



## **PARK TOWNSHIP PLANNING COMMISSION MINUTES**

Draft until approved at next meeting

### **April 21, 2009**

#### DRAFT COPY

Present: LeeAnne Jachim, Bill Cole, Jeff Wincel, Steve Schaftenaar, Jeff Ebihara, Janet Magennis, Nicki Arendshorst, Joseph Lampen, Dan Martin, attorney and Eric Davis, Zoning Administrator

Absent: Ed de Vries

Nicki Arendshorst, Chairperson, called the regular meeting of the Park Township Planning Commission to order at 6:30 p.m.

#### MOTION

A motion was made by Magennis and supported by Cole to approve the agenda as presented.

#### VOTE

Motion carried: 8-0

#### MOTION

A motion was made by Jachim and supported by Ebihara to approve the minutes for the March 17, 2009 regular meeting as presented.

#### VOTE

Motion carried: 7-1 (Schaftenaar – abstained, not in attendance)

#### **PUBLIC COMMENTS**

Roger Kuiken, 745 N. Shore Dr., stated that he wanted to talk about the private road that was recently approved for Holly Palmer off of N. Shore Dr. He stated that it was his understanding that the neighbors would be getting a letter to tell them when the item would be taken off the table and they never did. He stated that the engineer was supposed to make changes to please everyone. The engineer talked to the neighbor on one side of the private road but did not come and talk to him. (He lives on the other side.) The plans were changed and the road was moved to within a few feet of his property. He stated that the road was approved without letting him know about it. He asked Martin if he had any rights in this matter.

Martin stated that the public hearing was noticed, opened and tabled in November, 2008. He stated that per the law, no subsequent notification was required.

Arendshorst stated that it was unfortunate that Kuiken had not been notified.

Jachim explained the ways that residents can find out what is on the Planning Commission (PC) agenda.

Magennis clarified that Karen Brown (the neighbor that the engineer did notify) must have known about the meeting.

Arendshorst apologized for Kuiken not being notified.

Ebihara stated that the township did not make any legal missteps and that he did not feel that an apology was needed.

Kuiken stated he had asked Davis that morning to listen to the tape from the November meeting and asked if Davis had listened to the tape.

Davis stated that he had and it did not say anything about resending a notice.

## **AGENDA ITEMS**

**Item #1** Special Use – B & B – Expansion to three rooms – Jack & Karen Zibell - 444 Oak St. Jack Zibell, 444 Oak St., stated that they were granted a special use for a Bed & Breakfast (B&B) at this location in 1998. At that time they asked for four guest rooms and were granted two. Now they would like to use an additional room for a total of three guest rooms.

Jachim asked if any construction would be necessary.

Zibell stated that they don't have to do any, but they may choose to. The house has significant square footage and could easily accommodate another guest room.

Arendshorst asked how busy the business is.

Zibell stated that they have not operated for two and one-half (2 ½) years due to personal reasons. When they were operating they had a quest in at least one room about thirty-five percent (35%) of the time.

Arendshorst asked why they were asking for a third guest room now.

Zibell stated that they had other income sources in the past and now are looking at this as more of an income source.

Cole asked about parking and asked if they lived at this property.

Zibell stated that this is their residence. He stated that there is room for five cars.

Cole asked if guests had visitors come to the B&B.

Zibell stated that that has never happened.

Cole asked if guests had ever parked on the street.

Zibell stated that that has never happened. They also have never had to shuffle vehicles in the driveway.

Lampen asked if their business occurs mostly on the weekends.

Zibell stated that it does, other than during July and August.

Arendshorst asked about their relationship with the neighbors.

Zibell stated that the neighbors voiced concerns at the original meeting in 1998, but that he hoped that there are no longer any concerns.

Due to their recent purchase of another house in Park Township, Arendshorst asked if they intended to continue living in this house.

Zibell stated that they will live at the B&B during the summer and they will live at their other Park Township house during the winter.

Cole asked if the guests use the lake access.

Zibell stated that they go look at the lake, but don't typically swim or fish, etc.

Arendshorst asked how people find out about the B&B.

Zibell stated that over ninety-nine percent (99%) of their traffic comes from the internet.

Schaftenaar asked about any improvements to the house since 1998.

Zibell stated that they converted the garage space into personal space.

Schaftenaar asked about the driveway.

Zibell stated that they would not add other driveways.

The public hearing was opened at 6:54 p.m.

Jim Vonk, 1974 Lake St., asked if the PC members had read the letter that he had submitted. He stated that he doesn't have an issue with the Zibells. They run a good business, but the neighborhood is not conducive to a commercial business. They have specific complaints and are opposed to this in general. He stated that he and the neighbors don't like a hotel in their neighborhood.

Magennis asked if anyone else in the neighborhood rents their house out.

Vonk stated that in addition to some other houses that Zibell owns, there are a few others that do, but he is not aware of any adverse impacts.

Cole asked Vonk how many people had trespassed on his beach.

Vonk stated that it has been a small amount of "miserable circumstances". Perhaps a dozen times in the ten years. He stated that Zibell has been sensitive to the issue. He stated that a concern is that someone else would purchase the B&B and not run it as well and then these issues could increase.

Zibell stated that they are sensitive to the neighbors. In response to a comment that they wanted to add another guest room to make this property more saleable, this would be more valuable as a private home than a B&B. He stated that they just want to increase the business.

The public hearing was closed at 7:05 p.m.

Martin clarified that the special use runs with the land, but the license is based upon the operator. The license could be revoked if the standards in the licensing ordinance are not being met.

Ebihara asked how many B&B's the township has.

Davis stated that there are approximately three to five.

Ebihara stated that he is not a big fan of having this type of business in a neighborhood and wouldn't want one in his neighborhood, but more and more of these may come in with the bad economy. He stated that he felt that the PC should keep that in mind if they're inclined to grant this. However, one more guest room probably wouldn't make much of a difference in this case.

#### MOTION

A motion was made by Wincel and supported by Schaftenaar to approve the amended special use as requested.

Cole echoed the sentiments of Ebihara.

Arendshorst stated that none of the neighbors were in favor when the B&B was first approved and this time the letters that were received were all in opposition.

Arendshorst went over the standards:

- (1) *The number of bed and breakfast sleeping rooms:* They are asking for an increase from two to three guest rooms.
- (2) *The effect of the proposed operation on the adjoining properties and the surrounding neighborhood:* The main issue is that this is a congested area.

Wincel reminded the PC members that Park Township and particularly Chippewa Resort started as a resort area. Even though this has changed over time, this B&B probably meets that original intent.

- (3) *Potential traffic that will be generated by the proposed bed and breakfast operation:* It will increase, but it is probably not significant.
- (4) *Available parking:* Parking would most likely be adequate.
- (5) *The ability of the proposed bed and breakfast operation to comply with all requirements of the Township Bed and Breakfast Licensing Ordinance, as amended:* This B&B has complied thus far. The new guest room could not be used without meeting the licensing ordinance.

Wincel asked if there had been any violations or if the township had received any complaints since this B&B opened.

Davis stated that he was not aware of anything.

Magennis stated that a B& B must be the principle residence of the operator.

Zibell clarified that this is their principle residence.

VOTE

Motion denied: 2-6

Roll call: Yes: Lampen, Wincel

No: Jachim, Cole, Schaftenaar, Ebihara, Magennis, Arendshorst

### **MOTION**

A motion was made by Jachim and supported by Cole to deny the application to amend the B&B special use to allow three guest rooms because the standards cannot be met in the following ways:

1. The effect on neighboring properties.
2. Increased traffic.
3. Limited available parking.

Jachim clarified that she had been on the fence about this application but the neighborhood concerns convinced her to deny.

Lampen stated that Park Township was historically a resort destination. He knew from childhood experience the pleasure of being able to stay here, even while not having the individual resources to own here. Park Township is a lake, resort area. He wondered why the township even has the B&B ordinance if there are only a few approved and the PC has no intention of accommodating more. Other special uses have been approved with no previous business experience and this one has been in operation for a long time.

Wincel stated that he has been surprised while being on the PC at the PC's desire to deny the character of the township and not approve businesses that would maintain or reaffirm the resort nature of it. He stated that he felt that it makes sense to capitalize on the tourist dollars coming into the township. He stated that he is also disappointed that there may be a desire to approve things but they are denied due to "not in my backyard" pressure. Why even keep the ability for a B&B in the ordinance if they are not going to be approved? **VOTE**

Motion approved: 6-2

Roll call: Yes: Jachim, Cole, Schaftenaar, Ebihara, Magennis, Arendshorst

No: Lampen, Wincel

Karen Zibell asked if they would be able to rent out the entire house.

Martin stated that if they were willing to give up the bed and breakfast, a single family could rent the entire house.

### **Item #2 Storage Facilities - Committee Report**

Jachim, subcommittee chair, clarified that the subcommittee met and their feelings hadn't changed from the first meeting. They decided that they still didn't want to recommend an ordinance change. She stated that they felt that they were being pushed into a corner. She stated that they felt that the board was going to write an ordinance anyway so they discussed the idea of writing the verbiage, but at the end they decided not to.

Wincel, subcommittee member, stated that if the PC wanted to have input into the ordinance, this was the time to do it. He stated that they felt that an ordinance would turn out to be "unruly" and almost make it impossible for someone to have a storage facility. He stated that subcommittee member David Clark (ZBA member) had stated that he could see this growing into something that the township wouldn't want by creating a proliferation of such facilities in the township. No one was beating a path to the township door for a storage facility ordinance. Wincel stated that the master plan (MP) survey could ask a question of the residents as to whether they want these types of facilities to be allowed.

Ebihara clarified that the township board did not send the draft to the PC. It was drafted by board member Mike Toscano. Ebihara had been asked to review it. There was no poll of the board by Ebihara on the draft.

Arendshorst discussed some of the options for proceeding. She stated that Toscano had said this draft does conform to the MP because it may help farmers keep their land in this time of economic hardship. She asked the PC members for input.

Jachim stated that it was not up to the township to guarantee that the farmers make a living.

Arendshorst reiterated (from a previous meeting) that the storage at the fairgrounds is a legal, non-conforming use.

Cole asked if no amendment is made to the ordinance, then are the residents who store recreational vehicles in violation of the ordinance.

Martin stated that that they are.

Cole asked if there were people who were concerned about the storage issue.

Martin stated that the particular instance concerning the board member was brought to the township's attention from outside sources. He clarified that since this complaint is on the books the township needs to enforce the ordinance or change it. He stated that the township has certain prosecutorial discretion but since the complaint is against a board member it would appear to be a favor for a board member.

Cole asked if the board member in question would be asked to cease and desist.

Davis stated that the board member has been asked and has been cited twice and has paid the fines.

Cole asked if the fairgrounds could be cited.

Martin stated that they would not be exempt, but they are a lawful, non-conforming use.

Wincel clarified that the subcommittee discussion didn't center on either the board member or the fairgrounds.

There was a discussion on how to proceed.

Ebihara stated that some type of decision needs to be made.

Martin stated that the concern is that if this is not allowed, then you will have new requests for stor-and-loc facilities in the township to take up the slack.

Lampen stated that he had been in favor up to now, but if people are investing money into their buildings to that they can store boats, that would change his mind.

Martin clarified that the person in question is already storing boats and is in violation of the zoning ordinance and the building codes.

Lampen asked for clarification on the necessary building upgrades.

Davis stated that if a building is greater than 20,000 square feet there must be fire suppression or separation, there must be a bathroom within five hundred feet, it must have been approved at one time as barrier free (or be updated) and it must have exit signs.

There was a discussion on avenues for getting approval for a storage facility (i.e. PUD) if no ordinance amendment is made.

### **MOTION**

A motion was made by Ebihara and supported by Jachim to accept the subcommittee's report recommending that no change be made to the ordinance regarding storage facilities.

### **VOTE**

Motion carried: 6-2 (Cole, Lampen)

<b>Item #3</b>	<b>Ordinance Amendments</b>	
1.	Section 4.06 - Outdoor Storage	(Utility trailers)
2.	Section 4.10 - Accessory Uses	(Minor correction)
3.	Section 4.18 - Fences	("required" front yard)
4.	Chapter 17 - Parking	(Width & Food/Drink establishments)
5.	Section 20.06 - Variance Standards	("conditions of the zoning district")

The public hearing was opened at 8:03 p.m.

No one spoke.

The public hearing was closed at 8:03 p.m.

Discussions:

Schaftenaar asked if the same change should be added to the multi-family section. It was decided to leave it as is.

There was no discussion.

There was no discussion.

There was no discussion.

There was no discussion.

MOTION

A motion was made by Lampen and supported by Jachim to recommend approval of all five ordinance changes to the township board.

VOTE

Motion carried: 8-0

**Item #4** Ordinance Amendment - Section 4.36 - Grass & Other Vegetation

The public hearing was opened at 8:11 p.m.

No one spoke.

The public hearing was closed at 8:11 p.m.

Arendshorst gave the background on the origins of this ordinance amendment. She stated that the PC had requested comments from the township board members. Board members Steggerda and Dreyer provided comments for the PC.

Jachim asked if someone would be able to appeal a decision that their grass or vegetation was too long.

Martin stated that they could appeal the assessment of the related costs.

Wincel asked if a firm would be contracted to do the mowing.

Davis stated that that had not been decided.

Ebihara stated that it would most likely be contracted out.

Arendshorst stated that she understood Dreyer's concern about the "intentional plantings".

Wincel asked when something would be considered in a natural vegetative state.

Davis stated that the ordinance wording gives opportunity to argue that idle farm fields, etc. are in a natural vegetative state.

Ebihara stated that all the calls that he has ever gotten regarding long grass, etc. have been concerning occupied houses.

There was a discussion on limiting this to vacant houses, questions about renters, how to contact the homeowners, complaint driven procedures, unfunded mandates, etc.

Davis stated that his experience in the city is that this is a very labor intensive ordinance.

Magennis stated that section (g) may need to be more expansive. A discussion ensued. It was decided to change section (g) (3) to add the words similar to "...appeal to the township..." Dan Martin will write the actual change and provide it to the township board prior to their scheduled meeting.

MOTION

A motion was made by Lampen and supported by Cole to recommend approval of the new ordinance section to the township board with the aforementioned change.

VOTE

Motion carried: 8-0

## **ANNOUNCEMENTS**

Ebihara stated that Stu Visser's last board meeting is May 14. His last day is May 29. The new manager starts on May 18.

Wincel stated that the master plan committee met with Greg Milliken, McKenna & Associates, to begin question development for the community survey. He stated that the tentative schedule is for the survey to go to public in the early summer and the town hall meetings to be in the early fall.

## **MOTION**

A motion was made by Ebihara and supported by Lampen to adjourn at 8:34 p.m.

## **VOTE**

Motion carried: 8-0

Meeting adjourned.

Sandy Brodie

Recording Secretary