

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**
Holland, MI 49424

Regular Meeting

June 24, 2021
6:30 P.M.

CALL TO ORDER:

Chair Ervine called the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Park Township Hall conference room.

ATTENDANCE:

Present: Terry DeHaan, Dennis Eade, Rosemary Ervine, Diana Garlinghouse, David Koppenaar, Jeff Pfof

Absent: David Kleinjans

Staff: Greg Ransford, Planner, Dan Martin, Attorney

APPROVAL OF AGENDA:

Pfof moved, supported by Garlinghouse, to approve the agenda as submitted.

Roll Call Vote:

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, aye; Koppenaar, aye; Pfof, aye.

Ayes 6, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Kleinjans noted three corrections on pages 4,5, and 9.

Eade pointed out one edit necessary on page 1.

Koppenaar had one correction on page 7.

Koppenaar moved, supported by Eade, to approve the minutes of May 27, 2021 Regular Meeting as corrected.

Roll Call Vote:

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, aye; Koppenaar, aye; Pfost, aye.

Ayes 6, Nays 0. Motion carried.

NEW BUSINESS:

1. Brewer Farms Conditional Zoning Map Amendment – 70-15-14-200-006

Applicants, Joseph Helms and Jennifer Grant, are seeking conditional rezoning from the Agricultural and Permanent Open Space District to the Rural Estates Residence District. The 20.5 acre property is located at the southwest corner of Riley Street and 152nd Avenue, Parcel Number 70-15-14-200-006.

Ransford spoke to the request. The applicants originally applied to the Planning Commission in April 2021 for a conventional rezoning, which was recommended for denial. They are now asking the Planning Commission for a conditional rezoning per Section 38-129(4) of the Park Township Zoning Ordinance. Under this section the applicants may voluntarily place conditions on their rezoning approval.

Ransford introduced the item. The applicants are questioning conditional rezoning for the 20.5 acre parcel which was denied last month. They have returned with a list of conditions. The lots will be no less than 2.5 acres and only one driveway will be on each lot. The applicants have provided a farming assessment from the owner regarding the ability of farming on this property. As presented, it is appropriate for recommendation for review by the Township Board.

The applicants, Joseph Helms and Jennifer Grant, spoke to their request to build homes in Park Township and their reason for purchasing the property. They said 2019 was the last year for farming of this property which used to be part of Timberline. They will limit the development of the property to five homes and change the driveway plan. They are focused on protecting the trees and surrounding farming property. They reviewed the eight conditions they submitted with their request.

1. The parcel shall be divided to maximum of five single family residential parcels.
2. Platting shall not be permitted.
3. Minimum lot area shall be 2.5 acres.
4. Each new division shall have frontage on an existing road; private road shall not be created.
5. Maximum of one driveway shall be created off Riley Street.
6. Use of property shall not interfere with existing farming.
7. In addition to existing regulations, the front yard shall not be less than 250'.
8. Clear cutting will be prohibited:

- No removal of any tree within the street right-of-way or 250' from improved surface of street
- In addition to existing regulations and the Tree Preservation Ordinance, tree Removal permitted only for purpose of driveways or private roads.
- In addition to existing regulations and the Tree Preservation Ordinance, tree stands shall not be removed unless absolutely unavoidable.

DeHaan asked about the corner lot frontage off 152nd Avenue and Riley. He asked if the 250' setback would be on both streets.

Grant said the #1 parcel would be a deep lot. A tree line would be in front. This would apply to both corners.

DeHaan asked for an explanation about the 10 acre parcel.

Grant said this is unfarmable and will remain as it is. There is no adjacent farming.

Ervine asked about the farming aspect.

Grant replied the farming that is active in the area is across Riley Street. There will be no interference with the northern parcel. She said it was farmed. It is only the 10 acres that is separate from the larger property. Moving equipment to that parcel is expensive so it's not viable for farming. The owner has tried to lease it but there has been no interest.

Garlinghouse said this is another domino in farm property being lost in the Township. She also was concerned that the Planning Commission does not have an independent audit regarding the farmability of this property. She wants to see something that states the property is not farmable. She asked about the property adjacent to this land. Her other concern was that conditional zoning has been a real problem.

Grant said there is one house on the adjacent property. The property behind is wooded.

Martin said the Michigan Zoning Enabling Act authorizes the Township to consider conditional rezoning. Conditional Rezoning requires the conditions be voluntarily offered in writing by the owner of the property; the Township cannot require the owner to offer any particular conditions. The Township Board can consider this conditional zoning request and it is not considered spot zoning. The law requires that for conditional rezoning, any condition must be voluntarily offered in writing by the property owner - conditions cannot be required by the Township and the Township cannot require the property owner to offer conditions. In a PUD the Township can tell a property owner what standards are to be met, have a give-and-take with the owner, and impose reasonable conditions regardless of the property owner offering them.

Garlinghouse asked what would happen if we change this property from AG to residential.

Martin said under conditional rezoning the statutes say if the conditions are not met the property would revert back to the original classification. The Township has to initiate the rezoning. Any rezoning could be subject to a referendum if enough residents circulate

a petition to put the rezoning on the ballot, which could lead to a vote to overturn the reversion back to the original classification. Both the current conditional application and the subsequent rezoning to the prior AG classification could be subjected to a referendum. This proposed conditional rezoning is different from the recent planned unit development that has taken a long time to develop, as it doesn't have sidewalks and golf courses but just has individual building sites. If it's not developed, it's not much different than what is currently on the property now.

PUBLIC COMMENT

Ervine opened Public Comment at 7:00 P.M.

Wally Rooks lives in Waterlake Pines. He sees AG property in the Township changing to residential. This bothers him. He wrote a letter to the editor of the paper regarding the loss of farming property – Ottawa County has lost 8% of its farm acreage in the last five years according to the US Department of Agriculture. 17% of the farms are gone in the County. This property looks to be farmable. He hopes the Planning Commission looks carefully at this. Keep our land - blueberries are a big business for Park Township.

Brett Dreyer lives a half mile from this property. He has farmed all his life. He agreed that AG lands are disappearing. He has never seen this farm posted for sale. He has lived in the Township his entire life. His children are the fourth generation in the Township. Save the AG land – we don't need more traffic. Please consider preserving farm property.

Ervine closed Public Comment at 7:05 P.M.

Pfost said our concern is the change in underlying zoning. Once we do that we would have no control over the number of lots. If it were replatted to low density residential, how many lots would be involved.

Ransford said it could be 20 acres with 10 homes on 2 acres, minus whatever infrastructure would be required.

Pfost said now we have an application limiting it to five lots. Is this a concern now? The other issue is the change from AG and rural character: We have to be careful regarding AG preservation vs. rural character. Going to five lots applicant is trying to retain rural character. The last time we looked at the Master Plan we used the dividing line of James Street for rural character preservation. Is this moving to Riley Street? This is going to happen again – the only way we can control it is keeping AG conditional rezoning.

Garlinghouse asked if it's subdivided how many could they have? Why can't we do something else in line with the current Master Plan? Regarding tree removal, does it need more teeth in line with tree preservation?

DeHaan referred to the zoning map. Everything to the west of this property is zoned Rural Residential. Changing this 20 acres, where there already is residential development, how are we extracting AG land. The owner/farmer has increased the value of his land by \$65,000 in the last 30 days. The upshot is ten acres won't be feasible to farm. The farmer has a legitimate argument in this case.

Garlinghouse reiterated that the Planning Commission asked for an evaluation and all we got was a letter.

Pfost said a soil sample wouldn't satisfy him because there are a lot of other considerations. Most of this ten acres is wooded. As we look at the Master Plan are we understanding the meaning of AG residential? The applicant is willing to consider a lesser number of lots.

Koppenaar said he was more concerned it won't look like it has rural character.

Applicant Grant responded: she shares the desire to maintain the rural character of the property. They want to retain the trees – those to be cleared are dying off. The trees that offer privacy won't be affected. She emphasized they don't want to take the property away from anyone who wants to farm the land.

Helms said, with regard to the green space, the homes will be away from the road. The trees will be preserved. The row of trees won't be touched along the road on 152nd. Their aim is to protect the trees.

Grant asked if the Planning Commission wanted the farmer to comment via Zoom.

Martin said public comment is not allowed with Zoom.

Pfost asked if we can specify a period of time that if it isn't developed it will revert to AG.

Martin said this could be done with a recommendation. Pfost asked if the Township Board would consider this.

Martin said the Township Board would consider this recommendation. The statutory language allows the Township to establish a time period for the conditions to be met.

Pfost recommended a time frame should be placed on this proposal.

Eade asked the applicant to comment on plans for building.

Grant said they are working with a builder and guessed it would take a year to break ground. Helms added the time period would be longer than a year, probably two to four years.

Garlinghouse asked Ransford for the vacancy rate for new homes in the Township.

Ransford said late spring, early summer is the time period right now for the release of that Census data. We have not found it available yet.

Ervine asked if the Planning Commission agreed with the criteria delineated in the Staff Memo: Section 38-129(3) and Section 28-129(4).

Pfost thanked the staff for the helpful information in the Staff Memo.

Pfost asked about re-platting. Is this done through the Assessor's Office?

Martin said this property would not be a subdivision or plat and would not go through the platting process. When the land divisions are made the individual parcels would be assigned tax parcel numbers.

Martin said the Planning Commission makes the recommendation to the Township Board.

DeHaan is concerned about the description of the five lots – the proposal doesn't tell you what each lot is. They could change the drawing.

Martin said that is not a condition that has been voluntarily offered in writing, on the layout of how they are dividing the property. The conditions that are voluntarily offered state there will be only five parcels, platting not permitted, minimum lot size 2.5 acres, frontage on an existing road, no private road, maximum of one driveway off Riley Street, use of property will not interfere with existing farming, and frontage not less than 250 feet. There is no condition offered in writing that says this is exactly how they are dividing the property. The framing of lots or their sizes could change, however, they would still be subject to the land division ordinance. It could be subject to change. We want to be sure the density doesn't exceed five lots.

Pfost moved, supported by Eade, to recommend submission to the Township Board for adoption of the application as presented with the eight conditions, with a timeline of no more than two years from the date of approval by the Township Board for the commencement of the foundation construction of at least one dwelling. There is a condition as voluntarily offered to build only five homes.

Roll Call Vote

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, nay; Koppenaar, aye; Pfost, aye.

Ayes 5, Nays 1. Motion carried with Garlinghouse opposed.

2. Lake Court Overlay Text and Map Amendment

Ransford said Lake Court is one of last of the neighborhood heritage preservation overlays to be completed. This language went back to the Focus Group for response by Lake Court residents. The building height of 35' and the rear yard setback of 5' were addressed. He recommends GIS measurement be added for consistency.

Pfost referred to Sec 38-251(a) – could the term "high water" be inserted in reference to high elevation. Regarding the 2018 data information is there a point of reference. Do we have a record for the accuracy of this data reference?

Ransford says he would recommend this be retained. 2018 is the best record and correct reference for elevation because it is the best representation of the natural grade when flown.

PUBLIC COMMENT

Ervine opened Public Comment at 7:58 P.M.

Karen Comstock, who, lives in Lake Court wanted to be on the record she is supportive of the Lake Court overlay language.

Ervine closed Public Comment at 7:59 P.M.

Pfost moved, supported by Garlinghouse, to recommend adoption by the Township Board of the Lake Court overlay language and map as drafted and amended by Staff to include revision regarding the height and one hundred year watermark.

Roll Call Vote

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, nay; Koppenaar, aye; Pfost, aye.

Ayes 5, Nays 0. Motion carried.

3. Edgewood Beach Text and Map Amendment

Ransford said this is the last neighborhood heritage preservation to be completed. Edgewood Beach did not have building height guidelines and after review the residents approved the revised language.

PUBLIC COMMENT

Ervine opened Public Comment at 8:03 P.M.

Andy Mulder is the head of the Edgewood Beach Zoning Committee. He thanked Ransford for his communication during the process. Thank you for allowing the historic areas to be a part of this process. The Township is recognizing the uniqueness of his area. The community was founded in 1910. Edgewood Beach has eight lots along Lake Michigan – all lots are 50' in dimension. The lots go down the bluff of the dune. Footprint is 50'x124' along the lake front. All back lots are 50' by 99.5' feet. There are older cottages and some new ones. We have been able to blend the old with the new, agreeing to 35' building height. A concern is bringing in fill to a lot in order to raise the elevation.

Rich Vander Broek has lived in Edgewood Beach for 50 years. His parents owned the home as a summer cottage. He sent an e-mail to the Township with his comments. Five of the ten lots along the front of Edgewood Beach are about the size of the typical mobile home lot. Those lots require a buffer zone. The average rear yard setback is now 29.5'. The front yard setbacks require 35' – few lots meet that criteria. Most along South Street have 25'. New construction would need to have front yard of 35'. These would be behind those that are there now which will require more variance requests. This will leave a restricted area for septic tanks. Front and rear yard averaging already accommodate hardship. Many homes are rental properties and as we get larger there are more cars and

more traffic. Proposed rear yard setbacks are not compatible with R2 requirements. The 10' setback is restrictive for fire safety. Often the problem is a homeowner wishing to build too large a house for the size of the lot. He cited examples of variances for setbacks. It is his opinion to adopt the ordinance of 35' is unfair to the residents who are on nonconforming lots.

Ervine closed Public Comment at 8:28 P.M.

Pfost said the overlays show the nonconformities of these historic communities. They don't fit the norm. He supports the recommendation of Staff.

Garlinghouse agreed. It has been difficult for the Township to deal with the many requests that are dealing with nonconforming situations.

DeHaan asked Ransford if he spoke with the owners of the lots to the north or outside Edgewood Beach.

Ransford said he did not. The focus has been with the residents of Edgewood Beach. The Township did not solicit conversation outside these neighborhoods.

Eade thanked Ransford for working with the residents to come up with a workable solution. This is a 111 year old community.

Ervine agreed with Eade's comment and added it has not been an easy task.

Eade moved, supported by Garlinghouse, to forward a recommendation for adoption to the Township Board to accept the Edgewood Beach overlay language and map as presented by Staff. The recommendation is to include the 100 year elevation language as added to the Lake Court overlay.

Ransford suggested inclusion of the same language regarding the 100 year elevation is identical.

Eade amended his motion to include this 100 year elevation language.

Roll Call Vote

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, nay; Koppenaar, aye; Pfost, aye.

Ayes 6, Nays 0. Motion carried.

Eade thanked Andy Mulder for the work he has done for property law in the community.

4. Section 38-155 Zone Districts

Ransford said the Planning Commission has recommended changes in the overlays and therefore they must be identified in this section.

PUBLIC COMMENT

Ervine opened Public Comment at 8:40 P.M.

There was no comment.

Ervine closed Public Comment at 8:41 P.M.

Garlinghouse moved, supported by Pfof, to recommend adoption of the Zone District language.

Roll Call Vote

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, nay; Koppenaal, aye; Pfof, aye.

Ayes 6, Nays 0. Motion carried.

5. Section 38-6 – Definitions, Building Height

Ransford gave an overview for building height. The current definition was considered too vague so two versions of a draft were submitted to the Planning Commission for review. The definition was agreed upon at the last meeting after seeking the opinion of an architect. The final draft of the language is submitted for approval.

PUBLIC COMMENT

Ervine opened Public Comment at 8:43 P.M.

There was no comment.

Ervine closed Public Comment at 8:44 P.M.

Eade said this will help the Zoning Board of Appeals in its decision-making.

Koppenaal moved, supported by Garlinghouse, to recommend adoption of the Township Board for the revised building height language developed by Staff.

Roll Call Vote:

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, nay; Koppenaal, aye; Pfof, aye.

Ayes 6, Nays 0. Motion carried.

Text Amendments

1. Section 38-605(6) – Requirements for Parking Areas

Ervine noted Ransford recommended language based on last month's discussion. The new wording requires that parking lots be provided with wheel stops or bumper guards, curbing, or a sidewalk of at least 6" in height.

Pfost asked about rolled curbs.

Ransford said it should be clear.

Pfost suggested the language should read: include "wheel stops, bumper guards, rolled curbs, and sidewalks of at least 6" in height. This could be added to the language.

This will be scheduled for a future public hearing.

2. Accessory Building Maximum Area

Ransford said the Zoning Board of Appeals has had many requests regarding accessory buildings. What is proposed is to separate the area of the accessory building in relationship to the size of the lot and the area of the accessory building in relation to the principal building on the lot. **"Allow a maximum accessory building to exceed 2% of the lot size, but not exceed 2500 square feet in total size,"** and permit the Zoning Administrator instead of the Zoning Board of Appeals to make the determination.

Eade agreed this will be easier for these decisions with regard to accessory buildings. The problem is applicants have multi-acre lots and the main home is way off from the main artery, the building usually doesn't impact neighboring properties. When the lot is small requests for accessory buildings are difficult to rule on when the dimensions are too large.

Pfost supported this proposal. The Planning Commission supported the revision of the language and return to the Planning Commission for a public hearing.

3. 2020 Annual Report

Ervine thanked Ransford for the report.

Pfost moved to approve, supported by Eade, to send the Annual Report to the Township Board for approval.

Roll Call Vote

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, nay; Koppenaar, aye; Pfost, aye.

Ayes 6, Nays 0. Motion carried.

OLD BUSINESS

1. Home Occupations

Ransford explained the Planning Commission asked for language to address home occupations. Township prohibits customers visiting the home occupation sites at prescribed

times. Ransford looked at other municipalities which included Holland Charter Township and Tallmadge Township. Some of them limit the number of hours and the number of customers. Does the Planning Commission wish to remove prohibition of visits and allow customers to visit at will, or require visits at certain hours?

Pfost said there are two categories: customers coming and going. How do we differentiate a social vs. a business visit?

Garlinghouse asked about a special use permit.

Ransford said we allow home occupations through special use.

Martin said the Township doesn't have a licensing ordinance for home occupations. Zoning regulates only land use, residential vs. commercial district. Home occupations vary in the nature and intensity of the activity. One reason to license home occupations is for tax purposes. Some particular businesses and professions are licensed by the State.

Ervine asked if it is necessary.

Pfost suggested to postpone action on this item. There are parallels to short term rentals which will be on a future agenda, so maybe should we wait on this.

Ervine asked for a motion to table this item.

Pfost moved, supported by Eade, to recommend postponement of a decision to allow staff to draft the appropriate language.

Roll Call Vote

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, nay; Koppenaar, aye; Pfost, aye.

Ayes 6, Nays 0. Motion carried.

PUBLIC COMMENT

Ervine opened Public Comment at 9:09 P.M.

Bonnie Tardiff spoke to a request for additional pickleball court space at Winstrom Park. She submitted a petition with 50 signatures. She said there is a desire in the community for additional pickleball courts. Pickleball is a sport that is growing in popularity. She has approached the Recreation Director of the Township but has received no support. Tardiff gave the petition to Chair Ervine. Ervine requested it be copied for the record and the original returned to Tardiff.

Ervine closed Public Comment at 9:24 P.M.

ANNOUNCEMENTS

1. The next Planning Commission meeting is July 22, 2021

2. DeHaan gave an update from the Township Board. The most significant item is in regard to letters that were sent from the Township Board to our State Senator and State Representative concerning short term rentals. There are two bills – House Bill 422 and Senate Bill 446 which request State level legislation making short term rentals home occupations. Local control would be precluded except we could regulate traffic, noise, advertising, and number of persons occupying the dwellings, special fees and taxes. The Michigan Township Association filed notice that this takes control away from local municipalities. Do we as a board support or oppose this legislation? The Township Board voted 7/0 to send the letters. DeHaan shared copies of the letters with the Planning Commission.

Eade said he talked with the Chamber of Commerce and he said it is very apparent it is a State right to give property owners purview over their property. He says it has taken it out of our hands.

Martin said it is important legislation as drafted and it says local government can still control the number of occupants, etc. If you want to charge fees, any community that wants to regulate short term rentals can do so.

Pfost asked if there is any correlation with overlay areas.

Martin said you could allow certain zoning district overlays and require no more than a certain number in some areas. That presents issues regarding who gets the short-term rentals

ADJOURNMENT

Koppenaar moved, seconded by Eade, to adjourn the meeting at 9:27 P.M.

Respectfully submitted,

Judith Hemwall
Recording Secretary
June 28, 2021

Approved: July 22, 2021