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| <p style="text-align: center;">YANKEE SPRINGS TOWNSHIP BOARD OF TRUSTEES Joint Meeting Of Board of Trustees and Planning Commission</p> <p style="text-align: center;">Thursday, August 22, 2013 Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333</p> <p style="text-align: center;">MINUTES</p> | <p>FINAL MINUTES Approved Sept 12, 2013 As presented</p> |
| <p>Meeting called to order at 7:00 PM by Supervisor Mark Englerth.</p> <p>Roll Call:</p> <p>Board of Trustees: Present: Jerkatis, J. Lippert, Englerth, M. Cook, Campbell</p> <p>Planning Commission: Present: Strickland, Fiala, Cunningham, Beukema, Purcell, Wells.</p> <p>Zoning Administrator: Larry Knowles</p> <p>Legal Counsel: John Lohrstorfer</p> <p>PLEDGE OF ALLEGIANCE</p> <p>Staff Present: J. Orr, Constable, and S. Marcukaitis</p> <p>Visitors: (8) Not including staff present.</p> | <p>CALL TO ORDER</p> <p>ROLL CALL</p> <p>PLEDGE</p> |
| <p>APPROVAL OF AGENDA:</p> <p>The Planning Commission agenda will come first with a brief review of Middleville Tool & Die's site plan review and then discussion will go to Whispering Pines.</p> | <p>APPROVAL OF AGENDA</p> |
| <p>APPROVAL OF MINUTES:</p> <p>Fiala, Chair of the Planning Commission (PC) commented that the PC was not ready to approve the minutes of the 8/15/13 Regular PC Meeting. Approval will be done at a regular meeting in the near future.</p> | <p>APPROVAL OF MINUTES</p> |
| <p>PUBLIC COMMENT: (None)</p> | <p>PUBLIC COMMENT: (None)</p> |
| <p>NEW BUSINESS (PLANNING COMMISSION):</p> <p>Middleville Tool & Die was represented at this evening's meeting by: Luke Middleton (Acting Owner & Family Member), Byrne Harmon (Contractor) and Ross Martin (President).</p> <p>Middleville Tool & Die would like to build a storage building in a zone planned for industrial use. It was noted that after the brief discussion, nothing has to be done with zoning. The metal building will have a concrete apron around it adjoining it</p> | <p>NEW BUSINESS (PLANNING COMMISSION):</p> <p>Page 1 of 6 PC/BOT JOINT MTG 8-22-13</p> |

to the parking lot of the company's larger building. The building will be used for storage of dies, raw materials, empty containers, etc. Middleville T & D needs more room in the main plant. Purcell of the PC asked if this meant more jobs for the area. R. Martin replied that their business is growing and they have added employees to accommodate the growth.

Motion by Purcell with support from Campbell to approve the site plan of Middleville Tool & Die as presented. All ayes. MOTION CARRIED.

WHISPERING PINES DISCUSSION:

Fiala introduced the Whispering Pines ("WP") discussion by explaining the goals of the P.U.D. and Condominium classification. Fiala also mentioned the variance requests that will go before the ZBA on September 10, 2013. Fiala commented that the PC felt the Board of Trustees should be aware of the situation as a public hearing is scheduled for September 19th.

In regards to variances, J. Lippert, Clerk, commented that whatever the ZBA rules on, the board cannot break it. John Lohrstorfer, YS Legal Counsel, agreed with J. Lippert and mentioned that it was correct in this case because five or six variances are involved and a plan for approval will be involved with all these contingencies. Cunningham mentioned that if the ZBA disapproves, the plan cannot go ahead. J. Lohrstorfer commented that Whispering Pines (WP) could adapt their plans.

J. Jerkatis, Treasurer, asked if J. Lohrstorfer would go through the duties and authority of the ZBA. Lohrstorfer commented that the ZBA evaluates on practical difficulty and substantial justice to the applicant and neighbors. Jerkatis inquired if the ZBA could change the use of property. J. Lohrstorfer commented that the ZBA could not, but that the variances asked for were for uses but rather "number issues", like a reduction in the project size or the number of boat slips. J. Lippert asked if it (WP) was zoned Resort and Recreation. Lohrstorfer affirmed that it was zoned that way to keep the resort-type character of the project.

Discussion occurred regarding the possibility of sharing a road with Oakgrove and making it a full 66' wide road. (66 ft. required by Barry County Road Commission). Fiala commented that this possibility has been explored and is not feasible.

Jerkatis confirmed that the Whispering Pines Association had responsibility of road maintenance.

Purcell commented that there was a hardship of practicability because the old developer of WP did some things without following the zoning ordinance in the past. Purcell felt new people shouldn't be held responsible. Purcell remarked that the PC can bend a little, but the ordinances are there for a purpose and a reason. "A lot of the ordinances are for public safety," added Purcell. He feels that the PC has bent quite a bit, and the PC thought it would be good to have a meeting with the Board. Lohrstorfer added that this is why the PC also suggested WP consult the Fire Chief and also have sewer testing done. Purcell mentioned that the PC shouldn't be holding current owners at fault of all of what has happened in the past.

NEW BUSINESS (PLANNING COMMISSION):

Motion to approve the site plan of Middleville Tool & Die as presented. MOTION CARRIED.

WHISPERING PINES DISCUSSION

WHISPERING PINES DISCUSSION: cont'd

Cunningham of the PC asked if the ZBA ruled that WP can have a variance for year around occupancy (for example), but if the other variances are not approved, could WP still have year around occupancy? Lohrstorfer responded that WP could not have year around because approval of all of the variances is tied into the final approval of the WP project.

Fiala commented that there were other individuals involved besides the WP group present at the meeting tonight. Discussion went to the master deed. It was noted by legal counsel that the master deed cannot trump local zoning. J. Lohrstorfer commented that the master deed and by-laws will be covered at the public hearing on Sept. 19th. Lohrstorfer also mentioned that owners, developers and neighbors within 300 ft. should be notified of the Sept. 19 hearing.

Discussion went to the master deed and possible units that may be added by the owner of the master deed. Bob Bartman, of Whispering Pines, commented that any construction must be approved by the WP architectural development committee. Bartman mentioned that he didn't think the association could change the master deed but it could change by-laws.

Minimum size (sq. footage) requirement was brought up as being 720 sq. feet. It was noted that maybe eight units are larger than 600 sq. feet and the rest are less. The question was brought up if there should be a variance request for this. Lohrstorfer commented that the units were pre-existing and no variance was required.

Sheds were mentioned as well. Barman commented that storage sheds' size and placement would be an addendum to WP's by-laws.

Another question was asked regarding an expiration time period for by-laws. Bartman added that they do not expire.

Fiala asked what the procedure was if behavior or activities are undesirable of one or more of the units. Bartman commented that one or two board members are at WP every weekend. Issues are addressed at that time (time behavior occurs). J. Lohrstorfer commented that Article VII addresses conduct, and provisions are there.

J. Lippert asked if a performance bond had been discussed. Lohrstorfer commented that there was an escrow account item and then discussion on a performance bond, which are two different things. Englerth brought up a special assessment possibility. Fiala mentioned that an escrow account has not occurred. It was noted that WP has recently paid \$1,050 in fees. Englerth also mentioned that to work in good faith, the township didn't think it (escrow account).was appropriate

M. Cook asked what the PC could do rather than the ZBA having to do certain items. Lohrstorfer commented that he'd have to take another look at this issue.

WHISPERING PINES DISCUSSION: cont'd

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L. Knowles, ZA, commented that he had spoken with the Fire Chief, Dave Middleton. Middleton was concerned with the new road that did not provide access to Units #15 & #16. It was also noted that the road surface has to be gravel to support the heavy weight of the fire trucks.

Board Trustee, B. Campbell asked about the trees to be removed. Bartman commented that they had not been removed yet because they were waiting for the final approval from the township.

Purcell asked when the by-laws would come to the PC and suggested using regular font for what is current text and large font for what was proposed. Discussion also took place on whether the by-laws should be approved by the WP membership before the Planning Commission sees it first. Further discussion took place regarding the possible interest of the general public in WP's by-laws and the by-laws addressing situations that may occur. Purcell felt that the by-laws assure the public and members that WP has the tools and resources to manage the property.

J. Lippert mentioned the 21 dock slips request, and what happens to the 21 trailers when the boats are in the water. G. Purcell commented that the by-laws covered this and that the trailers would be moved off-site if long term.

Discussion re-occurred regarding the by-laws being approved by the WP association beforehand. Bartman mentioned that the WP Association was represented at the meetings by a small group of people, and there may be disagreement among other owners. It was commented that the by-laws may get approved more easily by the WP Association if the township approves them (by-laws) first. Englerth commented that there is a public hearing date set, and there may be additional hearings regarding this issue.

It was noted that Robert Byington, of Depot Law Office in Hastings, represents the Whispering Pines Association. R. Bartman added that WP is a registered non-profit organization. WP is registered with the county. It was also noted that WP Assoc. dues are \$75.00 per month per unit.

Ron Heilman of Coty Drive, Yankee Springs, commented that he owns land to the west and south of Whispering Pines. Heilman is really impressed with what Whispering Pines has accomplished so far. Heilman recently walked on his property with Bill Gately and showed Bill where kids had been shooting bottles on stumps and building fires. Heilman commented that he'd like to have a cyclone fence put up rather than a split rail fence. B. Gately commented that he will be bringing this request to the WP Board. Heilman also mentioned that his lot stakes go all the way to the other side of where the current road is from Patterson to the WP project. He mentioned that WP appears to have 18 to 20 feet, but his taxes are based on that whole parcel and the road is within that parcel. Heilman remarked that he didn't think the township could make WP have 66 ft. road when it goes on

WHISPERING PINES DISCUSSION: cont'd

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his (Heilman's) property. "You'd be infringing upon my property," commented Heilman. Purcell asked Heilman if he (Heilman) would object to having the road being paved. Heilman said that he wouldn't object.

Bob Nelson, of Westwood, Yankee Springs looks on what WP has done recently as a big improvement. Nelson sits on the Gun Lake Improvement Board and is concerned about the number of docks (already approved by the DEQ) being asked for in the variance. It was clarified that the request was for 21 docks. Nelson had heard some wild stories about a commercial marina coming in and appreciated that clarification that there was none planned.

In regards to number of slips, Cunningham wondered what the likelihood would be that this would set a precedent with other resorts. Englerth listed other resorts, and mentioned that it hasn't been a static number of one boat per unit. WP is asking for one boat per unit, and it is the ZBA's job to say if this is reasonable or not. "What makes sense today? ... We've done that history backwards and forwards, and we've beat that issue to death. Where do we go forward today? What is palatable for the community and how can we resolve what we are trying to do here to the best of our ability?" commented Englerth. C. Strickland commented that it was her understanding that if someone would say the PC has set a precedent, their situation would have to be exactly the same as WP's. Englerth added a brief summary of resorts in the area and noted the uniqueness of each one.

Discussion took place of the possibility of a different fence type being added to the site plan. Discussion took place of whose property the fence would be on, and that there was no evidence either way that the trespassing was coming from WP residents and/or their guests.

Fiala mentioned that the PC had been moving along as best as it could under the circumstances. Purcell mentioned that there may be comments from the public at the hearing that the PC has not even been informed of yet. J. Lippert confirmed that the notices had gone out for the ZBA hearing. Fiala noted to Supervisor Englerth that the items covered thus far were the main things the PC had in mind to get these issues on the table in front of the township board to let everyone know in an opening meeting the status of the WP project.

Englerth thanked Frank Fiala and all of those on the PC and from Whispering Pines for their efforts. Englerth mentioned that the situation was a lot further ahead today than it was several months ago.

Just after motion by Cunningham with support from Campbell to adjourn PC meeting at 8:45 p.m., the question was asked about gateway "Welcome" signage. Fiala commented that a lot of work had been done on the corner of M-179 and Patterson, but that the PC has determined that a jointly-owned sign was not feasible. Another location may be at the fire station for the Welcome signage. Fiala mentioned that the following questions need to be asked regarding a gateway sign: Is there support for it? Will the township maintain it? Or should the project be struck from the PC "to-do list" and from the update to the land use plans?

**Whispering Pines Discussion
cont'd**

PUBLIC COMMENT:

At this time, Steve VanderKam, owner of Gun Lake Mini-golf introduced himself and noted that M-179 had been designated as a Heritage Trail. He understands that trees are not to be removed from a road with that specific designation. VanderKam mentioned that he has seen significant tree cutting taking place along the road in the past six months. VanderKam cited that other cuttings have taken place near the fire station, Channel 3 tower and on other parts of the Heritage Route. VanderKam commented that just today the Highway department had put lots of X's on trees along his property. VanderKam commented that he didn't know if the township had authority to govern this. Englerth mentioned that Brian from MDOT was very willing to work with people in the area and that VanderKam should give Brian a call. Brian's name and number were supplied to VanderKam.

Jerkatis, YS Treasurer, commented that he has seen speeding on the designated route as well. Purcell agreed with the speed comment of Jerkatis and also joins with VanderKam's comment to preserve as many trees as possible. Purcell also mentioned that it was good timing for a decision from the Board on if it wants to do a Welcome sign because it shows pride in our township. Discussion took place regarding whether the proposed location (corner of M-179 & Payne Lake Rd) was too far into the township for a gateway sign. Englerth added that the township needs to get serious about the matter and if it is willing to make a financial contribution towards the sign or not.

ADJOURNMENT

Motion by Jerkatis with support from J. Lippert to adjourn at 9:00 p.m. Approved by all. MOTION CARRIED.

Respectfully submitted

(Approved Draft Date Distributed: 8-28-13 jcl)

Deb Mousseau
Recording Secretary
8-27-13

Janice C. Lippert, Clerk _____

Approved Date: _____

Cathy Strickland, Secretary _____

Final Approval of Minutes: Sept 12, 2013

PUBLIC COMMENT:

ADJOURNMENT