

GANGES TOWNSHIP PLANNING COMMISSION
Monthly Meeting Minutes FINAL for May 22, 2007
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 Sally **Howard** – present
Commissioner Ed **Reimink** – present
Commissioner Dawn **Soltysiak** – present
Board Trustee Terry **Looman** – absent

PUBLIC COMMENTS

None.

CORRESPONDENCE

Letter dated April 25, 2007, from **Birkes** to W. Dexter Gauntlett notifying him that the Ganges Township planning commission (PC) approved his application for a private road construction with listed contingencies.

Letter dated April 26, 2007, from Roxanne Seeber, Ganges Township attorney, to the PC with attached final copies of two (2) proposed zoning ordinance (ZO) amendments: conditional rezoning and prohibition of the zoning board of appeals (ZBA) to hear, grant, or receive applications for use variances.

Letter (no date) from Dawn **Soltysiak** to fellow PC members containing information (and concerns) for consideration and discussion regarding the ongoing Dolly Brook Farm PUD preliminary site plan review. This letter is to be tabled at this time, but considered when the PUD review resumes.

Letter dated April 26, 2007, from Seeber, attorney, to Joel Bouwens, legal representative for Suequehanna condominium, acknowledging and accepting the condominium's revised master deed and bylaws.

Letter dated April 30, 2007, from Neil Van Leeuwen to the PC expounding personal property rights of citizens and his concern about the erosion of these rights, referring to single-wide mobile homes in particular.

Letter dated April 21, 2007, from Cindy Yonkers, township clerk, to Erin Fuller, Black River Watershed Project coordinator, requesting that Ganges Township be considered for planning and zoning assistance—specifically for a build-out analysis—with grant monies the project has received.

Report dated April 26, 2007, from Ganges Township's attorney's office listing a breakdown of its professional services provided to the PC from March 26 to April 23, 2007.

ADMINISTRATIVE UPDATE

Ganges Township Board

Trustee **Looman**, liaison, is absent this evening, and no report was given in his absence.

Zoning Board of Appeals (ZBA)

Gooding, liaison, reported that no meetings had taken place since the last PC meeting.

Zoning Administrator Report

Tasha Smalley, zoning administrator (ZA), reported that she has been working on collecting inspections of past cases, as per the PC's request at April's regular meeting. She notes that it has required the past month to gather all of the Ciesla mineral mining documentation alone, and she has now started on past private road approvals.

BUSINESS SESSION

Approval of Prior Minutes

The following corrections to the April 17, 2007, special meeting minutes were made:

- Add an *s* onto the end of *meeting* on the first line of the second paragraph under **BY-LAWS AND PROCEDURES REVIEW**, page 1.
- Close up the space between *o* and *f* on the top line of page 2.
- Add an *f* after the *o* on the first line of the third paragraph on page 2.
- Delete *ibility/qualifying and conditions (7A.02 A.3.a-d)* at the beginning of the first full paragraph on page 3.*

Soltysiak moved to approve the April 17, 2007, special meeting minutes with three (3) corrections and one (1) deletion; **DeZwaan** supported; motion carried.

*The recording secretary discovered after this evening's meeting that all text following this section is incorrect. From this point on, the text was correctly transcribed, which will be presented at the next regular meeting for the PC's approval.

The following corrections were made to the April 24, 2007, regular meeting minutes:

- Replace *in a zoning district* with *without rezoning* on the third line of the first paragraph under **Conditional Rezoning Amendment** on page 1.
- Add an *e* to **Birkes** in the first paragraph on page 2.
- Replace *quality* with *qualify* in the second line, third paragraph from the bottom on page 4.
- Delete all the *s*'s from *Walters* on pages 3 (four times) and 4 (seven times).

DeZwaan moved to approve the April 24, 2007, regular meeting minutes with amendments; **Soltysiak** supported; motion carried. **Howard** abstained from voting because of her absence at this meeting.

Approval of Agenda

Three (3) additions to this evening's agenda were requested. **Howard** moved to approve the May 22, 2007, regular meeting agenda with the additions of *Preliminary Site Plan Review to the Dolly Brook PUD* as number 3 under **OLD BUSINESS** and *Clarification of Non-Conforming and Procedures for Information Dissemination* as letters a and b, respectively, under **NEW BUSINESS, 4. Other business . . . before the Commission**; **Birkes** supported; motion carried.

OLD BUSINESS

Final Budget Review

Gooding reported that, in speaking with **Looman**, the budget figures are good. He noted that the 2007/2008 fiscal budget is \$4100 more than last year, but also that the PC has come in under budget in the previous years. **Birkes** suggested the option of rounding off the figures; **Soltysiak** disagreed, stating that the figures presented are valid, and **DeZwaan** felt that there is a strong case for the amounts requested.

Gooding then stated that he planned to request from the Board raises for five (5) PC members (\$25 per meeting increase). **DeZwaan** and **Howard** adamantly opposed **Gooding's** proposal, with **Howard** explaining that they prefer that the funds go toward a planner to assist the PC in doing a better job and get the job done. Besides, she added, to most PC members, "It's not about the money." **Howard** moved to present the budget draft for 2007/2008 as written to the Board; **DeZwaan** supported; motion carried.

PUD Amendment Development

Discussion is to be resumed at the special meeting scheduled for May 30, 2007.

Dolly Brook PUD Preliminary Site Plan Review

The review is to continue at the next regular meeting in June per the applicant's request.

NEW BUSINESS

Preliminary Discussion of the Cider Operation at 6181 122nd Ave./Brett VanderKamp

Brett VanderKamp presented to the PC his plans for a working farm, which would produce cider, wine, and spirits using on-site fruit. It would also showcase the process, provide educational tours, and have to-go sales in an on-site tasting room. VanderKamp's presentation included a list of the proposed activities, land-use breakdown, and a business plan and rationale. He stated that his primary goal for this evening's presentation is to discover if this type of operation would be desired in Ganges Township.

It was determined that the barrier is the current zoning—the property is zoned agriculture, but the business would sell products at retail, a commercially zoned activity. The PC explained that they are working to pass an amendment that might allow authorization of the cider mill—conditional rezoning. **DeZwaan** advised VanderKamp to research the state statute.

Doug Welsch, owner of Fenn Valley Winery, offered his support of the new business, acknowledging that he is working closely with VanderKamp as a consultant in this preliminary phase, and feels that it would be an asset to both his own business and the township economy. Several PC members agreed that the operation would be an asset and support agri-tourism, which is part of the Master Plan. Despite the support displayed this evening, **Birkes** reminded all that the application must be adjudicated like all other proposals.

Annual Mineral Mining Review—Dan Ciesla

Soltysiak recused herself prior to Smalley, ZA, presenting to the PC an annual review of Ciesla's sand mining operation. The report included quarterly reports, a year-end report, other correspondence in 2006, and proof of recorded special use deed restrictions. Smalley also did a site inspection and took photographs, and concluded that the operation appears to be in full compliance with the ZO and requirements of the PC (initial) approval. She also confirmed that there is no evidence of gravel removal.

In response to how long Ciesla's special use is valid, Smalley reported that the first approval was issued to him in May 2004, and the second one in May 2005, establishing that the special use is good until May 2009. Smalley had also noted earlier this evening that the special use (as a deed restriction) had not been recorded with the Allegan County register of deeds *until it was looked into by the ZA. It has now been recorded.* She suggested that in the future, the PC advise applicants on how to have affidavits recorded and submitted to the register of deeds.

After further discussion with the ZA, the PC determined that a yearly visit, versus quarterly, would suffice, and **Reimink** suggested doing the inspection in the fall, specifically checking the reclamation. **Reimink** also advised that Smalley occasionally check the status of dust on the road, because people had complained about it in the past.

Private Road Amendment—Suggestions from Counsel

In reply to Smalley's question as to the purpose of the amendment, **Birkes** responded that the PC's intent to allow private roads only in residentially zoned areas was not clearly stated in the previous amendment, and the review procedure for an application was "cleaned up some." **Birkes** had the original letter and private road amendment draft from the attorney, which had the modifications high-lighted; he then read these modifications to the other PC members. Smalley, ZA, then asked if the updated intent was that no new private roads would be allowed to be constructed off of Blue Star Highway (and M-89) because the first 500 feet are commercially zoned. It was acknowledged that the wording was appropriate in Section II, *PURPOSE*—to permit private roads for residential uses only—but that the wording in Section IV, *STANDARDS*, prohibited private roads in zones other than residential.

An extended discussion between the PC members ensued in an attempt to resolve the discrepancies that the current draft presents. **Birkes** pointed out the two (2) issues: allowing commercial uses off a private road and putting a private road in a commercial zone to serve residential uses.

Birkes stated that Section 7F.03 A, *Standards Applicable to all Private Roads or Drives*, was too strict. **Soltysiak** suggested replacing the terms *districts* or *classifications* with *uses*. Further along in the discussion, **DeZwaan** suggested making the changes, sending the draft back to the attorney with the PC's concerns and an explanation for the changes, and asking her (Seeber) if these modifications address the concerns. The changes made resulted in Section 7F.03 A reading: *Private roads are permitted only for residential uses as defined by this section of the ordinance. No private roads shall be permitted for commercial or industrial uses.* Section 7F.02 D, the definition of residential *districts*, will also be changed, requiring that residential *uses* be defined. The PC also agreed that a private road could be built in a commercial zone through the PUD process.

Looking at subsection B of 7F.03, the discussion concluded with no opposition voiced against the attorney's other text in the draft. Several members throughout the discussion suggested that further review of the draft be tabled until they could study it more, but in the end, the PC decided to have **Birkes** contact Seeber and request her to modify the draft to reflect the PC's intent:

- Private roads are permitted in commercial and industrial zones as long as they service residential-use parcels.
- Private roads are not to be used for commercial or industrial purposes
- Private roads used for commercial or industrial uses may be constructed via a PUD.

Smalley then asked the PC who is responsible for knowing which Allegan County road standard the applicant should use and how to prove the county standards have been met once the private road has been constructed. The PC discussed the extent of the ZA's responsibilities versus those of the applicant, and how much a professional engineer should be involved. During this time, **Reimink** showed concern that the PC may be going too far in requiring county road standards for a private road, especially if it is strictly going to be used as a private road. **Soltysiak** offered that shoddy and unsafe construction has occurred in the past when the applicant was allowed to construct without standards. In conclusion, the PC determined that prior to construction, the applicant must provide to the ZA a copy of the county road standards *to be utilized.* Also, after construction and per the ZO, the applicant must submit a letter of validation from a registered, professional engineer that the private road has been built to the applicable county road standards.

Other Business

Clarification of Non-Conforming

Smalley reported that a Ganges Township resident had come to her describing a desire to raze his A-frame house and replace it with a two-story dwelling—what is the intent under *General Provisions*, Article VII, of . . . *shall not result in enlargement greater than 50% of the original structure*? **Gooding** clarified that 50% is determined by the footprint (foundation size) of the original structure, and that the addition—anything outside of the footprint—must be in compliance with the ZO in order for it to be approved.

Procedure(s) for Information Dissemination

DeZwaan expressed concern that any letters written by PC members and placed in the pre-meeting packets may be in violation of any laws about sharing information before a meeting, referencing the PC being reminded in the past not to “discuss” any issues via electronic mail (e-mail).

Howard responded that to her understanding, as long as they (the PC) are not debating an issue that is being removed from the public, the members are simply sharing information, which is helpful in the process; the essence of debate is sharing and discussing. **DeZwaan** agreed that it is beneficial to share information via the packets, but then asked how this is different than e-mailing the same information (for example, Soltysiak’s letter, third under *CORRESPONDENCE*) to share with other members, which has been prohibited?

Birkes stated that he saw no difference. He emphasized, however, that no matter how information is disseminated, it needs to be in everyone’s packet and made public, allowing each member to have the same information when voting on issues.

DeZwaan then submitted that dialog is created when more than one PC member submits a letter to be placed in the packets, each possibly expressing a different opinion on the same subject. **Birkes** disagreed, stating that different opinions do not constitute a dialog; one letter would have to be a response to another in order to establish a dialog.

Howard pointed out that, in reality, e-mail is a type of communication that invites quick responses, making it easy to be in violation. She suggested making letters “attachments” when shared by e-mail—not the body of the e-mail itself. **Soltysiak** proposed not e-mailing any letters. In conclusion, the PC decided that in order to avoid any appearance of impropriety, the members would not respond to any e-mail correspondence among themselves unless it involved administrative issues, such as meeting dates, etc.

Other

Reimink, referring to the township attorney’s letter to the Suequehanna condominium’s attorney (fourth correspondence noted this evening), asked if the PC had been advised of the situation. Smalley replied that the PC had been aware of it at the final site plan review. **Reimink** also pointed out that the PC does not know if any of the contingencies (set by the PC) have been met; Smalley will follow up with Suequehanna.

LAND DIVISION REVIEWS

Gooding reported that there are no new land divisions, but expressed concern that he, as chairman, is not receiving the information from Al Ellingsen, land division officer. His concern is based on a comment he heard at the last Board meeting regarding a possible new division, and **Gooding** reported that he will be contacting Ellingsen for clarification.

FUTURE MEETINGS SCHEDULE

A special meeting is scheduled for Wednesday, May 30, 2007.

A special meeting is scheduled for Wednesday, June 13, 2007.

The regular meeting is scheduled for Tuesday, June 26, 2007.

PUBLIC COMMENTS

Robert DeZwaan, 2259 68th St., referring to a previous comment made by **Gooding** earlier this evening that the applicant of a ZBA-approved road did not follow the print/map that the PC and ZA have, asked if there would be any type of enforcement. **Gooding** replied that it will be addressed during the final site plan review at the next regular meeting. Smalley stated that the PC packet will include the ZBA minutes/decision, court appeal decision, and other pertinent minutes.

DeZwaan also stated that it is a big mistake not to allow private roads in commercial or industrial zones, stating that it will encourage an industrial zone by having only one driveway for many businesses (citing M-89 as an example). In response, Smalley asked if different private road standards could be established for commercial or industrial districts. **Soltysiak** replied that private roads in these districts are possible through PUDs.

ADJOURNMENT

Howard moved to adjourn; **DeZwaan** supported; motion carried unanimously. Meeting adjourned at 9:52 PM.

Respectfully submitted,
Elaine I. Troehler
Ganges Township Recording Secretary