

MINUTES
WAVERLY TOWNSHIP
PLANNING AND ZONING COMMISSION
Regular Monthly Meeting - Waverly Township Hall
May 11, 2009

Meeting called to order at 7:00 p.m. by Fay Dorr.

Members present: Tom Fleetwood, Fay Dorr, Tony Millek, Bernard Wilcox, Diane Julien, and Nathan Rohr.

Members absent: Mike LaPine

Public present: 6

Member introductions and pledge of allegiance.

Agenda: Motion made by T. Millek to accept as presented and amended. Seconded by B. Wilcox. Voice vote unanimous to approve.

Minutes: Motion made by T. Millek to approve the March, 2009 minutes as presented. T. Fleetwood seconded motion. Voice vote unanimous to approve.

TOWNSHIP Report –T. Millek

- a.) Accepted the Internet2000 proposal with additions.
- b.) Redid Assessor's contract; 1 year from 2 year improving time spent in office.
- c.) Approved Tom Fleetwood and Bernie Wilcox \approx 3 year P&Z term.
- d.) Approved Nathan Rohr as deputy clerk.

F. Dorr introduced Father James Haack and Mr. Don Mastenbrook who wants to put in a church at the corner of M-43/M-40. Discussion of plans by board members.

Motion made by N. Rohr to approve site plans as presented and change of use. B. Wilcox seconded motion. Voice vote unanimous to approve.

New Business:

F. Dorr read the questions submitted by the commission members on the proposed changes to the zoning ordinance and the respective answers from different legal/governmental entities. Millek asked where the answers came from. Dorr answered the majority came from the attorney. **P & Z commissioners agreed to the proposed changes. Dorr said the changes will be incorporated before the Township board adopts it.**

Board discussion with public interaction over Section 4.05 took place. The following are excerpts:

Rohr objected to the answer for #7, "view of angle" compliance.

Foerster stated boathouses were excepted from ordinance.

Rohr stated that there were rules in place for building boathouse structures. Owners should not be penalized by a pseudo "law of aesthetics".

Fleetwood: boathouses are past waters edge.

T. Smalley stated property lines run to the center point of the lake. Water is not owned.

Paul Tomlinson: can't restrict access. No fence can be placed in water.

Smalley stated DEQ not DNR regulates docks.
Dorr: boathouse has to have regulations and requirements.
Fleetwood suggested removing the wording (boathouse) from ordinance.
Rohr said removing the word could cause future problems.
Smalley said boathouses would then fall under accessory buildings.
Fleetwood asked if the procedure then would be to apply for a variance.
Wilcox brought up ordinance section covering blocking neighbors view. This is the restriction on boathouses.
Millek thought best way to handle problems of boathouses should be dealt with by the Board of Appeals.
Discussion ensued about boathouses having no restrictions.
Smalley said to add definition as proposed.
Millek argued that definition denied use of covering/roof.
Fleetwood was in favor of wording with no restrictions stated.
Rohr stated sentence in current ordinance negates all restrictions preceding it, concerning boathouse structures.
Millek stated view cannot be restricted.
Rohr replied argument of last month stated neighbors are not entitled to 45 degree view.
Julien replied if neighbors built on both sides, her view would be restricted.
An argument then ensued as to what the definition and meaning was of "water front view".
Millek said the assumption was a peripheral view.
Rohr stated example that showed that neighbors would not entitled to a peripheral view.
Dorr read attorney's suggested wording concerning section 4.05. Stated if boathouse was removed from the ordinance then no definition was needed.
Discussion took place about accessory buildings on land and did not include boathouses in the water.
Millek stated he wanted attorney's opinion. He would change wording from waterfront to water side with a definition that included a reference to water frontage.
A motion was made by T. Fleetwood to accept section 4.05 with modifications. After some discussion Fleetwood withdrew his motion.
Millek stated the definition of water side yard should read "shall be the part of the yard that abuts the waters edge".
Rohr noted the wording water side should read as one word.
Motion made by T. Fleetwood to accept sections 3.04, 3.05, and 4.2 with modifications as noted with the definition of waterside yard. Motion seconded by Millek. Fleetwood then made an amendment to his motion to replace wording in section 4.05 C-1. Millek seconded the motion. Voice vote was unanimous, motion carried.
Agenda items; pole barn, 66' right of way and daycare/home occupation were briefly discussed.
T. Smalley said daycare of 6 or less kids is allowed everywhere and are not regulated by township and need to be put in the ordinance. Group daycare of more than 6 ~~is~~ **should be** allowed but is regulated by the township and special use permit is needed. It is not designated a home occupation per the state.
B. Wilcox brought to the board a problem concerning a homeowner who wanted to put up a pole barn and was asking for a 25' setback. Discussion followed.
F. Dorr said it might be possible to have different designations for different size property **in AG districts**. Dorr did not want to do spot zoning. Dorr suggested lot sizes < 2 acres have different setbacks that lot sizes > than 2 acres.

Smalley said to limit the number of different types of setbacks.

Dorr said commission needs to agree to what topics needed to be discussed. Suggested ranking them by priority.

Millek said ranking should be setbacks, right of ways, and home occupation. Board members agreed.

Discussion followed concerning the different right of ways, pre and post land division act.

BOARD COMMENT

Dorr said that members attended MTA meeting at Allegan. Re: MI P&Z Enabling Acts 33 & 110.

Fleetwood asked if Rohr would be leaving the P & Z Board. Dorr said she is seeking the Attorney General's opinion. Dorr read opinions from MTA that were conflicted.

PUBLIC COMMENT

Foerster said that bylaws state the need to re-elect officers.

Foerster brought up to ~~re-elect board member~~ review the by-laws for compliance per P.A. 33.

F. Dorr declared the meeting adjourned at 10:00 p.m.