



"A Community For All Seasons"

Dexter Township

Planning Commission

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John Shea
Chair

Kenneth Tappe
Vice-Chair

Mary Adams
Secretary

Vickie Kooyers
Twp Board Rep.

James Korcek
Thomas Lewis

Molly Wade
Commissioners

Kim Jordan
Recording Secretary

REGULAR MEETING OF THE PLANNING COMMISSION

Tuesday, January 25, 2011 7:00 PM

Present: John Shea, Chair; Ken Tappe, Vice Chair; Mary Adams, Secretary; Vickie Kooyers, Township Board Representative; Tom Lewis and James Korcek.

Also present: Patrick Sloan, Director of Planning and Zoning & Pat Kelly, Supervisor

Absent: Molly Wade

The meeting was called to order at 7:01 PM.

I. Approval of Agenda - Motion by Korcek, supported by Tappe, to approve agenda as submitted. **Carried 6-0.**

Wade arrived at 7:03.

II. Approval of the Meeting Minutes - Motion by Korcek, supported by Lewis, to approve the minutes, for December 28, 2010, as submitted. **Carried 7-0.**

Shea welcome the public and stated that there where two opportunities for public comment. The first is on non-agenda items. The second opportunity is from comments on agenda items.

III. Public Comment –

Jack Campbell, 4721 NorthGate Ann Arbor, MI. 48103 – Commented that there were a lot of amendments to this Zoning Ordinance. He asked who decides what particular section needs to be amended and who directs the Zoning Administrator to make these amendments.

Campbell commented on the following proposed amendments:

Section 4.02(A), he said that he agrees with the amendment.

Section 18.18(C) stated that the planning commission can't regulate building code.

Section 18.22, asked for clarification and stated that "what we are not changing, needs changed".

Shea reminded Campbell that this first opportunity for public comments is for comments on non-agenda items. His comments and concerns will be addressed at the next public comment after the agenda items have been addressed.

Martin Ruhlig, 11546 Island Lake Road, Dexter- commented on proposed amendment to section 18.10(A)(3), he thinks that twenty (20) feet long and wide is very limiting for a roadside stand.

Shea commented that the [issue raised by Mr. Ruhlig wasn't before us and the](#) Zoning Administrator's job is to bring to the Planning Commission attention what is working and/or not working. Citizens come to us and ask for guidelines and clarification why something

either exists or not. The Planning Commission's job is to review and effectively tailor planning policies and development guidelines as necessary.

IV. Action Items –

1. Election of Officers –

Motion by Tappe, supported by Adams, to nominate Shea for the position of Chair.

Motion by Wade, supported by Korcek, to nominate Tappe for the position of Vice Chair.

Motion by Kooyers, supported by Tappe, to nominate Adams for Secretary.

All Motions Carried. 7-0

2. Public Hearing for Zoning Ordinance Amendments -

Shea welcomed the public for coming out tonight and explained that the Planning Commission is only a recommending body and that the Township Board of Trustees has the legislative duties to approve amendments to the Zoning Ordinance.

7:21 pm Shea opened the public hearing for comments.

Tom Lesser, 12651 Island Lake Road, Dexter – shared his knowledge and extensive background information on outdoor wood furnaces. He first mentioned that he and other township property owners feel that they are being targeted and discriminated against. There is no reference and/or language in the amendment on indoor wood burning furnaces and foresees this being an issue down the road with new Board members. Mr. Lesser stated that outdoor wood furnaces likely pollute less than someone who burns wood in an indoor fireplace. The outdoor wood furnace puts out smoke at the front of the burn cycle, but burns clean afterward.

Lesser made comment on each of the following proposed regulations.

Intent: He is against the Township regulating outdoor wood furnaces in this way. Specifically, he opposes the requirement that outdoor wood furnaces heat buildings on the same lot. He recommends allowing them to heat neighboring houses as well.

Zoning Permit: He has no real problem with obtaining a permit.

Setbacks: He said that it makes no sense for the Township to limit the location. Setbacks need to be more flexible because each application is different. Wind direction is a major factor. Instead of distances to lot lines, setback regulations should be measured to structures on adjacent lots.

Chimney Height: Lesser said he is against regulating height restrictions and explains how the height of the chimney affects the burn and efficiency of the furnace. Additionally, maintaining the smoke can be a real issue as the chimney gets higher. As the chimney height gets higher, the smoke is less likely to rise as it cools. The Commission needs to be careful of what they will and will not allow. Wind direction and location of outbuildings should be taken into account.

Nuisance Regulations and Township Ordinances: He said this could become a big problem for the Township if these proposed setbacks and height restriction are approved. Neighbors might start complaining just because they do not like how the wind is blowing the smoke.

Shea and Sloan agreed that they would like to get the Townships attorney's perspective on the language in the Nuisance ordinance with regards to smoke issues.

Shea informed the public that the Planning Commission regulates issues going forward, not previous and/or existing applications.

Dennis Nuttle, 4701 Dexter-Townhall Road, Dexter – said he concurs with Mr. Lesser's concerns and echoes his comments on the proposed amendments to section 18.27.

Nuttle spoke with Sloan today over the phone regarding the proposed regulations. Nuttle said he called and made some inquiries on a Central Broiler unit and noted that they have a manufacturing smoke design issue with some of their units. He noted for the record that outdoor wood burners are literally no different than indoor wood burners and he doesn't think a permit should be warranted for either of the units. Additionally, he thinks it is ridiculous to regulate setbacks and height restrictions. He stated that the chimney height regulation is excessive, and his Heatmor model recommends a chimney height of not more than 10 feet.

Nuttle said the nuisance regulations are very open-ended. He said that they were burning dead trees in which saves fossil fuels and thereby reduces pollution.

Jim Poulter, 13174 Riker Road, Chelsea – said he also supports and echoes Lesser's and Nuttle's comments and concerns and asked the Commission how the issue of regulating outdoor wood burners came about.

Sloan responded that he received a call from a resident wanting to obtain a permit for an outdoor wood burning unit. After reviewing the Zoning Ordinance for compliance, he found that the outdoor wood burning furnace would be defined as an accessory structure. Therefore, the Zoning Ordinance would allow them with no additional restrictions beyond simple detached accessory structures. At the same time, Dexter Township has a Burn Control Ordinance that did not properly address the potential for nuisance control. Therefore, it was possible that the property owner could obtain a permit for an outdoor wood furnace and immediately become a nuisance because it emitted too much smoke and was too close to a neighboring home. Therefore, in order to avoid future nuisance issues, Sloan recommends adopting regulations that address these potential issues.

Poulter noted that there are government energy credits for outdoor wood-burning units. He believes that outside wood burning is safer than indoor burning. Chimney designs and heights of those units are manufactured designs and should not be regulated by the Township.

Frank Papp, 9244 Cutter, Dexter – said he has an inside wood burning stove and is concerned with the nuisance regulations. Neighbors could easily complain about smoke coming from his chimney and if that became an issue with the Township what recourses would he have?

Chris Kurtz, 4711 Dexter Townhall Road, Dexter – stated that the chimney is engineered to minimize emissions. Creosol will stick to the side of a chimney and eventually cause a fire if the chimney is too high.

Jack Campbell, 4721 Northgate, Ann Arbor - agrees with Kurtz that we should go along with what the manufacturers' recommendations are. The Planning Commission should also not try to regulate state building codes.

Campbell commented on the following other proposed amendments in 34-9.

Section 5.04(F), Publication of Notice of Ordinance Amendments: Campbell asked Sloan where this language came from.

Sloan replied that it is State Statute language in the Michigan Zoning Enabling Act.

Section 6.04(I), Campbell supported the proposed language.

Section 6.06(A)(1), He does not agree that the Township should be the deciding authority for an applicant to enter or not enter into a Development Agreement.

Section 6.06(B), the language regarding franchise utility representatives in the area is not practical and doesn't work. It is not feasibly possible to get everyone together and on the same page, and utility companies are notorious for not attending.

Section 18.18(C)(1)(a), asked why regulate no deck over eighteen (18) inches above grade?

Sloan explained that this applies only to waterfront lots where a deck is built between 35-50 feet from the ordinary high water mark. Currently, no deck is allowed within 50 feet of an ordinary high water mark. The proposed language gives the applicant the choice to build a deck up to 35 feet of an ordinary high water mark versus having to go to the Zoning Board of Appeals.

Section 24.06, asked if this language applied to the Lakes Residential District?

Sloan replied, yes, for the most part. The vast majority of lots with an impervious surface area that exceeds twenty percent (20%) of the lot are in the Lakes Residential District.

Bill Gajewski, 9820 Stinchfield, Pinckney- asked why in section 20.05(B)(7), one hundred fifty (150) feet is required for a dedicated emergency turnaround? Where did this number come from?

Sloan replied that the Dexter Area Fire Department (DAFD) requires this because they need somewhere to turn a truck around. The DAFD always recommends this and applicants can often accommodate this easily. By putting this regulation in the Zoning Ordinance, applicants will know of the requirement prior to application.

Gajewski commented that a shared driveway is not a road as it states in section 2.02(C) Lot Area. He noted for the record that he is in support of pulling out outdoor wood burning furnaces from the proposed amendments.

Sloan commented that shared driveways are regulated within the Private Road Ordinance. Therefore, their easements are treated like private road easements and permanent access easements, which are deducted from the lot area.

8:15 PM Shea closed public hearing.

Commissioners recommended deferring further review of (34-9) Zoning Ordinance Amendments.

They will review all the comments and concerns from the public hearing this evening at their February 22, 2011 meeting.

Commissioners discussed their options and rationale for revisiting and/or pulling amendment number fifty four (54) Outdoor Wood Furnaces from this batch of proposed Zoning Ordinance amendments (34-9).

Sloan said that a model ordinance from the Michigan Department of Environmental Quality recommends 3 regulatory options:

- 1) Ban outdoor wood burning furnaces outright;
- 2) Ban until regulations are adopted by the federal and/or state government; or
- 3) Allow and regulate setbacks and chimney height, with discretion given to the Fire Chief.

Kooyers recommended pulling out the proposed regulations for Outdoor Wood Furnaces and considering approval of the remaining amendments. She stated that the Planning Commission needs to spend more time on reviewing regulations for Outdoor Wood Furnaces.

Lewis discussed the different industry standards of Outdoor Wood Furnaces.

Korcek said he thinks we need to defer this item, stating that the input from the public this evening was valid and their comments and concerns need to be addressed. He suggests they consider re-evaluating amendment fifty four (54), and search and review other ordinances to help make the right decision.

Shea suggested that the Commission hold a meeting with current owners of Outdoor Wood Furnaces and discuss the issues further. Many members of the public in attendance that owned outdoor wood furnaces agreed that such a meeting would be a good idea.

Motion by Korcek, supported by Kooyers, to defer Zoning Ordinance amendments (34-9) until our February 22, 2011 meeting and then discuss what amendments they should move forward with and what amendments they should take out for further review. **Carried 7-0.**

3. Zoning Board of Appeals & Township Boards comments to Proposed Master Plan –

Sloan said that just today he received comments back from the Washtenaw Area Transformation Study (WATS) and noted that their comments were very helpful. WATS did not suggest any major changes that would be time consuming.

Sloan will circulate the letter he received to the Commissioners via e-mail for their input and discuss it further at their February 22, 2011 meeting.

4. Discuss Medical Marihuana Regulations and set Public Hearing –

Wade informed the Commissioners that at last week's public hearing in the Village of Dexter, the issue of medical marihuana regulations was on the agenda and only one person in the public voiced an opinion.

Commissioners discussed and noted that it is the "State" that permits cultivation, distribution, and use marihuana for medical purposes. That being said, collectively as a Planning Commission, we need to address this issue from a zoning and planning perspective and then determine what use regulation path we want to see put into practice in the Township.

Commissioners agreed that they need to identify what their primary concerns are and how they want to address those concerns in terms of the zoning and planning perspective. Additionally, they need to explore how and what the State public policy will allow and how the state regulations will intertwine and work with municipal regulations.

The Commissioners agreed that they need to take another look at the language in the Michigan Medical Marihuana Act (MMMA) and revisit section, 18.19, Home Occupation in our Zoning Ordinance.

Shea asked the commissioners how they wanted to proceed. He suggested that an ad hoc subcommittee be formed to determine and delineate what issues need to be addressed. Otherwise we could be skipping all over the place. A course of action needs to be created.

Commissioners agreed an ad hoc subcommittee would be helpful.

John Shea, Pat Kelly, Vickie Kooyers, and Tom Lewis agreed to be part of the ad hoc subcommittee. Shea appointed the ad hoc subcommittee as such. Sloan will circulate an e-mail and organize the committee and meeting time.

The process issues on medical marihuana regulations will be discussed further at the February 22, 2011, Planning Commission meeting.

V. Township Board Update –

Kooyers included her ~~January~~ ~~December~~ 18, 2011, regular Township Board meeting update in the Planning Commissioners' packet. The Supervisor's Report included brief information on the meeting held on January 4, 2011. The report discussed DTE's proposed electrical substation which is currently planned to be located on the Multi-Lakes Sewer Authority (MLSA) property. Attendees present, representatives of DTE, the Director and Board Chair of the MLSA, Director of Planning and Zoning Sloan, and Supervisor Kelly.

During public comment, Jackie Gehringer asked for information on the issuing of building permits within Copper Meadows. Kelly informed her that permits can be issued as long as the Copper Meadows Drainage District project is progressing and that any runoff from structures must be contained on the lot on which the structure sits.

Trustee Lesser inquired about proposed Zoning Ordinance amendments 34-9. Kooyers reminded the Township Board of the public hearing to be held at the January 25th Planning Commission meeting on the proposed amendments. Lesser also commented that he favored the 1973 Zoning Ordinance.

VI. Concerns of Commission Members, Director of Planning and Zoning, Supervisor, and Recording Secretary-

Sloan informed the Commissioners that Ron Jona has transferred the property on the corner of North Territorial and Dexter-Pinckney Road back to the Bezzeg's and in so doing has withdrawn his site plan application.

VII. Public Comment – None

VIII. Future Agenda Items –

Tuesday, February 8, 2011
Meeting Canceled

Tuesday, February 22, 2011

- 1) Review (34-9) Zoning Ordinance Amendments
- 2) Zoning Board of Appeals & Township Boards comments to Proposed Master Plan
- 3) Review and Discuss Planning Commission 2010 Annual Report
- 4) Discuss Medical Marihuana Regulations

IX. Adjournment – Chair Shea declared meeting adjourned at 9:12 PM

Respectfully submitted,

Kimberly Jordan, Recording Secretary

Mary Adams, Secretary