

Lake Township Planning Commission

May 22, 2013

Approved Minutes

Meeting called to order at 7:05 p.m. by Kelterborn. Pledge of allegiance. Roll call. Kelterborn, Geilhart and Siver present. Rose and Pobanz absent. Pobanz had called to advise that he would not be available due to a family emergency. No word from Rose. Six guests.

Motion by Siver to appoint Kelterborn to run the meeting in the absence of the Chair and Vice Chair, seconded by Geilhart. Motion carried – all ayes.

Approval of Minutes: Minutes of April 24, 2013 approved upon motion by Siver with two corrections on pg. 1, “OWHM” should be “OHWM”, which means Ordinary High Water Mark, seconded by Geilhart. Motion carried – all ayes.

Approval of Agenda: Agenda approved upon motion by Geilhart with the additional of a White Paper entitled “Short-Term Rental Housing Restrictions” prepared by Robinson & Cole, Attorneys at Law in 2011, a 2010 letter from Dr. Malcolm Swinbanks to the Lake Township Planning Commission and a notice of upcoming zoning seminars through the MTA, and an additional public comment period after correspondence, seconded by Siver. Motion carried – all ayes

Correspondence: Siver mentioned that the white paper on rental housing addressed some of the same issues that were discussed in last month’s meeting, such as their effect on neighboring property values as raised by Lou Bushey and Kelly Smith, which he had never thought about before. He thinks it’s important as planning commissioners to understand that what one neighbor does with their property does affect other’s property value and thought it would be good to make a link to this report available through the township’s website and would like the planning commission to get input from residents in the community. Kelterborn suggested that the members read the report for further discussion at next month’s meeting.

Kelterborn suggested that members consider attending one of the zoning seminars scheduled in June and read a letter from Dr. Swinbanks and recommended inviting Dr. Swinbanks to give a presentation at a future meeting.

Public Comments:

David Crews of 6630 Blake Drive addressed the members regarding the issue of accessory structures and the limit of two (2). He currently has a 12 x 12 shed with a 12 x 14 attached lean to, an 8 x 12 shed and a 16 x 20 workshop. Two of these structures were on one lot with his

house and the other was on an adjacent lot which he recently combined with his house lot after removing an old mobile home and carport. He removed the mobile in order to build a garage to match his house, with siding and asphalt roofing, only to learn that he cannot build a garage due to the zoning regulations. Had he known of this, he would have built the garage prior to removing the mobile and asked what he can do. Kelterborn asked Zoning Administrator Treder whether he had met with Mr. Crews. Treder stated he had met with him and had been out to the site and had advised Mr. Crews that he would either have to remove two shed or apply for a variance. Kelterborn asked whether Mr. Crews would be willing to remove two sheds and Mr. Crews stated he would not. Geilhart commented that while he served on the ZBA they never had a variance request for more accessory structures than allowed by ordinance. Kelterborn recommended Mr. Crews begin with a site plan filed with the Zoning Administrator. McCallum asked whether the planning commission has given any thought to looking at why the ordinance restricts accessory structures to one garage plus one accessory structure. Members had some discussion and Kelterborn suggested putting on the agenda for next month while explaining to Mr. Crews that his best course is probably the ZBA because it will take time before any changes would occur due to the amendment process and public hearing requirements.

Old Business:

Master Plan: Kelterborn stated when he first came on the planning commission one of the items in process was a master plan update for water quality issues, but he was unaware of the specifics. He suggested contacting Mark Wycoff of MSU and ask him to attend an upcoming meeting to go over this issue. Motion by Geilhart to ask Mark Wycoff of MSU to attend a meeting, seconded by Siver. Motion carried – all ayes.

Wind Ordinance: Kelterborn indicated that Pobanz was working on this issue. Siver stated he has no specifics but the issue does need to be revisited, that the township owes it to everybody to settle something in this regard. Kelterborn suggested looking at the prior draft ordinances and a couple of other ordinances currently adopted around the state. Siver had a copy of the April 21, 2009 draft ordinance which was turned down by the township board. Motion by Kelterborn to distribute copies of the April 2009 draft and put on the agenda for June, seconded by Geilhart. Motion carried – all ayes.

New Business:

Philp County Park: Geilhart indicated he had talked with Road Commissioner Mike Power about installing bathroom facilities at the park. Power could not make tonight's meeting but did indicate that he would bring it up at the next Road Commission meeting. Kelterborn asked whether it would be helpful to have a letter from the township. Geilhart thought a letter of support would be helpful. Motion by Kelterborn to draft a letter of support to the Road Commission, seconded by Geilhart. Motion carried - all ayes.

Decks: Kelterborn indicated that the Township Board did adopt the recommended deck amendments but that as suggested by Geilhart, there should be some tailoring to the area from

Thompson Park to Taylor Drive. Geilhart indicated he met with Zoning Administrator Treder on the area in question and that from Champagne Road west that shoreline area is narrower than from Champagne Road east for building a deck. He stated he had contacted the DEQ and that they look at nearby decks to ascertain a setback and they do not care about the MDOT road ROW, only about keeping it behind the OHWM. He stated that the OHWM never changes and one only has to get the current water level on the NOAA website and using a line level can ascertain the location of the OHWM. He suggested that he meet with Treder in the area and using a transit identify the OHWM and determine some reference markers for Treder to use when approving site plans.

Kelterborn recommended obtaining a set of maps from the Tax Mapping Department to identify an overlay area, that in order to create an overlay, they first need to identify the area using maps and photos would also be helpful. Geilhart proposed two overlay areas, one for east of Champagne and one for west of Champagne since the areas are different and the regulations may need to be different. Also mentioned was deck height. Geilhart mentioned that the DEQ is not concerned with steps extending into the OHWM if they are only seasonal and will be removed for winter. Also discussed was the requirement for a soil erosion permit and the three (3) high risk erosion areas in Lake Township. Siver asked whether property owners are aware if they are in a high risk erosion area. Geilhart mentioned that one of his customers was unaware. Kelterborn suggested putting something in the summer newsletter about the high risk erosion areas since many property owners may not even know they are in one of those areas.

Motion by Kelterborn to have the zoning administrator and Geilhart begin working on an overlay map for next month, seconded by Siver. Motion carried – all ayes.

Geilhart mentioned that the deck amendments got away from size but are back to lot coverage and he doesn't agree with that and would like to see that changed to alleviate requiring variances if someone wants a larger deck and is over their lot coverage. He indicated he would rather see a deck than concrete and concrete isn't taken into account when calculating lot coverage. Concrete is more permanent than a deck and can do more damage insofar as erosion. Lengthy discussion on decks versus concrete and lot coverage. Treder explained that landscapers can do what they want such as constructing a 500 to 600 square foot patio with quarry stone without any land use permit while builders building decks are essentially penalized by having to pull a permit. Kelterborn asked Treder if he had any suggestions. Treder recommended requiring a land use permit for landscapers. Lou Bushey commented that decks require a permit and landscape pavers do not and that is not fair. Kelterborn indicated that he pulled a site plan when he put in his patio and indicated that with landscape projects there are issues such as drainage and runoff on adjacent properties and a land use permit is not cost prohibitive. Kelly Smith commented that when landscaping, a property owner should not do anything with their property that will adversely affect their neighbor's property and that is why there is zoning. He also indicated that there are many landscape projects that he would expect to have a site plan permit and there are many retaining walls without railings.

Kelterborn commented that some people don't want regulations and others do and it's a fine line and the planning commission needs to define the level of regulation that will fit with Lake Township. If the zoning administrator feels there is a benefit to the community, we should listen to his concerns. Geilhart agreed that some landscape projects should have a site plan and this topic probably could use more discussion. There have not been any complaints yet, but there probably will come a time when there will be some. Siver commented that many landscape projects are engineered and he doesn't see a problem with requiring a site plan. Motion by Kelterborn to table topic until next month and asked Treder if he could contact other communities to find out how they are handling these projects seconded by Geilhart. Motion carried – all ayes.

Public Comment Policy and Correspondence: Kelterborn indicated that the former planning commission had adopted a fairly strict policy insofar as public comments and correspondence and he would prefer to get input from the public before and after conducting business and would also like to take in correspondence right up to the meeting, as long as it is appropriate, rather than requiring it to be submitted and date stamped one week prior to the meeting. Geilhart agreed, commenting that they are here for the residents and their input is important. Motion by Kelterborn to schedule public comments before and after business and allow correspondence to be brought in up until the day of the meeting as long as it is appropriate, seconded by Geilhart. Motion carried – all ayes.

Joint meeting with Township Board: Kelterborn indicated that at last month's meeting the members had thought it would be a good idea to meet with the township board to discuss what direction the township would like to go and asked when members present would like to schedule that meeting. Motion by Kelterborn to schedule a joint meeting with the Township Board on June 26th at 6:30 p.m. prior to the regular meeting, regular meeting to follow conclusion of joint meeting, seconded by Siver. Motion carried – all ayes.

Public Comments:

Treder indicated concerns he has with moveable storage sheds for beach items along the Whippoorwill beach lots. He indicated the zoning ordinance does not allow for such structures, yet the residents in that area will not remove them. Many are Rubbermaid 6 x 6 units and could be easily moved. He also indicated that there are deed restrictions for Whippoorwill that say no roof line above the road and some of them are visible above the road. He indicated there are approximately ½ dozen in the area. He also commented on gazebos on decks in that area and had photos showing a 12 x 12 prefab gazebo with roof that is bolted to the deck with the peak right at road level. He stated that he has received 15 letters in support of the property owner being allowed to keep this gazebo. Safety concerns were raised in regard to the gazebos and sheds insofar as a wind event.

Kelly Smith addressed concerns relating to the rental property of Lynnea Matthews. He indicated after last month's meeting he contacted Mrs. Baur, the daughter of the original platter

of the Stroh Subdivision, and Mrs. Baur indicated that Ms. Matthews cannot run a rental property, that the intent of the deed restriction is clear and states, “ This property shall be restricted to buildings designed and used for residence purposes only.” Smith gave a copy of the deed restrictions to Kelterborn.

Lou Bushey commented that he has nothing against Ms. Matthews but it is not her renting the property, it is Tom and Denise Carriveau who live on Sand Pointe and Ms. Matthews is paying Denise to do the website and manage the property and she is not licensed to do so.

Geilhart commented that there are a few rentals in his neighborhood and he doesn't have a problem with renting by the week.

Kelly Smith commented that he is aware of some other owners who rent their cottages for a few weeks to the same people year after year and has no issue with that, but Ms. Matthews is willing to rent by the day.

Siver commented that the concerns sound legitimate but asked whether they are outside the scope of the planning commission and/or township. Kelterborn asked whether the township is condoning such activity by not acknowledging the deed restriction. Bushey indicated that they should have tabled the issue last month. Geilhart commented that they did not say she could or could not rent. Smith indicated that Ms. Matthews was under the impression that the planning commission approved her request. Kelterborn indicated that the planning commission does not approve something, only makes recommendations.

McCallum referred to the previous minutes wherein it states that Pobanz stated it was “not the business of the planning commission.”

Siver commented that he enjoys the public comments and finds it useful to the planning commission.

Kelterborn read the deed restriction. Motion by Siver to request a legal opinion from the township attorney on deed restrictions and the township's responsibilities in that regard, seconded by Geilhart. Motion carried- all ayes.

Smith commented that when he had mentioned purchasing his second lake Township home and being told he could not rent it, he thinks it was his neighbor who had indicated to him that he couldn't due to the deed restriction.

Motion by Siver to adjourn, seconded by Geilhart. Motion carried – all ayes.

Meeting adjourned at 9:19 p.m.

Karen Sienkiewicz, Recording Secretary