objections, Chairman Sebastian called for a voice vote. All in favor, the agenda was approved.

### 5. *Public Comment*

There being no Public Comment, Chairman Sebastian moved to Approval of Minutes.

### 6. *Approval of Minutes, February 25, 2021*

Motion by Member Robinson, support by Member Churchill, to approve the minutes as distributed. Hearing no objections, Chairman Sebastian called for a voice vote. All in favor, the February 25, 2021 minutes were approved.

### 7. *Correspondence*

Chairman Sebastian noted six (6) e-mails had been received regarding the Medical Marijuana Care Giver Facility request.

- John and Elaine Hofmann: Oakwood Drive residents requested medical marijuana homes not be allowed in the Township and did not want marijuana grown in their neighborhood.
- Tom Troy: Lindsay Lane resident was against a grow operation in a residential area as it is not the place for this type of business or activity.
- Unnamed: Lindsay Lane resident stated the applicant does not live there and was concerned about the safety of the other residents and children.
- Unnamed: Lindsay Lane resident was against marijuana grow houses in residential areas.
- Brad Amey: Lindsay Lane resident was against marijuana grow houses in residential areas with concerns of excess noise, traffic, and smells. Suggested it be operated in a business district, not a family neighborhood.
- Mark Reilly: Lindsay Lane resident was not in favor of a grow facility in a residential area due to increased traffic, noise, and odors and suggested it be restricted in residential zoned districts.

### 8. *New Business*

There being no New Business, Chairman Sebastian moved to Old Business.

**9. Old Business**

**(a) INTERPRETATION REQUEST: To hear all comments relative to the Zoning Administrators' request to the ZBA for a review and interpretation of the zoning ordinances to determine the requirements and/or regulations for the establishment of a Medical Marijuana Care Giver Facility and related Uses**

As outlined in the MTA Bulletin, the Michigan Supreme Court has agreed that Medical Marijuana Caregiver Facilities primary caregivers are subject to municipal zoning regulations that are not unreasonable or inconsistent with state law.

Deputy Derick Watson from the St Clair County Sheriff Department was on hand for questions.

With that, five items were addressed with recommendations for adoption.

1. *Does the growing of marijuana in a residence as a 'Home Occupation' violate the 'Section 40-698 Home Occupation'.*

Proposed changes include restrictions that may create additional traffic, noise, odors, other conditions that are not normal to a typical urban residential subdivision.

Motion by Member Churchill, support by Member Robinson to accept the proposed changes. Hearing no objections, Chairman Sebastian called for a voice vote. All in favor, motion carried.

2. *Does 'Section 40-697 Lawful use of a structure as a dwelling unit', preclude the operation of the establishment of a 'MM Caregiver facility' within a residence and confine it to outside or to a detached accessory structure located elsewhere on the same property.*

Proposed changes for MM Caregiver Facilities be distanced from residences and not allowed on the same property and should be in a Non-Residential district and not in the vicinity of any residences.

Motion by Member Robinson, support by Member Churchill to accept the proposed changes. Hearing no objections, Chairman Sebastian called for a voice vote. All in favor, motion carried.

3. *Would the channeling of this activity to a specified district, where it can be allowed in a residential home, help address the kind of concerns that would be considered violations of normal residential districts?*

Proposed changes indicate mixing a MM Caregiver Facility with any type of residential use is not the best action.

The uses need to be regulated.

Motion by Member Churchill, support by Member Robinson to accept the proposed changes. Hearing no objections, Chairman Sebastian called for a voice vote. All in favor, motion carried.

4. *Would the allowance of a 'Caretaker Residence' as presented in 'Section 40-697 Lawful use of a structure as a dwelling unit', in a specified zoning district, on the same parcel, where detached accessory structures can be constructed to contain the use, meet the general intent of the zoning ordinances?*

Proposed changes regarding the grower reside on the premises may not meet the general intent of the zoning ordinance.

Motion by Member Churchill, support by Member Robinson to accept the proposed changes. Hearing no objections, Chairman Sebastian called for a voice vote. All in favor, motion carried.

5. *Does the establishment of a 'MM Caregiver facility' fall within what would normally be considered a regulated use based on our current ordinance 'Section 40-855 Regulated Uses'?*

Proposed changes include adding the MM Caregiver Facility to the list of Regulated Uses found in 'Section 40-855 with restriction of locations to other businesses, schools and residential districts.

Motion by Member Churchill, support by Member Robinson, to accept the proposed changes. Hearing no objections, Chairman Sebastian called for a voice vote. All in favor, motion carried.

These items will be presented at the next Planning Commission for recommendation of approval and adoption.

#### **10. Reports**

##### **(a) Kirk Lavigne – Planning Administrator**

- The next meeting will review five (5) site plans.

##### **(b) Bill Livingston – Township Board Trustee**

- There was no report as Trustee Livingston was absent.

##### **(c) Jerry Sebastian – Planning Commission**

- There was no report as the March Meeting was cancelled due to lack of business.

#### **11. Adjournment**

Motion by Member Robinson, support by Member Churchill, at 7:52 P.M. to adjourn. Hearing no objections, Chairman Sebastian called for a voice vote. All in favor, meeting adjourned.

Submitted by Betty Child