



## ACME TOWNSHIP PLANNING COMMISSION MEETING

Acme Township Hall

6042 Acme Road, Williamsburg, Michigan

7:00 p.m. Monday, September 28, 2009

Meeting called to Order with the Pledge of Allegiance at 7:01 p.m.

**Members present:** M. Vermetten (Chair), B. Carstens (Vice Chair), C. David, R. Hardin, D. Krause, D. White, P. Yamaguchi, J. Zollinger

**Members excused:** S. Feringa

**Staff Present:** S. Vreeland, Township Manager/Recording Secretary  
J. Hull, Zoning Administrator  
J. Jocks, Legal Counsel

**INQUIRY AS TO CONFLICTS OF INTEREST:** None noted.

**APPROVAL OF AGENDA:** Motion by Carstens, support by David to approve the agenda as presented. Motion carried unanimously.

**1. Consent Calendar:**

Motion by Hardin, support by Zollinger to approve the Consent Calendar as presented, including:

**Receive and File:**

a) Draft Unapproved Minutes of:

1. 09-01-09 Board Meeting

b) Planning & Zoning News September 2009

**Action:**

c) Approve minutes of the 08-24-09 Planning Commission Meeting

Motion carried unanimously.

**2. Correspondence:** None

**3. Limited Public Comment:**

Gene Veliquette, Elk Lake Road in Whitewater Township, 8369 Elk Lake Road thanked Carstens for his generous donation to the township. He hopes that any wind generation ordinance that the township develops is genuine. Mr. Veliquette also spoke regarding the Village at Grand Traverse Phase I application and asked the Commission to remove it from the table. Mr. Veliquette provided a written copy of his comments.

**4. Presentation: Affordable Housing- Sarah Lucas, NW MI Council of Governments (COG) and Leslie Myers, Planning/Zoning Administrator of Whitewater Township:** Myers began the presentation, noting that she has met with Krause and Carstens on this issue and told them about an affordable housing issue she was involved with in the 1990's in Livingston County outside of Detroit. The average price of housing in the area was approximately \$300,000. An approval process was begun in 1994 and completed in 1996 by Artisan Builders (the Bacalis family, including a developer, engineer, lawyer and architect) to create an affordable housing project. They created a PUD on 18 acres of approximately 50 units, and with land areas set aside for open space. Their housing units would range from 750 sq. ft to just over 1,000 sq. ft. Pre-sales began in February 1996 with 750 people on a waiting list by the end of the first week. The first units were completed by mid-summer 1996 and the

entire project was complete by Summer 1997. The houses were somewhat Victorian in style. The builder made a 10% profit per unit with all units pre-sold before construction began. However, before the units were even built they were being resold for more than the original purchase price – market factors stymied the attempt to create sustainable affordable housing even though both developer and government were strongly committed to the effort. Meyers suggested that one way that this could have been prevented would be if somehow the township had the first right of refusal to repurchase homes. Habitat for Humanity does this with homes they build, for instance.

When Meyers worked for Hamburg Township, they created an ordinance for senior housing. If a developer were able to ensure that all units in their development would stay in the hands of individuals aged 55 and up, they could receive density bonuses. The result was a mixture of housing styles and price points.

David asked if Meyers thought that the pre-sales were primarily speculative; she replied that in every project it seems like there are some speculative purchasers. In her experience they are often the project landscapers who purchase and landscape the first few units, and then rent them out to people waiting for their units to be constructed.

Lucas appreciated Meyers' story as a good cautionary tale, and does have some zoning techniques to suggest. She provided a copy of the 2009 update of the Grand Traverse County Housing Needs assessment. "Affordable housing" is generally defined as costing the average area wage earner no more than 30% of their wages. "Workforce housing" is defined as affordable for very moderate wage earners, those who may be earning only up to 80% of the average local wage. Often these are service workers such as waitstaff, and for a family of four their income may be around \$50,000 in this area. This may be rental housing or single-family homes. When housing is not affordable, workers cannot afford to live close to where they work. This can result in school closings as school populations drop. The study estimates that 300-500 rental units and over 1,000 owner-occupied units are needed for workforce housing in the Traverse City area within the next few years.

Several area non-profits are working on this issue, such as Homestretch. They are the largest provider of affordable owner-occupied units in the area. Due to funding issues they are having difficulty keeping up with demand, so local partnerships and funding are needed to make up for lost state revenue sources. Land bank authorities and housing trust funds could help.

Governments can help by promoting inclusionary zoning in their ordinances. Such ordinances could provide density incentives. Midtown in Traverse City and The New Neighborhood in Empire are two examples of situations where several affordable housing units were included in a development. There are 8 permanent affordable units out of 50 in Midtown. The units are deed restricted, so when the unit is sold the seller only receives a portion of the gain in value. The non-profit agency has first right of refusal to purchase the units as well, to help ensure they are resold on an affordable basis. Deed restrictions and price restrictions are critical to careful creation of effective zoning ordinances. Fears that units will deteriorate or that property values will decline on surrounding homes have been largely unfulfilled; in fact some studies find surrounding property values can increase.

A housing trust fund is a local public revenue source dedicated specifically for housing. Generally it comes from some new, non-tax revenue source – sometimes an inclusionary zoning fee. The programs can address specific needs such as assisting would-be homeowners that don't have enough funds for a down payment. Sometimes revenues can come from the sale of properties reverted to the county for non-payment of taxes. A land bank authority has been successful in many places for dealing with tax-reverted properties in a streamlined fashion. Property can also be donated to or purchased by a land bank, can be held tax-free for

a number of years, and can be donated to non-profits that create affordable housing. Land banks can apply for financing and/or grants to redevelop properties.

Issues that can raise costs for would-be affordable housing developers include lengthy approval processes and too much discretionary leeway in applicable ordinances.

Vermetten appreciated the way the two portions of the presentation fit together. He opened the floor to the public to ask questions. Ken Engle, Sayler Road asked if he understood correctly that a developer can be created that contains a mix of housing prices; this is the case. Midtown was one cited example, and there are some similar housing units scattered along the TART. Carstens is familiar with a development on Rusch Road that has a mix of units. All have the same exterior finish, but some are simply smaller than others.

David asked if there have been difficulties with price controls in deed restrictions; Lucas replied that the tool has been used successfully for over 35 years. In some cases a lender for a project might balk, but this is where partnership with a non-profit organization can be helpful.

**5. Public Hearings:** None

**6. Old Business:**

- a) **Proposed un-tabling of SUP/Site Plan Review application 2004-19P (to be renumbered 2009-01P), Village at Grand Traverse Phase I:** Vreeland briefly summarized her memo to the Commission.

**Motion by Carstens, support by Yamaguchi that SUP/Site Plan Review application #2004-19P for The Village at Grand Traverse – Phase I, re-numbered as application #2009-1P be taken from the table and staff be directed to begin processing the application. Motion carried by unanimous roll call vote.**

Vreeland noted that the Commission has been provided with a “road map” to help them with their evaluation of the application. It is currently an attorney/client privileged document, but has been constructed in such a manner that it may be made public if the Commission chooses. The staff is asking whether the Commission would be comfortable to make the document public. David stated that he has not yet had the opportunity to read and evaluate the document to form an opinion. The Commission felt that the decision should not be made until all Commissioners have had ample time to review the document. Vermetten suggested that the question of whether or not to make the document public could be voted at the October 19 special meeting, clearing the way for any potential discussion pursuant to it at the October 26 regular meeting.

- b) **Wind Energy Ordinance - Findings on Standards:** Hull recalled that at the August meeting the Commission held a public hearing regarding a proposed wind energy ordinance. Several questions were raised by the public, including a well-versed individual, about some of the requirements proposed for tower heights, setbacks, and mitigation of shadow flicker. Hull was asked to research the provenance of the proposed standards in the state model ordinance on which the proposed township ordinance was based.

Hull learned that the state regulations were based on a “Delphi study,” which is an anonymous survey of experts in the field that is the topic of discussion. Results are compiled and form the basis of another study. There are repeated iterations, with an expected outcome being that ultimately consensus will result. It is expected that there

will be no less than 3-4 iterations and that all participants will be experts and anonymous. Hull found that for some of the individual issues there was only one iteration of the survey, and many of the people involved had no expertise with wind generation.

Disappointed with what he found, Hull performed additional research to find more credible sources and compiled the information. One thing he found was that there are no solidly recognized examples of problems caused by “infra-noise” – sounds that are pitched so low that they cannot be consciously heard. He found that the US Forest Service finds that the about 764 million birds are killed by encounters with the built environment, but that only about 0.3% of these deaths are related to wind generation. He could find no solid information about the numbers of bats harmed by changes in air pressure near wind turbines. He could find no evidence that shadow flicker causes seizures in epileptics, as the flicker is too slow. He found a study of noise complaints related to wind turbines in the entire United Kingdom for 1991-2007. There were 133 sites operating, and 27 had noise complaints totaling 239 complaints over 16 years. 152 were associated with a single site, and came from a total of 81 individuals. The study found that the wind conditions required to create a genuine noise nuisance were only found at 4 sites, and only occurred less than 17% of the time. Of total noise complaints made for any cause, the number both valid and related to wind generation is extremely small. At 3 of the 4 problem sites the problems have been corrected; at the 4<sup>th</sup> a solution is in development. Hull could find no reliable way for a study in advance of tower creation to predict when a wind noise problem might result.

This evening Hull provided information about international noise policies and guidelines. 50dBA is found to create a moderate annoyance outdoors, while 55 dBA is found to be a serious annoyance. Indoors the levels are 35dBA for moderate annoyance and 30dBA to avoid sleep disturbance. 45dBA at night with an open window is the recommended limit to avoid sleep disturbance. All of these figures suggest that the limit of 55dBA of noise at a property line may be reasonable.

Zollinger asked Hull for his recommendations for changes to the proposed ordinance based on his findings. Hull would re-examine noise standards in comparison to international and OSHA standards. His findings suggest that the proposed setbacks are lenient, and that potential harm to birds is not generally a big issue. One exception might be related to migratory pathways, but migrating birds can fly at altitudes of thousands of feet. Zollinger feels that regulations for shadow flicker mitigation should be compulsory rather than compulsory. He has become aware of software that can model the flicker and account for seasonal and time of day differentials.

David appreciated that the data indicates no major effect on bird populations, but this data is based on sparse wind towers and he suspects they will proliferate and this may change the outcome. Birds also need places to gather to prepare for migration, and they need places to take off and land. Areas heavily used by migratory waterfowl might not be appropriate for wind towers, so he would not like to see all reference to this issue removed from the ordinance. He also noted that the studies discuss dBA (“a-weighted decibels”, and not simply dB) and asked if this makes a difference. Decibels and noise don’t always go hand in hand in scientific discussion according to Hull. Decibels are mathematical functions representing the amount of energy in air movements. The a-weighted scale is intended to mimic the human ear’s response to various frequencies, which lies within a fairly limited range. Hull reported a study where there was a school classroom next to a large air handler. The decibel level in the room was approximately 95, but the perceived decibel level was only about 35.

Carstens appreciated David's concerns about key waterfowl refuge areas. He feels wind power is superior to many other sources, but feels that it would not be appropriate in and near places like Petobego swamp and the Yuba Creek Natural Area. He also appreciated a suggestion from Gene Veliquette that there be at least one area in the township designated for potential commercial wind energy. Yamaguchi believes that the area that would be suitable from a wind pattern perspective will be somewhat limited due to our shoreline. Vermetten feels that the township has insufficient knowledge to decide where a concentrated wind farm would best work and that this issue will be market-driven. Yamaguchi reported that the state is already identifying key off-shore wind generation areas that don't include Grand Traverse Bay.

The Commission asked to have the proposed ordinance returned to them with amendment recommendations for the October 26 meeting.

- c) **Amended Planning Goals for 2009-2010:** A simple list of open issues was prepared at Zollinger's request; the issues were not ranked by priority but Hull would personally place 3 of the top 4 at the top of the list. The Commission concurred that the M-72 Corridor should be very near the top. Vreeland has invited Matt McCauley from the Council of Governments to give a presentation at the October 26 meeting regarding The Grand Vision and how it might be useful to the township in its planning efforts.
- d) **Draft Ordinance on Accessory Buildings:** Jocks has provided a memo with suggested ordinance amendment language to deal with waterfront properties, which generally consider the water side of their lot as their "front," which is contrary to the language in our ordinance. We prohibit accessory buildings within front yards, which are defined as the space between the road or access right-of-way line and the nearest point of the primary structure. Hardin also raised questions about New Urbanist-type designs where there are alleyways that provide vehicular access to the rear of lots and garages. Jocks noted that it would not be illegal to permit accessory buildings in front yards along with rear and side yards; however, it might raise aesthetic concerns within the community. The definition of the front lot line could also be amended to drop the clause about the street or easement providing access to simply say that the front lot line is the street line of the primary street or easement. This would be helpful in terms of the alleyway scenario.

David observed that the ordinance was probably written as is not for the convenience of a landowner but for the protection of neighboring properties. For this reason he would not support amending the ordinance to make it easier to locate accessory structures between a primary structure and the roadway on waterfront properties. Zollinger noted that one reason the Commission is reviewing this matter is that the ZBA currently has to rule on a variance every time an accessory structure in a front yard is desired on a waterfront property, and they almost universally permit them. Krause is the ZBA member on the Commission and he is satisfied with the proposed ordinance amendments. White feels his questions have been addressed, having heard that the ZBA has approved every application.

**Motion by Zollinger, support by Krause to set a public hearing on the proposed ordinance amendments regarding accessory buildings for October 26. Motion carried by a vote of 7 in favor (Carstens, Hardin, Krause, Vermetten, White, Yamaguchi, Zollinger) and 1 opposed (David).**

## 7. New Business:

- a) **Preliminary discussion on Ordinance Amendment to §7.4 Signs:** Hull

recommends complete replacement of the sign ordinance. He has provided a copy of a guideline code put out by the US Sign Council. While some may think this constitutes “letting the fox loose in the henhouse,” close examination reveals that their work is based on studies of effective communication and real-world experiments. Hull is asking for feedback about what the Commission likes and dislikes in what has been presented, to be used as a basis for drafting new requirements. The bulk of the sign ordinance dates from the late 1970s and has been amended very little since that time. It does not address the new styles of changeable LED signs, and prohibits all kinds of off-site signage. It is poorly organized, causing people to have to jump around to find the answers to their questions.

David expressed concern that we not allow a situation where there could be a very large sign structure with a very small message area, and where only the message area would be interpreted as the measurable sign, resulting in overly large sign structure. He also asked whether there should be specification that temporary signage for a special event be taken down within a certain number of days after the conclusion of the special event. Overall he finds the proposed design standards to be fairly comprehensive.

Vermetten suggested checking with surrounding communities to see what their sign regulations are, look for good ideas, try to create some regional consistency. Hardin recommended that brightness of signage be addressed, as it can ruin night vision and make driving more risky. Carstens sought to ensure that the sign regulations would be in keeping with the dark sky lighting ordinance.

#### **8. Public Comment/ Any other Business that may come before the Commission:**

Ken Engle, Sayler Road, was interested by the wind turbine discussion. He is not expert about them, but his wife is from New York state where there has been significant wind turbine development. In his experience, going up close to look at a few and how they are constructed while visiting her hometown, he found that the noise from the fans to cool the transformers and other equipment at the base of the tower to be louder than the noise from the turbine blades. He also said that there were over 100 geese sitting in his clover fields to either side of his driveway when he left home for the meeting tonight. The migratory birds come there to rest frequently. He is halfway between the two natural areas Carstens referenced, so it’s worth noting that the birds didn’t get the memo about where they are supposed to be.

Pat Salathiel, 4888 Five Mile Road is glad that the township is reviewing the sign ordinance. Things are changing, and she is disturbed and distracted when driving around town by the flashing and changing signs. She also suggested reviewing ordinances for places where we like the looks of the signage.

Nels Veliquette, 311 S. Maple Street in Traverse City, agrees that the sign ordinance needs to be amended. He feels that the only place where there is an issue with signage in the agricultural district would be with off-site signs. Under the Right to Farm Act on-site signage may be out of the township’s reach.

Megan Vermetten asked whether considerations about the sign ordinance take into account the effect of regulation on the health of the economy. Hull replied that this would be very difficult to do.

**Meeting adjourned at 9:20 p.m.**