

MINUTES
LAKETOWN TOWNSHIP
PLANNING COMMISSION
4338 BEELINE ROAD
ALLEGAN COUNTY
HOLLAND, MI 49423
(616) 335-3050

August 5, 2009

ARTICLE I. CALL TO ORDER

Chairman Bob Cook called the Planning Commission meeting to order at 7:00 P.M.

MEMBERS PRESENT: Bob Cook, Ed Stielstra, Linda Howell, Al Dogger, Bob Slikkers

MEMBERS ABSENT: None

STAFF PRESENT: Al Meshkin – Township Manager
Dan Martin – Township Attorney
Diane Ybarra – Recording Secretary

ARTICLE II. APPROVAL OF MINUTES

The Commission reviewed the minutes of the July 1, 2009 meeting. Following discussion, **a motion was made by Al Dogger and seconded by Linda Howell to approve the minutes as written. UNANIMOUS DECISION – MOTION APPROVED**

ARTICLE III. OLD BUSINESS

A. ZONING ORDINANCE DISCUSSION (moved to end of meeting)

Chairman Cook stated that McKenna and Associates had prepared a document for highway commercial and mixed use commercial use, which the Commissioner should have had time to

review for discussion. Bob Cook distributed pictures of potential commercial structures that would potentially not meet the requirements set forth in this document. He stated that he is not comfortable regulating in such detail as proposed. By way of contrast he distributed several pictures of buildings that potentially do meet the requisite details as noted in the documents. He noted that the present buildings in the area would not meet the proposed ordinance requirements. The point he is trying to make is that even with very specific requirements you may not get the type of building intended. This document dictates what the developer could do with very specific requirements.

Ed Stielstra stated that he was sensitive to the specific requirements but noted that after each section, it states that the Planning Commission would have discretion.

Linda Howell asked to consider the landscape of the Lowe's Company on U.S. 31 which does not seem objectionable and would fit the requirements stated as an example.

Bob Slikkers stated that the terminology used does not allow for much flexibility.

Al Dogger stated that he had a problem with the excessive use of the word "shall" versus "may" to allow for flexibility.

Bob Cook is proposing that a process be established for approval that would not be written as an ordinance.

Al Meshkin stated that the detail of the building design does force the developer to consider the use of a professional designer. The Commission does have discretion for granting waivers.

Bob Cook stated that even though it is stated, it will not promote creativity by the developer due to the specific requirements.

Linda Howell feels that this document puts the burden on the Planning Commission to grant many waivers.

Ed Stielstra feels that a developer looking at these guidelines would interpret the document in detail as it is stated.

Al Meshkin stated that he wants to see detail in the document.

Bob Cook does not feel that the document allows for discretion of the Commission. Al Meshkin disagreed.

Bob Slikkers feels the document does provide flexibility for the developer.

Bob Cook noted the requirement for 40% glass for space visible to the road is not reasonable.

Ed Stielstra stated that Commission will want to make amendments to the document.

Bob Cook stated that he does not want to be restricted to the requirements in the document. It is an approach that we do not want.

Ed Stielstra asked to see a copy of Bob's proposed process document. Bob provided the document for review.

Al Dogger stated that he does not want to restrict a developer to certain percentages of building materials.

Bob Cook also pointed out the restriction on banked parking versus what the current ordinance requires for commercial retail use. Al Meshkin feels the current parking ordinance, is outdated and should be revised.

Linda Howell suggested using the proposed document as guidelines and create a less detailed document for the ordinance.

Bob Cook stated that he wants guidelines that the Planning Commission can change. Bob Slikkers stated that the document must be basic, general and reasonable to administer.

Al Meshkin asked if the Commission would like to see the details of this document in the Blue Star Highway Sub Area Master Plan.

Bob Cook stated that he does not want to make that a detailed and inflexible document.

Linda Howell stated that there could be a review date put on the guidelines of the Master Plan. The Master Plan would incorporate the guidelines but not be restrictive.

Ed Stielstra stated that he would not want to see the required steps in the Master Plan document. A policy would have to be put in place allowing for amendments made to the guidelines. Bob Slikkers stated that a developer in current design would be made aware and discussion would occur to negotiate accordingly.

Ed Stielstra stated that he would rather see an ordinance without guidelines.

Bob Cook asked if the Commission wanted to work on the guidelines first and then the ordinance. The document would address the highway commercial area only at the interchange intersection.

Al Dogger stated that the update of the parking ordinance should also be done. He feels the parking ordinance should cover the entire Township.

Bob Cook suggested that the Commissioners review the highway commercial document to be which will then be discussed at the September meeting. The guidelines will be addressed first before the ordinance and process.

ARTICLE IV. NEW BUSINESS

A. BINDON SPECIAL USE REQUEST

Mr. Tim Bindon, agent and owner of property located at 6413 Sandcastle Drive, also known as Parcel #0311-406-014-00 requests a special use permit to construct an oversized accessory building on this property.

Mr. Bindon explained his plan for the proposed out building intending it to be used to store personal items. It is 256 square feet larger than the allowed 1,280 square feet. Mr. Bindon stated that he has spoken to the surrounding neighbors and they have not made any objections.

Chairman Bob Cook opened for public hearing. No public comments.

A motion was made by Bob Slikkers and seconded by Al Dogger to close the public hearing. UNANIMOUS DECISION – MOTION APPROVED

Chairman Bob Cook asked for confirmation of the setbacks. Al Meshkin stated that for accessory buildings the rear and side setbacks are equal to the height of the building. Bob Cook asked if it would be an issue to meet the 40 feet setback. Al Dogger asked what the height of the building will be. Mr. Bindon said the height has not been determined but he is estimating 30 feet. Bob Slikkers asked what the wall height would be. He responded the sidewalls would be 16 feet in height. Bob Cook asked if it would be difficult to meet the 40 foot setback. Mr. Bindon responded that he prefers to keep the tree line in place, which would not be possible with the 40 foot setback.

Following discussion, a motion was made by Ed Stielstra and seconded by Linda Howell to approve the special use request contingent on it meeting the conditions according to the application, for personal use only based on the standards in that section, compliance with all federal, state, county and township provisions. UNANIMOUS DECISION – MOTION APPROVED

B. TER HAAR SPECIAL USE REQUEST

Mr. Robert Ter Haar, agent or owner of property located at 6336 145th Avenue, also known as Parcel #0311-011-024-20 requests a special use permit to remove 8,000 to 10,000 yards of sand from this parcel.

Tim Lubbers of Busscher Septic explained the request for the larger pond as indicated in the application. The pond would be 138 x 120 and 8,000 yards of sand would be removed by Busscher on an as needed basis. It would not be disruptive to the neighbors. He stated that Mr. Ter Haar would like to stock the pond with fish and vegetation. The hours of operation for removal would be from 7:00am to 5:00pm. The sand removed will be used for septic systems, some of which would be in Laketown Township.

Chairman Bob Cook opened for public hearing.

Marcia Perry of 6248 Blue Star Highway made a general comment about the procedures of the approvals. She asked what the strength of the ordinances is if the exceptions are always approved. It seems that the reason the ordinances are there are to protect the properties. It is concerning that it is so easy to change the appropriate guidelines.

Chairman Cook responded that notices are sent to the adjacent neighbors within 300 feet of the property. It is not a prohibition that is being overridden, it is a special use that is being allowed. A variance would be a case of overriding the ordinance. Bob Slikkers stated that in the case of out buildings, the Commission would typically be in favor of saying yes as it adds value unless it is obtrusive to the neighboring parcels. Al Dogger also noted that the previous requester had a very valid reason of preserving a tree line rather than complying with the setback guidelines.

Bob Cook asked how many truck loads 8,000 yards would be. Mr. Lubbers stated that an average truckload is about 15 yards and approximately 1,000 yards are used for a typical residential septic system.

Linda Howell noted that the survey is different from the application in stating that the survey shows 138 x 120 and the application states 95 x 150. Which is it? Tim Lubbers stated it is 150 x 120 and the application document will be amended to state as such. Ed Stielstra asked what the ideal depth is for fish to survive through the winter. Tim Lubbers stated at least 12 feet but preferably 16 feet. Ed Stielstra asked if there would be a consistent slope during the project duration, would there be the required slope during that time? Ed asked if this comes under the building inspection in the Township. Who monitors what is actually done? Al Meshkin stated that he would visit the site toward the end of the project. Ed asked if this pond would take care of its own aeration.

**A motion was made by Linda Howell and seconded by Al Dogger to close the public hearing.
UNANIMOUS DECISION – MOTION APPROVED**

The following motion was made by Bob Slikkers and seconded by Al Dogger:

The basis for this decision is as follows:

(a) The ultimate result of the request will be harmonious with the character of adjacent property and the surrounding area.

(b) The ultimate result of the request will not change the essential character of the surrounding area.

(c) The record established during the public hearing on this request, and during the Planning Commission's deliberations, established no very serious consequences which would result, if the request is granted, to adjacent property, or to the health, safety or welfare of persons or property.

(d) The record established during the public hearing on this request, and during the Planning Commission's deliberations, did not establish that the request would place demands on public services and facilities in excess of current capacity.

(e) The sand removal is incidental to the use of the land in compliance with the applicable Zoning District, and the removal will not exceed:

(1) If in the AG District, 25 percent of the total area of the parcel; or

(2) If in the R-1 District, the lesser of 15,000 cubic yards from the parcel or 25 percent of the total area of the parcel.

(f) The size of the parcel is appropriate for the amount of sand to be removed.

(g) In concluding that the request would not result in very serious consequences for the adjacent property or surrounding areas, the Planning Commission considered the possibilities of potential safety hazards, erosion problems, groundwater table alterations, sand blows, stagnant water pools or swampy areas, negative effects on the environment or the natural topography, natural resource destruction and traffic problems. The Planning Commission concluded that none of these possibilities were likely to result, if the conditions placed by the Planning Commission upon this special use are satisfied.

The following conditions are attached to this decision to grant this special use permit:

(a) Unless other requirements are specified in the Zoning Ordinance or in these conditions attached to the request, all representations made in application must be met in their entirety.

(b) All applicable requirements of the Zoning Ordinance must be met in their entirety, specifically including without limitation the requirements in Section 5.02(h)(9) through (17).

(c) All applicable approvals must be obtained from the State of Michigan, as well as all other governmental units and agencies having jurisdiction concerning the request. All conditions placed on any such approvals must be complied with in their entirety.

(d) All activity on the parcel which results from the granting of the request, and all hauling of sand within the Township which results from the granting of this request, shall be accomplished during the hours of 7:30 a.m. and 5:30 p.m., Monday through Friday.

(e) The existing access road to the sand removal site shall be used; no additional access road may be constructed except to transition from the existing private drive onto the property.

(f) The request includes the construction of a decorative pond. The Applicant shall indemnify the Township and its officers, Board, Planning Commission, employees and agents from all claims, damages, demands, expenses, liabilities and losses of any kind (specifically including but not limited to damage to wells or to agricultural crops from the lowering of the groundwater table) resulting from the construction, maintenance, repair and utilization of the pond included as part of the request. The indemnification obligation shall include the payment of all reasonable attorneys' fees and other expenses of defense. The Township shall give prompt written notice to the Applicant of any claim or litigation against the Township relating to the pond. The Applicant shall have the opportunity to defend and contest such claim or litigation.

The Applicant shall also indemnify all nearby landowners from damage of any kind relating to any lowering of the water table caused by the acquisition, construction, completion or operation of the various components of the request.

(g) The Applicant has designed and engineered the pond included as part of the request. The Applicant assumes all responsibility with respect to the adequacy of the pond concerning its design, its adequacy for surface drainage of the parcel, its safety with respect to the general public and all other aspects of the construction, operation and maintenance of the pond.

(h) Any violation of these conditions established relative to the granting of this

request shall be considered to be a nuisance per se and therefore enjoined by a court of competent jurisdiction.

(i) The Applicant shall pay a road maintenance fee equal to 8.5 cents per cubic yard to be removed. These payments shall be made quarterly and shall accompany a report stating the amount of sand removal.

(j) The request shall comply with all other Township ordinances, and with Federal, State and County laws, rules and regulations.

(k) The applicant shall comply with all conditions stated in application.

(l) The area of removal shall be 150' X 120'.

UNANIMOUS DECISION – MOTION APPROVED

ARTICLE V. CITIZEN COMMENTS - None

Ellen Fitch of 3665 63rd Street asked if the DDA does design work for the area in question, wouldn't they have input? Bob Cook stated that the Commission would be more than happy to consider the input of the DDA. Ellen stated that she was surprised to see the allowance of buildings at 75,000 square feet. She suggested 20-40,000 square feet would be a more localized type of development. Ed Stielstra stated that the 75,000 square feet would encompass multiple floors. Bob Cook stated that the type of buildings would be something you would see on a highway. Ellen Fitch stated that most people do not want to see the large building structures. Bob Cook stated that in order to cover the expenses for the sewer and water utilities, developers must construct the type of buildings that will attract the population to be profitable. Ellen stated that in most developments where historic structures are present, that would be taken into consideration for ongoing design guidelines. Ed Stielstra commented that he would have the same concern about a single box 75,000 square foot building but he could see a structure having projections or arms that would disguise the footage.

ARTICLE VI. ADJOURNMENT

Chairman Bob Cook adjourned the meeting at 8:28 P.M.

Ed Stielstra, Secretary

Diane Ybarra, Recording Secretary