

Milton Township
Planning Commission
Approved Meeting Minutes
December 8, 2009

Members present: Chairman Stilson, Kingon, Merillat, Cole, Kopkau, Hefferan and Luckett

Also present: Weinzapfel and five audience members

Stilson called the meeting to order at 7 pm.

Approval of meeting minutes dated November 10, 2009

Motion by Kingon to approve the minutes as presented. Seconded by Hefferan. Motion carried.

Meetings and Announcements:

Received approval from the Antrim County Health Department on Cottage Cove.

Received approval from Milton Township Fire Department regarding road relief on Powell Lane.

Cole gave an update on the two candidates applying for the planner position. The Board requested bids from each candidate. Those bids have come back and there is about a \$6,000 difference. Weinzapfel contacted both candidates' references and will be receiving recommendations in writing. The decision will hopefully be made next Monday.

Luckett said there has been no ZBA meeting.

Hefferan gave an update regarding a wind energy article he read and how it might relate to the recently passed wind energy ordinance.

Approval of Agenda:

Motion by Kopkau to approve the agenda as presented. Seconded by Luckett. Motion carried.

Public Hearing Amendment 2009-04, a new chapter 23, 117.2300.

Non Conforming Lots Overlay Zone:

Commission members indicated there was no conflict of interest. The subcommittee was Tom Cole, Joe Merillat and Jim Stilson. It was advertised in the ER News and there were no letters received.

Stilson gave the presentation on the proposed ordinance. Stilson asked if the subcommittee had any comments for information purposes only.

Hefferan asked for clarification regarding the three diagrams.

Keith Termaat of Joe Marks Trail asked regarding a 66ft road right of way, was reducing the right-of-way width taken into consideration to solve part of the problem? Cole said no. Cole said that would be the authority of the county road commission, rather than the Planning Commission. All of the areas in question have 66ft road right of ways.

Keith Termaat requested that the actual high water mark number should be used, rather than just the language. Cole said once that is settled in another proposed chapter, it will be referenced here. The intent is that this wording is temporary.

Keith Termaat asked regarding the dimensions of the building envelope shown in the diagrams.

Stilson opened the public hearing for 2009-04.

Those wishing to speak in support:

Gary Burns of Lake Street is happy to see this amendment and the possibility of having relief. He attended several of the subcommittee meetings and worked with Weinzapfel.

Gary Backerman of SW Torchlake Dr. He commended the group for their hard work. If there is anything he would like, he would like to somehow get the benefit without having to tear their house down.

Keith Termaat spoke in support.

Jim Pixley spoke in support.

Jan Burns of Lake St spoke in support.

Those wishing to speak in opposition:

No one wished to speak.

Kingon said he made sure Rex Terrace was notified and it was circulated and they had no objection. It is not inconsistent with the master plan. Folks are not upset about it, he supports it.

Kopkau said she is happy to see the positive feedback and she is in support of the proposed ordinance.

Luckett commended the committee and appreciates the sketches and diagrams. As a ZBA member, it will eliminate the need for a variance that would not be granted.

Merillat each of these subdivisions are places that were platted before the ordinance. This will eliminate ZBA requests. Many requests revolved around this issue.

Hefferan said he has struggled with this since its inception. He has reviewed the Master Plan and

he does not see how this fits in with the Master Plan. We currently have a minimum square footage of 960 sq ft and we are reducing that to 720 sq ft for some properties. We have to be sensitive to neighboring properties. There is the potential to encourage overbuilding on lots.

Cole said Hefferan raises good points. We have to be cautious and concerned with the ordinances we are creating and how it will impact residents in years to come, however he disagrees. When the ZBA gets many of the same type of request, our legal team has suggested that we deal with those affected areas. In some cases, we are just giving people the right to build a residence without a variance.

Stilson said the idea for this came up many years ago and he appreciates the work that has been done.

Weinzapfel said this issue has been ongoing since he started in 2000. That being said, when you have continuous problems like this, it is the responsibility of the Planning Commission to take care of the issue. He understands Hefferan's concerns, but in the defense of the homeowners these were platted before the ordinance. Regarding the road issue, Keith, you would have to sue everyone in the Platt and get the okay from the road commission to get the road right of way changed. When you start changing a Plat, it is a very long process and it has to go through the state of Michigan.

Weinzapfel suggested that the proposed ordinance go under Chapter 4, Non Conforming Lots, rather than creating a new chapter 23. Merrillat said he would recommend against that because it is an overlay zone. Cole agreed.

Motion by Cole to recommend approval by the township board of amendment 2009-04, Non-Conforming Lots Overlay Zone, Chapter 23, seconded by Kingon.

Roll call vote:

Kingon: yea, as it is not inconsistent with the Master Plan. It also has resident support.

Luckett: yea, as the purpose of zoning is land use regulation. This ordinance allows owners of non conforming lots to modify their dwellings and not take away from the use of their property.

Kopkau: yea, based on the resident support.

Hefferan: nay, as it does not comply with the Master Plan.

Merrillat: yea, these lots existed before the ordinance. Many of the ZBA requests revolve around this issue and it allows for a reasonable solution to an ongoing problem.

Cole: yea, it gives relief to folks with a long standing problem. It gives relief without being detrimental to neighboring properties.

Stilson: yea through working with the issue, he sees the need based on 117.301.

Motion carried 6-1.

Sign Report:

Luckett gave a report. The subcommittee met yesterday and they will meet and discuss this with the planner before it is discussed with the full board again.

Ordinance Review:

Cole gave a report. Chapters 3-9 were covered by the full commission in the last workshop. The subcommittee will meet tomorrow at 3 pm to review the areas that were brought up at the two workshops. Then, at 5 pm, there will be a full board workshop.

Shoreline Protection Report:

Kopkau presented draft language dated 12-3-09. Stilson asked regarding the high water mark and how that may be affected by the dam. Kingon said that the level is set by a court order. Stilson asked regarding the removal of trees under section E. Kingon said regarding earth change, it follows state law and county erosion. Merillat said if you would reseed within 100 feet, but the ordinance should only look at the first 25 feet. Kingon said the goal there was consistency with the state law. Kingon said there was a lot of great input from the Township Neighbors Network ~~Milton Neighbors~~. There are three issues they still have disagreement with.

1) Should the Lake Michigan shoreline (LMS) be included? Cole said legislatively, it does not require a different set of rules than what we have. We are looking at the first 25 feet. Previously, we only discussed inland lakes. Kingon said in the process, if someone is making major earth changes, they will request a permit. County soil erosion will be included, as well as Weinzapfel. At that time, the commission will look at the differences in shorelines. He does not see where the LMS is that different and could not be handled by professionals.

Termaat responded that LMS is unique. For this to be accepted, they are looking for recognition that the property along the LMS is legally distinct from other property. Luckett said if you do not want a different set of rules, what would be the point be of making language to make it different. Termaat said this will have impact on other zoning regulations. We have gone through a period of low water, does the strip move out with the water? Luckett said what prompted this is excavation by a property owner. Termaat said he is concerned with ownership of bottomland. When you get below the average high watermark, it is considered federal land. The 25 feet starts at the average high water mark.

2) There is no distinction in the ordinance between public and private parcels. Cole said yes. There is no distinction. That was done on purpose.

3) Riparian owners should not take responsibility for runoff from upland parcels. Cole said this

appears to be a separate issue. This does not deal with other areas of erosion. Cole said if the commission feels this is something that should be included, it should be a separate subcommittee and should proceed with this issue. Cole requested member input by next month. Merillat asked why recommended actions would be listed. Cole said this was a part of Forest Home's ordinance. Cole said these things could reduce runoff. They want people to know what they can do and how they can help prevent erosion and runoff. Merillat asked where boat dockage would go. Cole said it stays in chapter 4.

Home Business Report:

Cole said he thinks the language is in good shape. The subcommittee wants the planner to review the language before continuing. The most recent language will be distributed and be dated 12/7/09, version 20.

Point of Sale Septic Inspection Report:

Kington presented information and research gathered from areas that have similar ordinances. He presented a spread sheet dated 12/3/09 that summarizes this information. Elk Rapids Township would like to work with us on the draft proposals. Kington said he has gotten lots of good information from Termaat and is being challenged to make sure the cost is worthwhile from homeowners' perspective.

Meeting Dates for 2010:

The Planning Commission will meet on the second Tuesday of each month at 7 pm.

Meeting adjourned by order of the chair at 8:38 pm.

Respectfully submitted,

Joseph Merillat
Secretary