

DRAFT  
WHITEWATER TOWNSHIP PLANNING COMMISSION  
MINUTES OF May 4, 2011 REGULAR MEETING

Call to Order by Zakrajsek at 7:01 pm

**Roll Call:** Lyons, Boyd, Dean, Miller, Mangus, Courtade & Zakrajsek, Recording Secretary-MacLean, Zoning Administrator.-Meyers, Intern-Sullivan + 16 members of the public

Set/Adjust Agenda: add Noah Moothart, water ski slalom course presentation to New Business #2, remove Master Plan (#3 on old business).

**Approval of Minutes of 4-6-2011 Regular Meeting: Motion to approve by Boyd, seconded by Lyons; all in favor. MOTION CARRIED.**

**Conflict of Interest:** None declared

**Public Comment:** None

**Public Hearing:**

Legal Notice of Public Hearing posted April 21, 2011.

1. Definition – Wood Stoves, open at 7:06. The Planning Commission had come to an agreement on the definition of **Outdoor Wood Furnace:** Any equipment, device or apparatus, or any part thereof used for providing heat for any interior space by combustion of fuel to produce heat or energy used as a component of heating system providing heat and or hot water for any indoor space. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler, Outdoor Woodfired Hydronic Heater or Outdoor Hydronic Heater. Outdoor furnaces shall be treated as structures and shall comply with the schedule of regulations for the district in which they are located.

Public comment: NONE

Close public hearing at 7:09.

**Motion to make recommendation approval to the Grand Traverse County Planning Commission and to the Township Board by Lyons, seconded by Miller. MOTION CARRIED.**

2. Farm Animals in Residential Districts, open at 7:09, Article 37, 37.20 and 37.30 a permitted use in R1. This does not apply to commercial or village districts. 37.30, has been added because the state considers anything more than three dogs a kennel. Section D change to “or”. 37.20 C – possibly add rabbits. The way the ordinance sits right now the commercial district could have dog kennels included, with approval.

Public comment:

Debra Simerson: 9544 Elk Lake Trl.: Feels she has expressed her case in previous meetings. Would like to keep the feed and egg chickens and the rabbits raised for meat. Currently moving chicken housing to the 40 ft. lot line distance.

Mike Jacobsen: 7031 Skegemog Point Rd., was at the last meeting, these are good citizens helping children, who live here year round and are helpful to neighbors. Part time residents can make them do these extra ordinary things. The animals can really teach the kids lessons. Think it is a shame. Ordinances should be made for the people who are the complainers.

Close Public Hearing at 7:25.

## **Reports:**

Correspondence: Vaughn Harshfield has presented some SWOT analysis for the PC to review.

Zoning Administrator report: April report, Road report and water update.

Township Board Rep: Boyd, a lot going on at the Township meetings. Clean up is Saturday; the Township received a grant for tire removal to hopefully get the cost down to \$1. Purchase of LifePak12 for ambulance. From the public: Rick Eyman, 4687 Vinton Road, indicates that the old dump has probably 1000 scrap tires that he is aware of.

Chair: None.

## **Old Business:**

1. Farm Animals in Residential Districts: Discussion: change “and” to “or” regarding the fences at the end of 37.30 (D). Allow for other animals that are raised for meat ie. rabbits. Rabbits were not excluded but were not included specifically. Formally add rabbits to 37.20 (C). Mangus feels it is still too restrictive. Zakrajsek: maybe sometimes meeting in the middle is not good enough for some, we are not writing an ordinance for one specific situation. Comfortable with the 40 ft. set back. Deadline for the Simerson’s case is June 1<sup>st</sup>. Meyers: The Planning Commission cannot extend the deadline. Simerson’s will call Meyers next week for consideration of an extension.

**Motion by Lyons, seconded by Miller to make a recommendation to send Whitewater Township Zoning Ordinance, Article 6, Residential Uses and Article 37, Supplementary Provisions changes as presented with the change of “and” to “or” and the additional language to include rabbits, to the Grand Traverse County Planning Commission and the Township Board.**

**Roll call vote: Boyd-yes; Courtade-yes; Lyons-yes; Mangus-no; Miller-yes; Dean-yes; Zakrajsek-yes. MOTION CARRIED.**

2. Medical Marijuana: Definition of home occupation and definition of collective or dispensary presented to commission from information gathered from another community that has already been battling this issue. Since neither is actually addressed in the law. In order to allow in industrial area added to Article 9.11 special uses E (moving the previous E to F). Seems best to use both terms, “dispensary” and “collective” interchangeably – there really is no difference. Article 25, 25.21 (C) specific requirements 1. The acquisition, possession, delivery, or transfer of marijuana shall comply at all times with the Medical Marijuana Act and the General Rules of the Michigan Department of Community Health, as amended. 2. A Medical Marijuana Collective/Dispensary shall not operate between the hours of 8:00 PM and 8:00 AM. 3. The Medical Marijuana Collective/Dispensary shall be equipped with a monitored alarm system that includes, at a minimum window/door sensors and motion detector. 4. The use of any form of Medical Marijuana on the premises is strictly prohibited.

Two tier approach to home occupation – minor and major (as written) no permit needed (this actually goes for other home occupations as written). A major home occupation can be conducted in a residence and/or accessory building with signs and employees and would require a special use permit. Boyd: 25.21 C monitored alarm system: a professional monitored system=a reporting system (not reporting to the owner of the business). Miller: including vending machines? Meyers: Being proactive, in case the law changes. Meyers: What do you think of the minor and major, two tier approach to Home Occupations? Mangus: this is a good start. Dean: will need more information, like how many providers per location. Mangus: Home occupation is for growing. Don’t want to have to worry about knowing – out of sight out of mind. It would naturally become a major home occupation if there are more than a couple providers. Meyers: When a business gets too big, they lose homestead exemption. There are places where it just won’t work. Who will be complaining? the neighbors. Then we can go to

them regarding growth from minor to major. Then they would have to come to PC or go to ZBA for an appeal. Minor occupation does not allow the use of an accessory building. Mangus: A minor home occupation should be able to use minor signage – currently we allow a 2x2 sign. Meyers: All signs have to come in for a permit. Mangus: Go for “out of sight out of mind”. Micky: Likes the concept, definition issue: incidental to and clearly subordinate to the home – distinction needed. Votes for the 1<sup>st</sup> one on the minor. Make it clear that it states that first it is a home, second a business. Meyers: Special conditions for a major home occupation. Would like the public to come up with ideas. Not for profit type uses of things, like a swimming pool that is used for water aerobics and a frame shop. The Assessor makes the determination on loss of the homestead exemption. Meyers: Major thorough fares for major home occupations? Mangus: It is very difficult to narrow it down to locations. Meyers will be ready with something next month to finalize so there can be a public hearing in July. With addition of Boyd statement of requiring a monitored surveillance system. Staying out of caregivers. Collectives in the industrial area. Moratorium ends in August.

### 3. **Master Plan** – postponed to next month.

#### New Business:

1. Consider Special Meetings – Master Plan and Continuing Education. Map training, two hours on Saturday, before summer really gets here and before harvest time. “Filling the Gaps”, timely, environmental information, and satisfies the PC training requirement. Two hours on training and two hours on Master Plan. Zakrajsek says June 8 or before. June 8 at 6 p.m. and wrap up at 9. Motion by Boyd, second by Lyons, to have a special meeting for training and Master Plan work. All in favor.

2. Added agenda item: Noah Moothart 9815 Miami Beach, regarding a slalom water ski course on Elk Lake at The Battle Creek Natural Area. Supervisor Lake requested that the Planning Commission make a recommendation to the Township Board, in the absence of a Parks and Recreation Board/Committee.

Items discussed: The wake, is like a regular wind wave. The lake is considered “waters of the state”. Turnaround distance. Set up is really regulated by the DNR. There are specific boating hours: an hour before and after the sun comes up and goes down. Question: Have you talked to other neighbors? It’s a courtesy to talk to the neighbors. Buoys go in and out each year, the anchors do not. There are buoys that can be submersed when not in use. Submersible would not make it available to the general public. Course will cost \$800 to \$1600, at the Moothart’s expense. Slalom skiing is not done with large boats. A DNR requirement is to get adjacent property owner’s permission and the largest single-owner property on the lake front is at the Battle Creek Natural Area, owned by the Township. The slalom course is a standard size, 1200’ long.

Comment from the public:

Maryanne Friese, 7943 Skegemog Pt Rd., lives 200 ft. from Natural Area. Just found out about this. Has concerns about the loons that nest in the area; the boats that already gather – the “sand bar” over run. It will increase the activity in that quiet corner. Concerned about the buoys being left out. Very concerned – ESLA association, shoreline damage. The liability of the township if it says yes.

Moothart: responded by saying that he does not see “the gathering”, and he lives on the lake also. There could be people waiting to use the course; however, it is not a spectator sport. Anchored boats don’t want to sit there in the waves. If there is a boat in the way, they can be asked to move. If they do not move, you wait or try again another time. Water safety/boat safety – state law requirements. Party boats issue: have not had that ever come up as an issue. Party boats don’t show up until the skiers are done and gone.

Mark Taylor, 8057 Skegemog Point Road: Watched kids ski, we do have an area that is preserved. Would it be better at Palestrum, calmer?

Moothart: Possibly, but there are a lot more individual property owners to contact for DNR permission. This would create a public area, for public use, at private expense. Liability issue – it is waters of the state.

Meyers will contact township attorney regarding township liability once we give permission.

Zakrajsek: added this to the PC agenda, should we give the Township Board more time?

Boyd: There will be adequate time for additional commentary. We could move ahead.

Dean: Concur, it leaves a very small “foot print”.

Courtade: hours of operation? State water craft laws in effect. Jet skiers cannot be “controlled”. People can call in complaints. Are we creating a spot for creating a nuisance?

Boyd: Lake bottom, sand, muck? Sand. Very gradual slope, undeveloped will make the waves smooth out. East of the river/creek. Put stuff on the anchors to draw the fish (the fisherman will love you).

Zakrajsek: Don’t see the waves and wakes being an issue. These are waters of the state.

**Motion by Boyd, making a recommendation to move this forward to the board, pending lawyers opinion, seconded by Mangus. Roll call vote: Courtade-yes; Lyons-yes; Mangus-yes; Miller-yes; Dean-yes; Zakrajsek-yes; Boyd-yes. MOTION CARRIED.**

Continuing Education: None

Public Comment: Jacobsen: regarding the monitored alarm system idea, is a liquor store required to have such an alarm system? Why would we make a person who doesn’t leave inventory in a building overnight do this? If there is not a person at the facility there is not product at the facility. A businessman, with all the gray areas, they are not going to leave themselves vulnerable. If a caregiver started in an outbuilding? Good progress made on this. Recollection that a store in town has been doing this illegally long before it was legal. Appreciate trying to make this work, make the industry grow. Don’t understand the mentality.

**Motion to adjourn by Boyd, seconded by Miller, 8:59 pm. MOTION CARRIED.**

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