

Minutes

Watersmeet Township Planning Commission

Meeting of April 18th, 2013

Meeting called to order by Chairman Dennis Snyder at 7:00 PM.

Members Present: Chairman-Dennis Snyder, Acting Secretary-Rich Henriksen, Vice Chairman-Fred Reimer, Roy D’Antonio, Pete Peterson and Jeff Wasson were in attendance. Greg Garlock, Larry Potter, and Alan Shively were excused. A quorum was present and business could be officially conducted.

Members of the community present: Mike Rogers-Township Supervisor, Dave Neumann-Township Zoning Administrator, Cory Brownell, John Oliver, Craig and Lisa Hesse and Kathy and Ben Thrall were present as concerned citizens.

The Pledge of Allegiance was given.

Northeast Asphalt:

Chairman Snyder read a written recommendation from the Zoning Administrator to allow Northeast Asphalt to operate its Batch Plant at the Forest Service pit on White Pine Drive. Roy D’Antonio made a motion to grant the special use permit to Northeast Asphalt to operate during the mid June-mid July operating window as granted in November of 2011 for the 2012 road building season. This was supported by Pete Peterson. Jeff Wasson appealed for the 6:30 – 6:30 operating time schedule as requested by the applicant. Roy amended his motion to adhere to the new 6:30 – 6:30 schedule. Motion carried on a Roll call vote as follows: Pete Peterson - yes, Jeff Wasson – yes, Fred Reimer – yes, Roy D’Antonio – yes, Dennis Snyder – yes and Rich Henriksen – yes. Total 6 yes, 0 no.

Minutes of March 13th Regular Meeting: Minutes were approved as presented on a motion by Fred Reimer with support from Pete Peterson. A voice vote followed with all in favor.

Zoning Administrator’s Report: David Neumann stated that no zoning requests have been presented to his office.

Zoning Board of Appeals (ZBA): Fred Reimer reported that no activity had occurred with the ZBA

Chairman’s Report: Chairman Snyder excused the folks representing Northeast Asphalt while stating that they were welcome to stay but free to leave as the “Use by Special Approval” for the batch plant operation they were seeking had been passed. The Chairman reiterated his desire that the P-C build the future for the Township and that we do what is best for all concerned.

Public Comments: Chairman Snyder asked for public comments. None were forthcoming.

Agenda Changes, Additions: No changes were offered.

Old Business:

a. **Temporary Docks.** Roy D'Antonio took the lead in presenting the case for relaxation of the 40 foot maximum length for temporary docks. He pointed out that Vilas Co. Wisconsin has no such limits. Roy stated that conversation with a contact at the MDEQ found that Watersmeet Township is the only township to attempt regulation of temporary docks. He stated that it is a hardship, as it denies boating access to those who own or are trying to sell waterfront lots with shallow water beyond the current 40 foot limit. Pete Peterson offered a motion to amend 5.04C 2 as follows: The proposed modification is to read as follows: *"Permanent or Temporary Docks shall be limited to three hundred thirty-six (336) square feet of total water coverage. The Permanent or Temporary Dock may not extend more than forty (40) feet into the lake from the Ordinary High Water Mark, unless a depth of three feet is not reached in which case the dock may be extended to a length where three feet of depth is reached, maximum, and not cause a navigational hazard. The maximum width of the walkway is to be six (6) feet, and the maximum width of a Permanent or Temporary Dock shall not exceed twenty two (22) feet as measured parallel at the point of dock contact."* This was supported by Jeff Wasson. Kathy Stupak –Thrall of Crooked Lake commented on the hazard to navigation presented by swim rafts in lakes that are much further out in the lake than the 40 foot mark, that also frequently go adrift. Chairman Snyder stated that regulation of this problem is through MDEQ which has the final word. Kathy responded that she has pursued this through those channels with the frequent response being, that "it is a zoning issue that MDEQ will not involve themselves in". Chairman Snyder then stated that the language being discussed is limited to docks alone. In the future the P-C may need to look into the swim raft problem. Chairman Snyder asked for a voice vote to move the dock ordinance amendment language to a Public Hearing on May 8, 2013. All in favor.

b. **Guest House Rentals:** Chairman Snyder proposed an amendment to the Zoning Ordinance to allow for the short term rental of Guest houses in keeping with the Planning Commission's mission to maximize property-owners rights. Chairman Snyder stated that a few people came to him, privately, asking for this change. This will help them with income from their property to offset their high property taxes. He passed out a document with the proposed language to be inserted into the Zoning Ordinance, and require modifications to existing language in 5.01C and 5.01E. The text follows:

"Short term rental of guest house is permitted, provided:

- 1. Guest house has been erected for a period of 10 years.*
- 2. Property owner must be residing at residence where guest house is located during the period of rental.*
- 3. All federal, state and local requirements are met for occupancy.*
- 4. A "use by special approval" permit is required for short term rental of guest house."*

Dennis added that it will also affect 5.02b 7. Mr. Henriksen then stated that it will require far more extensive changes than that. It will affect 6.01B 2-f, maybe 7.02B. Need to look also at 5.03, which prohibits Key-holing/funneling/Pyramiding. Much debate followed. Fred Reimer noted that no hardship cases have required convening the ZBA in over a year. This subject has not come up in his experience. Roy D'Antonio opined that no one wishes to go to the ZBA because the ZBA usually upholds the ordinance as written. Roy added that *"If Watersmeet Township had a sensible ZBA"*, that situation could change. Township Supervisor Mike Rogers asked Mr. Henriksen *"how section 5.03 protects the public health, public safety and general welfare of the Township"*. Mr. Henriksen replied that it protects the

health of the lakes which is essential to the financial welfare of the Township. Chairman Snyder tabled the discussion based on the complication provided by Section 5.03 until a legal opinion can be secured. Chairman Snyder called for a voice vote to table; all in favor. Several commissioners asked to be present when meeting with the attorney. Mr. Snyder will consider whether or not to allow the planning commission members to be present with Supervisor Rogers and the Township attorney when deciding this issue.

- c. Bed and Breakfast request-clarification:** Chairman Snyder circulated a copy of the legal opinion of the Township attorney that Ms. Sonnevil does not need to be present to operate her Thousand Island Lake home as a Bed and Breakfast. In the attorney's opinion, "innkeeper's residence" does not limit her to be the innkeeper. The Planning Commission required as part of the grant to "use by special approval" that the owner, Ms. Sonnevil is described by State law to be the innkeeper and to be in residence. The Township Supervisor and Chairman Snyder decided to pursue the legal opinion that Ms. Sonnevil could designate a proxy innkeeper to reside in her home, and manage the business. One of the commission members had previously asked what the difference is between a B&B with the owner in absentia and any hotel. Chairman Snyder was prepared with a handout that defined a hotel as having six or more bedrooms. Ms. Sonnevil's B&B only has five bedrooms so cannot be a hotel. Chairman Snyder then suggested we amend our decision to comply with state regulations and change the minutes of the February meeting to delete the requirement that Ms. Sonnevil be resident when operating the Bed & Breakfast. Pete Peterson said that when he made the motion in February to grant the "use by special approval", he didn't believe that Ms. Sonnevil had to be in residence. Chairman Snyder stated that the Planning Commission was wrong to include the requirement that Ms. Sonnevil had to function as the innkeeper. Mr. Henriksen disagreed that the P-C was wrong. Mr. Henriksen produced the definition of Bed & Breakfast from the Holland, Mi. ordinance: *Bed and breakfast establishments. An owner occupied single family residence licensed to provide overnight sleeping accommodations and serve breakfast to paying guests in accordance with regulations governing such activity.* Mr. Henriksen went on to read, again, the state definition of Bed and Breakfast establishments. *"A bed and breakfast is defined by law as a private residence that offers sleeping accommodations to lodgers in 14 or fewer rooms for rent in the innkeeper's residence in which the innkeeper resides while renting rooms to lodgers, and serves breakfast at no extra cost to its lodgers."* Pete Peterson argued that if he rents the home and receives his mail there, it is HIS residence. Therefore he could be the innkeeper of a B&B as well without actual property ownership. Chairman Snyder directed that the Secretary change the minutes from the February meeting to reflect the township attorney's opinion. Mr. Henriksen offered that doing that could be procedurally incorrect. The P-C minutes were accepted and approved as presented. Roy D'Antonio said that Pete could rescind his motion. Pete Peterson rescinded his motion from February with support from Jeff Wasson. Voice vote followed. Four yes, two no. Pete Peterson then made a motion to grant Terry Sonnevil a "use by special approval" to operate her Thousand Island Lake house as a Bed and Breakfast with a maximum of five rooms. She is free to designate an innkeeper. Jeff Wasson gave support. Chairman Snyder called for a voice vote: 4 Yes, 2 No. Mr. Henriksen stated that now that a substantial change has been made to the definition of the Bed and Breakfast operation, a new public hearing on the subject should be convened. After additional discussion, the Chairman ruled that a new public hearing will not be required. Mr. Henriksen stated that proper procedure is not being followed: "If Ms.

Sonnevil had objections to the original P-C ruling; existing procedures would have the appeal directed to the ZBA.”

New Business: Chairman Snyder wishes to add the following to section 7.09B Uses by Special Approval. *Add to requirement: A zoning permit application must be approved prior to the zoning administrator forwarding the written application for “special use permit” to the Township Planning Commission. An approved copy of the zoning permit application to be included.*

A great deal of conversation ensued, as to when a Zoning Certificate would actually be appropriate such as when renting out an existing house. It was generally agreed that where a Zoning Certificate is appropriate or applicable such as building a new guest house, the Zoning Administrator sends a cover letter and sketch certifying compliance with set-backs etc. The Chairman maintains that since requiring the signed Zoning Certificate is not stated with a specific line item, we might not always be following proper procedure. Pete Peterson agreed that in the “use by special approval” process, if the Zoning Administrator was not present we could not proceed with hearing the matter without the signed Zoning Certificate. Mr. Henriksen was concerned that the exceptions to this new requirement, need to be listed as the term “where applicable” is too subjective. Language needs to be supplied to the Secretary with instructions on how to integrate the requirement that, where applicable, an *approved copy of the zoning permit application be included* under 7.09B-1 and 2, and brought to the May 8, 2013 Public Hearing. Voice vote: Five yea, One nay.

Motion to adjourn at 8:39PM by Fred Reimer and supported by Pete Peterson. Voice vote: All in favor.

Respectfully submitted by,

Richard T. Henriksen – Acting Planning Commission Secretary

Approved: 06/12/2013