

**PLANNING COMMISSION**  
**Minutes for Regular Meeting of**  
**January 4, 2012**

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

**ALSO PRESENT** Zoning Administrator Sandel, Recording Secretary Dion and 0 interested parties.

**CALL TO ORDER** Chairperson Kooistra called the January 4, 2012 meeting to order at 7:00 p.m. and led those in attendance in the Pledge of Allegiance.

**AGENDA** **Motion by Steve Nagengast, second from Brian Lernowich, *ADOPTED*, to accept the January 4, 2012 meeting agenda as written.**  
*7 AYES*

**MINUTES** **Motion by Dave Roesler, second from Jan Deur, *ADOPTED*, to accept the November 2, 2011 regular meeting minutes as written.**  
*7 AYES*

**PUBLIC COMMENT**

None

**OLD BUSINESS**

1. Article III, General Provisions, Section 3.23 Non-Conforming Buildings, Structures and Uses.

B. Expansion and Substitution of Non-conforming Buildings or Structures.

Non-Conforming buildings and structures may be maintained and repaired to be kept in sound condition and may be restored or rebuilt provided they meet one of the following four (4) requirements:

1. Meet all site development standards of that zoning district thereby eliminating the non-conformity.
2. On lakefront properties if the side and rear setbacks are met expansion or enlargement shall comply with the setback and height requirements and all other applicable requirements of that zoning district.
3. On lakefront properties if the side or rear setbacks are not met then only that portion which meets the setback requirements may be expanded or enlarged up to 50% of the gross floor area as it existed as of January 1, 2012. Any such expansion or enlargement shall comply with the setback and height requirements and all other applicable requirements of that zoning district.
4. On non-lakefront properties buildings and structures may be maintained, repaired, expanded or rebuilt on the existing footprint but may not be expanded or rebuilt into any setback requirement beyond the original height or location other than the front setback may be expanded along the line of the existing structure as long as the side yard setback of the zoning districts are maintained.

A topographical survey prepared by a licensed surveyor shall be required for all lakefront non-conforming structures to assure proper grade elevations and placement. Restoration or rebuilding is permitted whether the non-conforming building or structure is damaged by fire, wind, act of God, or other casualty or is demolished and regardless of the cost of such rebuilding or restoration. A building permit shall be obtained within one (1) year of loss, or else restoration or rebuilding shall not be permitted as described above.

**Motion by William Josephson, second from Jan Deur, *ADOPTED*, to set public hearing to be held on February 1, 2012, on language as written above.**

**7 AYES**

**2. Reports from Sub-Committees**

- **Oil and gas storage tanks** – Commissioner Lernowich-Chair states he spoke with Michael McKinley (DEQ), Hazardous Material Storage Inspector who stated that there are two sets of rules that they enforce concerning underground storage tanks. The first rule is the Michigan Underground Storage Tanks Rules. In these rules there are reporting requirements, but tanks that are 1,100 gallons or less used at Farms or private residence are exempt from these rules. Most tanks used for private use are less than 1,100 gallons so the reporting requirements would not apply. The second set of rules is the Michigan Flammable and Combustible Liquid rules. A tank at a private residence, no matter what the size will fall under these rules. These tanks do not have the reporting requirements, so they normally do not get involved, or even know about them unless there is a complaint, or the local authorities request that they get involved.

Consensus of Commissioners was to not pursue ordinance language but to request Supervisor St. Amour put something in E-News and on the website referring residents to Michael McKinley (DEQ) with questions or concerns about storage tanks.

- **Outdoor Wood-Fired Furnaces** – Commissioner Lernowich-Chair proposed language as written below:

Definition: An outdoor furnace is defined as a furnace, heating system, stove or boiler that is a separate structure, either above or below ground, not located in a building, but provides heat or hot water for a building or buildings on the same lot.

Restrictions of Outdoor Furnaces:

- a) Outdoor Furnaces are not allowed in the following areas: Medium High Density Residential and High Density Residential.
- b) In all other areas, there should be a min. set back of 40 feet from any property lines.
- c) A min. of ~~40~~ **15** feet **from grade** will be required on the height of the chimney.
- d) Fuels that can be burned in a O.F. include: Wood without additives, wood pellets without additives and agricultural seeds in their natural state.
- e) Fuels that cannot be burned in a O.F. include:
  - Leaves and grass and other similar yard waste
  - Rubbish Garbage including food waste, food packaging, animal carcasses, painted wood, furniture, composite shingles, construction or demolition debris, or other household or business waste.
- f) No waste oil or other oily products are allowed to be burned in a O.F.
- g) No treated or painted wood can be burned in a O.F.
- h) No rubber, including tires and synthetic type products can be burned in an O.F.
- i) No Newspapers or corrugated cardboard can be burned in a O.F.
- j) An O.F. shall be kept in a reasonable condition and repair at all times.

- k) A mechanical permit will be required to install an O.F.
- l) Additional requirements could include higher chimney regulations. This would be advised by the zoning administrator or ordinance enforcement officer.

**Motion by William Josephson, second from Brian Lernowich,  
ADOPTED, to set public hearing to be held on February 1, 2012,  
on language as written above.**

**ZAYES**

Chairperson Kooistra asked recording secretary Garvey to put the proposed language in ordinance format for the public hearing.

- **Medical Marihuana Ordinance** – Commissioner Deur advised that the Township Board agreed to extend the moratorium for an additional six (6) months to expire on July 31, 2012, given so many changes are being made at the state level regarding current law.
- **Low Impact Development** – Commissioner Nagengast-Chair proposed language as follows:

Article XV Site Plan Review, Section 15.07 Review Standards – add bold language:

- J. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect the neighboring properties, aquatic resources, or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system. The Site Plan shall fully conform to the Muskegon County Soil Erosion and Sedimentation Control Ordinance. **In addition, methods to employ Low Impact Development (LID) techniques are strongly encouraged. LID techniques promote source controls of storm water and maintain the natural hydrological cycle by: preserving open space and minimizing land disturbances; protecting natural features and natural processes; re-examining the use and sizing of traditional infrastructure (lots, streets, curbs, gutters, and sidewalks); integrating natural site elements (wetlands, stream corridors, mature forests) into site designs; and decentralizing and managing storm water at its source. Such techniques include a permeable pavement, grassy swales, bio retention/rain gardens, infiltration trenches and basins, filter strips, tree box filters, cisterns, dry wells, rain barrels and similar best management practices set forth in the State of Michigan’s Low Impact Development Manual.**

The following language for proposed amendment has been in the ready and waiting for public hearing file as written:

Article XV Site Plan Review, Section 15.04 Application and Review

- C. Upon receipt of an application for Site Plan Review, the ~~Township Clerk~~ **Applicant** shall transmit one (1) copy of the site plan to each of the following agencies considered to be impacted or affected by the request, for their review and comment. In some cases agency review may require an onsite visit and an associated fee, which the applicant is responsible for.
  1. Muskegon County Road Commission.
  2. Muskegon County Health Department.
  3. Muskegon County Drain Commissioner.

4. White Lake Fire Authority.
5. Muskegon Conservation District.

**Motion by Steve Nagengast, second from William Josephson, ADOPTED, to set public hearing to be held February 1, 2012, on language for Article XV Site Plan Review, Sections 15.07 and 15.04 as written above.**

7 **AYES**

- **Ponds** – Commissioner Thompson proposed language as follows:

Article III, General Provisions, Section 3.17 Excavations, or Ponds

- B. Ponds may be constructed ***with a surface area of not more than one (1) acre (43,560 sq ft)*** on lots or parcels containing a minimum area of five (5) acres in all Zoning Districts ***with not more than one (1) pond per five (5) acres of land***, subject to the following requirements:

**Motion by Tom Thompson, second from Brian Lernowich, ADOPTED, to set public hearing to be held on February 1, 2012, on language as written above.**

6 **AYES** 1 **NAY**  
(Deur)

- **Neighborhood Commercial Uses** – Commissioner Thompson and Zoning Administrator Sandel reviewed both Uses permitted by Right and by Special Land Use. A suggestion was made to add any other commercial use not specified.

Consensus was to not amend Article XI Neighborhood Commercial District, Section 11.02 Uses Permitted by Right and Section 11.03 Uses Permitted by Special Land Use by adding any other commercial use not specified. Currently if a use is not specified the applicant may request the Planning Commission to look at adding such use and requirements if applicable.

- **Open Space PUD** – We have a current ordinance; however, it has never been used. Commissioner Thompson reviewed the Open Space Planned Unit Development (OSPUD) ordinance and found that the following sections contradict one another, Section 9.04a (A.4.) and Section 9.09a (A.3.)

#### **SECTION 9.04a AUTHORIZATION & PROCEDURES**

- A. An OS-PUD may only be approved by the Township Board following a recommendation from the Planning Commission in accordance with the procedures of this Ordinance in the following areas:
  1. Areas master planned or zoned RR, Rural Residential, or MDR, Medium Density Residential;
  2. Areas which are master planned or zoned MHDR, Medium High Density Residential but only if public sewer and water are provided;
  3. Reserved;
  4. Parcels within the Lake Michigan Shoreline District, Inland Lakes District and North Duck Lake Overlay District are excluded and cannot be rezoned as an OS-PUD.

**SECTION 9.09a OPEN SPACE REQUIREMENTS**

- A. An OS-PUD shall provide and maintain the following minimum amount of Dedicated Open Space in accordance with the standards of this Article. For purposes of this Ordinance, Dedicated Open Space shall mean that portion of an OS-PUD which is permanently preserved in an undeveloped state through an open space preservation agreement as required herein.
1. For land master planned or zoned Rural Residential or Medium Density Residential 40 percent of the total area of the site shall be preserved as Dedicated Open Space.
  2. For land master planned or zoned Medium High Density Residential 15 percent of the total area of the site shall be preserved as Dedicated Open Space.
  3. ~~For land which is located in the Michillinda Beach Lodge Resort or the Lakeside Inn Resort open space shall be provided in the form of a central or easily accessible village green, playground, pavilion, picnic area, courtyard or similar area or facility which can serve as a gathering place or recreational space for residents. The Planning Commission may recommend and the Township Board may approve any similar provision provided it meets the intent of the OS-PUD regulations.~~

Consensus was to strike Section 9.09a (A.3.)

**Motion by Jan Deur, second from Tom Thompson, *ADOPTED*, to set public hearing to be held on February 1, 2012, to strike Section 9.09a (A.3.) unless directed by Attorney Even that this can be handled as housekeeping with no public hearing needed.**

***7 AYES***

- **Digital Signs** – At this time we have no restriction on timing, colors, etc. Commissioner Thompson has reviewed a copy of the Charter Muskegon Township Sign Ordinance and also information provided by Commissioner Roesler. Commissioner Thompson and Zoning Administrator Sandel will meet and work on proposed language.

**COMMISSIONERS COMMENTS –**

Commissioner Lernowich advised of a recent Zoning Board of Appeals variance application regarding a working farm. He explains that maybe setbacks and size of buildings could use further review.

Commissioner Deur advised that the Board of Trustees is presently reviewing all fines and penalties for existing township ordinances, in preparation for moving towards a civil infraction process. This will include zoning ordinances.

Chairperson Kooistra gave each Planning Commission member a copy of the letter she sent to Supervisor Sam St. Amour notifying him that she would be resigning from the Fruitland Township Planning Commission effective March 31, 2012. It was also noted that the three year terms of Brian Lernowich and Steve Nagengast would expire the end of March 2012 and they both indicated they plan to leave the Planning Commission in March 2012 when their terms are completed.

**PLANNING/ZONING UPDATES – None**

**ADJOURNMENT**

**Motion by Dave Roesler, second from William Josephson, *ADOPTED*,  
to adjourn the January 4, 2012, regular meeting at 9:20 p.m.**

***7 AYES***

Respectfully Submitted,

Sally Dion, Recording Secretary