

Milton Township
Planning Commission
Meeting Minutes
July 12, 2021

Members present: Chairman Hefferan, Ford, Cole, and Kopkau.

Members absent: Kingon, abstained. Merillat, excused. Lefebvre, excused.

Also present: This meeting was held via hybrid with some people being at the township hall and some participating on Zoom due to Covid and the capacity of the building. Approximately 26 people are in the building while more than 30 are present on Zoom.

Hefferan called the meeting to order at 7:01 pm.

Approval of minutes dated June 15, 2021
Minutes approved by consent.

For the purpose of these minutes, Beckett & Raeder will be abbreviated to B&R.

A. ZA Report: As presented by Weinzapfel
None

B. Township Board Report: As presented by Cole
None.

C. ZBA Report: As presented by Kingon
None.

D. Planning Commission Updates
Hefferan took the opportunity to thank Chris Weinzapfel for his service to the township as Zoning Administrator.

E: Public Comment
Abigail Hawley of TESSA and Olsen Bysdok and Howard thanked the board for their work. The finding of fact has been reviewed and they are in agreement with that to deny the application.

Laurie Brewer said there has been a lot of intimidation going on. Our surveyor has been harassed but it cannot continue. People are welcome to give their views in ethical ways, but the intimidation must stop.

Andy Blodgett attorney for the applicant asked for a vote tonight, as part of that, the applicant should be allowed to dialogue. If you have questions, please ask. I've submitted a letter to date and those are our main comments. The B&R document is flawed and biased. We have TESSA saying you should adopt it. We have no idea what the PC members think about it. I understand using outside experts to get information. But, not the finding of fact. You've got to go through

the RV Resort standards.

Jim Brewer the applicant took an oath to God and country to uphold the master plan and the ordinance. When you look at what's gone on, we haven't been allowed to talk in a year and a half. There will be 55 cars in the marina parking lot because it's the busy season. Right now we have two. It's a fact that our property is in the Village Zone. RV is a special use. It was designed to the ordinance. The septic was designed overkill and the storm water was designed to overkill. We've done everything right and we've been made to feel like criminals. Brewer detailed the problems with the site and their contractors are having. He urged the board and you know we've done just enough to get a site proposal and we haven't sculpted an RV park. We've been waiting to get the permit for years.

Joyce Grammar said she was born and raised in this community and I'm so happy to see Mr. Brewer with a campground. Our son has stayed in Torch Grove and every camper is older and they go downstate for the week and come back for the weekend and have a nice time. It's a great campground and I'm sure this one will be the same. I'm here to urge the board to vote yes for that permit. It's in your master plan and there is no reason why this community shouldn't enjoy those campsites.

Tim Smith of Chippewa Trail said public comments were completed and all new letters from Blodgett or May should be ignored. The committee has done a great job and we thank you for your effort.

Carrie May of Gourdie Frasier, the lead engineer on the project: I know there is a lot of information in front of you and I hope we can go through the questions you have. I'm happy to explain. I can go through any documents you have questions on. There are questions that have been outstanding and there are questions and new information that there should be a new site plan and we can't do that until we know what you want...either this or that. I think we could come to a resolution of the project.

Tom Cavalier said his position remains the same that he opposes the RV Park. He's concerned about the surrounding land values.

Nancy Appealer said she lives by there and she has to go by there when she leaves her home. It's a zoo right now. At this point, I stay home. I too have written a letter and attended meetings and I have to say I oppose the proposal.

Laura Witt is a customer of the marina and she said she supports the campground. We have our name on the list. We've had professional service and there is nothing wild or crazy there. They did state that the traffic will be from people who are members of the campground. You are counting them twice in those studies. Also, about the person who gets clay in his yard, has this been resolved? I was surprised after that subcommittee was appointed to do fact finding, now they want a new study? Vote in favor of the campground.

Mark and Ann Hatch are nearby residents and they thanked the board for their work. This is a special use permit. The fact that the developer proceeded before they had a permit has no bearing

on the ultimate decision. It will only benefit a few people. The people who use this will not be residents and they don't pay taxes here. The overwhelming majority of people who have commented on this are opposed to it. The developer is grasping at straws but I hear no one indicating how this will benefit our community as a whole. I urge the committee to deny the permit.

David Witt said he supports the RV Park. He's come up here for 20 years and we are up here now for two weeks and the only problem we've had with traffic is people going into the boat launch. RV parks are not a bad thing. A lot of us are older people. We can't live here because we can't afford it, but I'd like to enjoy the lake, for me an RV park is an economical way to do that. We do bring economic benefit to the area. I disagree with all of these people who think it's a traffic nightmare. We are just people who want to enjoy the area.

Tony Martina thanked the committee for their work. I asked a question as to when they are allowed to approve a special use and the statute. In no situation can you approve if it negatively impacts the community. Everyone has an opinion. The overwhelming majority of people have been opposed to this. I believe the B&R report is a non-partisan statement to do the right thing. There is no subjectivity. This report is a big deal. It hit all of the points that people have been saying over the last year.

Steve and Rochelle Lane of Torch Lake Drive our question is will there be someone monitoring the RV Park and what will be the penalty and how will that be handled. We are opposed to the RV Park.

Hefferan clarified that this is public comment, not Q&A.

Public Comment Closed

Agenda:

1. Torch Lake RV Park: Continued Public Hearing
- ~~2. Set agenda for August 10, 2021 meeting~~

Hefferan asked to remove #2. Motion to approve the agenda by Kopkau/Ford. Motion carried.

Hefferan discussed the previous public hearing. Public comment was closed and acknowledged receipt of letters. We reconvened January 15th of this year. As Mr. Blodgett mentioned, if there are questions for the applicants, we can do that in this section of our deliberations. Our options are to approve, approve with conditions, deny or refer back to the subcommittee for further study. It requires us to deny a SUP if it doesn't comply with the ordinance. Likewise, if it confirms to all standards it should be approved. Hefferan said how I feel or whether I like an application isn't relevant. I understand others can be emotional about this, but as a planning commission, we do not have that luxury. Whoever has the most friends or money, it doesn't matter because that's not how it works. My deliberations will be based on the application and our ordinance. I do want to indicate our decision on a SLU application is final. This cannot be appealed to the township board or ZBA. It can be appealed to the circuit court.

Motion to close the public hearing and begin deliberations by Ford/Kopkau. Motion carried.

Ford asked about motorhomes. It wasn't listed in the information and they were excluded. Is this by design? Kopkau said it was her understanding that motorhomes would be allowed. Brewer said motorhomes would require a cement pad. I would have no condition of approval. We don't want to put cement pads up there.

Kopkau asked if there was a size limit? Brewer said they must be less than 10 years old and you have to be able to pull them with a truck. It's whatever a truck can pull. It cannot be a mobile home.

Hefferan said he had some questions for Iacoangeli regarding the B&R report. Parking is referenced quite a bit. I don't see any specific conditions to parking other than what's required by the state. Does the proposed project comply with the state of Michigan? Yes. That license complies with 1.5/space.

Ford clarified the park will be licensed by the state of Michigan Public Health Code. This is how we addressed parking. If you got your license, that would satisfy our ordinance. As part of the applicant's submission, during the day, they could have upwards of 10 guests and 6 at night. Based on the number of people, there isn't sufficient parking on site. They meet 1.5, but because they are allowing additional guests, you have to compute that in. Even at 4 people per vehicle during the day, they wouldn't have enough parking on site.

Hefferan said according to our ordinance, six people on site, and no more than four registered guests, 10 people per site is permitted per our ordinance. We have a conflict with our ordinance regarding the amount of parking. John Iacoangeli agreed with that statement.

Cole asked about full-time seasonal units, when you pull a trailer in, you stabilize the trailer. I've seen some parks where that becomes a permanent situation and can lead to accessory structures such as decks and sheds. Hefferan said there are no permanent accessory structures allowed. Cole asked about park model homes. He has concerns about those. There are items in the RV park rules that I like but we don't have the most recent version, but I'm concerned and some of those items should be stipulated in conditions if we approve this. Once we approve, it's a done deal, but any rules that are between the park owner and the RV owner can be changed, if there are things we want, it should be in the conditions. I don't want to see us relying on RV owner rules since ownership of the park can change.

Cole said regarding guest parking, part of the problem is that that was down toward River Road. Getting up to the top of that place is a hard walk. The same applies to extra vehicles. The nature of the hills are going to cause more than the normal amount of golf cart use for people who want to get places. This gets into 1.5 spaces and this gets into golf carts. One thing I'm not sure of is the percentage of developed area to open space.

Brewer said we are permitted to have six park homes pursuant to the septic size. It's a condition from the Michigan Campground license. If you don't want them as part of conditions, that's fine.

Carrie May said when parking was discussed during the subcommittee, the 1.5 spaces represents one car and one golf cart. I'm not sure where your commission is on things that have been offered at the subcommittee level, but this is where we have overflow. May pointed to a drawing of parking at the park. May and Cole reviewed the drawing.

If you had a park home and it was more than 10 years old, Brewer said a new unit would have to be brought to the space.

Hefferan said on 117.1602B asked for John Iacoangeli to comment on the public safety review. John said the fire chief reviewed the plans against the NFP Guideline 1194, he did prepare a letter, which was part of the technical memo, and he noted a number of things that needed to be changed such as the turning movements, the spacing between the campsites and fire suppression apparatus. The applicant in response to that has submitted a revised site plan and did some redesign of the park to address those issues, but I don't know if all of those issues have been resolved.

Hefferan said we are operating and deliberating on the application dated March 9, 2020. Hefferan asked John Iacoangeli if the site plan included in that application would not comply with the fire department recommendations? No, it would not.

Hefferan asked board members to look at 1605, Seasonal RV Park. Blodgett asked us to review that. Does anyone have any concerns with the application not meeting A-L? No. None. Hefferan asked about O: Storm water shall be contained on the RV Park parcel. If we are operating on the application dated March 9, 2020, which indicates storm water will be self contained and we know we had an incident in which case the storm water was not contained on site. My comment is on P, there will be a manager or security on site at all times. Q. Which is the screening and greenbelts. Hefferan asked regarding the greenbelt discussion with the subcommittee and waiving it. When looking at that side, the trees were pretty thick. Since then, there is very little there in the way of screening on Miller Road. This is a major concern according to Weinzapfel. He hasn't discussed what kind of buffer could be put there. Hefferan said there has been discussion through the year about it but I now I understand. It was at one time heavily treed, but is not now. Weinzapfel said he would like a clarification on parcel on those parts that aren't included in the park. Looking at the original parcel, there are several parcels that aren't included in the park. There has never been a land division on that. May said the ordinance required that the RV Park be no more than 10 acres of the parcel. That's the outline of the 10 acres. The ordinance requires that the park boundary be no more than 10 acres. Andy Blodgett said the remaining common area of the RV Park is in the green boundary. The parcel owned by the applicant is larger than 10 acres. Vermitten said the parcel is larger than 10 acres. The green belt has to conform to the 10 acres and the rest of the property is reserved land. It's not part of the common space or green belt, it's just undeveloped land. Subject to zoning, can they use this land later on?

Hefferan asked Laurie Brewer regarding the greenbelts, do you have any objection to a green

belt on Miller Road. No.

Hefferan said he would like to go back to 1602, SLU Review standards. Hefferan said his question is if there is any conflict with the proposed use with the master plan? No.

1602B: The proposed use shall be designed, constructed, operated, and maintained to be consistent with the existing or intended character of the general vicinity...Ford asked if the subcommittee saw a visual of the final product? Hefferan asked May if there was a final drawing. May said we were proposing a more native greenbelt but then we got stuck with what the township wanted.

Hefferan said he struggled with this one. There is a ridge there that runs from the old motel, all the way down to the conservancy area. That has been changed dramatically. This is a big change to the land. Hefferan said he's referring to the application made a year and a half ago.

Cole said in determining whether they've changed the essential character of the area —when you live in a beautiful area, you're going to get visitors and pressure. It's a village zone. Many high-density things can be built there. As far as what the end product will look like, a lot of that is up to me as the owner. The more attractive he makes his property, the more desirable it will be. It's hard for us to determine the essential character of the land.

Kopkau said the information that was given to us from the applicants was that this was more of an upper class campground and not an overnight campground. It's not transient place. More of a place where they go to live for the summer.

Hefferan introduced the board members for those on Zoom.

1602C: The proposed use shall not be hazardous or disturbing to existing or future uses in the same general vicinity to the community as a whole. Hefferan agrees with the finding of fact here that a rain event caused soil erosion on the Roote property.

Ford said he believes this has been remediated.

Cole said if I have an overflow of water on to my property and remediation is attempted and if it fixes is and everyone is happy. What if it can't be fixed? What do you do if you say water is retained on site and it just can't be done, what then? I suppose there is always some kind of answer. Hefferan said it's important that we focus on the March 2020 application. We have the ability to approve an application with conditions, but the application we are operating on is March 2020.

Blodgett said we are biting our tongue a bit because the event of last summer occurred because the engineering hadn't occurred yet. The engineering plans you have will keep the water on site. Hefferan said is that our fault they weren't in place? Blodgett said it's a chicken and egg. Blodgett said part was approved under soil erosion. There are parts we can't do until this application was under consideration.

John Iacoangeli countered that argument. Before you start the grading process, you must start soil erosion measures. Not after.

1602D: Proposed use shall be served adequately by essential public facilities....

Hefferan said public safety is the bedrock of what we do and the most important thing we do. The application did not adequately address the fire department's concerns. Hefferan said the emergency exit on Miller Road was discussed, but the lack of detail in regards to public safety is a concern. D is not met. I know there has been a lot of work done in communicating with the fire department. We are working on the application of March of 2020. This isn't covered in the application.

May said we agreed completely about fire safety and I just want to make clear, there were three separate reviews of the project by the fire chief. If new standards are being applied in different reviews, we went to him and drove him around the site and I don't fault him for coming back later. We want to meet safety needs. How is it fair to go back and apply new standards or allow him to make concessions since it's a new standard?

John Iacoangeli said in regards to public safety with the subcommittee I reached out to all of the review agencies for comments and provided each of them with a PDF of the engineering drawings. The fire chief asked for drawings and that's what he based his review on. I asked him what standards he was using and he said NFP 1194.

Hefferan said regarding changing the goal posts, it's the applicant's responsibility to comply with the ordinance. The ordinance states 1601 SLU procedures B/4: talks about reports or testimony for public safety.

117.1602E: shall not create excessive additional requirements at public cost....

Hefferan said he has no concerns with D

117.1602F:

Hefferan said he has no concerns with F.

117.1602G: Shall ensure that the enforcement shall be preserved in its natural state, insofar as practicable by minimizing tree and soil removal and by topographical modification that result in maximum harmony with adjacent areas.

John Iacoangeli said it comes down to a statement I made a few meetings ago that when you develop a piece of property, you can design with the land or to the code. If this would have started out where the applicant would have had an existing topography map on the area and started using that information to develop the property to minimize disruption and soil erosion, the outcome may have been different. What happened was the grading and the clear cutting of the ridgeline happened and it didn't maximize the natural features of the site. Actually it destroyed the natural features of the site. It's well documented and the master plan is specific of slope and soil conditions in the township. It spells out the implications when these types of sensitive properties are developed. This is why it doesn't meet the standard.

Carrie May said we disagree that it's not designed to the topography. The tree cutting started under a soil erosion permit before we designed. The top plateau, there is not more than 18 inches taken off there. The flat areas were flat areas before. It was cleared yes. But the topography is the same. I agree, when we got involved we asked Weinzapfel if they have a permit and we were told they did. What do you tell them? It's done. All we can do is go forward. Blodgett said from an ordinance point of view, I believe that this general subsection has to be read with 1605, in other words, you set forth parameters to this site. You have space requirements for the sites and this interplay about the environment has to take the use into consideration. You have space constraints from 1605 to take into consideration. Hefferan asked because the applicant wished to have 80 sites. There is no doubt that this application was designed to build the max amount allowed. Ford said insofar as practical, clear-cutting the area, was the only option? There is no other way to preserve it in its natural state? Brewer said we didn't clear-cut all of the trees but we are struggling to get 80 sites. We may not even get 80. We did the work we needed to get the proposal to meet the ordinance. When we first brought this proposal forward, we had a Miller Road access and they asked us to remove it. One of the things about the green belt was to leave more trees. We did propose a thing with two exits and you told us to take it off.

John Iacoangeli said to provide context, just because the ordinance says 8 units per acre is allowed, designs should have been submitted before work was started. If that happened, what you are presented went and got soil erosion and didn't get approval from the PC and put in 80 units. If it had gone through the normal process, the number of sites would have been reduced.

117.1602H: Shall meet the intent and purpose of the zoning ordinance....

Hefferan asked Blodgett regarding conditional approval by limited experience is someone is waiting for a permit we can approve it. You've discussed conditional approval. There seems to me to be conditional versus creational approval. We would be adding new material from various sources and building the application. I struggle with that. I don't think it's my business to do that because I may build it wrong.

Blodgett said it's not a normal process. There has been so much back and forth. 12 months ago if you asked the fire chief, it was fine and now NFP. We've been through so much discovery and it's not until tonight that we hear that that's the subcommittee and not the planning commission. I would point out that this is the first application under this ordinance. It's new and there are things and it's not out of character for this group to set out some guidelines that we are willing to meet those. With the history of this application, you have a variety of options. If you want to do a one liner that it must conform, then we can. We don't get the signed permit until everything is finished. The new ZA must follow up on that.

Hefferan asked Vermitten the same question about conditional approval versus creating. Vermitten said this has been a huge effort by everyone. It boils down to three options. Approve the application. There have been several additions you can consider. You can deny the application. Or you can build the application by approving with conditions. It's not an enviable task, but you have all of the information to make your decision.

Hefferan said one commenter said it's a zoo down there right now. I want to make sure people

understand it's a zoo right now. It's not the applicant's fault. It's our most congested area. It's been alluded to that at no point in time am I holding the applicant responsible for the zoo that's down there right now. It's a concern for the residents. We are undertaking the master plan soon and this is something we seriously need to look at in this area. None of that is Mr. and Mrs. Brewer's problem.

Ford concurred. It's already crazy, but trying to infer what the RV Park will bring to the area is challenging. We have to make sure we protect the area and the watershed.

Cole asked if we got a list of conditions from the subcommittee? Weinzapfel said no. Even the list of conditions was questionable at the July meeting.

Cole said can we accept this application with conditions, but a couple of the areas we talked about such as A/C/G are not correctable. We can't put conditions in to solve those. Hefferan said G is done. Cole said G can't be undone. Kopkau asked what about putting in plants and adding back in trees?

Hefferan said if we are wrapping up deliberations I would like a final comment from our consultant and our applicant and Mr. Blodgett.

Vermitten said if there is some desire to approve with conditions, those conditions would have to be articulated precisely and the option would be the sub committee was tasked with gathering information and providing information. The task wasn't providing conditions based on the information gathered. You could have an option to return to some though process of the subcommittee to create conditions to present to the planning commission to approve or deny.

Hefferan asked if there is a motion and a vote to deny the application, is there anything keeping them from filing a new application? Vermitten said they could file a new application.

John Iacoangeli concurred with Vermitten. Those are your options. Based on the record and as a professional planner, this should be denied due to the finding of fact. They can come back with a new application. On the face of it, you have to evaluate the March application. Based on the standards, it doesn't meet those standards and the PC is required to deny it.

Brewer said this process has been going on for two years now and that's ridiculous. The goal posts keep moving. The problem is you'll keep kicking the can down the road. We are the biggest employer in the village and tax provider for 21 years and we've created a dangerous environment and if you would have followed and talked to the applicant, now we are getting used and abused and threatened. This is a very dangerous situation. Our contractors are afraid to work there. I fear for my life. It's not us doing this stuff. It's the opposition. The only way to stop it is to approve it.

Blodgett said a problem here is that what I'm hearing is not a critique of the project, but the 17 subsections in 1605, there may be disagreement on storm water isn't on the plans. As far as we can tell, storm water is contained. The township has set forth specific subsections and they have been met. That's a very hard position to be in especially when the goal posts keep moving. The

approval with conditions is appropriate at this moment. We can't impose a different standard than when we were in subcommittee. You can't move the goal posts.

Hefferan said a decision must be made. I'm only one person. It's been a year. Many things are beyond our control. Covid caused us some issues. We've listened to the public comments and we've examined our ordinance repeatedly and had studies done and brought in experts and you heard what our consultants said. I don't want to kick this can down the road. We've never shied away from tough decisions here. I'm sorry for the delay but I can't accept full responsibility for it.

Hefferan said if there are no more deliberations, I would entertain a motion.

Motion by Cole to deny application #2020-01, relating to parcel number 05-12-006-047-00 based on the opening sentence of 117.1605, RV Seasonal Park, in addition to the standards of 117.1602A, sub paragraph C, sub paragraph D, sub paragraph G, sub paragraph H.

Second by Hefferan.

Discussion. Cole said he's not comfortable making the motion to accept with conditions since I'm not ready to hand over a list of conditions. It would take time to finalize it. Those kinds of things can be revised and a new application can be submitted. To start going through conditions would string this out even farther. Denying is not forever.

Ford is that if it's reasonable, the applicant could go forward with a new application. Hefferan said yes. Ford said it's our feeling that rather than to sort out conditions, it's time to call it one way or another. Hefferan said he's focused on the March application.

Roll Call Vote:

Cole: Yea

Kopkau: Yea

Ford: Yea

Hefferan: Yea, based on the reasons as stated in the motion.

Motion carried to deny application.

Hefferan thanked the audience for their time and patience and adjourned by order of the chair at 9:43 pm.

Respectfully submitted,
Joe Merillat, Secretary