

**PLANNING COMMISSION**  
**Minutes for Regular Meeting of**  
**May 6, 2009**

**PRESENT** Chairperson Carol Kooistra, Tom Thompson, Jan Deur, Brian Lernowich, Sue Hertel, William Josephson and Steve Nagengast.

**ALSO PRESENT** Zoning Administrator Don Sandel and 10 interested parties.

**CALL TO ORDER** Chairperson Kooistra called the May 6, 2009 meeting to order at 7:00 p.m. and led those in attendance in the Pledge of Allegiance.

**AGENDA** **Motion by Jan Deur, second from Sue Hertel, *ADOPTED*, to amend agenda by striking #3 Private Street Application received from Hugo Ferrari for the construction of a Private Street – Ferrari Drive to serve more than two (2) lots located in Section 31 off Scenic Drive in the Medium Density Residential District per a court ordered injunction and accept as amended.**

**7 AYES**

**MINUTES** **Motion by Jan Deur, second from Brian Lernowich, *ADOPTED*, to accept the April 1, 2009 regular meeting minutes as written.**

**7 AYES**

**PUBLIC COMMENT**

None

**PUBLIC HEARINGS**

1. Request from owner Gilbert Norwick to add Agricultural Overlay to parcel 61-06-108-300-0002-00 located on the Northeast corner of Michillinda and Nestrom Road.

**Motion by Sue Hertel, second from Tom Thompson, *ADOPTED*, to recommend approval to add Agricultural Overlay to parcel 61-06-108-300-0002-00 located on the Northeast Corner of Michillinda and Nestrom Road.**

**7 AYES**

Chairperson Kooistra explained that this parcel was inadvertently left out when a recommendation in July 2005 from an Agricultural Overlay subcommittee was made for which parcels should have the overlay. In August 2005 the Township Board requested the Planning Commission hold a public hearing to add this parcel to the overlay per a verbal request from Mr. Norwick. In October 2005 the Planning Commission made a motion to hold public hearing at their earliest convenience to include 61-06-108-300-0002-00 and 61-06-108-400-0001-10 in the Agricultural Overlay District, however, this never happened. Mr. Norwick came in recently and made the request again to have the 61-06-108-300-0002-00 included in the Agricultural Overlay District. The other parcel 61-06-108-400-0001-10 has been sold and the new owner does not wish to be part of the Agricultural Overlay District.

**PUBLIC HEARING OPEN 7:03 P.M.**

**PUBLIC HEARING CLOSED 7:09 P.M**

1. Gilbert Norwick, 5033 Whitehall Road, explains this parcel has been farmed for at least 100 years.

2. Special Land Use Permit Application received from McCormick, LLC requesting to operate a Convenience Store with Fuel in the Neighborhood Commercial District on the Southeast corner of Whitehall Road and White Lake Drive, Whitehall, Michigan.

**Motion by Tom Thompson, second from Steve Nagengast, *ADOPTED*, to recommend approval of the site plan as submitted with the exception of the wellhead being moved ten (10) feet to the south and contingent on agreement being made for connecting future driveways to the east and south.**

**ROLL CALL VOTE: Thompson AYE, Deur AYE, Nagengast AYE, Josephson AYE, Lernowich AYE, Hertel NAY, Kooistra NAY (*NAY votes are with the wording of the motion itself as presented not the plan itself.*)**

Intent of contingent agreement is to request the applicant meet with Zoning Administrator Sandel to discuss possible future joint access to the east and south of applicants parcel.

**PUBLIC HEARING OPEN 7:12 P.M.**

**PUBLIC HEARING CLOSED 7:15 P.M.**

Applicant Joel McCormick states he is here to address any questions or concerns the commissioners may have.

No other public comment.

#### **DISCUSSION**

It was stated that the front yard setback does not meet the 100' requirement. Zoning Administrator Sandel explains that although the Neighborhood Commercial District minimum front yard setback is 100', the specific Special Land Use requirement for vehicle service stations, excluding body shops still says 50'. The applicant was asked about allowing space for future connecting driveways/joint access to the south and east. Mr. McCormick stated he could allow space for that but it would depend on what type of business it was if he would want a connecting driveway/joint access. Any areas not paved will have grass.

3. Special Land Use Permit Application received from Gerald Hobby requesting to operate a sub, pizza and ice cream shop in the Neighborhood Commercial District at 5706 Whitehall Road, Whitehall, Michigan.

**Motion by Jan Deur, second from Tom Thompson, *ADOPTED*, to recommend approval of Special Land Use Permit for the operation of a sub, pizza and ice cream shop subject to the following: 1) Approval from Muskegon Conservation District, White Lake Fire Authority, Muskegon County Health Department, 2) Meet conditions established by the Muskegon County Road Commission and Muskegon County Drain Commissioner, 3) Construction of adequate barriers north of entrance area and in front of building to eliminate parking, 4) Work with Zoning Administrator and Planning Commissioner to modify the existing site plan to an "as built" showing the existing conditions of the site.**

**6 AYES  
1 NAY (Hertel)**

Chairperson Kooistra explained the applicant Mr. Hobby had applied once before and was granted a Special Land Use Permit contingent on a list of things that needed to be done by a certain date. Mr. Hobby did not comply and the Township Board revoked the Special Land Use Permit. Mr. Hobby explains the reason he did not comply before was because of financial reasons. He believes he has taken care of the things that were on the list. Zoning Administrator Sandel and Commissioners Duer and Thompson visited the site and stated it does appear he resolved most of what was requested, however, adequate barriers north of the entrance area and in front of the building still need to be constructed to eliminate parking and the Muskegon County Road Commission and the Muskegon County Drain Commissioner conditions established need to be addressed. Zoning Administrator Sandel stated he spoke with the White Lake Fire Authority Fire Marshall who said because this is an existing building he will do an inspection when the business is ready to open. Mr. Hobby was made aware we have not received responses from the Muskegon Conservation District, the Muskegon County Health Department and White Lake Fire Authority so the recommendation will be contingent on those approvals as well as the conditions established by the Muskegon County Road Commission and the Muskegon County Drain Commissioner being resolved.

**PUBLIC HEARING OPEN 8:12 P.M.**

**PUBLIC HEARING CLOSED 8:17 P.M.**

1. Correspondence from Robert Stribley read into record, **opposed**.
3. Article II, Definitions-B, Section 2.03 Building Height – **AMEND**, Article II, Definitions-G, Section 2.08 Grade – **AMEND**, Article II, Definitions-G, Section 2.08 Grade, Average Existing – **NEW**, Article IV, Rural Residential District, Section 4.04, Article V, Low Density Residential District, Section 5.04, Article VI, Medium Density Residential District, Section 6.04, Article VIa Lake Michigan Shoreline District, Section 6.04a, Article VII, Medium High Density Residential District, Section 7.04, Article VIII, High Density Residential District, Section 8.04, Article VIIIa, Inland Lakes District, Section 8.02a, Article X, Waterfront Marine District, Section 10.04, Article XI, Neighborhood Commercial District, Section 11.04, Site Development Standards, Building Height – **AMEND**

**Motion by Sue Hertel, second from Jan Deur, *ADOPTED*, to recommend approval of language for Article II, Definitions-B, Section 2.03 Building Height, Article II, Definitions-G, Section 2.08 Grade, Article II, Definitions-G, Section 2.08 Grade, Average Existing, Article IV, Rural Residential District, Section 4.04, Article V, Low Density Residential District, Section 5.04, Article VI, Medium Density Residential District, Section 6.04, Article VIa Lake Michigan Shoreline District, Section 6.04a, Article VII, Medium High Density Residential District, Section 7.04, Article VIII, High Density Residential District, Section 8.04, Article VIIIa, Inland Lakes District, Section 8.02a, Article X, Waterfront Marine District, Section 10.04, Article XI, Neighborhood Commercial District, Section 11.04, Site Development Standards, Building Height as proposed.**

**6 AYES**

**1 NAY (Thompson)**

**PUBLIC HEARING OPEN 8:54 P.M.**

**PUBLIC HEARING CLOSED 9:02 P.M.**

1. Betsy Grein, 5780 Oaktree Lane, expressed concern with dunes and rural nature of the township, **supports**.
2. Kyle Esh, 5627 ½ Murray Road, **supports**.

**OLD BUSINESS**

## 1. Wind Energy System (WES) Ordinance

**Motion by Sue Hertel, second from William Josephson, *ADOPTED*, to recommend changes for Section 23.04 (2) and recommend approval to the Township Board of the Wind Energy System (WES) Ordinance with changes to said section.**

**7 AYES**

- The language below is before suggested changes were made:

**SECTION 23.04 WIND ENERGY SYSTEMS ALLOWED AS A PERMITTED USE**

- (2) Prior to issuing a permit the Zoning Administrator shall notify neighbors on adjoining parcels. The Zoning Administrator shall inform the Planning Commission when a permit has been issued and if there were any comments or concerns.

A Permit shall be issued after an inspection of the WES by the Fruitland Township Zoning Administrator or an authorized agent of the Township, and where the inspection finds that the WES complies with the requirements of this Section and all applicable state construction and electrical codes, local building permit requirements, and all manufacturers' installation instructions.

The WES shall not operate nor remain on the property unless a permit has been issued. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township.

- Below is the changed language being recommended:

**SECTION 23.04 WIND ENERGY SYSTEMS ALLOWED AS A PERMITTED USE**

Any On Site Use Wind Energy System which is 65 feet or less in total height and that meets all the other criteria of this section shall be a permitted use in all zoning districts, except that such WES shall not be allowed in lake or stream bottoms, and shall be subject to the following:

- (1) The height of the WES with the blade in vertical position shall not exceed 65 feet. The WES shall not be operated or otherwise remain on property unless a permit has been issued by the Township as described herein.
- (2) In order to obtain a permit, the applicant shall file a zoning application, pay the application fee and provide a copy of the manufacturer's installation instructions and any blueprints. At least 7 days prior to issuing a permit the Zoning Administrator shall send written notice of the application to the owners of all adjoining parcels. The Zoning Administrator shall inform the Planning Commission of the issuance of any permits and a summary of any comments received concerning the application or permit no later than the next regular Planning Commission meeting.
- (3) Either the Zoning Administrator or other authorized agent of the Township shall review all the WES plans prior to issuance of a permit to determine that the proposed WES complies with requirements of this ordinance, any other applicable federal, state or local codes or requirements and also the manufacturer's installation instructions. In reviewing the plans, the Zoning Administrator shall have the right, but not the duty, to consult with the Planning Commission on compliance issues before making a decision. The WES as constructed shall be subject to a final inspection by the building inspector.

Commissioner Deur explained Section 23.04 was being reviewed again because upon review of the language recommended at last months meeting by Attorney Eklund it was determined that the way it was written contradicted other sections of the ordinance.

**2. Duck Lake State Park Zoning**

Chairperson Kooistra explained that she, Commissioners Hertel and Deur and Zoning Administrator Sandel met with a Blue Lake Township official regarding what happened with Owasippe Boy Scout Camp. Chairperson Kooistra has decided that this matter has become more complicated than originally thought and therefore will work with both Commissioners Hertel and Thompson to meet with the Duck Lake Association Board and the appropriate State of Michigan representative. Following those meetings, the entire Planning Commission will meet to develop a plan to consider. Chairperson Kooistra will be in charge of scheduling meetings with groups mentioned and then with the entire Planning Commission.

**3. Zoning Ordinance Review Committee - Update.**

Commissioner Josephson, chairperson of the zoning ordinance review committee explained that he, Zoning Administrator Sandel and Zoning Coordinator Garvey will continue to meet and work on necessary amendments.

**COMMISSIONERS COMMENTS**

**PLANNING/ZONING UPDATES**

**ADJOURNMENT**

**Motion by Jan Deur, second from Sue Hertel, ADOPTED,  
to adjourn the May 6, 2009 regular meeting at 9:45 p.m.**

Respectfully Submitted,

Sally Garvey, Recording Secretary