

GANGES TOWNSHIP PLANNING COMMISSION
Monthly Meeting Minutes DRAFT for October 24, 2006
Ganges Township Hall
119th Avenue and 64th Street
Fennville, MI, Allegan County

Chairman **Gooding** called the meeting to order at 7:00 PM.

Roll Call: Chairman Barry **Gooding** – present
Secretary Jim **Birkes** – present
Commissioner Jackie **DeZwaan** – present
Commissioner Dortha **Earl** – present
Commissioner Ed **Reimink** – present
Commissioner Dawn **Soltysiak** – present
Board Trustee Terry **Looman** – present

PUBLIC COMMENTS

None.

CORRESPONDENCE

Letter dated September 29, 2006, from Robert Soltysiak to Gooding and the Ganges Township Planning Commission (PC) addressing the Land Use Plan, stating that as the “road map” for Ganges Township’s future, it can be used to direct future—and inevitable—development. Referencing a public policy brief (Gary Taylor, January 2004), he points out that state courts have always used land use plans in decisions concerning spot zoning and conventional zoning/rezoning. Soltysiak lists several ways in which spot zoning can cause major problems, then gives four (4) options for eliminating or transforming spot zones in the Master Plan, and states that additional flexibility exists in the recent Township Zoning Act amendment. Soltysiak requests the PC to work with the professional planner and attorney(s) to protect the township, expressing concern that the combination of the draft Land Use Plan, out-of-date ordinances, and the current mind-set against working with professional planners could potentially exact a costly legal toll from Ganges Township, with the township also losing significant control over development.

Memorandum dated September 28, 2006, from **Birkes** to Roxanne Seeber, Ganges Township attorney, presenting questions and comments regarding the language Seeber used in the proposed migrant housing and agricultural labor camps amendment (see September 26, 2006, PC meeting minutes, page 5).

Letter dated September 28, 2006, from **Birkes** to John Hebert, Ganges Township Board supervisor, requesting that the township Board approve funding for McKenna Associates, professional planners, to assist the PC to prepare an updated PUD ordinance and then do a technical review of the entire Zoning Ordinance (ZO). **Birkes** pointed out that updating the PUD ordinance has been a high priority for the past several years. Also, by reviewing it, McKenna would assess the overall quality of the ZO and assist the PC in setting priorities for updating it in the future.

Notice of PC approval of a special use to Glenn United Methodist Church, dated September 26, 2006 (see September 26, 2006 PC meeting minutes).

Notice of PC approval of a special use to Vicki Dreyer, dated September 26, 2006 (see September 26, 2006, meeting minutes).

Proposed text amendments to the ZO from Seeber to **Birkes** and the PC regarding agricultural labor camps and migrant housing, received via electronic mail October 4, 2006, regarding equipment and cabinet area (size) for telecommunications towers.

Letter and electronic mail dated October 24, 2006, from C. Larry Edris, Saugatuck Township PC member, to Gregory Milliken, McKenna Associates planner, expressing Saugatuck Township Planning Commission’s concern regarding the Ganges Township’s zoning along the south side of M-89. The letter claims that the industrially and commercially zoned south side of M-89 “creates a major discontinuity” with Saugatuck Township’s agriculturally zoned north side of M-89, and that the lack of municipal water and sewer along this corridor is a major concern as it relates to industrial and commercial use. Edris also points out that the commercial and industrial zoning along M-89 is inconsistent with the current use along the bulk of it.

Memorandum dated September 28, 2006, from Seeber to **Birkes** responding to the earlier memorandum above regarding agricultural labor camps and migrant housing. Her responses are to be discussed under *OLD BUSINESS*.

Gooding announced that Tasha Smalley, Zoning Administrator (ZA), will not have Wednesday office hours at the township hall during the winter due to a decrease in building/zoning activity. Her Wednesday hours may be reinstated in the spring. Smalley may be contacted at Michigan Township Services (MTS) Monday through Friday and by appointment.

ADMINISTRATIVE UPDATE

Ganges Township Board

Trustee **Looman**, liaison, had nothing to report.

Zoning Board of Appeals (ZBA)

Gooding, liaison, referred again to the Alltel tower and I-2000 tower variance approvals from the September 20, 2006, ZBA meeting.

Zoning Administrator Report

Smalley, ZA, stated that she had received a quarterly mineral mining report from Matt Daly, 6223 122nd Ave., and that Ciesla is up to date with his reports.

BUSINESS SESSION

Approval of Agenda

Migrant Housing Amendment and *Clarification of ZBA Ruling on the Private Road Ordinance* were added to *OLD BUSINESS* as numbers 3 and 4 respectively, and *Work Time Submission by Committee Chairperson* was added as 1.A. to *NEW BUSINESS*. **Birkes** moved to approve the October 24, 2006, regular meeting agenda with (the above) three (3) additions; **Looman** supported; motion carried.

Approval of Prior Minutes

Soltysiak moved to approve the September 26, 2006, regular meeting minutes with one (1) correction on page five (5); **Earl** supported; motion carried.

OLD BUSINESS

Master Plan Development

Receipt of the letter from Saugatuck Township's PC in response to Ganges Township's draft Master Plan was again acknowledged (see *CORRESPONDENCE*).

Birkes reported that he was unable to attend the October 2, 2006, Allegan County PC meeting, but he did contact Don Maxwell, commission member, to relay to him that the Allegan County PC's reply to the Master Plan update was invalid. **Birkes** pointed out to Maxwell that, per State law, Allegan's letter was sent too soon and it did not address two (2) specific issues as required. Maxwell responded that the Allegan County PC was unaware of these State requirements and said that he would report back to his PC. **Birkes** requested Maxwell to send another letter to the Ganges Township PC to be in compliance and suggested that the Ganges PC follow up to ensure the letter is received.

Committee Reports and Updates

Zoning Enabling Act (ZEA)

DeZwaan, chairperson, reported that the committee, consisting of **Birkes** and herself, met October 9, 2006, and presented the following recommendations (listed in the committee report):

- A. Add language text to specific sections of the ZO to reflect the ZEA's requirement that certain day care and adult residence facilities be permitted in residential zones.
- B. Add another subsection (H) to Article XI, Section 11.1 to reflect the ZEA's requirement of a 30-day window for filing with the circuit court an appeal of a ZBA decision.
- C. Amend references to the Township (Rural) Zoning Act (TRZA) to reflect the new ZEA by:
 - o simple replacement of references—ZEA for TRZA
 - o addition of text to provisions or amendments adopted under PA 184 (TRZA) explaining that the PA (Public Act) they were adopted under has been repealed and replaced by PA 110 (ZEA)
 - o specific reference modifications to the Open Space Preservation Amendment in Sections 2 and 7C
- D. Encourage the Ganges Township Board to adopt a resolution to prohibit use variances from being permitted in the future.

(It is noted that the committee listed specific sections and language to implement the above recommendations in A-D.)

The PC then discussed each of the above recommendations in detail. Definitions of day care centers were discussed, and Gooding queried how compliance of day care centers was monitored. Smalley replied that the State regulates them through licensing, and that these centers are listed on the State's web site. The committee's recommendations A-C were readily agreed upon by the PC; the recommendation advocating that use variances not be allowed was discussed more at length.

DeZwaan explained that the ZEA offers a window of opportunity, allowing Ganges Township to permit use variances in the future as a result of having granted two (2) in the past. She stated that after reviewing these use variances, the committee agreed that the ZO did not allow for these variances to be granted, and that there also is no language in the ZO to have prevented them from being granted. **DeZwaan** then gave two (2) rationales for prohibiting use variances: only cities

and villages have the authority to grant use variances, and use variances circumvent a township's planning, defeating its very purpose. **Soltysiak** concurred, and offered that there are other ways to allow something unique in an area—conditional and contract zoning. **DeZwaan** further added that definitions could be expanded without undermining the existing planning. And per **DeZwaan**, Mark Wyckoff with the Planning and Zoning Center at Michigan State University does not advise use variances as an accepted practice; Gooding noted that the State also advises against issuing use variances.

Reimink proposed that use variances have worked well in the past and stated that some constituents have not liked contract zoning. Smalley assured that contract zoning has changed since it was first offered. **DeZwaan** again stated that no language in the ZO allows for it and added that it subverts the purpose of a Master Plan.

Birkes moved that the PC communicate to the Ganges Township Board the PC's position that, while the ZEA would allow them (the PC) to continue issuing use variances, the PC take steps that would disallow any further use variances to be employed in the township, acknowledging that there are better ways to achieve the desired outcome(s). **DeZwaan** supported and the motion carried.

Smalley, as part of the contracted services with Michigan Township Services (MTS), will draft amendments to reflect the committee's recommended changes in A-C, then send them to Hebert, supervisor, to forward to the attorney for review. With the intent of receiving the attorney's response soon, a 15-day notice will be posted for a public hearing at the November PC meeting.

Soltysiak moved that the PC authorize Smalley, ZA, to insert the ZEA implementation committee's suggestions A-C into the ZO and then submit the draft for attorney review; **Birkes** supported; motion carried.

Zoning Map Update

Birkes reported finding the application to rezone the northeast corner at the 118th Ave./Blue Star Hwy. intersection, Section 21; he confirmed that it had been rezoned commercial. **Birkes** contacted Land Information Service (LIS) to have the change made and ordered a 3 x 4-ft. map for public display. Gooding expressed concern that there is not a good system for updating the zoning map. **Birkes** emphasized the need for a procedure for notifying LIS once the Board authorizes a rezoning. LIS will then update the map and send the township the new version.

PUD Ordinance

It was reported that the Board, in response to the PC's letter (dated September 28, 2006, see *CORRESPONDENCE*), recommended that the PC get other bids for professional assistance to update the PUD ordinance and conduct a technical review of the ZO. **Soltysiak** asserted that the PC's request to use a specific service (McKenna Associates), which the PC had voted on, was not communicated correctly to the Board, and thus three (3) months of a 6-month process had been wasted.

A bid from MTS was requested, and Smalley offered MTS's "sketchy quote" of \$4400 to draft the PUD ordinance only (not including a technical review of the ZO); it will be submitted to the Board. Another suggestion was to use other townships' updated/written PUD ordinances as examples to follow. DeZwaan emphasized that Ganges is a unique township with tiered zoning, and its PUD ordinance cannot be modeled after **other** township ordinances. **Birkes** moved to send an additional letter to the Board reiterating what was stated in the previous letter and the reasons for the PC's recommendations on how to appropriate the money, and stating that even though it may not be cost efficient, it was voted on 6 to 1 that the expediency is more important than the cost. **Soltysiak** supported and motion carried.

Migrant Housing Amendment

Gooding read to the public the attorney's responses to the PC's questions and comments regarding the proposed migrant housing and agricultural labor camps amendment (see *CORRESPONDENCE*). After discussing each of Seeber's suggestions/explanations, the PC recommended sending a letter to Seeber with the following requests:

- Add *agricultural/residential to agricultural district zoning classification* in the introduction to the amendment of Section I, Article VII, Section 7.10, recognizing that migrant housing is presently located in areas zoned ag and ag/res.
- Substitute *excluding* for *including* in Article VII, Section 7.10, paragraph 6, removing the requirement that migrant housing be a minimum of 400 ft. from a principal dwelling.
- Leave paragraph 9 of Article VII, Section 7.10 as is, with the PC understanding and agreeing with Seeber's explanation of the requisite terms.

After discussing the proposed 5-acre parcel for migrant housing in Saugatuck Township, the Ganges PC also will relay to Seeber their concerns that the following situations could possibly occur in Ganges Township: having many migrant houses on acreage that is too small; migrant houses being used for purposes other than sheltering migratory workers; and how to write a provision(s) in the ZO to prevent these circumstances from occurring.

Clarification of ZBA Ruling on the Private Road Ordinance

Per the PC's request, Smalley read from the September 20, 2006, ZBA meeting minutes the section describing the ruling on the interpretation of Section 7F.03.D5. The section concluded with: "Howard moved that the ZBA interpret Section 7F.03.D5 to mean that the PC can, on a case-by-case basis in conjunction with their review of a site condominium PUD or

planning (sic) subdivision, waive or modify the requirements of Article VII F..." This motion was supported and carried. **Birkes** expressed concern that the ruling sets a precedent, and **Earl** stated that allowing a modification for one applicant will require the PC to make exceptions for others. **Soltysiak** felt that only the ZBA could make modifications, and **Birkes** concluded by asserting that Section 7F.03.D5 does not give the PC authority to make modifications in whatever manner it chooses, but that the PC must use the appropriate criteria found elsewhere in the ZO.

NEW BUSINESS

Work Time Submission by Committee Chairperson

In an effort to avoid confusion and ensure payment for services rendered, **Gooding** directed that attendance reports for committee meetings be turned in to him, which he will give to Cindy Yonkers, township clerk.

Land Divisions

None.

Future Meetings Schedule

The P.C. regular meeting is scheduled for Tuesday, November 28, 2006, and the following month's meeting is scheduled for Wednesday, December 20, 2006.

PUBLIC COMMENTS

None.

ADJOURNMENT

Looman moved to adjourn; **Earl** supported; motion carried unanimously. Meeting adjourned at 9:33 PM.

Respectfully submitted,

Elaine I. Troehler
Ganges Township Recording Secretary