

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
May 17, 2016
6:30 P.M.

DRAFT-APPROVED COPY

CALL TO ORDER:

Chair Pfof called to order the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Township Hall at the Park Township Office.

ATTENDANCE:

Present: Jeff Pfof, Nicki Arendshorst, Eric DeBoer, Linda Dykert, Dennis Eade, Denise Nestel, Tom Vanderkolk

Staff: Ed de Vries, Zoning Administrator, Dan Martin, Legal Counsel

APPROVAL OF AGENDA:

DeBoer moved, supported by Eade, to approve the agenda as submitted.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

APPROVAL OF MINUTES:

DeBoer moved, supported by Arendshorst, to approve the minutes of the March 15, 2016 Regular Meeting as submitted.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Dykert arrived 7:35 p.m.

DISCUSSION/ACTION ITEMS:

A. Ordinance Amendments

Pfost noted the ordinance amendments submitted for a Public Hearing at this meeting. Once the Planning Commission has approved them they will be transmitted to the Township Board for its review.

deVries introduced the list of nine amendments for review and provided a brief description of the proposed changes based on prior discussions with the Planning Commission. deVries advised that the Planning Commission has previously deliberated on almost all of the proposed amendments with the exception of the Pool Ordinance. deVries advised that after taking comments at the required Public Hearing, the Planning Commission should deliberate, accept, or amend the proposed text changes as necessary, and make a recommendation to the Township Board. Separate documents indicate the proposed changes in a “redline” version to readily identify the changes.

- Section 38-6 Definitions. Amend or clarify Building height, Building setback, Yard, and Side Yards. Some changes were necessary in regard to the proposed amendment to Section 38-483.
 - Sections 38-276(3), 38-306(3), and 38-336(3) Area Regulations for R-3, R-4, and R-5 zoning districts clarifying the measuring point for the Rear yard on a lakefront lot. This gives consistent language to these zoning districts to match the ordinance amended several months ago.
 - Section 38-483 Area, height, setback and use conditions and exceptions.
 - Subsection (b) Existing lots of record. Establish maximum height, minimum side yard, and parking space requirement for allowing the use of a non-conforming lot of record for a single family structure. Also additional language addressing contiguous lots of record under the same ownership.
- More discussion may be needed on the potential to allow some non-conforming lots if they match the rest of the neighborhood.
- Subsection (e) Building setback Exceptions. Add section (e) addressing allowable extensions or additions on structures.
 - Section 38-488 Heat, glare, fumes, dust, noise vibration, and odors. Additional language on exterior lighting is needed.
 - Section 38-491 (b) Detached accessory buildings. Increasing the allowable size of a detached garage, removal of architectural restrictions, clarify allowable height, and establish standards for the Zoning Board of Appeals to consider a larger or

additional accessory building.

- Section 38-492 Swimming pools. Intent is to remove the language already regulated by the Building Code.

The current ordinance specifies construction requirements which may have been current code when the ordinance was first adopted. Staff recommends removing the areas covered in the construction code, and leave the sections referring to zoning (setback) intact. This does allow for no fence if an automatic retractable cover, which complies with the building code is in place.

- Section 38-494 Front and rear yard averaging. Extend the scope of existing adjacent buildings from 100 to 300 feet. Intent is to obtain a better average.
- Section 38-498 Fences. Remove the permit requirement. Classify a decision to allow a taller fence as an administrative departure with standards. The Township Board already waived the requirement for a permit.
- Section 38-512 Private roads. Revise construction requirements based on the number of lots served. It eases restrictions when there are just a few lots, such as allowing gravel roads and a narrower right-of-way.

Recommended Action: Following the Public Hearing, consideration of comments, and discussion, consider a recommendation to the Township Board to amend the ordinances presented.

De Vries noted that Ottawa County has waived its review of the changes in the Zoning Amendment Process document, so the next step is a review by the Township Board. If the Board approves the changes as presented a Notice of Adoption would be published after which the ordinance changes take effect if there are no challenges. The Board also may reject the changes, or offer alternative changes which would likely result in the issue being returned to the Planning Commission for further study.

PUBLIC HEARING

Pfost opened the Public Hearing at 6:45 P.M.

Richard Swaney asked about contiguous lots under common ownership. Specifically, he was interested in the unique situation of the lots along Lakeshore Dr. north of James Street where there is a public easement that separates several lots. He shared an illustration of the lots in this area. He asked if these lots would be required to have common ownership which would create an unbuildable lot along Lake Shore Drive. He requested clarification for this situation.

Steve Engers said he submitted comments on April 15 regarding the proposed ordinance amendments. In his opinion, most of the amendments made sense to him. He asked if it made sense to reduce the side yard to 5' on an already small lot.

Pfost closed the Public Hearing at 6:49 P.M.

Discussion:

Arendshorst asked about the provision for light spill in Section 38-488, and stated she preferred the less confusing language of the first option.

deVries said Martin had previously observed that this will create some nonconforming situations, and overall it is for the greater good. He said it is important to look at it as an effort to make lighting improvements in the Township. With the advent of LED lights, which are very bright, this has generated some concern from residents who are affected.

Nestel supported the concern of these lights spilling over to neighboring properties.

Vanderkolk observed that it is difficult to define "spill."

Martin advised that any time an ordinance amendment is drafted to be more restrictive it leaves the potential for nonconformities. Martin indicated that while the public policy is to eliminate nonconforming situations over time that should not stop the Township from adopting more restrictive regulations. We should be sure residents are in compliance with the ordinance. Martin also advised that from a historical standpoint, about ten years ago the Planning Commission wanted a more restrictive light ordinance and the Township Board denied it.

Nestel asked about the accuracy of determining rear yard for areas on the lake.

De Vries said he used the County's contour map in determining the measuring point. The majority of Park Township property around Lake Macatawa has a seawall, most of which is above the 100 year flood plain. In some instances an elevation survey may have to be required for a particular property.

Nestel asked if there is a limit on the number of accessory buildings on a given property.

De Vries explained the rule is a resident can have one accessory building up to two acres. Over two acres a resident can split the allowable square footage into two buildings. There are exceptions for detached garages, a pump house, a pool, etc. For example, pool buildings and pump houses have their own square footage requirements.

Nestel also asked about the rule regarding a swimming pool which is 30" above grade.

De Vries said this rule is interpreted based on the grade at the location of the pool.

Pfost said if the pool is above ground it acts like a fence. The side of pool precludes someone from falling into the pool. The reference is adjacent to the side of the pool.

Martin confirmed the reason for this ruling is to promote safety.

With regard to the concern expressed by Mr. Swaney during the Public Hearing, de Vries explained there used to be a right-of-way that extended to the north from James St. It is a public roadway up to Delaware Street. North of that it is an easement, which is considered as requiring the same setback from a road. Lots not joined together aren't considered contiguous.

Martin advised that the key is whether the property lines abut, or whether the roadway easement is between properties so they are no longer contiguous. The question is do the properties have the same owner and do they touch one another, or are they separated. If there is a right-of-way between the lots and they aren't touching, then they aren't contiguous.

Swaney said the lots are contiguous. The easement isn't clear on the plat.

DeBoer asked if the new ordinance would apply if they were nonconforming.

De Vries said the ordinance would apply. In this area the lots are 50' in width.

Martin asked Swaney if he knew when this area was platted.

Swaney thought it was in the early 1900s. Swaney provided Martin with a copy of the plat map.

Martin pointed out the rationale of prohibiting residential use of accessory buildings was to preclude guest houses in Park Township. However, if you have a lakefront lot and a back lot you could essentially have a guest house, but it is on two separate parcels.

DeVries said there may be valid reasons for not requiring properties in this area to be merged.

Martin noted that the courts look at the property taken as a whole when analyzing regulatory takings. The courts consider all property that is continuous and in common ownership to be the property as a whole. The Michigan Supreme Court defines contiguous property under common ownership as "not divided by road or stream."

The Commission discussed plat options regarding contiguous properties in this area and how the ordinance would affect them.

Martin advised, with regard to regulatory takings, the courts have upheld this lot merger requirement, and it would be legal if the Township would want to do it although it has not since 1974.

De Vries said the ordinance states “private road easement” which relates to this plat.

VanderKolk asked what happens when a resident wants to sell his 50’ unbuildable lot and help his neighbor in combining the lots.

Martin explained this is the question of whether the Township wants to continue building on nonconforming lots or combine these lots to be in compliance. Existing lots of record can be built upon if they meet certain requirements or receive a variance from the Zoning Board of Appeals. Do we want cottage areas with small lots to continue or do we want to impose compliance with current ordinances?

Pfost asked for a motion on the ordinance amendments.

Martin reminded the Planning Commission about the concerns regarding “light spill” language.

All agreed to consider the ordinances in separate motions. It was noted to insert “administrative approval” for the accessory building and fence ordinances.

1 – Section 38-6 Definitions, Amend or clarify building height, Building setback, Yard and Side yards.

DeBoer moved, supported by Eade, to approve this ordinance as presented and transmit to the Township Board.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

2 – Sections 38-276(3), 38-336(3) Area Regulations for R-3, R-4, and R-5 Zoning Districts clarifying the measuring point for the Rear yard on a lakefront lot.

VanderKolk moved, supported by Dykert, to approve this ordinance as presented and transmit to the Township Board.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

3 – Section 38-483 Area, Height, Setback and Use conditions and exceptions.

Nestel moved, supported by Dykert, to approve this ordinance with the exception to delete the language regarding the Zoning Board of Appeals outcome and add Planning Commission language, and transmit to the Township Board.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

4 – Section 38-488 Heat, glare, fumes, dust, noise vibration, and odors. Additional language on exterior lighting.

Vanderkolk moved, supported by DeBoer, to approve this ordinance with the addition of no spillover of light language and transmit to the Township Board.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

5 – Section 38-491 (b) Detached Accessory Buildings. Increasing the allowable size of a detached garage, removal of architectural restrictions, clarify allowable height, and establish standards for the Zoning Board of Appeals to consider a larger or additional accessory building.

DeBoer moved, supported by Nestel, to approve this ordinance as modified to use term “administrative approval” and transmit to the Township Board.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

6 – Section 38-492 Swimming Pools. Remove language already regulated by the Building Code.

Dykert moved, supported by DeBoer, to approve this ordinance as presented and transmit to the Township Board.

Ayes 7, Nays 0. Motion carried.

7 – Section 38-494 Front and Rear Yard Averaging. Extend the scope of existing adjacent buildings from 100 to 300 feet.

Nestel moved, supported by Eade, to approve this ordinance as presented and transmit to the Township Board.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

8 – Section 38-498 Fences. Remove the permit requirement. Classify a decision to allow a taller fence as an administrative departure with standards.

Nestel moved, supported by Dykert, to approve this ordinance as modified to include the term “administrative approval,” and transmit to the Township Board.

Martin clarified that this is recommended language under the Michigan Enabling Zoning Act

Voice Vote:

Ayes 7, Nays 0. Motion carried.

9 – Section 38-512 Private Roads. Revise construction requirements based on the number of lots served.

DeBoer moved, supported by Dykert, to approve this ordinance as presented and transmit to the Township Board.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

De Vries recommended a formal motion for inclusion of the term “administrative approval” in the ordinances above, #5 and #8.

DeBoer moved, supported by Nestel, to approve the addition of the term “administrative approval” as recommended by the Planning Commission per advice of Legal Counsel in the ordinance language for ordinances #5 and #8.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

Pfost thanked de Vries and Martin for their help and guidance in the approval process of these ordinances.

B. Other Business

1. Master Plan – Next Steps

Pfost noted with regard to the Master Plan process that the Planning Commission will work with the Township Supervisor to be sure the process moves along in the temporary absence of a Staff Planner. The immediate focus is on ordinance provisions

for the historic/heritage preservation neighborhoods. The Township Board has requested to see ordinance language on these neighborhoods before the Master Plan is approved.

De Vries suggested the Planning Commission begin work on crafting the overlay area. There are three of these historic areas to review in this regard.

Nestel asked if the Township Board can be more specific about its charge to the Planning Commission.

Pfost said he would be willing to discuss this with the Township Supervisor.

DeBoer expressed concerned about proceeding without a new planner's oversight.

Martin said that he understood that the Township Board had given the Planning Commission direction to draft ordinance language. He advised to proceed without delay. The Planning Commission cannot appropriately say it cannot proceed until a Staff Planner is hired.

Dykert supported moving ahead. She said the Planning Commission has been given the responsibility to develop the Master Plan. In her opinion, with Martin's guidance as Legal Counsel, that is sufficient professional advice to proceed.

DeBoer asked if the Township Board wants each area to have specifics.

Arendshorst supported proceeding with the vision for these areas.

De Vries said generic language can be written for all the areas explaining how the Planning Commission will study those districts comparing lots sizes, setbacks, etc. then craft detailed zoning language for each area after the Master Plan is adopted. It is best planning practice to have the Master Plan drive the Zoning Ordinance, not the other way around.

Martin said the difficulty in having the MP state density figures is that the historic areas are unique and each may need special consideration.

Nestel said a generic statement can be developed so we don't have to spend a lot of time treating individual areas.

Martin advised there should be consensus of the Planning Commission to move ahead with some clarification from the Township Board.

VanderKolk said he is not inclined to revisit all the issues. He asked for clarification on what the Planning Commission can agree on.

Based on the discussion Pfof concluded that the Planning Commission will move forward with the resources we have.

DeBoer asked if the Planning Commission can agree on language to accommodate the historic areas.

Arendshorst said her concern is density for the historic areas because her overriding consideration is safety in these areas.

Dykert said her concern is for the three historic areas because there is no room to develop, therefore, there is a density problem.

DeBoer said he hopes the Planning Commission can develop the language that is appropriate to address this problem.

Vanderkolk said he did not want to revisit the lack of support from the recent past in seeking approval for the Master Plan language.

Dykert said the rewrites for the Master Plan were not what was written by the members of the Planning Commission. At this point in time what we develop will be written. We won't have to deal with the issue of our opinions not being put on paper.

De Vries disagreed with Dykert's observation and said the Planning Commission has voted on and agreed on everything in the Master Plan so far. There were a number of rewrites that Bowman and Arendshorst wrote together. He clarified that Bowman suggested keeping language in one area for legal and planning reasons. Bowman supported everything else that came to the table and was voted on.

Eade said he doesn't have problem with the overlay being addressed. He thinks we can agree on density, but this may change in a future Master Plan five years from now.

Nestel asked if we can agree to consider safety without dictating density.

2. Update on the PUD amendment process

Pfof said one depends on the other. The PUD encumbers the Master Plan. The Board suspended the PUD ordinance.

Martin said there is a reason the zoning ordinance for PUDs references the Master Plan. For example, if you have property zoned Agricultural, but the Master Plan says it is residential, the Township doesn't want to rezone property for PUDs which could be subject to a referendum. The Township didn't want a two-step process for rezoning, but this can be changed.

Pfost said the PUD is part of creative development so it is worthy of our consideration. Can we make it easier for the applicant and the public to understand and develop some language for the process. The Township Board has suspended an important ordinance and we must get this back on track for the sake of the Township.

Arendshorst asked if we need a parallel plan.

Martin said there is no requirement in State law that the Township has to have a parallel plan.

De Vries said, based on his research, the PUD ordinance was amended several times over the years by the Planning Commission and the Township Board. No planner was involved. The Township Board has now deemed the PUD ordinance to be so defective it placed a moratorium on the PUDs. He suggested we need advice from a planner in order to do it correctly.

Nestel said you don't have to have a PUD. The problem is there is no clear definition as to how you can get the calculation. Units per developed property is the key calculation. The problem is when you have mixed use especially when property includes unusable land.

Nestel asked Martin for the cutoff date for the Planning Commission in order to meet the six month deadline.

Martin said the Planning Commission has to schedule a Public Hearing for the PUD ordinance in July or August, or request an extension if it doesn't meet the cutoff date.

De Vries said by mid-July we will need a draft to submit to the Township Board for its August meeting. They will need to schedule a Public Hearing and post a 15 day public notice. He advised that we may have to request an extension.

Arendshorst and Dykert asked if there will be a need for a special meeting given the limited time we have to complete the Master Plan.

Nestel asked if we need a Staff Planner to complete the changes in the Master Plan.

DeBoer said we need to decide if we are making a slight change or a major rewrite. There seems to be some confusion in this regard.

Pfost said we can meet our deadline if we clearly define the issues.

3. Zoning Map Updates and Corrections

Pfost suggested the Planning Commission look at the zoning map corrections and move it forward. We need to correct the colors on the map which involves an administrative correction. There are a couple of longer term considerations. We need this to be accurate for the Master Plan.

PUBLIC COMMENT:

Pfost opened Public Comment at 8:52 P.M.

Martin announced he is running for Circuit Court Judge in the election on August 2 and asked for support from the Planning Commission.

Pfost closed Public Comment at 8:55 P.M.

ANNOUNCEMENTS:

The next meeting will be June 21, 2016.

ADJOURNMENT

DeBoer moved, VanderKolk supported, to adjourn the meeting at 8:56 P.M.

Voice vote:

Ayes 7, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
May 19 , 2016

Approved: [June 21, 2016](#)