

**Whitewater Township Board  
Minutes of Regular Meeting held July 24, 2018**

**Call to Order**

Supervisor Popp called the meeting to order at 7:00 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, Michigan.

**Roll Call of Board Members**

Board members present: Benak, Goss, Lawson, Popp

Board members absent: Hubbell

Others present: 11

**Set/Adjust Meeting Agenda**

There were no adjustments.

**Declaration of Conflict of Interest**

None

**Public Comment**

Janet Bachi, 6987 Cook Road, Williamsburg, stated they have concerns of the agricultural property, putting an event barn onto it because it becomes a business, becomes commercial, and it needs to be on commercial property. Once you allow that to happen, what happens to all the other property that is around us? They should put it on 72 and have access to and from the property on 72. They should be trying to get their property commercial, not keeping it agricultural. Once it is set that somebody can do that, what keeps them from doing that anywhere on that piece of property? Also, the township posts things in the newspaper for two weeks because that is all that you have to do, but times have changed, a lot of people don't read a newspaper anymore, everything is online. Everybody got a mailing when a neighbor put up a garage. How come nobody in their area has been informed of what is proposed that these people are trying to do that affects all of us and our property? Things need to be changed, a better way of informing the people in the community.

Deepak Prabhaker, 6925 Cook Road, stated he has the same concerns. He moved from the suburbs of Illinois for the rural character and quality of life. He stated he has concerns and fears about what it might look like. He doesn't know how to access the information to really understand what it is that is being planned that is going to happen. Will every weekend in the summer be spoiled with weddings in their backyard, or will it be that the action, the traffic, the noise, the light, the incoming visitors really are closer to 72 and it does not impact us on Cook Road? He stated his comment is a request for information at this point. He does not know if there is something that he should be concerned about, that he should be fighting for, and he does not know how to get the information.

Norm Bell, 6659 Cook Road, stated he received this flier in his mailbox today, he has no idea what it is about, he has no idea where the Webster farm is, he hasn't been here that long, so he needs an address. It would be nice tonight if the board would review what is on the table for those who don't know what is going on. Also, he would like the board to consider putting No

Thru Truck signs at the 72 end of Cook Road and at Palaestrum and Elk Lake Road. He stated they have semis coming down through there every day now.

Ron Bachi, 6987 Cook Road, stated this is the first meeting he has ever been to. He stated he has never cared too much what someone is doing with their own property that they pay taxes on. He asked the board to think about the activity and things that are going on on Cook Road right now. He stated he has a lot of questions, the hundreds and hundreds of yards of dirt that have appeared and then disappeared. He thought you needed a permit, not just a posting that says you cannot go on the property and look at what you are doing. His second concern is that they are in the dark as to what is being proposed or passed. There are so many concerns with taking a piece of property and changing it. He believes the property across the street is zoned agricultural forest. He is concerned about changing the zoning. He is 100% sure that if you asked everyone what is in their best interests, it would not be a commercial venue. He described the condition of the road. There are no shoulders. A neighbor's daughter was hit by a car. The point of entrance to the subdivision at the top is very dangerous. The entrance from 72 onto Cook Road would have to be addressed. There are runners and bikers on the road and there is no shoulder. The road is overused and is in very poor condition. He stated he feels bad about any opposition that someone has when they want to do something to their own property, but you have to look out for the best interests of the community.

Tom Czerwienski, 7021 Cook Road, stated he would like to reiterate all the concerns that were said previously. A lot of people are here and the main concern is that none of them knew this was going on. The procedure is lacking in notifying all the residents. He has lived here for 38 years and has never read the Record-Eagle. There has to be a different procedure for notifying people. He stated he talked to Popp, who told him the process has been going on for 4 or 5 months; there have been planning commission meetings where it has been discussed and nobody shows up for the meetings. It is because nobody knows. He gave an example of another property he owns where they all receive a notice when something major is going on and they have meetings before they do anything. That should be implemented here, too, because everyone here is very concerned about anything that will affect the property values or the way they live. If they did know it was going on here, they would be at the planning commission meetings and other meetings where their voices could be heard before you make a decision.

Kim Mangus, 1214 Cerro Drive, stated event barns are on the agenda for their Wednesday meeting at 7 o'clock. They will be reviewing the attorney's recommendations for rules to be set up to allow for a special use for event barns to be applied for. There are no applications currently because there is no ordinance that would govern it. To the planning commission's knowledge, the only thing that has occurred so far is the removal of the barn because their engineers informed them that it was dangerous and could not be salvaged. There are no plans that have been submitted to the planning commission, but Wednesday they will be discussing the recommendations from the attorney and hopefully forwarding them to the board for consideration.

Popp confirmed the meeting is Wednesday, August 1st, at 7:00 p.m. at the township hall.

Glenn Savage, 9833 Pineneedle Lane, stated his address is in Wintergreen Heights subdivision just off Cook Road. He described an event barn in Gaylord at which he attended a wedding and reception, and stated he has no problems with event barns. He stated he does not see anything wrong with a facility like that in Whitewater Township. You cannot put it on 10 or 20 acres of ground. The facility itself has to be away from people. He agreed with those who spoke that it would be a lot of traffic on Cook Road. He stated he does not know at this point where the entrance is going to be. The planning commission is trying to develop an ordinance. He stated they do not have any citizens come to the meetings, so they have to rely on the information that they get. He stated they ask people to come to their meetings; they want people there. He stated you have to be involved in your community, and thanked those present for attending tonight, but stated they should come to some of the planning commission meetings and help them out.

Beverly Czerwienski, 7021 Cook Road, stated she is the one who put out the letter because her neighbor told her this event building was going to be right across the street. On one of her last stops, Mr. Hooper told her it was not going to be put on Cook Road; he would not want it on his road either, and suggested the man could have access off 72 to go to the venue, which would not be a sound problem for neighbors. He said the building was not going to be put up on Cook Road. She stated she stopped passing out fliers. She stated she does think the board is failing when they have their meetings, nobody reads the papers, there should be some sort of a flier or something that people can go to, to know. Even sending out something once a year when meetings are going to be held would be helpful. If you know some of the issues that are going to be presented, they should also be on that line; we will be talking about such and such. If you are not notified, you cannot do anything about it. She hopes the man is right and they are going to build further down the road.

Popp stated on the home page of the website there is a meeting notice for all of the different boards and commissions posted for the upcoming year. We do not have what is going to be discussed a year in advance.

Lawson noted the next meeting's agenda and packet is also on the website for upcoming meetings.

General discussion followed regarding ways to get information and different ways to communicate with the public.

### **Correspondence**

There was one item of correspondence, which was not discussed.

### **Public Hearing**

None

### **Reports/Presentations**

None

**Unfinished Business****Zoning Ordinance Amendment Nos. 73 and 74**

Revised documents have been provided by the planning commission chairperson.

Popp noted that there are references to amendments that have already been put through and some amendments that are pending, but we do not have at the board level a copy of the changes to the zoning ordinance that we have already made, meaning in the packet. What are the changes to Article 25?

Brief discussion followed.

Goss noted, for the record, that Article 15 has been amended, but Article 25 has not.

Mangus confirmed there have been no changes to Article 25.

Goss noted the updated articles are on the website at a green link.

Referring to page 5 of the packet, Article 7, multiple residential, R-2 and R-3, Section 7.02A, "All structures and uses permitted within the zoning district shall conform to the entirety of this ordinance except those structures, land uses which predate the effective date of this ordinance or any portion thereof or its subsequent amendments," Popp asked did we just legalize nonconforming.

Benak asked is this grandfathering in.

Mangus replied that if it was already legal, you cannot go in and make someone change.

Popp then asked: Any structure that was preexisting does not have to comply with this?

Lawson stated it may not already.

Popp inquired so then what do we have to comply with. If I had an existing property, which existed before this ordinance, what regulates me?

Glenn Savage replied that you exist as you are, period. If you want to make changes, then you have to conform to the new ordinance on any changes.

Mangus stated this is an attorney question, and the board should send their own list of notes with this to the attorney.

Benak stated her question is: Is this grandfathering in? The attorney will tell us.

Goss stated these documents do not have the heading on top which says what zoning ordinance amendment it is. It is very difficult to follow. Once the heading referring to the proposed zoning ordinance amendment is placed on the document, that should be the document that is used.

Mangus apologized and stated she will correct it going forward.

Goss added that, without a word-for-word comparison, we do not know if these are the same documents.

Benak stated she compared these documents with the existing language and what was changed, and that is how she made her notes.

Mangus explained that she was instructed by the board to add the missing chunks of ordinance that mysteriously showed up and reincorporate them back into the text for the board to review again, but she did not feel comfortable just adding those things back in, given what some of the topics were, and resubmitting them to the board without the planning commission's input. So this document went back to the planning commission so they could choose between wording that was in there that the PC was unaware of or the wording that the PC had come up, and those items were selected. So there will be some minor variances regarding ADUs, special use permits. On some items, they choose to add a question for the attorney.

Benak pointed to 7.10B where there are additional words added, "either attached or detached structures."

Mangus stated that should not be there. She stated she took the reference out in Article 6 but not in Article 7.

The "either attached or detached structures" verbiage should be removed from Article 7.

Goss continued with the following comments:

- 7.01 Intent, "accessory structures" is not defined in the zoning ordinance.
- 7.02A, "use" is not defined in the zoning ordinance. Checking three other nearby zoning ordinances, the term "use" is defined in 2 out of 3 of them.
- The language in 7.02A is problematic. "Effective date of ordinance" should be replaced with the actual date. 12/23/1972? What is meant to be accomplished by adding the language "or its subsequent amendments?" The attorney should be consulted. The same language was also used in the amendments to commercial, village, and industrial.
- 7.10, where there is reinsertion of the language from the website, the existing language does not say R1. It says R2. Also, the punctuation of the original text has not been accurately depicted.

Popp stated his comment here is to leave that verbiage in (referring to "No building or structure or any part thereof shall be erected, altered or used on land or premises used in whole or in part in Residential District R-1 (sic) for other than one or more of the following specified uses, viz:"), and it should be reinserted in all of the districts.

Referring to 7.10C, Farming of all types, Goss inquired if farming includes the growing of crops.

Mangus replied yes.

Benak referred to the wording in 7.10 which says “C-D-E redundant to R1,” but noted that it is not redundant to R1 because, in R1, home occupation is shortened, churches are shortened, schools are shortened. They are not the same description, so it is not redundant. Benak stated she would rather see the same descriptions in there. Benak asked why they are different.

Mangus stated churches are actually more extensive because they added a couple rules. Regarding schools, now that we have a parking ordinance, we do not need it mentioned because it is addressed in another location in the ordinance. Parking is Article 34 of the zoning ordinance. For farming of all types, they are trying to make sure livestock and any other rules are in one location. Home occupations is also addressed in supplemental, so it does not need to be in 7.10 also.

Mangus confirmed that Article 37 is the place to look for in-depth information about home occupations.

It was noted that Roman numerals are being replaced with regular numbers.

On the topic of the new language under 7.11, Uses Permitted by Special Use Permit, and the notation that the “Original has no Special Use Section,” Popp stated he assumes R2 did not have this.

Mangus clarified that the original that the planning commission started with did not have one, but the original that Goss had in her office did.

Referring to the wording “Any use, including the following, shall require a special use permit,” Popp asked if any use equals all use.

Mangus stated the wording being put forward is what was original to the ordinance. They opted to go with the original language, that they were unaware of, that was special use permit any other use similar to the uses permitted in the zoning district.

Popp stated he is simply making a recommendation that, instead of any use, we look at uses beyond the permitted use, or something of that nature, because “any use” is inclusive of the permitted uses.

Referring to 7.11D, Popp stated he does not believe this verbiage can be supported in court. An accurate description of special uses has to be given in the district provided. Vague statements are not supported under special use. Several special use permits granted by local planning commissions have been reversed because the special use was not identified.

Mangus agreed that whatever the attorney comes up with likely will transcend all districts.

The typo, R33, under 7.51 Intent will be corrected to R3.

Goss noted she has the same comment on 7.52 General Standards; the attorney should look at it.

Referring to 7.60, Goss stated she has the same comment as previously; the questions in red are for the attorney. Also, under 7.60A, it states B is redundant to R-1, but inquired of Mangus where it is stated in the zoning ordinance that multi-family dwellings are allowed in R-1.

After discussion, it was agreed that it should say B is redundant to R-2.

Popp noted that 7.61B is redundant to R2 (not R-1 as stated).

Popp stated he has the same comments on paragraph C as we had in R-2.

Referring to 7.63, Goss noted that the word “supplementary” is misspelled throughout.

Moving to Article 14, Goss noted the correct spelling of “easement,” but acknowledged that it was misspelled in the original text.

Referring to 14.11 and the 50-foot dimension, Popp stated that in Section 5 the setback distances or the distances away from the creeks that these special rules would apply has been established at 300 feet longstanding, although the Boardman River is not specifically mentioned in Section 5.

Mangus stated this was not a change; it was the existing text.

Popp also took issue with the language in red stating “PC is removing references to Article 5 whenever possible as it has extensive errors and move to a map-based system.” He stated Article 5 does not have extensive errors. It is specifically written in surveyor language.

Discussion followed.

Popp stated his point is that we will use the surveyor language in Article 5 to create the map, which is easier for the public to use, which he agrees with and understands, but he does not want this board to think there are errors in the surveying language, because he does not believe there is.

Benak asked what would be the point of removing references to it if we have found all the parts and later we are going to be replacing it with a map base.

Mangus replied because it will not be section 5.10 of Article 5; it will be the map of the districts.

Benak said shouldn't we leave it there until we have the map base in place and then go through and remove all the Article 5, Section 5.10s with reference to the new map base, instead of not having a reference at all.

Goss stated she agrees.

Mangus stated it is where you would automatically go to find the description.

Popp stated what we should have is both the map and the surveying language on the map.

Going back to 14.11, Benak stated she believes we need to leave that in there until we have it actually replaced.

Mangus then suggested that it just say “as described in Article 5.” She does not think it is actually in 5.10 anymore.

Benak stated we need to at least point to where it is, rather than completely removing them.

Mangus stated that would be a minor adjustment that the board could make at their own discretion.

Discussion followed as to generation of a map.

Benak asked that anywhere a map location is referenced, it should refer to Article 5.

Referring to 14.11A-2, Popp stated he thinks the language in green is too restrictive. He stated the only thing he would recommend is that we prohibit some mass excavation and minimize the ability to excavate the shoreline in some fashion.

Mangus replied that there is language requiring adherence to all DEQ and Soil Conservation District guidelines. The Boardman River is now a state-protected trout stream, which already has additional rules. There are a lot of things you cannot do adjacent to the Boardman River. Also, a good portion of the rules have been moved down to B. Those are criteria for evaluation for variances from the standard guidelines. They were not completely removed.

Brief discussion followed.

Popp stated the only thing he thinks we are overstepping is screening of adjacent manmade structures.

Goss inquired what “the use of the managed vegetative strip for stock watering areas” means and was told that “stock” means “livestock.” Goss suggested the word “livestock” be used instead.

Mangus inquired if it is the wish of the board that the “screening” be removed from the list of ZBA standards and guidelines.

There was consensus that “screening of adjacent manmade structures” will be removed on the planning commission’s next review.

Moving to Article 6, Section 6.02, General Standards, Goss reiterated that she has the same concerns with this language as stated for R-2 and R-3.

Under 6.10, referring to the questions in red print, Goss stated they are questions for the attorney.

Referring to 6.10E, Goss noted the existing text is very poorly worded, but we should await attorney input on that.

Referring to paragraph F, “storage of any or all property or equipment, including sheds, temporary storage structures, recreational equipment and lawn décor,” Popp inquired if we are attempting to allow the sheds and temporary storage structures so we can put all of our stuff in it.

Mangus replied that the intent is that if it does not require a building permit, it is an item that is stored on your property.

In answer to Popp’s question that if it is under 120 square feet, then it is essentially personal property, Lawson and Mangus replied yes.

Discussion ensued concerning the impracticality of compliance with setbacks from property lines for movable items.

Backing up to 6.10B, Benak noted the added language regarding private common areas and asked why it was lumped in with B; shouldn’t it be a separate item.

Discussion followed.

There was no disagreement with moving the private common areas language to a separate line.

The section 3.13A reference was briefly discussed.

In Section 6.10C, in answer to a question from Benak, Mangus noted that you have to comply with all setback requirements, not just side yard.

Discussion ensued regarding 6.10F, the wording “storage of any or all property or equipment” and the fact that stand-alone pole barns or storage buildings will be back on the PC’s agenda.

Referring to 6.10G, “accessory structures and landscape features such as pools, decks, patios, and gazebos,” Popp noted that they are allowed. Popp stated he did not know that decks were not allowed.

Comments followed concerning decks that are not on foundations.

Goss again noted that the term “accessory structures” needs to be defined.

Brief discussion of definitions followed.

Benak had questions about the difference between Section 6.10H and 6.11E, which Mangus explained as having to do with the number of people served.

Referring to 6.13A-3, Goss noted that the term “accessory structures” is again used, without being defined in the ordinance.

The next step for proposed Zoning Ordinance Amendments 73 and 74 was discussed. It was agreed as follows:

- Popp, Benak and Goss will generate bullet point lists of their questions for the attorney.
- Popp will forward to Goss the Word copy of the zoning ordinance amendments. Goss will make the small changes agreed upon.
- Goss will send the bullet point lists of questions and the updated Word version of the zoning ordinance amendments to the attorney requesting his review.

### **Review/Approve Batting Cage Plan**

Goss reported that the engineered drawings are not yet available.

This matter will be placed on the 8/14 agenda.

**Review/Approve Proposed National Flood Insurance Program (NFIP) Ordinance Motion by Popp to send Goss's redline copy of the ordinance to the attorney for his review and return to the board for its approval; second by Benak.** Benak asked where the ordinance came from. Popp replied that the base ordinance was provided by Susan Conradson, Cadillac office of DEQ. Popp confirmed that it is a standard ordinance being passed around to all the townships.

This proposed ordinance will be set for public hearing at the 8/27 (sic) meeting.

**On voice vote, all those present voted in favor, none opposed, Hubbell absent. Motion carried.**

### **Update on Electrical Change Order for Emergency Services Building Renovation/Addition Project**

Goss reported that the "Add Sewage Lift Pump Wiring" verbiage on the Advantage Electric invoice in the 7/10 board packet had to do with running power to an overflow alarm on the septic system. The township did not pay the \$962.85. It was not part of any change order. The alarm was required by the health department, but it was missed in the bidding process. The \$962.85 was not included in any of RCI's invoices; they paid it and absorbed it into the contract amount. The \$1,000 in change orders for Advantage Electric consisted of \$675 on Change Order 1 for the washer/dryer connections and \$325 on Change Order 3 for electrical work related to getting power to the heating unit and thermostat installed in the new truck bay.

Brief discussion followed.

### **New Business**

#### **Park Road Maintenance**

Popp explained that the Road Commission was doing work on the county-owned portion of Park Road and inquired if the township would like to have work done on the township-owned portion. The price is approximately \$43,000.

Discussion followed.

Popp will leave it on the agenda and see what shakes out.

**Review Whitewater Township General Ordinance No. 49 – Abandoned Buildings  
Motion by Popp to have Ordinance 49 reviewed by legal counsel.**

**There was no second.**

Discussion followed regarding lack of a civil infraction ordinance, other ordinances in the township which have a civil infraction penalty, expiration of Brad Link's appointment on 12/31/2014, an adopted wage, lack of a hearing officer.

Popp stated he will get an appointment document around, get Ted (Hooper's) name on it, have him here, and do it at the next meeting.

Benak suggested the ordinance be amended to add term limits.

Appointment of Ted Hooper as abandoned buildings hearing officer will be on the 8/14 agenda.

**Review/Approve Cost of Navigation Lights for Fire Department Boat  
Motion by Lawson to approve the cost of navigation lights for the fire department boat, Marine 3; second by Goss. There was no further discussion. Roll call vote: Benak, yes; Goss, yes; Hubbell, absent; Lawson, yes; Popp, yes. Motion carried.**

**Review/Approve Proposal for New Dock**

Goss provided an updated quote as the first quote was not for a long enough dock. The updated quote is for a 50-foot dock.

Benak suggested we get another bid from somebody else.

Lawson and Popp both suggested Michigan Lake Products as another company to contact.

Benak stated there are tons of commercial dock places out there.

Goss will get another quote and bring it back on 8/14.

**Tabled Items**

**Review Administrative Policy Section 5 (tabled 10/14/2014)**

This agenda item will remain tabled.

**Review Ordinance 22 Pension Plan (tabled 10/25/2016)**

This agenda item will remain tabled.

**Review Whitewater Township Planning & Zoning Fees (tabled 02/28/2017)**

This agenda item will remain tabled.

**Board Comments/Discussion**

None

**Announcements**

Next regular township board meeting is August 14, 2018, at 7:00 p.m.

**Public Comment**

Beverly Czerwienski asked if the dock has to be purchased here in this area.

Goss stated we would purchase it from somewhere in the area.

Glenn Savage, 9833 Pineneedle Lane, said he has not been down Park Road, but from what he hears from the board, it sounds like it is a washboard. It is owned by the township and he is a member of the township. He would not want to see any lawsuits brought forward by citizens because you are not maintaining a private road properly. He said he thinks the priority of the township, instead of buying new docks and pavilions and rewiring the campsites for a park that is 90% people from out of the area, if we got a problem with the road system, maybe we better be raising the prices at our campsites so we can maintain a proper road, because that road and the safety of our citizens should come first.

Leon Clement, 7900 Baggs Road, stated he was under the impression we were going to talk about some high water marks or some floodplains tonight. He asked if he was misinformed.

Popp said we did not really talk much about them, but we did authorize to send a document, which is our involvement in the National Flood Insurance Program, off to the attorney for his review and then bring it back to us for review and potential adoption.

Clement stated his concern is every time we turn around there is a change. He stated he looked at our maps and he didn't see any floodplain in our township. If we are going to charge people a lot of money to have the county come out, even the people on Cook Road to see if they are in a floodplain, he thinks that is a misrepresentation. He stated he has been here since 1984 and he had a floodplain check on his house in 1991 and was not in the floodplain then. He stated he cannot see where they tell you what the floodplain is. He read it, 97 pages, and he did not see it, so he hopes we are not joining something that is going to cost our people a lot of money, that we do not need.

Discussion followed.

**Adjournment**

Motion by Lawson to adjourn; second by Popp. On voice vote, all those present voted in favor, none opposed. Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Cheryl A. Goss  
Whitewater Township Clerk