

ALGOMA TOWNSHIP PLANNING COMMISSION MINUTES
Tuesday, March 20, 2007

A meeting of the Algoma Township Commission was held on Tuesday, March 20, 2007, at 7:00 P.M. The meeting was held at the Algoma Township Hall located at 10531 Algoma Ave., Rockford, MI 49341.

Chairman Witham called the meeting to ORDER at 7:01 P.M. and led in the Pledge of Allegiance to the Flag.

PRESENT: Chairman Witham, Vice-Chairman Newberger, Secretary Poolman, Members Bigney, Ensley, Heminger, and Lecceadone.

Also Present: Supervisor Hoemke, Site Plan Review Committee Member Sjogren, Township Attorney Leisman, and 4 citizens.

APPROVAL OF MINUTES:

Minutes of the February 20, 2007, meeting -

On Page 1, under "Minutes of the January 16, 2007, meeting" - the word "meeting" will be inserted after the date in the motion. On Page 7, 1st paragraph, 6th line, the "1/2" was replaced with "50% more storage..." In the same paragraph, last sentence, quotation marks were placed around the word "doable"..., and the word "pond" was added after "...addition to the retention". On Page 10, 2nd paragraph, "narrow down" was changed to read "reduce".

Secretary Poolman motioned to APPROVE the minutes of the February 20, 2007, meeting as amended, seconded by Vice-Chairman Newberger. The motion PASSED.

Acceptance of Site Plan Review Committee's reports - There were no reports presented.

AGENDA APPROVAL:

Item New Business, Site Plan Discussions, was moved prior to the Public Hearings as a new number 8.

Vice-Chairman Newberger motioned to APPROVE the agenda as amended, seconded by Member Heminger. The motion PASSED.

PUBLIC COMMENTS:

There were no public comments given.

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CORRESPONDENCE SENT & RECEIVED:

Building Inspector's Report - It was noted that the numbers were down from last year. Vice-Chairman Newberger said to tell Building Inspector Bates he was doing a good job.

Any Other Correspondence - There was no other Correspondence.

NEW BUSINESS:

Site Plan Discussions -

SITE PLAN #9511, DENNIS GOODSPEED / THE GARAGE:

Mr. Goodspeed was present.

Chairman Witham stated the Site Plan Review Committee submitted a memo dated February 2, 2007, giving history of the site plan. He said Mr. Goodspeed was asked to come to the Commission as an enforcement violation to get their opinion of the ordinance. He asked him to explain what was happening on the site.

Mr. Goodspeed stated he had the repair shop, towing and impounding service, and car sales but not much of any of it.

Chairman Witham stated the site plan appears to have expanded beyond what was approved and the fence was moved back and he is now working that lot.

Mr. Goodspeed said he did not extend the fence. He said when he got the place 12 years ago he put up the fence and got that permitted and moved it back but never got it adjusted for how far it was. He said when he went to the cops to pick up accident vehicles they wanted him to put up another fence separating the repair business so he put in another fence there.

Chairman Witham said the fence was one issue, the township's records show where the fence was approved to. He said the wrecker and impound business is what needs to be address as to if it is permitted in this commercial zone.

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Secretary Poolman said he remembered from the site plan approval there was discussion about the site not looking like a junk yard and only a certain number of vehicles would be permitted.

Vice-Chairman Newberger agreed that what he sees is the business has taken on a life of its own. He also had concerns with the number of cars sitting on the site for a period of time and he too remembers these discussions.

Chairman Witham referred to an aerial photo provided.

Review Committee Member Sjogren stated that the township assessor had come across an aerial photo and recognized the site had expanded. That started this process of enforcement.

Mr. Goodspeed was asked how many vehicles has he had there and he said the most he has ever had back there have been 90 cars.

Chairman Witham asked how long the cars stay on the lot.

Mr. Goodspeed said now they are not there over 60 to 90 days. He said he was told to clean it up and get them out so he has been doing that. He explained how he has to wait 30 days for procedures to impound a vehicle and said he is not taking them apart or salvaging them; he takes and moves the whole car. He doesn't store them but said 6 to 8 months can go by and he can still have them sitting there. He explained he has to have the cops come out to prove it's not stolen or worse and then he has to find and notify the last registered owner as to what it would cost to get their vehicle back. After that he is issued a T59 which takes another 35 to 36 days before he can legally call it his and he can get rid of it by selling it or selling for scrap. He said if a good car comes in he can make out good but otherwise, it is a headache if it's a junk car and you have to go through the paperwork.

Member Bigney stated he felt it was an important factor to the process if this were approved for impounding that he keep and be able to provide the paper trail.

Supervisor Hoemke stated the issue asked to bring to the Planning Commission was the fact there is a wrecker business here and the

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ordinance is silent as to having the wrecker portion of the business as part of a garage operation. He said there have been other wrecker business inquires and the question is whether a wrecker business should be in the Commercial or Industrial District. He said it was something that wasn't thought about and if you look around, you have wreckers at commercial businesses but in our zoning it is not allowed in the C-2, only in Industrial. He said Mr. Goodspeed assumed he could do this and the township has to answer this question as to whether he can or not and then we have to do something with the ordinance. He said if the township recognizes this as a legitimate part of his business, for enforcement purposes, Mr. Goodspeed will need to update the site plan.

Vice-Chairman Newberger stated he could see it as part of the repair business but not as an impound issue, that is another secondary issue. He said other places have wrecker businesses but they don't put the cars there at that location. He felt an impound lot was another issue and needed restrictions.

Member Lecceadone said he didn't see the impounding so much an issue as the storage of these vehicles and how many should be reasonably stored on the facility.

Supervisor Hoemke said that would be handled through the site plan process and approved.

Chairman Witham said if the ordinance was changed to allow the wrecker service, they still have to address the storage issue and the fence is out of compliance on Mr. Goodspeed's site.

Supervisor Hoemke said Mr. Goodspeed originally had a site plan saying one thing and now we have these issues to address. He said he didn't think the fence was a major issue but the question is what could be done with the business and what will be restricted.

Secretary Poolman stated that a wrecker business was one thing but an impound lot is totally different and they are in the Industrial zone.

Member Bigney asked if the township has jurisdiction over an impound lot or does the State.

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Mr. Goodspeed stated he knew it was township regulated by his paperwork.

Vice-Chairman Newberger stated again, one issue is a wrecker business in a commercial zone and his business is located in commercial zoning but we don't provide for that. He said this is a wrecker business. The second issue is the impound lot and we are looking at a lot more than what was approved on the site plan. He asked, is an impound lot an unreasonable use in the commercial zone.

Mr. Goodspeed said that if a wrecker picks a vehicle up it goes to the impound lot.

Vice-Chairman Newberger said the vehicle goes there for 2 to 3 days but not for 60 or more days.

Chairman Witham agreed the Commission is looking at two different things. He said in the realm of what his service is we need to decide if it includes the wrecker business. Controls might be needed, number of vehicles, etc.

Member Lecceadone agree there should be limitations on the number of vehicles and the time frame they are held.

Member Heminger said as long as there is some kind of paperwork that it is getting done to get them out of there and vehicles do not sit for 9 months. He said he would like to see a nice fence around it.

Member Lecceadone said he would have a paper trail to show these are being moved.

Member Ensley said he wasn't sure but he didn't think paperwork could be issued in 30 days and if the current owner is out of state or the country, it takes 90 days to notify so these could be sitting there a minimum of 6 months.

Chairman Witham asked why a vehicle would be there more than 90 days.

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Mr. Goodspeed said the paperwork starts the day he picks a vehicle up but there is a 23 day mandatory hold. The longest he has ever had to wait for paperwork was 93 days.

Secretary Poolman said he didn't think an impound lot was the right thing in a commercial zone but if they do decide to allow it, there should be restrictions and having 90 cars is not a restriction; maybe 20.

Vice-Chairman Newberger said the wrecker business is one thing and he asked if there was residential zoning behind this property. He was told this land abuts a residential development. He said maybe we need another ordinance for impound lots and that type of business itself.

Chairman Witham asked if the wrecker business should be allowed under the C-2 Zone.

Member Bigney said this is 660' of Commercial zoned property from Northland Dr. so he didn't see a problem with it. He said it is there and they could make it work but he didn't want it turned into a junk yard.

Mr. Goodspeed said there was a big issue when he put his fence up because it was a 9' fence and he was told he couldn't do that so then he put up a 6' fence but everyone can see over that fence because of the way his lot sits to Northland Dr.

Vice-Chairman Newberger suggested the Commission look at allowing the wrecker business as a Special Land Use with controls and regulations.

Attorney Leisman stated a draft ordinance might clarify what is allowed and the wrecker business could be an accessory to the business. He said at some point if someone would have more than allowed, an impound lot which is less than a junkyard, could be allowed as a Special Land Use and subject to another section of the ordinance which would provide standards and limited number of vehicles, setbacks, fencing, etc. He said someone with a wrecker or two could haul to the garage as part of a garage but more than say 30 cars that would need to be impounded, you would need a Special Land Use. He will look at the C-2 and Industrial Zone.

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It was the consensus that the Planning Commission would like this drafted so they could review it.

SITE PLAN #0503, TODD CANTILE / CEDAR ROCK AUTO REPAIR:

Mr. Todd Cantile was present. He said when they started this project he was a joint owner with Dennis Oppenhuizen and they split the costs. He said it was Dennis that came to the Planning Commission and got the site plan approval. He said Dennis is an excavator by trade but he is the certified mechanic. He said Dennis wanted to be bought out and leave the business so he agreed to that but he didn't realize Dennis hadn't completed the site plan conditions and he had put the retention pond in the wrong place. He said the slope was done and needed to be re-inspected by Engineer Bruggink.

Review Committee Member Sjogren stated he has been working with Engineer Bruggink on moving the retention pond and they will continue working with him on that. She said it was the other items that have not been completed he wanted to ask relief from, the landscaping and fencing.

Mr. Cantile said he has completed the landscaping around the new building but he does not have the fence in on the back lot and thought maybe he could do that down the road when he needs it. He said that was put on the site plan so they would not need to come back to the Commission when they needed it.

It was the consensus of the Planning Commission that a security fence did not need to be put up yet and he could do this at a later date as needed as long as it met the township ordinance and site plan.

Mr. Cantile said he didn't want the big evergreens installed because of movement with trailers and the old existing building was paved all the way to the building. There was no landscaping as shown on the site plan.

After further discussion, Chairman Witham stated they did want some evergreens installed as indicated but he did not need to worry about the landscaping around the existing building.

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8:10 P.M. - Chairman Witham declared a 10 minute break.

8:20 P.M. - Chairman Witham called the meeting back to ORDER.

PUBLIC HEARINGS:

**ZONING ORDINANCE AMENDMENTS - O.S.-P.U.D. DISTRICT; CONDOMINIUMS
IN O.S.-P.U.D.; DELETING USE VARIANCE JURISDECTION OF BOARD OF
APPEALS -**

It is noted for the record that the Public Hearing was published according to law.

Chairman Witham declared the Public Hearing OPEN for public comments.

Tom Quinn of 13190 Pine Island Dr. addressed the Use Variance, item C. of the amendments, sharing concerns saying there is no plan that is perfect and a Use Variance makes it more flexible and by taking that option away, it might make the ordinance too rigid. He said even a small Use Variance might be warranted.

Vice-Chairman Newberger explained the process the township goes through with the Planning Commission reviewing site plan requests, making recommendations to the Township Board, who are the elected officials of the township. He said this would eliminate a third call so the Township Board makes the ultimate decisions.

Secretary Poolman stated the Use Variance allows the Board of Appeals to overturn a decision made by the Township Board. He said that was what Encore wanted the Board of Appeals to do for the Lam Farms property. Their rezoning request was denied by the Planning Commission and the Township Board so they went to the Board of Appeals but they stated this was only a process to go through on the way to a lawsuit. Eliminating the Use Variance would take that third step away.

Attorney Leisman said the Michigan Zoning Enabling Act now mandates you need 2/3rds majority of the Zoning Board to approve a Use Variance. He said the flexibility is in rezoning.

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With no further public comments given, Chairman Witham CLOSED the public hearing portion of the meeting.

Chairman Witham explained the amendments were in three parts; Part A was amendments to the Open Space Planned Unit Development, Part B was Condominiums in O.S.-P.U.D. District, and Part C was deleting the Use Variance jurisdiction of the Zoning Board of Appeals.

Discussion regarding **Draft dated March 20, 2007, marked "Original"**:

Part A: Some changes included wetlands larger than one-half acre now must be preserved, but may be enlarged or augmented and the developer does benefit from this preservation. The Existing (or Parallel) Plan required must now be more of a realistic plan as to what could be developed. It was stated that after much discussion, nothing will change with the 20% slope regulation.

Member Bigney had concerns with the square footages allowed in the P.U.D. language.

Member Lecceadone stated it was reflective of underline zoning and the footages were not changed from the previous language.

Member Bigney stated he felt the square footages were a mistake when the ordinance was first made.

Chairman Witham said the Commission can look at this during their review of the Master Plan because Maximum Density is based on the Master Plan.

Part B: Attorney Leisman stated language was added for a 30' separation distance between buildings and property lines.

Vice-Chairman Newberger stated "in a nutshell" this is new language that provides for a condominium development giving more flexibility. He said concerns would be with departure from dimensions that everyone would ask for the moon but this doesn't need to apply to every unit or only parts of the development.

Member Lecceadone said he was OK with two-family dwellings as long as it counts as two units and not as one.

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Attorney Leisman said two-family dwellings are covered in the language but he would add to Page 16, (d)(1), a statement regarding what qualified as a two-family dwelling for number of units.

Chairman Witham asked for a consensus of those in favor of allowing duplexes in a condominium.

The poll was 4-3, four in favor and three opposed to duplexes.

Member Heminger stated he wasn't in favor of Part B, Condominiums and asked why the Commission was trying to find more ways to put people in the township. He said the township has R-1 (Suburban Residential) zoning for higher density and he didn't think this Condominium language was needed in the township. He asked how it benefits the township with extra traffic, more people; it only benefited the developer. He asked that the amendments be voted on separately or he would not approve any of them.

It was discussed that the Condominium language would not allow for any more units than an O.S.-P.U.D. but would add flexibility.

Member Heminger disagreed saying it would provide for more units and a developer would try to put in even more than an O.S.-P.U.D. referring to the Metrospec condominium plan that had been submitted.

This was discussed farther as to whether more units could be approved or not.

Secretary Poolman motioned to vote separately on ordinance amendments Parts A, B, and C, seconded by Member Lecceadone. The motion PASSED with five in favor of the motion and two opposed.

Part A - Amendments in Chapter 11 - Open Space Planned Unit Development District:

Vice-Chairman Newberger motioned to recommend APPROVAL to the Township Board, Part A as presented, seconded by Secretary Poolman. The motion PASSED unanimously.

Representative Reports -

Township Board: Member Bigney reported that raises were handed out but pensions went down from 15% to 10%. He said they re-appointed Rob Swem to the Board of Appeals, Dan Batchelder to the Cedar Springs Parks and Recreation Board. They set park fees and renewed the contract with Frey's Landscaping. He said the Planning Commission received a \$5.00 raise.

Board of Appeals: Secretary Poolman reported there were no appeals.

Any Other On-Going Business -

There was no Other On-Going Business.

NEXT MONTH'S MEETING: Tuesday, April 17, 2007 @ 7:00 P.M.

ADJOURNMENT:

Member Bigney motioned to ADJOURN the meeting at 9:30 P.M. The meeting was ADJOURNED.

Jack Poolman, Secretary

Julie M. Sjogren, Recording Secretary