

DRAFT
WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES OF 04/06/2011 REGULAR MEETING

Call to Order

Chairperson, Zakrajsek, called the meeting to order at 7:00 pm

Roll Call:

Members Present: Zakrajsek, Dean, Mangus, Lyons, Boyd, Courtade, Miller

Members Absent: None

Also Attending: Zoning Administrator Meyers, Recording Secretary MacLean plus 5 members of the public.

Set/Adjust Agenda: Remove continuing education and add Article 27 to new business.

Approval of 03/02/2011 Regular Meeting Minutes

Motion by Lyons to approve minutes, seconded by Boyd. Motion carried 7-0.

Conflict of interest: None declared

Public Comment: None

Reports:

Correspondence: Leadership Summit on April 18 and Planning and Zoning News

Zoning Administrator – Activity picking up for new builds and remodels. Reminder-special meeting scheduled for the 20th of April to discuss Master Plan. New agenda subscription service for interested citizens. Some information from the Census: 6.9% or 159 people increase in Whitewater Township. The number of housing units increased by 191. In 2000, 23% of our housing was vacant however almost 22% is seasonal housing. 2010 shows 26% vacancy rate so if the 22% stays true we technically only have 4% vacancy. The state is at a 15% vacancy rate. Whitewater Twp. is in good shape.

Board Representative: Boyd - April 19th there will be a work session for the board to discuss priorities in the Township, Rural Fire, facility, ambulance, etc., making a list of priorities in the community. Encourage all to attend to know the direction the Township is going. The Board passed the budget. The new ambulance is not here yet.

Chair, Zakrajsek: None

Old Business:

MEDICAL MARIJUANA: Meyers is looking for ideas to get the ordinance started. Legally patients, caregivers and growers have to be allowed. The law is clear for patients, caregivers and growers. Compassion clubs, dispensaries and collectives are a gray area within the law.

Discussion ensued:

- If you cannot grow your own, it has to be available somewhere.
- Are we going to allow for medical marijuana?
- Security issues.
- Allow care-giving and growing as a home occupation?
- Allow dispensary and/or collective in the industrial zone? At all?
- The law says it has to be available and it is available short distances from our community.
- Would we be deterring businesses in general? Consensus is no.
- We can allow for a home occupation for caregivers; however, the township home occupation section of our ordinance is must be modified to address the occupation.

- Regarding caregiver: Do we allow it in accessory buildings or only in the home? Are there restrictions on changing caregivers, say on a daily basis?
- Definition home occupation: “Any occupation or activity for gain or support conducted only by members of the family residing on the premises provided that no special space is designated or arranged for such occupations and provided that no mechanical equipment other than that normally used for purely domestic or recreational or household purposes is installed or used; and further, that the occupation does not constitute a nuisance or hazard to public health, welfare and safety or requires or affects any change in external character of the building.”
- Allow caregivers in every residential district? A home is a home, it doesn’t matter if it is in R1, R2, etc.
- If caregivers are currently operating in the Township they are in violation of the ordinance as specialized equipment is utilized.
- Regarding a complaint, it would be turned over to the sheriff’s office.
- Is policing the Township’s role? By having a zoning ordinance, we are essentially “policing”.
- Is there a limit to the number of caregivers per household?
- We have to address the fact that we acknowledge medical marijuana to a certain degree, the absence of anything could allow them to open a “retail” business (collective/dispensary) in the commercial district. Set specific distances from specific entities (schools, etc.). We cannot create exclusionary zoning. Allowing it addresses this issue.
- It can be a consideration under special use in a district and conditions can be established. This gives the opportunity to look at each situation individually.
- Need to determine if there is a number of caregivers that can operate collectively.
- We would be opening up more home occupations?
- Question to the attorney: If we totally ignore the caregiver are we safe?

Zakrajsek directing Meyers to research and draft something that puts dispensaries/collectives in the industrial area with a special use permit only, that comes before the PC; research abstaining or addressing caregivers/growers as a home occupation to see where we should go with that, then we can address again at the next meeting in May.

FARM ANIMALS IN RESIDENTIAL DISTRICTS: Article VI, residential R-1. Changes as shown on the draft. Ag only there is no size minimum. Added a #3 on 6.14. State law says anything over 3 dogs is considered a kennel per the State requirement. To article 25:19, added dog kennels. Article 37 Supplementary Provisions two added, 37.20 and 37.30. Selected 40 feet from property lines for the keeping of female poultry because most Township properties would meet that criteria.

Debra Simerson, 9544 Elk Lake Trail: Traverse City ordinance says 25 from the closest building to meet the Michigan Farm Act. A distance from a dwelling may make more sense than a distance from a lot line.

Discussion ensued:

- Is it a nuisance issue? – Could use too much discretion.
- Special Use could be time consuming and cost prohibitive.
- Plot plan without special use, can be subject to site plan review.
- Neighbor consensus? Dealt with like an easement at time of sale.
- Working at trying to find a way to allow it for personal use, health and economic reasons.
- A “for profit” would be a different issue.
- Three options: set backs, plot review or consent of neighbors.
- Include other small animals, such as rabbits and not just limit it to female poultry.
- Enforcement issues.
- Legislation cannot be written for one person or situation.

- Lake front set backs still have to be maintained
- Possibly discuss an extension for the Simersons if it is approved at the Public Hearing.

Motion by Dean, seconded by Boyd to schedule a public hearing on Article VI, the way it is written here, for the regular May meeting. Roll call vote: Zakrajsek-yes, Mangus-no, Miller-yes, Boyd-yes, Courtade-yes, Dean-yes, Lyons-yes.
Motion carries: 6-1.

New Business:

Meyers: Article 27, Environmentally Sensitive Areas: Skegemog Point Rd. property owner came to me to clear an area of their property. I granted it. However, upon further investigation of Article 27, I realized that the Planning Commission or Township Board had to grant that permission due to it being an Environmentally Sensitive Area having wetlands, trees, steep slopes, shoreline. Article 27 has 11 pages with only three or four real provisions. Will come back with something for discussion that is more clear.

Continuing Education: Postponed Part 1: Filling the Gaps: Environmental Protection Options for Local Governments

Public Comment:

Kim Halstead, 7923 Cook Road has a problem with the dog tissue. Does the Township have a leash law? The County through Animal Control addresses the issue. Dogs run around his home.

Halstead was directed to take photos with a geographical marker and physically sign a complaint.

Debra Simerson, 9544 Elk Lake Trail: Addressing Environmentally Sensitive Areas - wetland. The ice came up and destroyed the property. Neighbors got county permission to create a berm. Both were in violation to the DEQ. You can get into things you don't even realize you are into when it comes to wetland.

Mike Jacobsen, 7031 Skegemog Point: As far as the marijuana thing goes, if you are going to make a grower grow outside of their home, security is not as good as it could be. Not in favor of growing in an industrial area. The Simersons are an excellent example of property rights issues; appreciate Kim's standing up for these people. People complain about the rural area after they move into the rural area. If you were there first. . .it's happened to me my whole life, just trying to live my life, new neighbors come and make things more difficult with property values and things that can be done. I am entitled to my own property and what I need to keep on it. I don't bug my neighbor because they build a huge home and raises my taxes, they should leave me alone.

Adjournment: Motion by Boyd, seconded by Miller. All in favor. Meeting adjourned at 9:27 p.m.

Tabled Items: Non-Conformities; Definitions-Fences; Permitted and Special Uses.

Respectfully Submitted by Lois MacLean Recording Secretary