

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

PUBLIC HEARING

Proposed Tower and Antenna for I-2000, Inc.

Chairman **Gooding** explained the public hearing process, then opened the public hearing for the proposed tower and antenna for Internet 2000, Inc. (I-2000) at 7:01 PM. There were no public comments against the proposal; the following comments were in favor:

Ken Borkovec, 1732 Morning Glory, stated that he lived along the lake shore and that it is difficult to get communication there. He described how I-2000 would replace the existing 64-ft.-high tower on the firehouse with a 96-ft.-high tower, at their expense, which would increase notably his internet service. Borkovec requested the Planning Commission (P.C.) to approve the application, stating that it would bring up-to-date service to the lake shore.

Steve Van Wieren, 2439 Byron Center Ave., Wyoming, I-2000 representative, described how I-2000 would replace the old tower with the new one, the tower's style and dimensions, and the geographical area it would service. He also assured that there would be no lights on the tower/antenna.

Terry O'Rourke, 1732 N. Darling Lane, also expressed his support for the new tower, stating that he does some business out of his home.

There were no further public comments, and **Chairman Gooding** closed the public hearing at 7:05 PM.

PUBLIC COMMENTS

No public comments.

CORRESPONDENCE

Memorandum dated July 29, 2006, from John Hebert, Township Supervisor, to the P. C. clarifying the township attorney's memo (July 13, 2006) regarding attorney-client privileged documents. In summary, attorney correspondence is to be treated as confidential information and is protected under attorney-client privilege. The P.C. is not required to consider attorney correspondence as general correspondence. The P.C. may, however, reference attorney correspondence during deliberation of a specific issue and quote specific sections, but not read the correspondence verbatim from start to finish; only the Ganges Township Board has the authority to waive attorney-client privilege.

Facsimile dated July 22, 2006, from Tasha Smalley, Zoning Administrator (Z.A.), to Cathy Webber of Verizon Wireless, stating that a lot split for the cell tower at 1722 68th St. is not required, per township attorney consult.

Letter dated August 11, 2006, from Cindy Yonkers, Township Clerk, to **Gooding** notifying him that the Board of Trustees voted unanimously at their board meeting on August 9, 2006, to authorize the P.C. to distribute the draft Master Plan (dated June 20, 2006) to surrounding communities and required parties.

Letter dated July 28, 2006, from Jim **Birkes**, P.C. Secretary, to Brian Bosgraaf of Cottage Home, notifying him that the P.C. approved the site plan/special use application for his proposed project at the July 25, 2006, P.C. meeting, with seven (7) contingencies listed (see July 25, 2006, P.C. meeting minutes, page 4).

ADMINISTRATIVE UPDATE

Ganges Township Board

Trustee **Looman**, liaison, reported that two 6-ft. tables should be arriving in approximately two (2) weeks to increase table space for the P.C., and that central air conditioning was installed in the town hall. He also reported that a trustee met with a sound system technician regarding improving the public address system in the town hall.

Zoning Board of Appeals (ZBA)

Gooding, liaison, reported that there was no meeting last month (July).

Zoning Administrator Report

Smalley, Z.A., reported that she drove by the Ciesla property, but was unable to see anything from the road. She stated that she will send a letter requesting permission from Ciesla to enter onto his property. She concluded by reporting that there is a special use application for next month, and the Mel Davis file is closed.

Reimink advised Smalley that, per Section 7E.07X of the mineral mining ordinance, the Z.A. is allowed to go onto the premises without the owner's permission.

BUSINESS SESSION

Agenda Approval

Seminar in Grand Haven for Planners was added under *New Business*, becoming #6, moving *Other business...* to #7. **DeZwaan** moved to approve the August 22, 2006, regular meeting agenda with the amendment: Looman supported; motion carried.

Special Use Permit—I-2000 Antenna Installation

The following zoning ordinance requirements not met by I-2000 at this time were noted by various commissioners:

- Per Section 7B.6.B5.a1, the tower base is required to be a minimum of 144 feet (150% of tower height) away from off-site buildings. The fire hall location does not meet this.
- Per Section 7B.6.B4.a, written permission is required from the owner(s) of adjoining lot line(s) of parcels lying within the tower "fall radius" if the tower set back distance is not equal to a minimum of 100% of the height of the tower.
- Per section 7B.6.B6, the tower is required to be enclosed by security fencing and equipped with appropriate anti-climbing devices. The sides of the tower only have an 8-ft. shield.

Steve Van Wieren, I-2000 representative, assured the P.C. that the 8-ft. shield is the most effective way to prevent climbing, being more secure than a fence. Also, in response to **Gooding's** inquiry, Van Wieren responded that a light on the tower would not be required (only for towers 200-ft. high and taller).

Despite the desire of the P.C. to authorize the I-2000 proposal, which would provide a much needed service to the township, they concluded that they were obligated to adhere to the Zoning Ordinance requirements. **DeZwaan** moved to deny the request for the tower because it is not in compliance with Section 7B.6.B5.a1, Section 7B.B4.a, and Section 7B6.B6 of the Zoning Ordinance; **Looman** supported; motion carried. **Reimink** recommended that Van Wieren go before the ZBA to request a variance; Van Wieren indicated that he probably would not pursue this.

Approval of Prior Minutes

Birkes moved to approve the July 25, 2006, regular meeting minutes with one (1) modification on page five (5); **Looman** supported; motion carried.

OLD BUSINESS

Master Plan Development

The Board authorized sending the draft Master Plan to surrounding townships and appropriate parties (see *Correspondence*). Birkes informed the other commissioners that after being notified of the approval, he contacted McKenna Associates, professional planners. They will send the draft Master Plan out and give the P.C. a copy of the letter accompanying it.

NEW BUSINESS

Site Plan Review—Cell Tower Co-location Special Use

Terry Wissner, representative for Alltel (S.E.A. Wireless, Inc.), displayed the site plan map for the P.C. and public to view and explained that Alltel is applying to place its antenna on an existing tower. Alltel would be the fifth carrier and its antenna would go on at 212 feet. Per Wissner, a structural analysis indicates feasibility for this antenna as well as for six (6) others planned for the future. At this time, the only structural changes will be the 10 x 20 x 10 ft.* equipment shelter and ice bridge. **Birkes** inquired about the lease, and Wissner stated that Alltel has a master lease (sublease) with Crown Castle,

owner of the tower, which approves who goes on the tower and the location. Alltel will have no direct business transactions with the landowner.

Reimink pointed out that the size of the equipment shelter would violate Section 7B.7C, which allows only for a maximum of 120 sq. ft. of gross floor area. Per Wissner, the other four (4) existing shelters are 10 x 20 sq. ft.*, and this is the smallest it can be. **Birkes** stated that the Zoning Ordinance encourages co-location of services, if possible, and suggested approving the application, recognizing that the ordinance should be amended; **DeZwaan** disagreed. She advised following the ordinance as currently written, and that the applicant would have the option of going before the ZBA to request a variance. **Birkes** concurred, agreeing that the P.C. needed to follow the ordinance, but also stating that it is too restrictive and should be addressed in the future. **DeZwaan Birkes** moved to deny the Alltel co-location of the antenna on the existing tower, currently located at 2045 Blue Star Highway, for the reason that the building structure exceeds the maximum allowed, 120 sq. ft., in the ordinance; **Reimink** supported. **Birkes** amended the motion, specifying that the denial is due to the proposed shelter not meeting the requirements of Section 7B.7C of the Zoning Ordinance, the maximum size of the unmanned equipment structure of 120 sq. ft. The motion carried. The P.C. encouraged Wissner to go before the ZBA to request a variance, acknowledging the benefit of the services that Alltel can provide the township.

Preliminary Site Plan Review—Ryder PUD

Smalley, Z.A., introduced the PUD application by stating that the applicants, Donald and Mary Ryder, are requesting to develop four (4) units, and that the ZBA has approved the variance request for the private road servicing the units (see ZBA meeting minutes, July 18, 2006). She acknowledged that the ZBA decision is being appealed in court by John Stege.

Steve Darpel and Mark Schrock of Darpel and Associates Builders, Inc., were present to represent the Ryders. Schrock explained that two brothers each will build a home on the two (2) front lots (lake side), with no plans to build further or develop the rear lots, and that they intend on keeping the property in the family. At this point, Randy Schipper, attorney representing Stege, stated that the private road variance was granted under Section 7F.03C of the Private Road Amendment for private roads providing access to four (4) or fewer units. He contended that the variance request should have been considered under Section 7F.03D for private roads providing access to five (5) or more units. The P.C. responded by stating that it was a ZBA issue and also that it would not be discussed because the decision is under court appeal. **Birkes** further explained that the purpose of the preliminary review is for the P.C. to ask questions, advise, and offer recommendations only.

The P.C. had several questions and concerns, all of which were satisfied by the applicants. The P.C. also offered:

- The Ryders will need to apply for authorization to build a private road.
- The cul de sac at the end of the road must have a radius of 50 ft.
- If only one (1) driveway is to serve two (2) houses, it will be considered a private road by the township and must be applied for.
- The fire chief should be consulted regarding the cul de sac; perhaps a “T” would better suit the circumstances.

Birkes will send the Ryders a brief letter advising that they continue to reference the PUD and private road ordinances. Darpel then asked if the P.C. would have been able to authorize the private road with the narrow section, as opposed to requesting a variance from the ZBA. **Birkes** assured him that the private road deviation, indeed, is a variance, not a modification, and that it was necessary to go before the ZBA. Smalley then asked the P.C. if the final site plan could take place at next month’s P.C. meeting, recognizing the Ryders’ desire to begin construction this fall. The P.C. replied that at this time no decisions can be made or approval given by them until after the court has made a decision on the appeal. When asked by Ryder if the P.C. could give approval based on the outcome of the court appeal, the P.C. responded in the negative.

Confidential Nature of Attorney Letters

Gooding distributed to the P.C. a memorandum dated July 13, 2006, from Roxanne Seeber, township attorney, to Hebert, Supervisor; it was also offered to the public. Seeber describes which attorney correspondence falls under attorney-client privilege. **Reimink** made specific reference to the last point in Hebert’s memo, which intended to clarify Seeber’s memo (see *CORRESPONDENCE*): the commissioners could reference attorney correspondence during an open meeting when deliberating a specific issue, even quoting specific sections of the correspondence. Reading the correspondence word-for-word, start to finish, is prohibited unless the Board waives attorney-client privilege. However, **DeZwaan** and others still questioned to what extent attorney correspondence could be made public, in particular, referring to attorney advice regarding amendment drafts. Despite ongoing questions, the P.C. felt that Hebert’s memo is a good guideline to follow.

Agricultural Worker Housing Amendment

DeZwaan stated that it was a good amendment, indicating that the State does not have complete control over this issue, but that the township has some input as well. She advised the P.C. to adopt it. Smalley pointed out that the attorney’s letter accompanying the amendment delineates the State’s and the township’s areas of authority.

The P.C., however, deferred going through each point of the amendment because of the confusion regarding the memo about attorney-client privilege. **DeZwaan** moved to ask the Board if the P.C. can remove attorney-client privilege regarding

the attorney letter and attachment (ordinance amendment) dated July 20, 2006; **Reimink** supported; motion carried. **Birkes** will send a letter to the Board with this request.

Birkes moved to postpone any further discussion on this amendment until the next P.C. meeting, at which time the P.C. should have a response from the Board; **DeZwaan** supported; motion carried.

Future Meetings Schedule

The P.C. regular meeting is scheduled for Tuesday, September 26, 2006.

Seminar for Planners in Grand Haven

Gooding announced that there is a seminar for planners being held in Grand Haven on September 12, 2006, from 2:30 PM to 9:00 PM. The seminar is on environmental protection and will address federal, state, and local rules. Specific areas to be covered are: wetlands, inland lakes and streams, natural rivers, flood plains, high-risk erosion areas, and sand dunes. The Board has authorized to pay for any planners interested in attending, at \$65 per person. **DeZwaan**, **Gooding**, and **Looman** expressed interest in attending.

Land Divisions

It had been brought to the P.C.'s attention that, per the Land Division Ordinance (No. 15), when one leases a parcel for more than one (1) year, a land split (division) must occur. Smalley, Z.A., consulted with the township attorney for clarification of the ordinance; the attorney confirmed the above and recommended changing the word *lease* to *license* (ex facto). It was also advised to place an excerpt in the tower ordinance stating that a lot split is not required.

Birkes pointed out that the ordinance concerning towers did recognize that a portion of a parcel is leased for an intended use, with no mention of land division, but concurred that the land division ordinance needed to be amended. **Gooding** added that many sections of farm land are leased for more than one (1) year, too, with no intention of splitting the property. After more discussion, the P.C. concluded that it would be the responsibility of the Board to address amending the Land Division Act, and requested that Smalley present to the Board the P.C.'s concerns.

Cell Tower Equipment Shelter Size

The P.C. agreed that the maximum size of 120 sq. ft. for a cell tower equipment shelter stated in Section 7B.7C needs to be amended; per Alltel's representative, standard size is 200 sq. ft.* Smalley recommended researching the records for when the last shelter (alleged to be 200 sq. ft.*) was approved, suggesting that there had to be a variance, and when the ordinance was adopted.

Other

The P.C. recognized that three (3) issues could be presented at the next public hearing:

- an amendment to the cell tower ordinance (Section 7B.7C) to increase the maximum size of the equipment shelter from 120 sq. ft. to 200 sq. ft.*
- the addition of a subsection to the cell tower ordinance stating that the Land Division Ordinance does not apply
- amendments to ordinance text relating to migrant housing and agricultural labor camps

Discussion also ensued regarding if any further stipulations needed to be added to the ordinance related to co-location. Consensus was that no modifications were needed. **Birkes** moved that the P.C. request assistance from the attorney to amend the requirement in Section 7B.7 of the communication tower ordinance to reflect a change in maximum square footage of operation building, increasing it from 120 sq. ft. to 200 sq. ft.,* and further, to add a statement that the leasing of the land for use of tower operation is exempt from the requirements in the Land Division Act (that requires a land split); **DeZwaan** supported; motion carried.

Reimink then recommended checking the building(s) in the tower field on 63rd St to avoid having to make any further amendments to the cell tower ordinance.

Committee Reports

Zoning Enabling Act

DeZwaan reported that she and **Earl** met on August 7, 2006, and reviewed the information from the Michigan Township Association. Under the new guidelines, the annual report will have to meet the standard noticing requirements. Recommendations are to change text from *Zoning Act* to *Zoning Enabling Act*, and that the entire P.C. should work on use variances. Plans are for **Earl** to review the open space provisions in the ordinance for all residential districts, and **DeZwaan** to review the ordinance regarding residential facilities, dimensional and use variances language, judicial review, and group day care.

Zoning Map Update

Birkes reported that the committee did not meet; however, it was determined that the Hudson farm is currently zoned commercial. He asked the P.C. if they could put together the zoning map as they currently have it, with that becoming the

official zoning map. **DeZwaan** requested that a disclaimer be placed on the map, stating that the information is confirmed up to 1999. **Birkes** will then obtain from Land Information Services a copy of the zoning map to be placed on the wall.

PUD Ordinance

Birkes distributed a written summary of the committee report, as per requested by **Soltysiak**, chairperson. The committee met on August 16, 2006, at the township hall. After reviewing several PUD ordinances from surrounding townships, the committee determined that the Casco Township PUD ordinance addressed many of the concerns that Ganges Township has. Some of the issues to be addressed in Ganges' ordinance are:

- the need to increase the current minimum size parcel for a PUD [currently two (2) acres]
- acreage requirements may be different for different zones
- the possibility of requiring rezoning to PUD
- a statement that any PUD must be consistent with the Master Plan

Birkes distributed a sample of the Casco PUD (out of a total of 260 pages), which addresses many issues within Ganges' current PUD ordinance. The committee is recommending rewriting the entire Ganges Township PUD ordinance with the assistance of McKenna and Associates, as it will be a major undertaking. **Birkes** requested the P.C.'s approval to approach McKenna to see if the planners could assist, and if so, get a cost estimate. **Looman** and **Gooding** both agreed that it was a good idea, and the P.C. agreed to the plan. The committee will report back to the P.C. after contacting McKenna.

Land Divisions Review

None.

PUBLIC COMMENTS

Dan Sutherland, 2223 Lakeshore Dr., asked when copies of the draft Master Plan will be available to the public. He was directed to contact the township clerk after the 90-day review period. Sutherland then suggested having an easel on which a site plan can be placed for the public to view. **Gooding** indicated that of the nine (9) required copies the applicant must submit, one can be placed for public viewing. Finally, Sutherland inquired if the planners' seminar in Grand Haven were open to the public. He was told that it was, and advised to contact the township clerk for more information.

ADJOURNMENT

Looman moved to adjourn; **DeZwaan** supported; motion carried unanimously. Meeting adjourned at 10:17 PM.

*The minutes reflect what was stated; however, it was verified that the intent was 12 x 20 ft., or 240 sq. ft. The motion will be amended at the next P.C. meeting.

Respectfully submitted,
Elaine I. Troehler
Ganges Township Recording Secretary