

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR REGULAR MEETING
August 1, 2018

Call to Order at 7:05 p.m.

Roll Call: Dean, Hooper, Jacobson, Mangus, Render, Savage

Absent: Lawson

Also in attendance: Recording Secretary MacLean + 61

Set / Adjust Agenda: Set.

Declaration of Conflict of Interest: None

Mangus: Welcome and thank you all for coming to tonight's meeting. Statement regarding the PC packet and agenda. The township has not issued any permits for event barns. There are no proposals before us. There is no amendment that allows for event barns. We are looking at a special use permit ordinance that would allow someone to apply to potentially have an event barn. With any such application all neighbors would be notified and a public hearing would be held for every occurrence of an event barn in the township. There is some confusion that construction has begun and notices did not go out. That is not the case. We do not have an ordinance that would permit an event barn. No blue prints are before us. No permits are before us. Nothing has started construction to our knowledge anywhere in the township on something intended to be an event barn.

Public Comment:

Ron Bachi, 6987 Cook Rd. Thank you for taking time to listen. You have our respect and appreciation. It is not intent to offend you, anyone here or anyone in our community. Whitewater Township Planning Commission has been approached to create an ordinance that would allow event barns on agricultural property. The original intent of event barns was to give farmers with historic barns the opportunity to earn some extra income. An individual has purchased land which has a driveway across from Cook Road with the intent of putting in an event barn which would affect our quiet, peaceful neighborhood and endanger the public.

A petition was formed: "We, the undersigned concerned citizens who call upon our planning commission to abandon the ordinance that would allow event barns as a special use in the agricultural and recreational districts." 162 signatures have been gathered from Cook Road, Miami Beach, Palestrum and Wintergreen Heights. 162 people approached, most knew nothing about it, 100% were opposed. The fact they are opposed is not a surprise. The fact they did not know anything about it is disturbing.

In going around the neighborhood we received a lot of feedback. Overwhelmingly people were in disbelief. It is a beautiful rural community and I have learned that we have to fight for what we have.

How does this help the community? Cannot think of any way this can help our community.

Negative effects: Increases traffic, noise pollution, light pollution, property values will drop dramatically. Then add alcohol and sounds like a recipe for disaster.

Spoke with someone with some legal background and he said it could not happen. It is ag property in a rural community. Upon further investigation and reading of previous meetings' minutes he seemed surprised and noted that this was being pushed through with no opposition. He then went through the six page ordinance and asked where do I sign (on the petition)?

How did people find out? Semi-truck loads of fill appearing and disappearing on the property. DEQ has been contacted. A violation has been issued. No permits had been applied for or issued. An undetermined amount of fill put in to create a road to facilitate an access to M72. Wetlands have been affected. DEQ said they will push for total rehabilitation of the wetlands.

I live in a beautiful community and from my point of view I see a piece of agricultural land surrounded by rural community. Everyone knows it is agricultural land. You can farm and build houses but you cannot disturb the protected wetlands. You cannot build a road to access a party barn, fill the party barn with 250 people, serve alcohol, play loud music, charge a lot of money and then send them down a road in a rural community. Then do it again and again.

Downloaded pictures and a mission statement from the township website. According to the mission statement posted on the township website, "The Whitewater Township Board will strive to maintain the rural character of our community" and it includes pictures. One picture is a historic red barn on a farm. The allowing of the special use permit would no way support the mission statement or protect our agricultural land and residents around it. A commercial event barn does not belong on agricultural land.

People are uninformed. The opposition is real.

Abandon the ordinance that would allow event barns as a special use within the agricultural and recreational districts.
Thank you.

Jon Moothart, 9815 Miami Beach Road. In looking at the proposed ordinance, don't know who prepared it. I assume it was drafted by the developers attorneys – I don't know. I assume this is an ordinance that was recommended by an individual who wants to do something on a particular piece of property.

Doesn't seem to be a ground swell of people who are interested in amending our ordinance to allow event barns in agricultural areas. Isn't there just one person who wants this?

The proposed ordinance would allow up to 250 people per event, 35 events per year. That is a lot of people.

“...Noise that accessively annoys people. . .” (reading from the proposed ordinance). It is worded such that it can be litigated in court once the SUP is approved.

Read through the alcohol portion.

It is questionable if this is an agricultural use of land.

From the minutes of the June 12 board meeting: Mansfield notes that the Williams' are the property owners. They feel strongly that uses in the agricultural zoning district provides owners of larger parcels with additional potential revenue streams and opportunities to keep the parcels whole and preserve the rural character of the township.

The way you preserve the character of the community is to not allow a party of 250 people, 35 times a year next to the Burfiend property. Don't put a square peg in a round hole.

Calling it an ag use does not seem honest.

Mangus: For clarification: The Planning Commission proposed language for an ordinance. The township attorney then created a proposed ordinance. It is part of tonight's meeting packet. The PC has not reviewed the attorney's proposed ordinance. This is in legalese terminology, not the terms the PC used in its version of the ordinance. The PC, at this point, has not reviewed or endorsed this document. This is not based on input from the developer.

This has been on our list of things to do since before the Williams' came to us. The courts have determined that event barns are considered agri-tourism and as such they are allowed in our ag district. They would go through the zoning administrator. The PC was trying to set up guidelines were it to occur, as opposed to waiting and having no structure in place what so ever.

As the PC, we receive and address thoughts and recommendations from groups, individuals, the board and from our own review of the ordinance. We are currently in the process of going through our ordinance and addressing amendments, conflicts and inconsistencies that have accumulated throughout the years. Then it will go through a recodification process. Mangus explains the processes that are taking place. There are many opportunities throughout the process for public input. The PC welcomes public input.

Tom Slopsema, 9693 Miami Beach Rd. Does the public get to vote on amendments to the ordinances? (Mangus – no)
Reading from the attorney created document amendment. Would like to see the distance from houses more than the 500 ft. stated. My opinion is that I would like it to be 7,000 ft. from neighboring residences.

Would prefer Event Barns be in the commercial district.

It would be great that events with alcohol be required to hire a uniformed officer.

Section L – As previously addressed, noise: “. . .assessiveley annoys. . .” and “. . . unreasonable . . .”. It should be a specified dba level.

Light pollution is also a big concern.

Brian Johanson, 7679 Cook Rd. Security officer is mentioned, would like to see more specifically an armed officer.

Two or three years ago someone was hit on Cook Road and while care was being rendered they were hit by another car. You are looking at sending 8,730 people down Cook Road after they have been drinking. It is a bad idea. I walk Cook Road and there is not enough room. Look at the intersections of M72 and Cook Road and M72 and Williamsburg Road. Those are dangerous intersections. We don't need to add alcohol and a bunch more cars.

Wally Weir, 7792 Cook Rd., Longest property owners on Cook Road. Family settled in 1862. I like the atmosphere, rural setting and everything we have here. A proposed amendment that might be a problem in the future should be especially restrictive so variances can be allowed. This is not a very restrictive proposed ordinance.

Jordan Babcook, 6727 Cook Rd. Four years ago there was a drunk driver accident. Adding more alcohol to people's blood content through the parties that would go on would be a very terrible idea. I was the one that was hit and will have on-going complications for the rest of my life because of alcohol. I think this is not a good idea.

Sally Laudermilk, 7485 Cook Rd. I have been in the area for 10-15 years. I think what a lot of people are really worried about is to look what happened at Torch Lake and you are asking us to put up with that 35 times a year.

Tracy Peal 9727 Cushman Court. Grew up on Torch Lake and am very familiar with the issues there now. Here to encourage the PC to keep our rural character in mind when making changes and decisions.

Ryan Stibbs, 9675 Old M72. I note that a lot of comments are specific to the event barn on Cook Road. When thinking about event barns my initial thought goes along with the pictures of the barn and old settings. We cannot keep everything old but I do want to make sure when this review is done that something is in there about the barn in general. Using an old, existing barn a couple times each year for events is one thing. Taking down the barn and building something new is a business. We love our old township. We love our old buildings. Commercializing the rural character is of concern.

Doug Chichester 6879 Cook Rd., which is right across the street. I refer to it as the Webster farm. You have to accept new homes and development. We all live on someone else's farm. The size of this development is scary. I like my neighbors but if he invited 250 of his friends, with bands, 35 times a year I might get upset. Not saying development is a bad thing. I could hear the bands at the casino and that was miles away. This would be right across the street.

Deepak Prabhaker, 6925 Cook Rd. I have been to the destination events, weddings at rustic barns. What makes them work is that they are in the middle of nowhere. This is not the middle of nowhere, this is home. My encouragement is to review the excessive noise, the setbacks, the number of events per year and consider limited the use. Put the needs of the community before the ambitions of one couple.

Bonnie Babcock 6727 Cook Rd. When the drunk driver hit my daughter I went to help and I was also hit. The roads are still the same, they are not safe, there is no shoulder. Gotta stand for something. How long does it take for an ambulance to get here in this township? What if someone is just choking? Visibility is not what it should be. These people have already done something under the wire. They don't care about your amendment. They are going to do whatever they want to do. My advice is to stand for something.

Mangus notes: We are looking at event barns in general. If you like the idea of event barns but not at that location, we need to know that. By show of hands most of the people are opposed to event barns in the township regardless of location.

Hooper, lives on Cook Road. This PC told the people that that is not a good area. They came back and immediately changed the location – out on M72.

What if they put a sub-division on all the large properties, how many cars will be on the road? One of the things we are trying to do is to allow people with large properties to afford the properties. We are trying to protect the large parcels of property. When people are thinking that they don't want anything you have to be aware that subdivisions are allowed. We would like them (the event barns) to be on M72.

Bachi response: Comparing homes and this is not the same. If people moved into the area they would likely want to have the same things we have. It would be forty homes of people who care about the community. Not people coming in for a party who don't care about our community.

Mangus: We do want to listen and respond to a few questions.

Hooper: I am not here to represent them (the property owners). I am here to represent the community. We come here with an open mind. We don't always agree with each other. I am trying to help you understand our thought process on this whole thing. Asking you to listen when we explain things. The PC has not come to any decisions on this yet. Wish people would show up at all the meetings to provide input.

Tom Czerwiński 7021 Cook Rd. In agreement with the previous speakers. Commercial is not equitable to a subdivision. Notification is a problem. There was a three minute public hearing back in May because no one showed up. Legal notice was posted in the Record Eagle on April 15. That was the only notification. Suggest there has to be a better way to notify people. Residents and property owners need to be notified of what is going on. When people know what is going on they are interested. There was nothing in the newsletter. There is nothing on the township website home page. We can go through the meetings and agendas on the website. Possibly a separate page for notifications on the website.

Mangus: We have been working on trying to get information out, more communication. This (event barns) is something we have been addressing, on and off, for a year and half.

Savage: How many are here regarding the event barn proposed on Cook Rd.? Is it the location or the event barn? If this was proposed on Bunkerhill Road would you be here? We would like people involved in all of our meetings.

Heidi Vollmuth, 8371 Winnie Lane. Here for one reason, the ordinance. I have never seen so many people stand behind one thing. If you read the ordinance it is all willy nilly. Read through some of the minutes of the July meeting. We have to follow the rules when it comes to the public comment. We want to set a precedence. We want a well written ordinance. Supposed to work under best practices. Supposed to get it right the first time. Supposed to show some sort of transparency. Some say by passing this Special Use Permit allows the powers that be the powers to police the

issues. Reminder: your job is to recommend to the township board land use practices, design standards, ordinances and amendments that will protect and enhance the natural and built environment which are fiscally responsible and consistent with the Master Plan over long term health and care, safety and welfare of the residents of Whitewater Township. That is right out of your rules. I wish I could believe you. Trust is earned respect is given. I see more questions that need answers. There is a process. If you read the ordinance – who decides if the events are in the guidelines of the ordinance? We are here today to be informed. Write an ordinance that has consistency. Asking that the PC does their homework. Is there a process to police this? Who is responsible for the IAP (instant action plan)? There are a lot of questions that need answers yet. Explore a better fix for this. Do a community work shop. A townhall meeting. Don't miss the board meetings. We are all neighbors. You (the PC) work for us. Don't keep us in the dark. What if you violate the ordinance?

Heidi Young, 6388 Bebe Court. Wanted to say I am a contractor working in several township and counties. This township is amazing because of their willingness to think outside the box and give people the time of day about what makes sense. Thank you for being willing to look at the issues.

Renee Savage, 9833 Pineneedle Lane. Three weeks ago went to an event barn event, The Sunshine Barn in Gaylord. Looked like something out of a Kentucky horse ranch. There were buffers for sound. You couldn't see the parking from the road. All of the music contained inside, could not hear it even at the parking lot. Don't know if it fits but I would rather see that on 400 acres than a pig farm.

Lauren Harris, 11130 French Court. I think I would like more information on the background. What is the primary purpose and the secondary purpose? It should be written into the ordinance. If it is to keep the property as ag the number of events can be limited. Primary purpose AG, secondary purpose to hold events.

Rob Opsasnick, 6325 Applewood Lane. Went to an event barn party in Kingsley, off the highways. Our roads are not in shape for this. Why would the Williams' purchase 180 acres of land without a permit to build? (The PC does not tell people they can or cannot purchase land)

Mangus: The input the Williams' got from this commission and when we specifically told them NOT on Cook Rd. but on M72. Event barns was on our agenda review list before the Williams' came. We gave them a choice that they could request an appeal to the ordinance or wait until we got to it. They opted to wait until we came to that section of the ordinance. This was on our list of items that are not addressed and should be covered. This was specifically highlighted in a conference three years ago as items that need to be addressed in our ordinance. We were trying to be pro-active so someone would not be able to get one in without any of our input.

Hooper: The Zoning Administrator has had multiple inquiries regarding event barns. We are not talking specifically about Cook Road.

Jeanie Bachi 6769 Cook Rd. Letter from the Williams' from the packet. Reading through the letter.

Bachi asks once you allow this how can you stop it on the other 66 properties that meet the size? Mangus: That is only one of the specific proposed requirements.

Bachi notes from the Williams' letter that they have been working with the PC and that specific items have been addressed specifically for them. Mangus notes that the Williams' have been to meetings – that is the full extent of their participation in meetings.

Mangus also notes: If something that is brought through as a Special Use Permit (SUP), there are extensive approvals that must be met, all terms are reviewed. It is not a use by right. We have had no SUP come to this board. We can put on additional requirements. An SUP can be rescinded if terms are not met or continue to be met. The letter was addressed to the board.

PC comments:

Dean: I am not going to try to change anyone's mind. My comment is you need to be careful what you wish for. The large parcels are getting harder and harder to keep by tilling the land. We need to come up with collective ideas on what we can do. It is getting harder for farmers to stay in business. There is a \$2 ml (+) farm available on Townline Road with an old historic barn. The farmers are not buying it. We (the PC) are guarding against people coming in and manipulating the system.

Hooper: Try to have an open mind about what we are trying to accomplish. We let you know it is not going on Cook Rd. We are trying to preserve the nature of the community in a time when farming is getting more difficult. An example is the Pulcifer Farm in Elk Rapids. They are looking to sell and there are no farmers willing to buy. We are not just thinking of Cook Rd. We are thinking of all of Whitewater Township.

Jacobson: I see a lot of people I don't know. We all need to realize we all came here from somewhere. The large pieces of land are getting harder and harder to hold onto.

Savage: Had a gentleman say he moved to this area because it was a pristine area. We have to have progress and we

are trying to control the progress that meets the needs and wants of the community. You cannot move into an area and then roll up the streets behind you.

Hooper: Many of us on the PC have been here a very long time.

Mangus: Need to keep in mind when it comes to zoning: Things change. It is inappropriate to govern or direct development in a way that says only people who were born here get to enjoy this area. Have to be careful to be respectful of everyone's rights. Hope you can keep in mind what we are trying to accomplish using the tools that are available to us, to help maintain the heritage of the area. Sometimes we have to look at non-traditional things.

From the audience: The Cook Road issue came up as a hot item because the first thing they did when they came into town to make a party barn was to tear down a perfectly good barn. (Mangus) The barn that was there was not preservable. They brought in engineers. They went to a good bit of expense to preserve and maintain as much of the original barn lumber as possible with the intent of rebuilding it in a new location up to code. The foundation was not stable.

Josh Patzer, 6811 Cook Rd. Replica of a barn? Or an actual barn? Mangus: Deference would be given existing barns.

(Most of the attending public leaves the building)

No public hearing this month. The clerk did not have adequate time to process after the July 11, meeting. The board is going to process the existing amendments before we move anymore to the board. The board currently has Articles 6, 7, 14 and Event Barns. Article 17 (Land Use Permits) is being looked at by the attorney. It will be addressed after the others are complete. Articles 6, 7 and 14 have not been sent to the attorney for review yet.

Approval of Minutes:

Motion to approve the July 11, 2018, minutes by Hooper, second by Savage as amended. All in favor. Motion carried.

Correspondence:

Elk Rapids Village / Township will be reviewing their combined Master Plan. Will be forwarded when available.

Williams' have put in the formal request for an amendment. Even if they rescind the request we still need to address it.

From the Board / ZA regarding Habedank's attendance at the PC meetings. We (and the board) knew when he got hired he had a previously scheduled conflict on the first Wednesday of the month. Have made a request to get a written review of amendments in lieu of attendance at the meetings. Can we accommodate Denny's schedule? First or third Tuesday or second Wednesday instead of first Wednesday each month?

Reports:

Zoning Administrator Report, Habedank: Requested comment from Habedank regarding event barns. Feels the attorney's ordinance is appropriate. It is able to be defended in court, if necessary.

We are looking to get written input from Habedank on each thing before it goes to the board.

Dean: Using all the legalese is difficult for the general public and that is why we get the confused input from the public like we got tonight. This process may make things much more difficult for people to understand with all of the attorney legalese.

Chair's Report, Mangus: Per discussion with the Supervisor, Articles 6, 7, 14 and Event Barns will go through the process as planned: PC, ZA, Board, attorney, PC, public hearing, Board. Glenn notes that the Clerk will do some corrections before sending it on to the attorney. Will the PC review what the clerk changes?

We are trying to get the ordinance straightened out so it can be sent out for recodification and attorney review. Now it is going for legal review at each step. Defending an ordinance and taking the heat on an ordinance that is not written by the PC can be very difficult for the planning commissioners. Tonight's public input is an example.

The ZA had indicated that the attorney said it was urgent to get Article 17 taken care of. In the conversation Mangus had with the Supervisor he indicated that his conversation with the attorney was that it is important but not urgent and can wait. Article 17 has been sent to the attorney.

Savage notes that at one point the township was spending over \$100,000 on attorney fees. They had dropped significantly for a number of years. It appears the attorney fees will be right back up there.

Dean would really like to have a joint meeting with the PC and Board. Keep asking for a meeting until they agree. We need dialog.

Motion to have a joint meeting with the Board for dialog by Hooper, second by Savage. Discussion: Mangus would like to continue with the new process on 6,7, 14 and Event Barns to see how that works out then have the meeting. Dean agrees with Mangus. Hooper wants input from the board on the process, what it is we are doing, working on and why. Thought of a referendum vote for Event Barns, through the whole township – not now. A survey may be an option with the township.

Roll call vote on motion: Dean – no; Hooper – yes; Jacobson – no; Lawson – n/a; Mangus – no; Render – yes; Savage – yes. Tie vote. No request this month. It will come back next month.

Township Board Rep., Lawson: N/A.

ZBA Representative, Hooper: No meetings.

Committee Reports: None.

Additional Items: None.

Old Business:

1. Recodification Preparation Progress Update: There are six items that we are not currently working on that likely should be reviewed before sending for recodification.
2. Event Barns – Attorney recommendations: postponed.
3. Article 17 – land use permits – attorney recommendations (postponed)
4. Article 37, balance of text, starting with Home Occupations: Postponed.
5. No reschedule of Public Hearings at this time, until we get things back from the Board.

New Business: None

Next Regular Meeting September 5, 2018.

Agenda: Attorney documents, Event Barns.

Public Comment:

Tracy Peal, 9727 Cushman Court. Thank you for the clarifications. The information has been helpful.

Brenda Welch, 5982 Cook Rd. Questions the commercial use in an Ag land. If it is commercial it should be in commercial. Mangus: Any event barn can go into the commercial district as a use by right.

Jon Moothart, 9815 Miami Beach Road. I don't see the legalese as the problem in the Event Barn ordinance it is what it is. Can it be legally forced onto the township rather than open the door and regulate it? You are appreciated.

Mangus: There are commercial uses for ag land, like the Cherry Growers food processing plant along US31.

Commission Discussion/Comments: None

Continuing Education: None.

Adjournment: 9:55 p.m.

Respectfully Submitted
Lois MacLean,
Recording Secretary