

Milton Township  
Planning Commission  
Approved Meeting Minutes  
July 14, 2015

Members present: Merrillat, Chairman Stilson, Hefferan, Lefebvre, Kingon and Kopkau.

Members absent: Cole, excused.

Also present: Weinzapfel and 10 audience members.

Approval of past minutes dated Jun 14, 2015:

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

Township Board Update:

The county recommended approval of the ordinance revisions with no comments.

Agenda:

1. Public hearing for Torch River Marine Expansion.
2. Rezone AG to Manufacturing Subcommittee Report: Boat House Storage.
3. Non-Conforming Overlay zone.
4. ZA Report.
5. Set agenda for Aug. 11 Meeting

Agenda approved without objection.

Kopkau arrived at 7:07 pm.

Public hearing for a special use Permit for Torch River Marine:

Owner's name is JJJ Investments and agent is John Peal

Address is 12906 Cherry Ave. Rapid City, MI 49676

Parcel Numbers: 05-12-760-0010-00, also 05-12/760-002-00, 006-043-00 and 700-035-00

A subcommittee of Kopkau, Cole and Hefferan reviewed the application and zoning ordinance articles related to the request. The request is to remove a 40x200ft showroom and a 30x130ft awning and replace them with two 36x225 x 40 foot roof and rack structures for additional boat storage. Current zoning is village. The property is surrounded by Village Zone. The Master Plan states to retain the Torch River and Kewadin Village Boundaries and enhance the opportunities within the existing villages.

Boat storage facilities are allowed in the village zone under a special use Section 117.1102.

Stilson discussed the procedure for the public hearing.

The meeting was advertised in the June 25, 2015 edition of the Elk Rapids News.

A letter was received from Kenneth Barski in opposition to the marina expansion.

A letter was received from Paul Brennan in opposition to the marina expansion.

These letters are a part of the public record of this public hearing.

Applicant Presentation: John Peal discussed his current situation with rental space not being available to him this fall/winter. So, he needs more space for storage. We are well within our setbacks and height restrictions, and everything meets the ordinance. Now our forklift stays outside of the building and it will be screened from the public. It will also be a whole new look, much more modern and less square footage than we had before. Regarding the two letters in opposition, this building is for winter storage of boats and will not cause any added noise or commotion.

Carol Crout asked regarding the height of the building as compared to a telephone pole? You will see what you see now, but it will be much more modern.

Bob Kingon said the offices and the showroom are 200 feet. These are 30x220ft. The 220ft goes toward the front and not the water.

Stilson asked regarding the 40% open space and it is still there. He can go another 100K square feet before we get there.

Informational questions from audience: None

Those speaking in support:  
No one wished to speak

Those speaking against:  
No one wished to speak

Deliberations:  
Merillat asked if there were additional restrictions placed on the special use. None.

**Motion** by Hefferan to approve special use permit 2015-01. Seconded by Kingon.

Roll Call:  
Merillat: Yea; based on the use is allowed in the village and it meets the ordinance and is consistent with the Master Plan  
Lefebvre: Yea; it is in the Village zone and it meets the Master Plan  
Kopkau: Yea; it meets the ordinance and Master Plan

Kington: Yea; consistent with the ordinance and Master Plan and increasing commercial activity in the Village zone.

Hefferan: Yea; it meets the ordinance.

Stilson: Yea; it meets the ordinance and Master Plan

**Motion passed 6-0.**

ReZone Ag to Manufacturing Boat House Storage:

Hefferan discussed the subcommittee report dated June 15, 2015. The Planning Commission should discuss spot zoning since the parcel is zoned A and within a larger A area. The parcel is 31 acres. The current use is boat storage which is a permitted use in the M zoning district. The PUD zone is no longer allowed. Future Land Use Map in the Master Plan does not suggest an expansion of the M zoning district to this parcel. Committee reviewed Master Plan. Planning Commission should review 117.1201 and 117.1202 - Permitted and Special Uses within the M zoning district.

The subcommittee's recommendation: Pending consent from lien holders, subcommittee recommends the Planning Commission conduct a public hearing on the rezone.

Lefebvre asked regarding the history of the parcel. Weinzapfel gave the history. This is still a PUD and is considered a nonconforming use in the A zone. Stilson asked regarding a formal application? Yes. It was filed. It will need a better site plan, but the request is in to rezone from A to M.

Kopkau asked regarding the lien holders. Anderson said this letter can be requested as they are already aware.

Stilson asked regarding spot zoning. Hefferan said the County said to refer back to the Master Plan. In terms of spot zoning, we should consider the current use. If we consider 31 acres, the current use, and the neighboring properties, I would suggest we go to a public hearing. There could be some basis to argue that this is not spot zoning. We are making the property more conforming that it already is.

Kington said if the rezone goes through and down the line, it could open up anything permitted in the Manufacturing zone, including special uses. This could be inconsistent with A zone.

Lefebvre is concerned with spot zoning for this purpose and taking property out of A zone.

Weinzapfel said you could also bring back the PUD.

The application # is 2015-06 for rezone.

Mr. Anderson said it has been used as boat storage for 28 years now. We have swamp on one side, a field to the south, clear cut to the north, and US 31, and residential on the other side of the

highway. It's not going to make any more noise than it currently does. It needs to be rezoned. **Motion** by Hefferan that we schedule application 2015-06 for a public hearing for rezoning of parcel #12-535-005-00 from A to M.. Seconded by Lefebvre. **Motion carried.**

Non-conforming Overlay Zone:

Weinzapfel gave a presentation regarding some misinformation. Never have I said, nor will I say that if you have a non-conforming building that you cannot rebuild it if it is destroyed. If you have a structure in a non-conforming area that is destroyed, it must come before the ZBA. The ZBA will look at what you have whether they can make your structure more conforming it was before. Some parcels have garages that sit in the road right of way. You still have the responsibility to come before the ZBA to look at what you can do. Can you rebuild under the same footprint? There is a possibility. But, is it possible to make it more conforming? Most likely. That is their job.

Attorney Grier on behalf of Mr. and Mrs. Fein, agreed with everything Weinzapfel said. What might be helpful for these folks is having a written opinion on this topic from the township attorney. Weinzapfel said he can provide that. Grier's other issue is to adjust the zoning ordinance. He suggested looking at having a professional planner involved which may be able to help with this. The other thing that was brought to my attention is that in Helena Township regarding the way they handle it. They are similarly situated. He passed this out as an idea.

Hefferan said at last month's meeting our position was that until we had a formal application, we would not be reviewing this. Weinzapfel said we have no formal application.

Grier discussed Helena's ordinance regarding non-conforming lots. He wants to give us ideas. When we get closer, we will bring you a specific amendment, but this is where we are now. Stilson said we will reconvene the subcommittee when you make a formal application.

Lefebvre asked how many properties are affected. It's hit and miss, but quite a few.

ZA Report: Discussion of 117.303 4a, ground level patios. Just clarifying that ground level patios within the setbacks are allowed. There is no specification regarding size, he just wanted to bring it to the board's attention. It contradicts if it gets into the 25 foot protection strip. Kingon said the protection strip takes precedence.

Hefferan said there are so many folks here regarding the non-conforming lots. If we have a problem, I would say we would address it. Please provide us with information before the meeting rather than the night of the meeting.

Grier asked if the board has any thoughts regarding consensus on this issue. Stilson said you must put this together at the subcommittee level and then the subcommittee will recommend to the full Planning Commission. Grier asked if the township would be willing to bring a planner on to look at this. The alternative is that the neighborhood would have to get together and pay for this. Stilson said the township is not likely to pay for a planner.

Grier asked if the Planning Commission would like one proposal or several? Weinzapfel said to leave it open. At this point we need to look at all options. Hefferan said he has a lot of faith in the Planning Commission. We have looked at many complicated matters and not needed to bring in a planner.

Gary Bockerman of SW Torch Lake Drive said there has been a real drive to move to conformity to the current zoning. The problem is that many of us have lots that we simply cannot ever conform. There really needs to be this issue address where you balance the need for conformity and the ability to enhance and use their property the way anyone else can.

Set agenda for August 11 meeting:

1. Public Hearing for rezoning

**Motion** by Kopkau to adjourn. Seconded by Kingon. **Motion carried.** Meeting adjourned at 8:10 pm.

Respectfully submitted,

Joseph Merillat