

PLANNING COMMISSION
Minutes for Regular Meeting of
July 6, 2011

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

ALSO PRESENT Zoning Administrator Sandel, Recording Secretary Dion and 5 interested parties.

CALL TO ORDER Chairperson Kooistra called the July 6, 2011 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 Jan Deur, *ADOPTED*, to accept the July 6, 2011 meeting agenda as written.**

ALL AYES

MINUTES **Motion by Jan Deur, second from Dave Roesler, *ADOPTED*, to accept the June 8, 2011 regular meeting as written.**

ALL AYES

PUBLIC COMMENT

Chairperson Kooistra explained tonight she is allowing public comment at this time on anything whether it is an agenda item or not.

- **Joanne McShane, 6164 Murray Road**, verbally presented several questions she would like the Commissioners to think about and respond to if possible while they are deliberating. The first question was what is the intent of this proposed language, what will it achieve or eliminate?
- **Kim McGee, 6166 Murray Road**, advised most of his questions regarding the proposed language have been answered by Zoning Administrator Sandel and Chairperson Kooistra, it appears most of these changes will not impact them because the vacant property near them that they have concerns with will be covered under the current/existing language. He stated he believes we need better Ordinance Enforcement; it seems enforcement is done on a whim. He wants to be sure if the proposed language is approved and adopted that it will be enforceable and that we will have consequences for Ordinances that are not followed.
- **Jane Gardner, 5625 Murray Road**, stated she believes the existing language was clearer, she believes no expansion should allow 3 dimensional and suggests putting that into words, she does not think the percentage should be limited, why should someone now only be able to expand 50%, she questions who is responsible for Ordinance Enforcement, some Ordinances indicate the Township Board and others the Building Official.

OLD BUSINESS

1. Proposed language sent back by Township Board for further review - Article III, General Provisions, Section 3.23 Non-Conforming Buildings, Structures and Uses, B. Expansion and Substitution of Nonconforming Buildings or Structures.

Motion by William Josephson, second from Jan Deur, *ADOPTED*, to recommend approval to the Township Board of Trustees the language as written below.

ALL AYES

SECTION 3.23 NON-CONFORMING BUILDINGS, STRUCTURES AND USES

- B. Expansion and Substitution of Non-conforming Buildings or Structures.
1. Non-Conforming buildings and structures may be maintained and repaired to be kept in sound condition and may be restored or rebuilt provided, however, that the restored or rebuilt building or structure is on the original footings and foundations or constructed exactly where the footings and foundations of the non-conforming structure were located. All expansions or enlargements shall not exceed 50% of the gross floor area as it existed as of January 1, 2011. 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.
 2. Any building or that portion of the building which does not meet the setback or building height requirement shall not be expanded or enlarged in any direction including upward beyond the dimensions of the existing building but shall only be rebuilt, restored, remodeled, or maintained to the same length, width, foundation, and height dimensions and square footage of the existing building.
 3. For any portion of that same non-conforming building which does comply with the setback and building height requirements then that portion only may be expanded or enlarged up to 50% beyond the gross floor area of that portion of the building as it existed as of January 1, 2011 and which is in compliance with the setback and height requirements and other applicable requirements of that zoning district. Any such expansion or enlargement shall be constructed on the existing footprint and comply with the setback and height requirements and other applicable requirements of that zoning district.
 4. For non lakefront lots front setbacks shall be maintained as prescribed by the Zoning District or are in line with the existing structure.

Chairperson Kooistra stated we have been working on this proposed language for quite sometime now and that there has been two (2) Public Hearings held giving plenty of chance for public input. She explained it has been suggested to the Township Board that the Fee Schedule be amended to add for fees if someone is not following a particular ordinance, ex: building without zoning compliance, building permit or both. She will also pass along to the Township Board that there is concern on who is responsible for enforcement of which ordinances.

She asked Commissioner Josephson and Zoning Administrator Sandel to please respond to the questions and concerns expressed during public comment using the proposed language.

Commissioner Josephson stated that the intent is to maintain the neighborhood character. For the question regarding obstructed view he explained that recent court rulings indicate the only view that is provided is the straight ahead view, however, we care so we are trying to avoid further view issues. In the case of when setback requirements can be met the 50% rule is measured from the gross floor area for the full house not just the footprint. The language in B1 does pertain to demolished homes also.

Zoning Administrator Sandel explains that he spoke with Attorney Kevin Even late this afternoon and he believes what we were going to propose as B 5 which would cover the expansion for buildings and structures that are engaged in non-conforming uses will require further review and should be postponed for such. Attorney Kevin Even is in agreement with the rest of the language as proposed.

DISCUSSION

Consensus of Commissioners is to recommend approval to the Township Board of Trustees the language as written below and agreed to the importance of the need to continue working on proposed language for the expansion for buildings and structures that are engaged in non-conforming uses.

2. Oil & Gas Exploration Report

Commissioner Lernowich and Zoning Administrator Sandel are still collecting data; there has been some legislative action that needs to be reviewed.

3. Zoning Ordinance Review Committee Report

- **Outdoor Wood-Fired Furnaces** – Put on next month's agenda, Commissioner Lernowich will work with the Zoning Ordinance Review Committee on this.
- **Mechanical Appurtenances** – Put on next month's agenda, Commissioner Nagengast will work with the Zoning Ordinance Review Committee on this.

4. Medical Marihuana Subcommittee Report

Commissioner Deur advised that the new attorney needs to be involved; legislation and the courts are still being watched. The Township Board of Trustees have extended the Moratorium for six (6) which expires in December and he still believes it is in the townships best interest not to rush this, continue to go forward but wait for clarifications from the courts.

5. Review of PC Goals

Fruitland Township Planning Commission Goals for 2011-2012

1. Non-conforming Uses
2. Medical Marijuana Ordinance
3. Study of Outdoor Wood-fired Furnaces
4. Study of Mechanical Appurtenances
5. Oil and Gas Exploration requirements
6. Explore requirements for underground gas/oil tanks on residential parcels
7. Review Neighborhood Commercial uses
8. Review Article IXa Open Space Planned Unit Development Ordinance
9. Study of Low Impact Development
10. Pond Size Requirements

COMMISSIONERS COMMENTS

Commissioner Deur advised that the Township Board of Trustees approved the zone change request as recommended at the July meeting and also updated that the proposed Sewer Ordinance has not been acted on yet.

Commissioner Thompson shared a copy of an article from the Muskegon Chronicle regarding oil prospecting written by a former investor in the oil fields in Bear Lake and Kaleva sharing his knowledge.

PLANNING/ZONING UPDATES - None

ADJOURNMENT

**Motion by Brian Lernowich, second from William Josephson,
ADOPTED, to adjourn the July 6, 2011 regular meeting at
8:15 p.m.**

ALL AYES

Respectfully Submitted,

Sally Dion, Recording Secretary