

Milton Township  
Planning Commission  
Approved Meeting Minutes  
January 9, 2018

Members present: Chairman Hefferan, Kingon, Merillat, Murphy, and Kopkau.

Members absent: Lefebvre, and Cole.

Also present: Weinzapfel and 13 audience members.

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

Approval of meeting minutes dated December 12, 2017:  
Correct typo on Page 2: “for sale” rather than “or sale”  
Minutes **approved by unanimous consent** with corrections.

ZA Report:  
Weinzapfel discussed upcoming MTA meeting in April.

Township Board Report:  
Weinzapfel discussed of Maplehurst lot line adjustments and septic easements. Discussion of development regarding the beach/parking lot for the Bigelow property. Municipal civil infraction ordinance was approved so Weinzapfel can now issue tickets for violations of the zoning ordinance.

- Agenda:
1. Public Hearing Dowker Rezone from Ag to M #2018-01.
  2. Public Hearing Shoreline Protection Strip #2018-02.
  3. Public Hearing Residential Waterfront Access Restrictions #2018-03.
  4. Public Hearing Outside Sales and Displays #2018-04.
  5. Approval of meeting dates for 2018.
  6. Signs Discussion.
  7. Set agenda for February meeting.

Public Comment: No one wished to speak.

**Motion** by Kingon to approve the agenda. Seconded by Kopkau. **Motion carried.**

1. Public Hearing Dowker Rezone from Ag to M: #2018-01:  
Parcel 05-12-535-006-99 located between Quarterline Road and US31 just south of Boat House Storage. The property is currently owned by Lillian McLachlan. Acting on her behalf is Tad Dowker of North Shore Docks LLC who is the applicant. Mr. Dowker is under a purchase agreement of the above referenced parcel and is requesting a rezone of the property from Agricultural to Light Manufacturing.

No conflicts of interest on the commission.

This hearing was noticed in the Elk Rapids News on December 21, 2017.

Dowker gave a presentation regarding his application for rezoning. The property has been used as a gravel pit in the past which is currently a manufacturing use. The impact on residents would be minimal.

Weinzapfel said there are three parcels that the access road services according to the register of deeds. The large piece would be the one being rezoned, but one other small parcel is being purchased which includes the access road.

Murphy, Lefebvre, and Cole were on the subcommittee. Murphy gave the report of the request and discussed the findings of fact. This is an appropriate rezoning request. When Boat House Storage was Ag and change to M, at the time it was our understanding that the township discussed rezoning this piece of property at the same time, but did not pursue it. All the other gravel pits in the township are currently zoned manufacturing. The property's current use is a gravel pit. The intent of Dowker is to put storage there, we thought it would be consistent with neighboring properties. This would have a minimal effect on residents. Because of these things we recommended it for a public hearing for a rezone.

Public Comment for information purposes:

Mark Anderson of Cherry Ave. clarified regarding his property which was actually a PUD which was subsequently eliminated before it was changed to M.

John Wayne of Quarterline Road asked what Dowker would be doing with the property. We are not here to discuss what will go onto the property, but what would be allowed on the property with a rezone. Once you allow the rezone, there are a list of things that would be allowed. Boat storage would be allowed with a special use permit, but there would also be other things allowed. We are not focused on what Dowker may or may not want to do with the property. Would the road be oiled?

Jim Veliquette of Winters Road owns the first two lots on the access road. How would this affect those pieces of property? The zoning of your parcels will not change. The taxes will not change.

Brian Furnsteamer of Quarterline Road: What will be the requirements for the access road? Would there be signage on Quarterline. Regarding the gravel pit, would that activity be a grandfathered use? Regarding Paradine creek, what affects would this zoning having on that watershed? He said he was approached by the township regarding a possible rezone of his property in the past. How would this change your value if you are next door to a manufacturing zone. Would the value stay the same? Weinzapfel said to his knowledge, it has not affected property values. Weinzapfel said he is not sure who contacted him about the rezone years ago. Regarding the private road, the property has a 40-foot easement on the south. There is also a 33-foot easement on the north which the existing road is on. This 33-foot easement does not include the property in question. Dowker said the road is not built out to the easement and the road improvements depend on what goes in there in the future. Regarding the creek, that crosses the road before this property and does not touch the property. The gravel pit would be allowed by

right in the Manufacturing zone.

Questions from the Planning Commission for Information.

Merillat asked regarding US31 being a limited access highway. Murphy said it would be difficult to get access to that road. The property currently does not have access to US31. Dowker is pursuing that option.

No correspondence in support was received.

Public Comment in support of the application:

No one wished to speak.

No correspondence opposed was received.

Public Comment to speak in opposition to the application:

Gail Farris of Quarterline Road. Their land adjoins the property in question. We would like to see the land stay residential because we enjoy using it very much in its current state. If they put boat storage buildings in there, it will depreciate our land. We would like to stay and enjoy what we have.

Lee Powers of Quarterline Road. Her home would be overlooking the property in question. She would not like to see her property value to decline. The dust is bad with two or three cars up there. She will never be able to sell her house because of the view.

John Vanwyke of Waterside asked regarding how many jobs would be created. Hefferan clarified that this hearing is about rezoning, rather than a particular use. Murphy said he believes the jobs added would be a positive for the township.

Mark Anderson said he not for or against the rezoning. People make decisions based on what the zoning is. This property has been Ag for years.

Lee Powers asked regarding the shared road. What would happen with that? Hefferan said we are only concerned with the parcel being rezoned. The current access road is not included in that. Weinzapfel said Powers has no right of use of the 33-foot easement on the north side. You have right of use on the 40-foot easement to the south. Dowker said that is his understanding from the looking at the deeds.

Hefferan closed the public hearing and begin deliberations.

Kopkau said she can see both sides of the issue.

Merillat said this rezone would make this property conforming to our current zoning and make it consistent with other gravel pits that are zoned manufacturing.

Weinzapfel drew a diagram to explain to the audience and commission members regarding the easements and the creek.

Merillat said it is currently zoned Ag and you cannot have a gravel pit in Ag. It was preexisting, so it is nonconforming. If you change it to manufacturing, it would be conforming. The township would prefer conformity. If it changes ownership the use stays with the land, not the owner.

Kington said it is always revealing to have a public hearing to get different perspectives. I understand people who have enjoyed the views and the wildlife. At the same time, our Master Plan is to preserve the rural character of our township and promote business within the township. In the sense of a commercial development, that would be a positive. I find it a challenge to weigh these two things.

Murphy said we are supporting the growth of a new business. His company is growing rapidly, and he has looked for more space to grow his business. By doing this, it will create economic growth for the community. The property from a nonconformity standpoint is an ideal location for rezoning. It is already next to a boat storage. By changing the zoning, it makes it more conforming. It does affect people's views. You've had an opportunity to enjoy property you do not own. This is the appropriate place for a business to expand and to bring the property into conformity.

Hefferan said he goes back to what is currently allowed on the property and what could be allowed under the rezone. Currently on the property someone could put up a wind farm. They could do outdoor storage with a special use permit or a building contractor facility. Many things that could be done would change the character of its present use without rezoning it.

Weinzapfel said he is questioning the easement issue. Does that affect the rezone? Yes. Weinzapfel is remembering when the B&B was approved and recalling the discussions around the easement. In 2012, we did discuss rezoning the property, but the owner did not want it to be changed at that time.

Murphy said the 40-foot easement is Dowker's responsibly. Hefferan said why should we concern ourselves with the road. Dowker said he has the easement. Are requirements for an easement different before and after the rezone? No.

Weinzapfel clarified with the rezoning we cannot address what the use will become because it is not legal to do that. When you look at the manufacturing zone, you can see what is permitted. Special uses must come back in for a public hearing. Certain restrictions can be put on property for special uses.

**Motion** by Murphy to recommend the approval of rezoning parcel 05-12-535-006-00 from Agricultural to Light Manufacturing. Application number 2018-01. Seconded by Merillat.

No additional discussion.

Roll Call:

Kington: Yea; based on the possibility of increased commercial activity in the township and consistent with the Master Plan.

Kopkau: Yea; based on the Master Plan.

Murphy: Yea; based on prior comments.

Merillat: Yea; it is consistent with the property to the north and makes the property use conforming.

Hefferan: Yea; based on it does bring a nonconforming parcel into conformity.

### **Motion carried 5-0.**

Mark Anderson said he is very upset with the township for approving this so quickly.

Hefferan said this will go to the county and then to the township board for approval. He appreciates everyone taking the time to be here tonight.

### 2. Public Hearing Shoreline Protection Strip 2018-02:

No conflict of interest declared by commissioin members

The hearing was advertised in the Elk Rapids News on December 21, 2017.

Kington gave background on this ordinance revision. The goal is to create a shoreline protection strip 25ft from the high-water mark for our lakes and streams to protect them from pollutants and storm water runoff. In our ordinance a property may have a 20-foot excavation for a boat lift. In lieu of that, you could have a deck or patio. We put in place a process where a permit would be required to make changes within the 25 feet when the shoreline is developed. Based upon the experience we have had over the ~~last~~ next four years, we needed to beef up the ordinance and establish some standards by which to review sketch plans that were part of the review process. The easiest way to do this is to take the document and explain the new pieces. Kington discussed the new language which is shown in red on the draft dated November 6, 2017. Water is one of our most precious resources and supports many of our local businesses, so we must protect it.

Questions for informational purposes only:

John Vanwyke of Waterside Rapid City asked regarding a situation he has with a stump. Kington said first we would say that stumps provide stabilization to the shoreline. You would need to come to Weizapfel and have a look at it.

Bill Kennedy of Bussa Lane said he finds this very intrusive and almost like double jeopardy because most of this is approved by Soil Erosion. They are finding out that the brown algae is caused by lack of phosphorus. They are finding that is one of the leading causes of brown algae. Even though I think your intentions are good, you are overstepping your boundaries by imposing these functions when a lot of us care about the lake already but do not like government intrusion. Every Torch Lake owner wants to preserve it, but to come down with these rules is insulting, especially when there are other organizations that you must get approvals from. You are adding one more hoop to the process when there is already a process in place.

Weinzapfel clarified regarding the responsibilities of soil erosion.

No written correspondence received in support.

Those speaking in support of the proposed ordinance:  
No one wished to speak.

No written correspondence in opposition to the proposed ordinance.

Those speaking in opposition to the proposed ordinance:  
Bill Kennedy of Bussa Lane said see his statements above.

Public Hearing closed, and deliberations began.

Merillat asks Kingon when does it kick in. There is no difference from the prior ordinance. It kicks in when the 25-foot protection strip area is developed. This is the way it is now. It does not kick in if you want to do your 20-foot cut. Merillat does not like the disincentive to do a voluntary protection strip of less than 25-foot. If you want to put in a 15-foot protection strip, it is a no go, it must be 25 feet. We want to make sure the three definitions go with the new language.

Kingon said in terms of the number of feet, this was chosen years ago, and it is consistent with guidance from environmental organizations.

Murphy said he understands how much work went into this. He said Kennedy's comments are very valid. But, we have a responsibility as a township to make sure things get done to protect the water and the waterfront. We cannot ignore it and think that someone else is taking care of it.

Kingon discussed different government agencies and their responsibilities. Kingon said we are going beyond what the state requires to protect our lakes and our township.  
Hefferan said thanks to Kingon for his efforts.

**Motion** by Kingon to recommend approval of new language for 117.320D, Shoreline Protection Strip, application number 2018-02, draft November 6, 2017 to also include the three definitions: Earth Change be added to 117.205, and Pervious and Pervious Surface be added to 117.216 draft dated July 10, 2017. Seconded by Murphy.

No additional discussion.

Roll Call:

Merillat: Yea; as it sets review standards and is consistent with our Master Plan page 8-3, #1, page 8-4, #6 and #8, and page 8-8, #3 and #4, which all speak about the environment and the shoreline.

Murphy: Yea; as written this appropriately addresses the concern of our township and how we want to protect our lakes and streams.

Kingon: Yea; The major thing is to provide standards for review for the permitting process and strengthens the overall process.

Kopkau: Yea; as it supports the Master Plan and protecting the quality of water in our lakes and streams.

Hefferan: Yea; based on our Master Plan that states that the township should protect the water quality from degradation and pollution.

**Motion carried 5-0.**

Bob Milliron asked regarding the approval process. This will go to the county for their comments and review and they have 30 days to do so. Then it would go to the next board meeting after that for approval. You can comment on it at that meeting, but it will not be a public hearing. This will go into effect after the notice goes back into the newspaper.

3. Public Hearing Residential Water front Access Restrictions 2018-03.

This is a proposed addition to add to Chapter 3, 117.321.

No commission members declared conflicts of interest.

This was advertised December 21, 2017 in the Elk Rapids News.

Weinzapfel said when the zoning ordinance was revised, this piece of language got lost in the revision. The attorney and Weinzapfel were reviewing and discovered the missing language. This addition.

Merillat went back to his drafts and found language in a draft dated May 7, 2009 and it was not in a draft dated April 15, 2011. So it was eliminated sometime in between. His recollection was that it was dropped intentionally, because if it is not in the ordinance, it is not allowed.

Weinzapfel said true, if it is not in there it is not permitted, but our attorney said that this issue might be difficult to litigate, so he recommends we put it back in.

There was no subcommittee for this and no subcommittee report.

Questions for informational purposes

John Vanwyke of Waterside in Rapid City asked for clarification regarding the language.

Weinzapfel explained. This will not affect anything currently in existence.

No letters were received in support or opposition.

Those speaking in support:

No one wished to speak.

Those speaking in opposition:

No one wished to speak.

Public hearing closed, and deliberations began.

Kingon said the lake associations are supportive of this ordinance.

**Motion** by Hefferan to recommend approval of amendment 2018-03, to add 117.321 Residential

Waterfront Access Restrictions language as printed in the Elk Rapids News on December 21, 2017. Seconded by Kingon.

No further discussion

Roll call:

Kopkau: Yea; because it supports our Master Plan

Kingon: Yea; because it is consistent with our R1 zoning.

Murphy: Yea; because it is consistent with R1 zoning and the recommendation of township council.

Merillat: Yea; allows, but controls shared waterfront access.

Hefferan: Yea; because the concept is supported throughout the Master Plan.

**Motion carried 5-0.**

4. Public Hearing Outside Sales and Displays 2018-04.

No commission members have conflicts of interest.

This was advertised in the Elk Rapids news on December 21, 2017. There is no applicant.

Hefferan explained many months ago, we were asked to look at our definition of outside sales and displays which are currently only allowed in the village zone and if we wanted to expand that to other zoning districts. The subcommittee met in August of last year. Cole said it was not the townships intent to allow displays in other zones by special use. But in looking at the language there were words that were unclear. So, the language has been updated to read "Land use or activity that displays goods for sale or rent on an open-air lot of yard visible from the public right-of-way."

Toby Way asked regarding farm markets. Hefferan said farm markets and farm stands signs are allowed in any zone.

Mark Anderson said this stems from a discussion regarding his property. Why not have a seasonal area for display? I do not understand the resistance from the township on this. Merillat said the subcommittee looked at it but decided against changing the zones that allow Outside Sales and Displays. We are just clarifying the language. Weinzapfel said Anderson could go to the ZBA to ask for a variance.

No written correspondence in support or opposition was received.

Those speaking in support:

No one wished to speak.

Those speaking in opposition:

Mark Anderson said he does not think this makes sense to allow something to be a special use permit and then put a stipulation on it. You can sell this item, but you cannot display it for sale. Kingon clarified -- except for in the village zone.



Public Hearing closed, and deliberations began.

Kington discussed the farm stand language and where it is permitted.

**Motion** by Hefferan to recommend approval of amendment 2018-04, 117. 215 language for Outside Sales and Displays to be changed to “A commercial land use or activity that displays goods for sale or rent on an open-air lot or yard visible from the public right of way”. Seconded by Kopkau.

No further discussion.

Roll Call Vote:

Murphy: Yea; based on clarifying the definition and is consistent with the Master Plan.

Kopkau: Yea; it clarifies the definition.

Merillat: Yea; removes possible confusion.

Kington: Yea; it is consistent with the Master Plan.

Hefferan: Yea; it clarifies the definition.

**Motion carried 5-0.**

5. Meeting Dates for 2018.

**Motion** by Kington to approve the meeting dates for 2018 as presented. Seconded by Murphy.

**Motion carried.**

6. Signs discussion:

This is a reminder to be discussed at a later date. This is an ordinance revision.

7. Set agenda for February Meeting:

1. Weekly rentals subcommittee report.
2. Annual Bylaws review.
3. Set agenda for March.

Kington said he wishes the subcommittee could hear these issues before the public hearing. Is there a way the public could hear what the subcommittees are working on? Murphy said he was certain every nearby property owner would be here today. Every subcommittee meeting is noticed on the door. If something big was brought up, it could have been tabled.

Meeting adjourned by order of the chair at 9:30pm.

Respectfully submitted,



Joseph Merillat