

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR MEETING, JUNE 5, 2013

Call to Order by Chairperson, Dean at 7:00 pm

Pledge of Allegiance

Roll Call: Lyons, Mangus, Bowerman, Lawson, Dean, Miller, Link

Absent: None

Also in attendance: Acting Zoning Administrator, Popp, plus 4 in audience.

Set/Adjust Agenda – Move Flannery New Business #1 ahead of Old Business

Approval of Minutes of 5/15/2013 Special Meeting: Motion to approve by Lyons, seconded by Mangus.

All in favor. Motion Carried.

Declaration of Conflict of Interest: None

Public Comment: None

Public Hearing: None

Reports:

Correspondence: Citizen Engagement

Zoning Administrator, Popp: 7 LUP's, a lot of activity, interest in commercial district, 3 complaints (open, being dealt with). Attended Planning Seminar, must have standard approval points of decision, something similar to what the ZBA uses for approvals/disapprovals. Will work on getting a "Decision Form" available for the PC. Possibly have a motion pre-written to cover necessary items in the motion.

Board Rep, Lawson: DNR was at the meeting regarding Strombolis Lake, GTC had pre-approved, it was just an informational type discussion. Their plan is to revert all to pine. The township will incur more expense in fire and emergency services besides the loss of school funding. GTC is looking to get a bond for roads 60% of which will go toward equipment upgrades. From audience: Halstead notes that they said they are going to improve parking at the VASA trail.

Chair, Dean: None

Old Business:

1. Master Plan, Part 3
 - a. ZBA definition: Link: It's all fluff, we are spending too much time on the definition. Land use has been part of the ZBA. **Consensus to use Matt's definition with "conditional use"**.
 - b. History section: How much to keep of what was provided? Keep name process information and population as a graph, school/last graduating class, last steam engine. Use the same paragraph type format as what is already in there. Do not need much detail in a Master Plan. Popp and Bowerman to work on and bring back next time.
 - c. Utilities definition, eliminate naming the companies that supply the utilities. Discussion. Consensus as discussed leaving out references to Water and Sewer.
2. Oath of Office – all complete

New Business: (moved in front of Old Business)

1. Flannery Proposal – Accessory Building Use, with dwelling. See Zoning Memo Dated 5-24-2013. Summary by Popp: Proposed exercise building includes a dwelling in a portion of the building. When you have Ag property it includes all Ag uses and R2 so it begs the question "how does this building get defined?" which includes a bedroom and kitchen. It is part of the WMDLS Special Assessment district. This parcel did not have any relinquishment of development rights. Kenneth Flannery, 10321 Deal Rd., 40x84 building, kitchen will be approximately 10x20, it will not be a living quarter but it could be a guest residence. It will not be a secondary or primary residence. Owns 30 acres between the two parcels.

Fred Campbell of JML Design, 1874 Cass-Hartman, TC. The Flannery's are looking to build an exercise barn on their property. Timber frame building of basketball court and exercise equipment with a kitchen and sleeping quarters. Recommended by Popp to consider it as an "in-law" apartment. It will have its own septic system sharing the existing well. This is an independent building to be used only by the Flannerys, equipment will be removed if/when they move out. Alternative plan to put a side yard on the side of the existing barn, include a set back yard on the side of the proposed barn and create a separate parcel. New parcel would be almost 4 acres. Existing property would then be 1.7 acres. Each would have the proper size and dimensions. The existing drive would still need to be used. Another alternative: making changes to the plan to technically make it allowed.

Dean: Is there a problem with calling it an accessory building, forgoing the two alternatives?

Popp: The point brought up to him after a thorough read of a "two family dwelling" or two family parcel. Page 8, out of zoning ordinance, this is not a building with two dwellings.

Accessory building is a supplemental building for accessory use.

Flannery: It is not going to be two families, it is strictly for personal use.

Link: The primary building has all the living facilities, an accessory building does not.

Dean: It's a garage with a bathroom.

Link: Primary and accessory needs to be worked on.

Dean: As currently written it is allowed.

Mangus: The ordinance definition is not detailed enough to NOT let this be allowed.

Link: As devil's advocate, we may be setting precedence.

Mangus: No separate water use. If the property were split it would have to have a separate well.

Popp: Main building and primary building. We have a concept of what it is but we do not have those two terms defined. What is the intent of the use: accessory use or primary living.

Campbell: Accessory use only. The township has an ability to put some teeth in it.

Mangus: The way it is currently written this falls into the definition of accessory as it in our ordinance.

Popp: Re-read of accessory building definition.

Dean: Based on the definition this fits.

Flannery: It will not have another family in it.

Link: Are we going to allow anything like this anywhere else in the township?

Mangus: We need to clean up the ordinance but this has to be based on what we have currently.

Link: An accessory can be the same as primary?

Lyons: Primary has a permanent / full time resident.

Link: So we are setting ourselves up to allowing an accessory building for living. Anyone can come in and have an accessory building with living quarters. Are we going to call this an accessory building? Is this a second residence on the same property?

Popp: RC1 vs R2, this is Ag.

Link: I think we can allow it as an R2 not as an accessory. How is it going to be approved as R2 or as Ag with accessory?

Mangus: If approved as R2 then you are saying you can have two residences on one property.

R2, two residences means in one building. I think it is "safer" as an accessory building.

Link: What if they start renting it out?

Dean: We would have to deal with that then. We are going to be addressing that on one of the complaints.

Popp: Deed restrictions, as an accessory building. As R2 it would be more difficult to define. As accessory use you would have to have 80,000 sq.ft. (2 acres), this property meets that. This does help with the "can of worms that may get opened".

Dean: We have to decide which "can of worms" we are going to open.

Popp: Accessory building is the easier to define and restrict with a lease/rent restriction, eliminating permanent dwelling.

Audience: Halstead: Accessory Building is part of the main unit and cannot be sold separately.

Audience: Mater: Put in a deed restriction.

Flannery: It is all on one parcel.

Mangus: Accessory building on one lot.

Dean: We do need to address this (definition) in the future.

Popp: Look at the definitions and correct as soon as possible.

Mangus: We have to base this on the ordinance the way it is written now.

Link: He has R2 rights, he meets all the criteria. Any Ag lot that has 40,000 sq.ft. can do this.

Popp: Tax code is a separate issue.

Dean: This is an Ag parcel with R2 rights.

Link: This is Ag

Propose a motion to accept as an Ag use which meets as proposed. In Ag is it an accessory barn. (Include the finding of facts as recommended per Planning Summit.)

Motion by Link, seconded by Lawson to approve as proposed per Ag as an accessory building given that the lot exceeds the 80,000 sq. ft. minimum requirement for two buildings based on the findings of fact: Access to public road; normal setbacks are maintained; minimal topographical changes need to be made; all state, federal and county codes to be adhered to; not contrary to public health, safety and welfare; no natural areas to be disturbed; existing natural drainage and detention is adequate. Zoning Administrator detailed findings of facts attached. Roll call: Lyons-yes; Dean-yes; Bowerman-yes; Mangus-yes; Miller-yes; Lawson-yes; Link-yes. All in favor. Motion carried.

2. Minutes of 4-17-2013 attachment, already addressed.

3. Next Meeting

a. Date: June 19, 2013, special meeting (Popp to notify Clerk).

b. Set Next Agenda: Review Part 4, who worked on MP writing, History, future land use map as recommended at Planning Summit

Public Comment: None .

Commission Discussion/Comments: Use Current land use map as future land use map.

Continuing Education: None

Adjournment: 9:11 p.m.

TABLED ITEMS: Non-conformities; Permitted and Special Uses; Essential Services; Fences; Village District; Rental Vacation Home Ordinance; Road Map with setbacks and boundaries; Accessory Dwelling definition.

Respectfully Submitted,

Lois MacLean

Recording Secretary

Memo

To: Planning Commission

From: Ron Popp

CC:

Date: 5-24-2013

Re: Flannery Request – Two living dwellings one parcel

Colleagues,

On 5-16-2013 Mr. Fred Campbell of JML Design Group and I met to review conceptual plans for a proposed exercise building to be built on parcel 28-13-002-012-00 in AG-1 Zoning. As a design feature, the building (see attached plan set) has full living quarters in a portion of it which appears to make a portion of this building a dwelling according to our definitions.

Clarification required:

AG-1 zoning the accessory building is use by right, and because AG-1 zoning allows all uses permitted and as regulated in Residential District R-2, except that each dwelling or main building shall be located on a lot or parcel of land containing not less than forty thousand square feet of area. (two dwellings require two separate 40K lots?). R-2 permits two family dwellings use by right.

Definition of:

Two Family Dwelling: A building designed for or occupied exclusively by two families living independently of each other and conforming in all other respects to the standards set forth under the definition of single family dwelling. **This appears not to fit in this case because “the building” is not designed, or will not be occupied exclusively by “two families”, only single family.**

Dwelling: Any building or structure or part thereof occupied as the home, residence, or sleeping place of one or more persons permanently.

That part (the dwelling) of this accessory structure is not intended to be used as permanent shelter.

Accessory Building: A supplemental building or structure on the same lot or part of the main building occupied by or devoted exclusively to an accessory use. Such structures will be permitted only where a primary use exists or is being established. This appears to fit the submission as the proposed use is exercise.

Question:

1) Is this proposed building a dwelling, Two family dwelling, or is it an accessory building?
PC discussion accessory building

2) Is this proposal allowable in AG-1 ? Yes

3) If not, what is required to move the proposal forward?

A SITE PLAN HAS BEEN SUBMITTED FOR REVIEW.
Applicant has submitted a complete application package.

25.12 STANDARDS FOR DECISIONS FINDING OF FACT:

Each site plan shall conform to all provisions of the Zoning Ordinance and the standards listed below (unless variances have been granted):

A. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot or unit, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of the surrounding property for uses permitted in this Ordinance. The elements are organized appropriately.

B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas and will not adversely affect adjacent properties. The construction will comply with this section.

C. Special attention shall be given to proper site drainage so that removal of storm waters around proposed structure will be reestablished post construction. Driveway surface is existing. Will require additional information on increased parking area. No additional parking required as this is personal use.

D. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants. N/A normal setbacks are maintained.

E. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides. Required access is present.

F. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use. Access is provided.

G. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system. N/A.

H. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height unless modified by the Planning Commission. N/A.

I. Exterior lighting shall be designed and installed to conform with the standards required in Article 29.00, Exterior Lighting Regulations. Additional information is needed on exterior lighting. None proposed

J. All signs and advertising features shall be designed and installed to conform with the standards and requirements of Article 30.00, Sign Regulations. N/A.

K. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Comprehensive Master Plan. This is private property, no patterns exist.

L. All streets including streets in condominium developments shall be developed in accordance with the Subdivision Control Ordinance and County Road Commission or Township Private Road Standard specifications. N/A

M. Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted. All codes and statutes will be adhered to.

N. All land use developments shall be consistent with and promote the intent and purpose of this ordinance and shall not be contrary to the public health, safety and welfare. Additional information from the planning commission is required. PC discussion, proposal is an accessory building, minimum setback requirements of Article 12 are met, and proposal is not contrary to public health, safety, and welfare.

O. All land uses and developments shall conform with the applicable goals, policies and objectives in the Township Master Plan. Additional information from the planning commission is required. PC discussion, proposal is an accessory building, each dwelling or main building has 72,600 sq.ft. of land exceeding the required 40, 000 sq.ft. per Article X.

P. Standards for Groundwater Protection:

1. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater and steep slopes. No natural areas will be disturbed.

2. Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body or watercourse and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site. Existing natural drainage and detention will satisfy the storm water needs of the proposal.

3. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit. The proposal shall comply with all state and county regulations.

4. Sites at which hazardous substances or polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. In addition, an up-to-date contingency plan for the handling and clean-up of uncontained spills of hazardous substances and polluting materials shall be placed on file in the offices of the Zoning Administrator and the Fire Chief. The requirement to report all uncontained spills immediately to both the Zoning Administrator and the Fire Chief shall be required as a condition of Site Plan approval. N/A.

5. Local, State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals. N/A.

6. In determining conformance with the standards in this zoning ordinance, the municipality shall take into consideration the publication titled "Small Business Guide to Secondary Containment" and other references. N/A.

Conclusions

Building use as submitted/proposed is accessory in nature., and is considered use by right based on the above Standards For Decisions/Findings of fact.