

Clearwater Township
Planning Commission
Regular Meeting of August 13, 2007 –Minutes
as approved September 10, 2007

Call to Order, Pledge of Allegiance:

Chair Johnson called the meeting to order at 7:02 p.m.

Roll Call of Members and Recognition of Visitors:

Commissioners present: Fields, Johnson, Risk, Sington, Veen.

Commissioners absent:

Township officials: ZA Molby

Public: Carol Reeder, Lucy Gerlach

Approval of Minutes:

MOTION by Risk, second by Sington, to approve the minutes of the meeting of July 9, 2007 as presented. Motion carried.

Approval of Agenda:

MOTION by Risk, second by Fields to approve the agenda as presented/corrected. Motion carried.

Open Discussion for Issues Not on the Agenda:

Carol Reeder – asked what will it take to get an ordinance like Kalkaska’s that requires property owners to keep their lawns mowed? She brought a copy of an article headed “It’s cheaper to mow the grass” that was published in the *Leader and Kalkaskian* on July 18,2007. A copy of that article is attached to the permanent copy of these minutes as AttA. If the property owner allows the grass to grow over 8” in height, the village mows it and bills the property owner. If the property owner does not pay the fine, the bill gets added to the tax bill. Chair Johnson agreed that this is an issue that the commission must address in its review of our existing ordinances.

Ms. Reeder continued with a question about preventing the burning of toxic garbage, which she maintained was against Michigan state law. Among the thoughts discussed was would we need to include that issue within our ordinance if it is already a state law? Wouldn’t a state law be automatically enforceable? The consensus was that when we review this matter within our ordinance discussions, we will include a reference to the specific MCL chapter and section.

Old Business:

Fields presented the draft of the revised Policy re fact-finding. Also presented a revised draft of the Planning Commission Petition.

MOTION by Risk, second by Sington, to accept the Policy as drafted. Motion carried.

The draft revision of the Planning Commission Petition is to be reviewed by the commissioners for acceptance or revision at our next meeting.

Report of Planning Commission Chair:

Reported on telephone call to MTA legal department to get the information on what the specific legal differences are between the former Township Zoning Act and the new Zoning Enabling Act. The MTA sent him the document *General Law – the 2006 Michigan Zoning Enabling Act*. From his reading of that document:

- The first big change noted is in the shortened notice requirement 15 days instead of the previous 30 and 15 days. “All zoning application/hearing notices must now be published once in a newspaper of general circulation at least 15 days before the date of the meeting at which the application will be considered (or the hearing held, if a hearing is involved). (MCL 125.3103)” (MTA, 2006, p. 6). We could continue with our more restrictive requirements if we wanted to, but we have already adopted the new 15 day notice requirement.
- The second big change is that formerly, when the zoning board sent recommendations to the township board, if the township board was not in full agreement with the recommendations, it had to refer the matter back to the zoning board for reconsideration, giving the Township board objections. “Section 401(3) of the new ZEA, changes this ‘refer-back’ requirement to an option (MCL 125.3401)” (MTA, 2006, p. 7). “125.3401(3) The legislative body may refer any proposed amendments to the zoning commission for consideration and comment within a time specified by the legislative body.” Thus the township board can amend the recommendation and pass it as amended.
- A third significant change is that “Section 401(4) of the ZEA now requires the Township board to grant a hearing on a proposed zoning ordinance text amendment when properly requested by a property owner, before township board adoption of a proposed amendment or rezoning, regardless of whether or not the township board had previously referred the proposal back to the planning commission for further consideration of changes desired by the township board” and “The property owner’s request for such a township board hearing must be by certified mail, addressed to the township clerk. If such a request is received, the township board is required to hold the requested public hearing at a board meeting, preceded by notice of a hearing as otherwise required by the ZEA for a text amendment or rezoning, as applicable. (MCL 125.3401)” (MTA, 2006, p. 8).
- A fourth change is in the treatment of nonconforming uses. “The TZ stated that a township **shall** provide in its zoning ordinance for completion, restoration, reconstruction, extension or substitution of **nonconforming uses** upon reasonable terms set forth in the zoning ordinance. (MCL 125.286)” The new ZEA, Section 208(2) says the township **may** so provide; it does not have to. (MTA, 2006, p. 12)

In considering how much of our zoning ordinance will have to change, there are three options to handling changes that result from the new ZEA:

1. Delete the old requirement and specify the new ones.
2. Delete the old requirements and reference the ZEA, without specifying the precise requirements.

3. Delete the old requirements and add no new provisions at all. The requirements of the new ZEA must be met whether or not they are included in the ordinance (MTA, 2006, p. 5).

In any event, we will likely begin review of the existing ordinance with our next meeting.

Report of Township Representative:

Commissioner and trustee Veen reported on the township board meeting of July 17, 2007. The mooring issue was discussed, along with parking problems on Aarwood Trail and Crystal Beach Road. The Parks & Recreation Committee gave its report. The hospital representative gave her report. Zoning was discussed and the sign ordinance was rejected and sent back without any specific recommendations, just reconsider the entire issue. Veen stated that he has made extensive notes regarding his ideas for discussion when the sign committee is reconstituted. He voiced complaints regarding mixture of language types and recommendations that he finds inappropriate. Commissioner Fields inquired of Chair Johnson whether a written rejection had been received from the township board; he said he had not. Commissioner Veen stated he had seen a written memo on the matter. He searched in his papers and found a written memo from David Grimm; the memo was not addressed to anyone and it was not dated; it said:

The township board at its regular meeting in June and earlier, rejected the sign ordinance language. Trustee Veen has offered to work with the board on language concerning signs. It is my hope that they will take Elmer up on this offer. Please address this issue.

Chair Johnson commented that this does not quite meet the requirement of a written notification from the township board, regarding the disposition of any recommendation made by the planning commission (or the former zoning board).

Another item discussed at the township board meeting concerned cemetery lots. Clerk Julie Vance thought that anyone who purchased a cemetery plot and later wanted to sell it, had to sell it back to the township at the price originally paid for it. Trustee Veen had inquired whether that agreement was in writing. Julie didn't know, and the topic will be discussed at the next township board meeting. In the meantime, Commissioner Veen has read several agreements and they don't say anything about such a resale requirement.

Report of ZBA Representative:

Commissioner Fields reported that the ZBA held a meeting on July 16, 2007. Present at that meeting were: Bob Bailey, Bruce Belanger, Tina Fields, Tim Lund, and Chris Tracey. Tim Lund was elected chair, with Bruce Belanger continuing as secretary. There was nothing on the agenda, so this meeting was primarily an orientation and organization meeting. The next ZBA meeting will be in October.

Chair Johnson pointed out that the new ZEA requires the zoning ordinance to create procedures for the ZBA to review variances, and it also requires the establishment of standards for granting variances. Fields was able to report that the current members of the ZBA are determined to apply the appropriate standards – at least two of the ZBA

members indicated their own distress that in the past standards were not always applied.

Fields reported that ZBA chair Lund has learned that the owner of the Farm on Rapid City Road, located near the main residential section of Rapid City, intends to turn the operation into a pig farm. Fields thought that probably that would constitute an expansion of a nonconforming use, and would run afoul of the standards of Section 8.07 of the Zoning Ordinance. Other members of the planning commission thought that the farm is protected under Michigan's Right to Farm Act, and they further stated that it has been a pig farm for some long time already.

Chair Johnson also mentioned that Section 23 of the Township Zoning Act provided standards for variance that included "unnecessary hardships." Section 6047 of the new ZEA, deletes "unnecessary hardships." Only "practical difficulties" now are allowed for consideration.

Our ZBA does not have the authority to grant use variances, only non-use variances, and the requirements of the new ZEA further confirms that limitation of authority.

Report of Zoning Administrator:

ZA Molby – distributed activity report for July, which is hereby incorporated into these minutes by reference. Chair Johnson asked what Molby had found out about the dog-grooming business on Zimmerman Road that Mike Connell of Pooch Palace thought was illegally boarding animals. Molby found no evidence of any kenneling activity. All her papers are in order with the state.

Sington – asked about grass cutting complaints? Molby said that the big difficulties lie on Pine Circle and on Shell-Way Drive. He's had many verbal complaints but very few written ones. Sington asked whether making site specific written complaints would help. Molby has some concern about pitting neighbor against neighbor; would prefer to have it clear in the ordinance.

Molby – Helena township is developing a brochure that explains the ordinance, which will spell out the requirements. These brochures are being given to the real estate agents of the area.

Molby said there should have been deed restrictions written for Pine Circle Drive. Carol Reeder, a resident in that subdivision, says there are deed restrictions on Pine Circle Drive. Molby requested a copy of those deed restrictions. Lucy Gerlach mentioned that the township does have a nuisance ordinance, and suggested that Ms. Reeder secure a copy of that ordinance and if it applies to the situation she is encountering with overgrown lawns in her neighborhood, go to the township board and ask the ordinance to be enforced.

Chair Johnson asked for clarification on a land use permit renewal recently written by David Grimm. Molby explained that the applicant had obtained a permit and let it lapse – after a year the permit has to be renewed to be used.

New Business

Carol Reeder asked whether this township has considered requiring people to have a permit to hold a garage sale. Molby stated our township permits three garage sales per year, and each one can last for up to three days, and the signs must come down promptly after the sale is over. Reeder pointed out that since we're busy trying to beautify this area, we ought to get some of the trash cleaned up.

Sington will get the Kalkaska ordinance on that – grass business.

Risk was asked to secure a copy of the Michigan state law regarding burning garbage.

Adjournment:

MOTION by Veen, second by Risk, to adjourn. Adjournment at 8:33 p.m..

Assignments:

- Fields to make copies, for the commissioners, of the article on mowing the grass.
- Fields to reprint the Policy without being draft – provide file to township hall
- Sington will secure a copy of the Kalkaska ordinance with regard to grass cutting.
- Risk will secure a copy of the Michigan law with regard to burning garbage.

Next Meeting: September 10, 2007.

Respectfully submitted,



Tina Norris Fields
Secretary

References:

Michigan Townships Association (MTA), (2006). *General law – the 2006 Michigan zoning enabling act*. Published on the MTA website as the electronic version [general_law_mzea_information_packet_w_checklists_july_2006.pdf](http://www.michigantownships.org/downloads/general_law_mzea_information_packet_w_checklists_july_2006.pdf). Retrieved July 11, 2006 from <http://www.michigantownships.org/downloads/>

