

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR REGULAR MEETING
February 3, 2016

Call to Order at 7:00 p.m.

Roll Call: Link, Lyons, Mangus, Lawson, Dean, Hooper

Absent: Miller

Also in attendance: Recording Secretary MacLean, ZA Vey

Set / Adjust Agenda: None

Declaration of Conflict of Interest: Mangus owns property on a private road. Mangus does not think it is an issue. Leave it up to the PC.

Public Comment: None.

Public Hearing: None.

Approval of Minutes:

December 2, 2015, Regular Meeting Minutes and January 6, 2016, Regular Meeting Minutes: Motion to approve by Lyons, second by Hooper. All in favor.

Correspondence:

Reports:

Zoning Administrator Report, Vey: Report: Slow in issuing permits. Lots of discussion of spring projects. Working on the Zoning Ordinance (ZO). There are a lot of formatting issues. The Clerk wants to look it over. Will offer a working copy, hopefully at the next meeting, about 70 – 80% complete. Each amendment will be in there also. It is interesting.

Attended MTA conference.

Chair's Report, Link: Attended Township Board meeting, the Board decided to wait until ZA Vey document is complete. Postponed joint meeting.

Township Board Representative, Lawson: All legal issues regarding the ZO will go through Fahey, the township lawyer.

ZBA Representative, Lyons: No meetings.

Committee Reports: None.

Additional Items: None.

Old Business

1. Planning Commission Representative to Zoning Board of Appeals. Lyons will continue as the rep.
2. General Ordinance 32: Private Road Draft Article. The Board would like this as a Zoning Ordinance rather than a General Ordinance. Right now if there is an appeal on a private road it goes to the Board. By making it a Zoning Ordinance (ZO) appeals would go through the Zoning Board of Appeals (ZBA). Years ago there was a sub-committee addressing the ordinance. Will use Ordinance 32 as a basis to create ours, start fresh.
Lawson: Original issue was that the emergency service vehicles were having a problem getting down the roads.
Mangus: Ended up with private road standards in excess of what the county requires.
Link: Fire station wanted cul-de-sacs for turn arounds.
Hooper: Recollection is that it was an issue for the fire trucks. Some people want the long narrow drives.
Lawson: Some of the problem is the "grandfather" thing. Cannot retro but when changes are made, additional lots added, there may be some issue.
Vey: Some changes require the road be brought up to code.
Dean: New neighbor / lot / home requires the road be brought up to code?
Vey: Yes. If the largest concern is the emergency vehicle access then maybe an emergency vehicle ordinance is more appropriate. Something that indicates width and tree trimming, etc.
Link: There is more the private road ordinance than just that. There are certain levels for different numbers of accesses. Driveways are different than private roads. At which level is it considered a private road?
Dean: Clarification: what do we have with the packet?
Link: It is the current ordinance marked in red with some basic changes that I have made for clean up. If we adopt this with just clean up we have the very same thing. We need to discuss what we think we need.
Lawson: Legal definitions: MCL 257.44, read through.
Mangus: Driveway is defined as accessing one or two. Private road is defined as accessing three or more.
Link: Private road but not open to the public, put up a no trespassing sign. USPS does not deliver on private

roads and guests and package deliveries are considered as invited.
Lawson: The county does not maintain them.
Vey: Easements, associations, etc., there are lots of different ways for them to be established.
Hooper: If I put a private drive sign on the road then it is not public and wouldn't have to conform? Not necessarily a no trespassing.
Link: Ours is more defined than the state law and is currently anything over two lots is considered a private road.
Mangus: 2 thoughts to keep in mind: 1. We have a lot of seasonal property/home owners and seasonal properties that we need to accommodate. 2. We have a larger than average number of private roads in our township.
Dean: Private drives and private roads. Is it based on the number of lots or parcels, no house, etc., are we going to impose this?
Link: If they are putting a road in they need to meet this standard.
Mangus: A legal lot of record can be built on.
Link: Three buildable lots = a private road.
Dean: Are we going to hold someone to a private road standard if their full intention is to only have one home? Would like to see it addressed.
Vey: Need to consider people who split lots for the future without the intention of building now.
Mangus: Impose a deed restriction.
Vey: Deed restrictions are not enforced or implemented by the township and we do not deal with deed restrictions.
Dean: With additional lots / parcels it goes from a drive to a road is the intention right now.
Mangus: A legal lot of record can be built on the, "grandfathered" in without the change from a drive to a road at the point (time) at which they were made legal.
Discussion of definitions.
Mangus: Road frontage is covered specifically in each district.
Vey: Road frontage is the frontage on the private road.
Mangus: Road frontage concern when there is a cul-de-sac.
Link: ZBA would address road frontage variance if necessary.
Lyons: An access road would need to be put in.
Mangus: It would be nice to write in things that keep some issues from coming forth regularly.
Hooper: Can it be written in there that people have the option of going to the ZBA?
Link: Keep it simple.
Mangus: Look at the size of the parcel not just the road frontage.
Dean: Frontage is addressed in the district requirements.
Link: The way it is written, to have a parcel you need a certain amount of road frontage.
Dean: May need to address frontage issues in the zoning ordinance rather than in the Private Road Ordinance.
Vey: Lot width and road frontage are two different things.
Link: Every lot has to have access to a public road or private road.
Mangus: Currently not able to split the lot before the road is built.
Link: Easement ideas for changes.
Lyons: Devils advocate: Easement access to someone and then they decide they want to make a subdivision.
Link: If someone is given a 30' easement they do not have a right to increase that to 66' for a subdivision.
Vey: The easement is set and would have to be agreed upon to change. Rights are held by the property owner.
Mangus: Legal lot = buildable lot.
Hooper: A legal lot is not necessarily buildable because it may not be perkable. There are many like that.
Link: Access to lots and health, safety and welfare are our concern. There are inconsistencies that we need to address. Agreement by owners for road maintenance.
Mangus: New property, yes.
Vey: Just leave it to the county standard. Mandate to follow the county private road ordinance, if the county has a private road ordinance.
Dean: Does GTC have a private road ordinance? Yes - it is about naming for 911 purposes.
Hooper: Maybe we just reference the county private road ordinance.
Link: We have more authority. We set our own standard.
Lawson: Can we trump state law? Changing definitions?
Vey: We can be more restrictive but not less restrictive than the state.

Link: Ours says all private roads will have public access which is more restrictive than the state.
Mangus: We might want to consider Marion Twp. They have an interesting private road ordinance. Approved vs. unapproved private roads, legal but unapproved that doesn't fit in the subdivision category. Using different designations. The township mediates. 51% of the owners can go for a change.
Hooper: Safety standards based on what? Who's standards?
Link: Professional engineer would refer to the national standard and is considered safe.
Dean: Poor county road that leads to a private road I would have to bring up to a higher standard than the county does. Looking at \$10,000 a linear foot. Farrell and Whitney roads are examples, not seasonal roads.
Hooper: Township as mediator could be a concern. Private road approval procedure is section 4.
Link: Currently a private road is required to be engineered.
Dean: It is not being enforced and that is why we need to address this.
Vey: In other road ordinances private roads enforced in residential areas only.
Link: We are going through this to become familiar with it.
Hooper: I think of Miami Beach Road (20 residences) not the small ones.

b. Section 3 – Private Road Standards All lots must have frontage on public or private road.

Link: Frontage issues are addressed in each district.
Vey: Cannot create land locked piece of property must have frontage access or an easement.
Link: Reference the districts and we are covered.
Dean: An easement does not need to be drive-able.
Link: Public road easements, egress and ingress. It is under the road commission.
Dean: The land division act says you can create a lot as long as you have access to a road.
Link: My interpretation is you can split off lots as long as there is frontage or easement.
Mangus: The "frontage" is the 33' easement that connects to the public (or private) road.
Dean: I could do this with one page and not put the ZA in charge of it.
Vey: Section 3, according to this the road must be made before the lots are split/created.
Link: What does the private roads do to the property value?
Dean: Private roads along the lake, as an example, are basically two tracks. Are those property values lower?
Hooper: Personal experience: Private road off a private road, if it would have been an approved road I would not have been able to afford it – Miami Beach Rd. Made improvements bit by bit. There seems to be an "I want to do it for me but I want everyone else to help pay for it". Owners worked it out amongst themselves. Don't know that the township needs to be involved.
Link: To Vey: How many complaints do you get from private road users?
Vey: Make it clear to people there are township issues and civil disputes.
Hooper: What are we trying to fix that is broken?
Lawson: Board does not want to enforce. Board feels it should be a ZO not a general ordinance. We need to recommend to the Board to change, eliminate or leave it the way it is.
Mangus: Found Marion Twp. Road ordinance is interesting. The township is staying out of it.
Lawson: Regulating private roads, read through paragraph.
Hooper: What direction do we really want to go? Buyer beware, we don't need to regulate everything for everyone. As a group what direction do we want to go, standards or no?
Link: We are going through what we have. Debating background information. Ask Vey to check with others. We are simplifying.
Mangus: Private roads are private.
Lawson: Loans on private roads are brought up then.
Mangus: There is a standard of normalcy. A road agreement is mostly for the loan company and title company.
Vey: Let's say there is no private road ordinance document, is there an issue that needs to be fixed? How do we address it?
Lawson: Emergency vehicle access.
Link: Do we need to address the frontage issue?
Vey: It is part of the district.
Hooper: Emergency vehicle access, let people know to be aware of their access.
Mangus: A notification of what is recommended.
Hooper: Is that what the Board is looking for from us? Why are we dealing with it?
Vey: The Board does not want to deal with it.

Mangus: We can make the recommendation that we give a notification of recommendations and stay out of it.
Dean: Make a one page article to address.
Link: The Board is looking to have this be a ZO rather than a General Ordinance so the people can go to the ZA for direction and the ZBA for appeals.
Hooper: Simple requirements. By doing an ordinance it puts us in the middle.
Link: As a zoning ordinance there is a ZBA option.
Dean: Do you think we should have an article in the ordinance to address private roads, those definitions or just not be in there at all?
Hooper: My opinion: Take it out?
Mangus: I think there needs to be a statement in the ordinance that says we are staying out of it. Here are our recommendations. Holds township harmless.
Lyons: Can we mirror GTC recommendations?
Mangus: Can't go back and change all of our existing roads.
Link: Great discussion, we will not come to any conclusion tonight. Asking ZA Vey to gather information from others and ask the attorney for some feedback.

- c. Section 4 – Private Road Approval Process
- d. Section 5 – Road Identification
- e. Section 6 – Fee and Costs
- f. Section 7 – Exception / Appeals
- g. Section 8 – Penalties

Mangus: Call for a consensus on where we are going.
Hooper: Would like more information before I make a decision.
Link: Premature in asking for a consensus. We will address it at the next meeting and come to a consensus. Not ready to address either way.
Lyons: Vey will get the information from the lawyer.
Link: Pros and cons of an ordinance vs. guidelines and recommendations.
Dean: If at all possible, examples of private road ordinances in the area. Clarify: Board's request: they want this off their plate. We can recommend that they pull it off their books or recommend we recommend ___ and put in the zoning ordinance.
Link: Via a conversation with the Supervisor, it makes sense to put this where people have recourse to decisions made – like the ZBA.
Lawson: Repeal, thin it out, research. The Board is waiting to hear from us. Can ask if there is there anything in particular the Board wants in or out?
Hooper: Get the word out to the community via agendas and April newsletter. Looking for public input. Are there reasons for specifics?
Link: There has been a lot of round and round on this subject.
Vey: Any changes will require a public hearing.
Lawson: There is a process to remove it from the General Ordinance.
Link: Address it in the April newsletter as a call to the public. Continue our discussion in March and April and get public input in May.

- 3. Review Articles 6-15, the intent to become familiar with these articles for future consideration.
- 4. Recodification of Zoning Ordinance (awaiting scheduling)

New Business:

- 1. Next regular meeting, March 2, 2016:
Topics: additional articles to read 16 – 21 and Private Road article

Public Comment:

Commission Discussion/Comments: Vey uses what we have as a draft ordinance as his ordinance. It is all good background information. What we have is the legal / workable version of the ZO.

Continuing Education: Protecting Your Shoreline Workshop flyer included with packet. We have the budget for it.
Adjournment: 9 p.m.

Respectfully Submitted
Lois MacLean,
Recording Secretary