

MONTCALM TOWNSHIP PLANNING COMMISSION PUBLIC MEETING MINUTES

June 18, 2024

Call to Order and Roll Call:

Meeting called to order by Chairman at 7:02 p.m. with Pledge of Allegiance.

Members Present: Richard Palmer, Karon Baird, Bob Hemmes, Richelle Lentz;
Recording Secretary-Barb Prah. Absent: Brian Cousineau

APPROVAL OF AGENDA:

Motion to Approve Agenda as written by K. Baird, **Supported** by R. Lentz. No discussion. Aye-All; Nay-None; Abstain-None. **Motion passed.**

APPROVAL OF MINUTES FROM April 16, 2024 MEETING

Motion to approve Minutes from April 16, 2024 Meeting by K. Baird. **Supported** by R. Lentz. No discussion. Aye-All; Nay-None; Abstain-None. **Motion passed.**

Recording secretary inquired about submission of meeting minutes to Twp. Clerk for posting on website. Currently submitting both .doc and .pdf version. Would like to only submit .pdf version. The .doc version is susceptible to modification. PC discussion is to add to add New Business for today's meeting.

Motion to amend Agenda to add under New Business discussion of meeting minutes provided to the township by R. Lentz. **Supported** by K. Baird. Discussion – Chair suggested putting at end of New Business to be discussed as a Commission. Aye-All; Nay-None; Abstain-None. **Motion approved.**

COMMENTS FROM ZONING ADMINISTRATOR:

No comments tonight.

COMMENTS FROM PLANNING COMMISSION MEMBERS:

No comments at this time.

PUBLIC COMMENT CONCERNING OLD BUSINESS ITEMS;

No comments.

OLD BUSINESS

Master Plan Amendments:

Chair stated that PC decided to go ahead with amending Master Plan. He worked on the revision of legal matters and prepare a draft Notice of Intent, and to prepare amendments. He received a packet from MTA and prepared a Notice of Intent. He then took it to Supervisor to give to Twp. Attorney. The Twp. Attorney made revisions, and it was distributed to the PC members.

K. Baird feels it has everything listed and included.

R. Lentz appreciates R. Palmer putting it together and went through the process and looks good and should be approved.

K. Baird **motioned to make the changes and amendments that Chair addressed from legal prospectives, be adopted and approved for Notice of Intent.** R. Lentz supports with confirmation of motion about Notice of Intent. **Supported** by R. Lentz. No discussion.

Roll Call Vote: K. Baird, yes; R. Palmer, yes; R. Lentz, yes; B. Hemmes, yes. **Motion approved to use for Notice of Intent drafted by Chair.**

Discussion about who will be responsible for obtaining addresses and putting Notice of Intent in mailing to municipalities, utilities, county offices, etc. Proof of mailing must be prepared for first class mail. Suggestion to talk to Twp. Clerk about this process as she has already done this. Recording Secretary will discuss with Twp. Clerk the proof of mailing. K. Baird will assist with acquiring the addresses. Will consult with Chair on addressees. Need to include the following municipalities: Douglass, Sidney, Eureka, Spencer, Pine, Greenville, Oakfield and City of Stanton. Also include utilities and any municipalities that have indicated they would like a copy. Should be send to County Commissioners and Drain. See Section 39 in Michigan Planning Enabling Act.

Chair sent a list of amendments to all PC members prior to meeting. He went over the list.

Pg. 1; 1-1 & 1-2 of MP. New statutes that govern work on MP, already reciting that MP prepared 20 years ago was done under the old statute. Made the statement "past tense" and added the purposes to amend MP. Also added that zoning should be done in accordance with a plan (MP).

Pg. 2; 1-3 of MP. How The Plan Was Prepared. No changes until end of page. New paragraph stating what will be doing now for update. Also need to add public hearing dates and adoption dates.

Pg. 3; 5-2 & 5-3 of MP. Prepare a zoning ordinance from old statute. New statute to be added and purpose of zoning from old state statute. Adding zoning ordinance regulations are adopted under the authority of the new statute with its name and that its purposes are the underlying portions out of the current MI Zoning Enabling Act.

Pg. 3: Sub 8, 5-3 of MP. Transfer of development rights program and indicates that it can be adopted by a township pursuant to the permission to the township to do planned unit development legislation. Cited in current MP the section of the old township zoning

act that enables a township to handle planned unit developments. Replaced with new MI Zoning Enabling Act and the section that handles planned unit developments.

Pg. 4 – Recreation related changes.

1-4 MP: Township property/facility. Take out tennis court and put in pickleball courts.

A-5 MP: Recreation. Took out tennis court and put in pickleball courts. Added two county parks (McCarthy and Carl Paepke Flat River Nature Park) and what is available at these. Added Montcalm Community College as there are many things available there for recreational purposes. Also added Fred Meijer Heartland Trail.

Discussion: K. Baird also worked on recreation and this is what she found and agrees with changes. Provides history of MP and brings it up to date with MI Enabling Act that governs the amendments.

R. Lentz moves to accept the amendments to the Master Plan that Mr. Palmer presented. Supported by K. Baird. No discussion. Roll call vote: K. Baird, yes; R. Palmer, yes; R. Lentz, yes; B. Hemmes, yes. **Motion approved.**

K. Baird has been working on how much land is devoted to farming. She went to assessor for information. We have increased farming land in township. Increased by 200+ acres.

Township Zoning and Planning Maps:

R. Lentz tracked down how to get updated maps and explained the process. The assessor has updated all parcels and will send to Equalization Dept, they provide maps to people. Hopes to have them by next meeting.

Further discussion about digital copies so any size can be made. Should be easier to read and by parcel. Will be able to zoom in and expanded. Current maps are very old. Using a mapper to create maps, which can be blown up. If Supervisor requests maps, there is not charge.

Two parcels changed to commercial (Nelson's new addition and American Classic).

B. Hemmes stated the hand-drawn maps were the only maps used to make decisions. This update will make huge improvement.

PUBLIC COMMENT CONCERNING NEW BUSINESS ITEMS:

No comments.

NEW BUSINESS:

Lakefront Lot Setbacks:

This was requested to be added by M. Nelson and B. Hemmes. M. Nelson stated that his biggest problem is the "footprint" requirement and what it means. It is confusing to

people, and using existing foundation. People want to replace foundations, as they are old and crumbling. Would like to reduce language and have “not more non-conforming”.

R. Palmer stated that non-conforming use was discussed in last meeting. This item was specific to setbacks.

R. Lentz spoke of ZBA meeting where this became an issue with a lot of homes built before the zoning was put in place. This setback is a big issue. Current for high density residential the minimum yard setback is 25'. The footnote says there should be a minimum of 40' rear and side yard setback for each lake in excess of 20 acres. Checked on regulations on home setback from the lake. There are setbacks on rivers, but not lakes. “Straight-line setback” was brought up. Residents have issues with the lot having barriers as to wells and/or septic location. Would like to propose 1) wondering about 40' in lake front and not leave it at 20' and 2) not to move closer than what neighbors are.

B. Hemmes stated these issues have been going on for a long time. House are on lots that are inadequate. Suggests not to increase non-conforming. Thinks the straight-line works. Feels the ZBA does not apply the “rules”. Definition of “repair” as to leaving one wall standing is an issue. The current Ordinance, when previously voted on, should be open to changes/improvements at any time.

Discussion re the ZBA allowing people to develop and what it does to the lake, when property step outside of footprint. Trouble is with the “foundation”, which can be gotten around. Definition of “not more non-conforming” discussed. Non-conforming was discussed at last meeting and voted not to change language.

Further discussion about the setbacks. Chair read his research/information on the lake cottages/cabins (Turk Lake). Current lots are 40'-50' width and not deep. Originally part-time cottage. Some larger parcels with homes. People want to turn a lot into a year-around home. Concern with overuse of property and lakes, harm to lake and wetlands of shoreline. Need to protect natural resources and environmental eco-systems. Residential development and density should not hinder environment.

Continued by Chair. Zoning Ordinance 3.1 is to protect sensitive environmental resources. Master Plan (used as a guide) states that the preservation of environmental resources. Objectives for residential goals also read as to zoning. Residents have stated they do not want builds closer to lake. Straight-line concept could cause difficulties where the curvature of the lake changes—not a straight line. This could encourage non-conforming. Chair will move to amend Table 3.4, Footnote #8 to change 40' to 50' setback on lake. Important to preserve our natural resources.

K. Baird talked to an DNR officer and our State Rep. DNR said Turk Lake is an aging lake and it is starting to go downhill. Will probably require a septic and potable water system. Referred to Planning & Zoning book and how to apply non-conforming.

R. Lentz feels it is important to consider how to protect natural resources while encouraging growth. Does not want to discourage people from coming to township. The ZBA needs to agree with what to apply for a variance. Very limited place for building

due to requirements for well and septic. Cannot support extending setback, or decreasing. Thinks the zoning ordinances put in place made the lots non-conforming.

B. Hemmes continued, pretty much every building on the lake started with a cabin and was expanded/built up. Need to balance what can be done with the properties. Cannot take away rights of people totally (repairs).

Discussion: Expectations should be based on the laws of the township. Need to protect the natural resources. Noted that the ability to change property requires notifying neighbors. Further discussion of how far homes are currently from lake.

M. Nelson stated that if the PC does not want to make changes, why are we going through this. Things change all the time--throughout time.

R. Palmer **motioned to amend Table 3.4, Footnote #8, from 40' to 50', which would apply to the rear and side yard setbacks in R1, R2, R3, and R4 in zoning districts. Supported** by K. Baird. Discussion: B. Hemmes asked what the change is. R. Palmer restated the change. **Roll call vote:** K. Baird, yes; R. Palmer, yes; R. Lentz, no; B. Hemmes, no. **Motion fails.** No other motions made concerning lake lot setbacks.

Continue With Zoning Ordinance Changes:

B. Hemmes stated that when the board changes and the dynamic changes this creates a different flow. Feels this board is not open to discussion that is fluid and interacting with public. Need to initiate action in meeting. Board is resistant to having dialogue about subjects as they come along. Feels he is unique to know what people want as he has been involved for 30 years. Does not like legalistic approach as it is counter-productive. Need to be open with concerns of the public. He is for development in township. People expect to be able to make improvements to their property.

R. Palmer would like to cover Zoning Ordinance changes. Article 16 concerning Zoning Board of Appeals. Section 16.5.C.5. re concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance. Similarly, Section 16.7.D.3 states the concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance. The MI Zoning Enabling Act, Section 125.3604 (Zoning Board of Appeals procedures) Sub 10 states the authority granted under Sub 9 (authority to grant use variances) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with Sub 7 and having an ordinance provision that requires a vote of 2/3 of the members of the ZBA to approve a use variance. Discussion of use and non-use variance difference. Would like to add language that it requires 2/3 of the members. B. Hemmes stated that it has always been 4 members and it is state law. R. Lentz says State Statute reads that there should be a separate decision for use variances of a 2/3 vote, but majority vote on non-use and administrative appeals can be majority. Change should be made for use variances to be approved should be 2/3 vote. Discussion of what to change.

Motion to change 16.5.C.5 and 16.7.D.3 have added to them, the majority should apply to non-use variance, and added to use-variance will be 2/3 members of the

ZBA by R. Palmer. **Second** by K. Baird. Discussion: R. Lentz does not think we need to amend Section 16.5.C.5 as that in relations to appeal of administrative reviews. This is essentially decisions made by Zoning Administrator. Need two separate motions for these Sections. **Motion withdrawn** by R. Palmer and **Second withdrawn** by K. Baird.

Motion to amend Section 16.7.D.3 to amend the final sentence to read as follows: the concurring vote of a majority of the members of the ZBA shall be necessary to grant a non-use variance. The concurring vote of 2/3 of the members of the ZBA shall be necessary to grant a use-variance by R. Lentz. **Second** by K. Baird. No discussion. **Roll call vote:** K. Baird, yes; R. Palmer, yes; R. Lentz, yes; B. Hemmes, yes. **Motion passed.**

R. Lentz proposed to table amending Section 16.5.C.5 (Appeals to ZBA Administrative reviews) regarding variance language until next meeting and added to agenda with proposal to review intentions to modify/change. R. Palmer would like to check the State Statute. Discussion resulted in waiting until next meeting.

R. Palmer discussed another amendment to zoning ordinance regarding “keyholing” or “funneling”. In P. 5-2 of MP stating that township’s current zoning should be evaluated and updated appropriate provisions revisions (5.3 #6), including waterfront development, lake management and keyholing. Twp. Planner’s letter to Twp. Board of July 2022, stated on pg. 5, #4, listing concerns with current MP of keyholing or funnel development on lakes. Proposes investigating anti-keyholing or anti-funneling provisions. Currently for residential districts we are 80’ to 150’ frontage. Discussion continued regarding access through ownership, of people not on lake and have a tiny piece leading to lake. Discussion as to whether there is some “strips” of property for sale currently. This would be for anything in the future. K. Baird indicated that the land split regulations state that you can’t have a “bowling alley” split. Board agreed to table this amendment and also be added to next meeting agenda so further investigating can be done.

Oakfield Township Master Plan:

R. Palmer advised that Oakfield Township sent Letter of Intent advising they are amending (or new) Master Plan (provided to PC members).

Comments - They have very little agricultural land. Mostly residential. Nothing to share or add. Decided PC will not be responding.

Providing Meeting Minute to Township Clerk:

Discussion whether PC meeting minutes should be provided to Twp. Clerk in .doc or .pdf format. Suggestions to ask Twp. Clerk as to the need to have in .doc format.

Recording secretary to talk to Twp. Clerk as to why a .doc version is required along with the .pdf version. Concern as to access to .doc version making to available for changes. Discussion over when minutes are changed from “draft” to “approved”. Suggested to have recording secretary to send Twp. Clerk notice of approval of minutes and to change on website. Also discussed PC Secretary duties. Minutes to be drafted and emailed to both Chair and Secretary for review/approval. Chair restated that

meeting minutes to be in draft form 8 days after meeting, and posted 5 days after approval.

Note: Recording secretary indicated at beginning of meeting that she will be on vacation and will not be able to submit draft in 8 days.

PUBLIC COMMENT CONCERNING ALL MATTERS:

No Comments.

ADJOURNMENT:

K. Baird **motioned for adjournment. Supported by** R. Lentz. Aye-All; Nay-None.
Motion carried. Adjournment at 9:57 p.m.

Approved:

Respectfully submitted,

Barbara Prah, Recording Secretary