

GANGES TOWNSHIP PLANNING COMMISSION
REGULAR MONTHLY MEETING MINUTES ~~DRAFT~~ for OCTOBER 19, 2010
GANGES TOWNSHIP HALL
119TH Avenue and 64th Street
Fennville, MI, Allegan County

I. Call to Order and Roll Call

Chair Howard called the meeting to order at 7:00 PM.

Roll Call: Chair: Sally Howard – Present	Vice Chair: Barry Gooding – Present
Secretary: Phil Badra – Present	Commissioner: Jackie DeZwaan – Present
Commissioner: Ed Reimink – Present	Board Trustee: Terry Looman – Present
Commissioner : Ross Wightman – Present	
Zoning Administrator: Tasha Smalley – Present	

II. Additions/Changes to Agenda and Adoption

Badra suggested removing September 8 minutes since they were already approved.

Howard suggested adding Dan Sutherland to the agenda under old business.

Motion was made by DeZwaan supported by Badra to approve the agenda with changes. Motion passed.

III. Correspondence

Badra received correspondence from Nate Fuller of the SWMLC concerning public access to Wa-Ke-Na October 7, 2010.

Commissioners received an information packet from Mr. Martinson October 8, 2010.

Commissioners received correspondence from attorney Bultje October 15, 2010.

DeZwaan received correspondence from assessor Doug Darling concerning the Martinson property October 12, 2010.

IV. General Public Comments

There were no public comments.

V. Approval of Prior Minutes of September 28, 2010

Motion was made by DeZwaan supported by Howard to approve the minutes with corrections. Motion passed.

VI. Old Business

A. Martinson Site Condominium application.

Howard stated she talked to the Supervisor and Clerk so that Mr. Martinson would receive an itemized copy of his attorney bill. Mr. Martinson then made a presentation outlining what he felt were the facts regarding his right to use the 20 foot strip of land that goes from Lakeshore Drive to Sunset Manor to access his property. He quoted the Township's Ordinance definition of a drive vs a road stating that since the strip serves 12 parcels it was a road. Badra explained that the Private Road Ordinance and those definitions were enacted in 2008. In the past drives could access more than one dwelling but that is no longer the case. Mr. Martinson then related the history of Sunset Manor, it's access strip and the surrounding properties from 1922 to the present. This information was previously presented to the Planning Commission in the 10 page packet received from Mr. Martinson on October 8, 2010.

Mr. Martinson feels he has a right to use the 20-foot strip for access for three reasons. One, because it is a public road. The Southwest Michigan Land Conservancy is a tax exempt organization and must allow public access to the preserve they own (Wa-Ke-Na) and since lot 18 of Sunset Manor is part of Wa-Ke-Na the public, which he is a member of, can use the road for access to parcel 18, the rest of Wa-Ke-Na and Sunset Manor's walk to the beach. Two, by a prescriptive easement. Since William Erby Smith who owned Wa-Ke-Na from 1966 until 2004 and used but did not own the strip as did Robert Mueller since 1974 also applies to Martinson by use. Three, by a right of way agreement with an heir to Jean Nash who he feels owns the road since the property now considered Wa-Ke-Na was willed to Jean Nash in 1956 even though Mr. Martinson admits the 20 foot strip was not included when the will was probated – he feels it was overlooked by mistake.

The Commissioners then discussed the application. DeZwaan stated Martinson calls the strip a road without proof that it is a road. She can see no evidence that it is a road but that it is an easement. Gooding and Looman stated that the Martinson property by our ordinance needs road frontage which is lacking in the application. Looman also stated that in the meeting with the Township attorney , Martinson and three PC members, Martinson was told he needed a court decision for a right to use the easement. Wightman could see no legal basis for Martinson's use of the easement. Badra stated that only one out of six heirs to Jean Nash's estate had granted the right of way agreement so wondered how it could be valid especially since the 20 feet was not part of her estate. Howard stated that Mr. Martinson had not effectively proved to the PC that he has a legal right to use the easement.

If Mr. Martinson wanted to put in his own private road the requirements of the Private Road Ordinance were discussed specifically the right of way needed and the 100-foot frontage needed.

A motion was made by Howard supported by Looman to deny the preliminary Site Condominium application because the applicant has not shown to our satisfaction proof of legal access to parcel number 2. The motion was then amended to add- " under the Ganges Township Site Condominium Ordinance section 7G.03.E." ~~under the Ganges Township Site Condominium Ordinance section 7G.03.E.~~ Roll call vote: DeZwaan – yes, Gooding – yes, Wightman-yes, Howard – yes, Reimink – no, Badra – yes and Looman – yes. Motion passed 6 to 1.

A five-minute recess was taken at 8:17 PM with the meeting resuming at 8:22 PM.

Dan Sutherland gave an update on his PUD stating that the engineers had staked out the lots of the PUD and invited the public and the PC to look at it anytime. There is still an issue with the Title Company and he asked if the 14 feet in dispute could not be rectified soon could he present his final site plan review excluding the 14 feet. He would still calculate the open space as if the property included the 14 feet. Without the disputed feet the total acreage would go from 19.3 to 19.14 acres. Howard stated this would not affect the PUD plan appreciably and it seemed fine with her. The commissioners voiced no objections.

The Ordinance work session began with Smalley stating that 28 days were needed for all new PC applications. The number of days needed for subsequent meetings with the applicant would be outlined in the January procedural meeting of the PC.

DeZwaan read the definition of Drive Through Establishment as it ~~would~~ appear in the proposed ordinance. All agreed that Drive Throughs would require a SLU with these requirements:

1. Shall comply with applicable sections of this zoning ordinance.
2. Shall have all State, County, Federal and ~~DNRE~~ MDNRE permits or approval.

3. Parking – without indoor facilities 15 spaces required.
4. Parking – with indoor facilities 15 spaces for each 1,000 square feet of gross floor area plus 10 on site spaces.
5. Sufficient stacking capacity for the drive through portion of the operation shall be provided to ensure that traffic does not extend into the public right of way. A minimum of (4) stacking spaces for each service ordering station shall be provided. Stacking spaces shall be located so as to not interfere with vehicular circulation and egress from the property or parking spaces for vehicles not using the drive through portion of the facility.
6. In addition to parking space requirements, at least one parking space shall be provided in close proximity to the exit of the drive through portion of the operation to allow for customers waiting for delivery orders.
7. Access driveways shall be located no less than 100 feet from any intersection measured from the nearest right of way line to the nearest edge of said access or from the nearest edge of another driveway.
8. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring properties and uses.
9. The proposed site shall front upon a paved County road. All ingress and egress shall be from said road.
10. The parking and maneuvering areas of the site shall be screened from the view of any abutting Residential District or use.
11. If the site abuts a Residential District or use the Planning Commission may restrict hours of operation.

DeZwaan brought up the issue of 1-1/2 ton trucks not being regulated. It was felt that semi trucks were the main problem and had been addressed. Reimink was concerned that home based business couldn't have outdoor storage. It was explained that businesses such as septic or crane services were addressed as SLUs.

The map was discussed and Howard stated that the incorrect areas would be changed.

Looman stated that the Casco Nature Preserve at 777 Blue Star would be opening October 22 at 1 PM and the public was invited.

There were no public comments.

Looman made a motion seconded by Howard. Motion passed. Meeting adjourned at 9:20 PM.

Submitted by
Phillip Badra
Ganges Township Secretary