

Milton Township
Planning Commission
Approved Meeting Minutes
August 11, 2015

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

Also present: Weinzapfel and 14 audience members

Stilson called the meeting to order at 7:00 pm.

Approval of past minutes dated July 14, 2015:
Add Kingon to present members.

Motion by Hefferan to approve the minutes as corrected. Seconded by Lefebvre. **Motion carried.**

Township Board Update:

Cole said the response from Antrim on the ordinance amendments was positive and all were enacted by the board last night. Also, Maplehurst has come up for sale. The new price is \$2.8 Million. Two offers are currently on the property according to the realtor. Parks and Rec have toured the property and they are impressed with it. The Grand Traverse Conservancy is willing to help with this and so we are proceeding with getting two appraisals. It was also announced the Jim Stilson is retiring from the Fire Department after 41 years on the job. The township owes you a debt of gratitude. Cole also gave an update on county recycling.

Agenda:

1. Non-conforming overlay zone
2. Public hearing to rezone from Ag to Manufacturing
3. North Shore Docks: Outside Storage
4. Road Relief Request: Tod Hunt
5. Zoning Administrator Report
6. Set agenda for Sept. 15. Meeting

Agenda approved without objection.

Non-conforming overlay zone:

Presentation given by Attorney Grier which included a drawing on the marker board showing a proposed solution for the area of non-conforming structures. He has consulted with neighboring communities and we have proposed a couple of amendment alternatives. The amendment would be an overlay zone on a particular section of NW Torch Lake Drive. It would be a formula that would average the amount of non-conformity of the surrounding properties. You wouldn't be making things worse than what they already are. You are using the facts already on the ground. It's designed in particular to those wanting to do a second story and would be limited to a second story addition. You would use the new average set back number. I understand that you want to

preserve the character that you have now. In the event there are no adjoining property owners, you do a percentage of the whole size of the lot. Then you reduce the setback by the percentage.

Gary Bachman of SW Torch Lake Drive would support the need to address this issue. There is no question that we have a heritage situation with these lake cottages. Our subdivision was platted in 1904. Our cottage was built in 1926. For the first 50 years it was fine and then the zoning went in and now it's non-conforming to the new rules. We are caught in a dilemma. We don't have the ability to make the kind of changes we'd like to improve our property and keep them up. The problem is that this pushes toward removing these kinds of heritage structures. A few years ago, the planning commission came up with language that eased the restrictions. This applied only to new construction. I would need to tear down my house before I could apply these setbacks. I would like to see this system expand to existing construction.

Carol Perrin said if a house is situated on the property and it's already built and you wanted to go up a level, why can't you use the same footprint to go up a level? Stilson said you cannot increase the size of a non-conforming structure.

The subcommittee will meet to discuss this proposal August 25th at 9:00am.

Public Hearing: Rezoning of Agricultural Zone to Manufacturing:

This is a public hearing for a rezoning of a parcel from Ag to Manufacturing. The owners are Anderson Family Enterprise. The property tax number is 05-12-535-005-00. This would be amendment 2015-06.

The property is located on the corner of US 31 and Campbell Rd. The current PUD zone is no longer allowed in the AG zone. The future land use map does not suggest an expansion of the manufacturing zoning. The committee also reviewed 117.1201 and 117.1202 permitted and special uses with the manufacturing zone.

The application filed needed a better site plan, but not needed at this time. This is a rezone only if this is approved their plan is for adding mini storage. The county was asked about the term spot zoning. It was stated we should consider the current use, and the neighboring properties. There could be some basis to argue that is not spot zoning although we are making the property more conforming. With the above information the committee recommended the planning commission conduct a public hearing on a rezone.

There is no conflict of interest.

The meeting was advertised in the Elk Rapids News on July 23, 2015.

A letter was read which objected to the re-zoning by Sandra Ball. She has adjoining property to the north.

A letter was read which objected to the re-zoning by Mike and Sandy Dorman of Cairn Highway.

Two letters were also received from the lien holders with each consenting to the re-zone.

Mark Anderson, the property owner gave a presentation and showed his property on a map and also discussed the surrounding properties. Because of what this property currently is, it's unlikely that anyone who purchased it would use it for something else. We are paying taxes on commercial use. We want to expand our services because there is no mini storage available any more. Our driveway is the only driveway on Campbell Road and it isn't close to the neighbors. The closest is Mike and Trudy Cullimore. We'd like to do service and expand our business that will hire more people. This needs to be rezoned for what it's being used for. It's been used for boat storage for about 30 years. We want to conform to the laws and we haven't had any complaints from the neighbors and we want to be good neighbors.

Lefebvre said she has nothing against what he's doing and the location where he's doing it, but the approach to rezone to Manufacturing isn't the right way. If something changed with his business, the uses in the manufacturing zone could change the character of the area. She believes we should revisit the PUD. Anderson strongly disagrees. Anderson said there is no PUD. Weinzapfel said we could bring back the PUD.

Kingon said another option would be to revert back to Ag and have a special use permit.

Anderson said this isn't being used for Ag even though it is zoned Ag. Cole gave some of the history of the property. Anderson said he thought the township didn't want the PUDs and that's why you did away with them.

Lefebvre said spot zoning is applied when it will give a benefit to the greater area and not just for one person to expand his business.

All those speaking for informational purposes:

Hefferan asked how many people are currently employed. 10 people for 9 months of the year. Your employment would stay the same, correct? Yes. We would add more people for the service aspect of the business.

Hefferan and Stilson reviewed the suggestions of the subcommittee.

All those speaking in support:

No one wished to speak.

All those speaking against:

No one wished to speak.

The board began deliberations:

Lefebvre said she is in favor of the plan, just in a different way. Merillat asked if this property is surrounded by Ag. Yes. Cole discussed some history and said whether we went for PUD or Manufacturing, the next owner could come along and do something different. The difference is

with a PUD, we can set restrictions on the uses. There are conditions you can put in a special use and it's spelled out. Cole said he leans toward Lefebvre's thoughts. The issues are with the service area and what type of service we are talking about. Kingon said we took out the PUD and went with a PRD. He does not want to spot zone. Why don't we simply consider having mini storage as a special use in AG? This way we wouldn't be spot zoning. We would have to do an amendment to the ordinance. Boat storage is not allowed in Ag. Outdoor storage is allowed but not indoor boat storage. Merillat said when we did the last special use for the property; we specifically stated that there would be no service on the property. Weinzapfel asked what the issue is with the PUD. You would still do that if you were amending Ag. Hefferan would not agree with Kingon regarding adding mini storage to the use in Ag zone. This would open up to the vast majority of the township. Regarding spot zoning, according to his research he read the definition. We are talking about 31 acres. Clearly this is not consistent with the future land use map. Regarding public benefit, there is a public benefit for having boat and mini storage. Regarding the master plan, we want to retain small businesses. However we got here, this area is boat storage. The biggest question is what is allowed in the Manufacturing zone and what could potentially go there. I looked at it and it is on US 31. I don't see anything in there that I would object to on that parcel. I was interested to hear from the neighbors because we need to know what they are thinking. Stilson said when we amended the ordinance; the intent was to help the people in the community. We are getting to a point now where we have to hog tie everyone on what we allow anywhere. It's one high spot in a wetland. We have to make this decision in the best interest of the people of the township. Cole asked if it was possible to go PUD route to establish rules giving special consideration to current use. This is the only PUD we have that is commercial. Kopkau said as a resident across the road, she doesn't have an issue with the use. Merillat said this is a clear cut spot zoning case. It's surrounded by Ag. Now we want to change the zone in the middle and it is small compared to the surrounding area and it benefits one property owner. Stilson asked regarding alternatives? Merillat said we did not think through the ramifications for this piece of property when we removed the PUD in the new ordinance. I don't think a rezone is the correct way, but I do think we can come up with a solution. Cole said his position is that we should turn this down and have the subcommittee go back and look hard at solving the situation with a possible PUD.

Motion by Hefferan to approve application 2015-06 for a rezone of parcel 05-12-535-005-00 from Ag to Manufacturing. Seconded by Cole.

Roll Call:

Lefebvre: Nay; as this is spot zoning.

Hefferan: Yea; this complies with the Master Plan.

Cole: Nay; this is a spot zoning issue.

Merillat: Nay; this is spot zoning and I do not believe it's consistent with the Master Plan.

Kopkau: Yea; this supports small business and the Master Plan.

Kingon: Nay; this is spot zoning and the two letters that came in had the same concerns that we have expressed about what could happen on the property if rezoned.

Stilson: Nay; because this isn't supported by the Master Plan.

Motion denied 5-2.

The public hearing is closed.

Kington said we are considering reinstating the PUD, the best thing to do would be to get a subcommittee going on that as soon as possible. We want the business to survive and thrive, but we do not want to open it up to other problems.

The subcommittee will consist of Cole, Hefferan and Kington will look at reinstating the PUD. They will meet August 25th at 5:30pm.

Anderson added that this has been a very frustrating process.

North Shore Docks: Outside Storage:

Did not meet due to the storm and they will reconvene August 26th at 5:30pm.

Road Relief Request:

Tod Hunt: This subcommittee is set for August 26th at 6:30.

Zoning AD Report:

Weinzapfel requested a subcommittee to look at a rezone of property. This subcommittee will be Kington, Kopkau, and Hefferan.

Weinzapfel and Kington were discussing the 25 foot protection strip after he went to a conference dealing with lake shores. After reviewing the 25 foot protection strip in depth, we have stripped the guts out of it. If I have 100 foot of shore line and I want to clear cut everything except those 9 foot in diameter it there is nothing saying I cannot do that. We had some protections in earlier drafts but for some reason they were removed. Kington discussed the workshop he attended and how it would apply to our ordinance. Cole, Lefebvre and Kington will sit on this subcommittee and revisit this issue on September 9th at 9:15am.

Agenda for September 15th:

1. Non-conforming overlay zone subcommittee report.
2. PUD subcommittee report.
3. North Shore Docks subcommittee report.
4. Road Relief subcommittee report.
5. 25 foot protection strip subcommittee report.

Motion to adjourn at 9:00pm by Kington. Seconded by Cole. **Motion carried.**

Respectfully submitted,

Joseph Merillat