

<p style="text-align: center;"><b>YANKEE SPRINGS TOWNSHIP PLANNING COMMISSION Special Work Session Meeting Thursday, October 3, 2013 Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333</b></p> <p style="text-align: center;"><b>MINUTES</b></p>	<p><b>FINAL MINUTES</b> Page 1 of 7 <b>APPROVED: Oct. 17, 2013</b> As presented</p>
<p>Meeting called to order at 7:03 PM by Chairman Frank Fiala.</p> <p><u>PLEDGE OF ALLEGIANCE</u></p> <p><u>Roll Call:</u> Present: Purcell, Strickland, Beukema, Wells, Campbell, and Fiala. <u>Absent:</u> Cunningham (with notice).</p> <p><u>Staff Present:</u> Zoning Administrator- Larry Knowles, Supervisor- Mark Englerth.</p> <p><u>Also Present:</u> John Lohrstorfer, YS Twp. Legal Counsel</p> <p><u>Visitors:</u> 7 (not including staff present)</p>	<p><b>CALL TO ORDER PLEDGE ROLL CALL</b></p>
<p><b>ADDITIONS OR CORRECTIONS TO AGENDA:</b></p> <p><b>Addition of Report:</b> Zoning Administrator's Report &amp; Letter from Jim Riehl of GLPA</p>	<p><b>ADDITIONS TO AGENDA</b></p>
<p><b>PUBLIC COMMENT: None.</b></p>	<p><b>PUBLIC COMMENT: None.</b></p>
<p><b>REPORTS: <u>Larry Knowles, Zoning Administrator</u></b></p> <ul style="list-style-type: none"> <li>• Mike Kok of 10532 Griffeth Dr., requests approval of the use of a camping trailer to live in temporarily during construction of their new home. Discussion took place and it was also noted that there was a maximum time limit of 12 months.</li> </ul> <p>Motion by Wells with support from Beukema to allow special use of a camping trailer for Michael Kok of Griffeth Dr. for up to 12 months during construction of new home. All ayes. MOTION CARRIED.</p> <ul style="list-style-type: none"> <li>• A commercial site plan review has been granted for a storage pole barn in Rison Condominiums. This storage pole barn follows their site plan. This will be Building #4 and looks like the rest of the buildings. Brief discussion occurred.</li> <li>• Curley Cone will be moving to the Chemical Bank location (east of the current Curley Cone). Owners of Curley Cone will be coming to the PC with a re-zoning request from C-1 to C-3. Discussion occurred. There will be a \$200 fee.</li> <li>• An incident occurred Sept. 6 in which a noise complaint (concert) was called into the police. It has been investigated, verbally addressed and a letter is to be sent. Notification to the township will take place, if this situation may come up in the future.</li> </ul>	<p><b>REPORTS:</b></p> <p>Zoning Administrator – L. Knowles</p> <p>Motion to allow special use of a camping trailer for Michael Kok of Griffeth Dr. for up to 12 months for construction of new home. All ayes. MOTION CARRIED.</p>

**LETTER FROM GLPA: Read by Doyle Smith (of the GLPA)**

The letter was written by Jim Riehl of the GLPA. Riehl, nor the Attorney for GLPA could be present at tonight's meeting. (Letter to be attached to minutes).

**NEW BUSINESS:**

**Regarding Site Plan Approval by Fire Chief:**

It was commented that Fire Chief, Dave Middleton, had been out to Whispering Pines (WP). Larry Knowles, spoke with D. Middleton today and Middleton noted that if the site plan of WP reflected what is currently staked out, then he would be good with it.

G. Purcell noted that several trees will have to be removed and playground equipment as well. Purcell commented that the chief was very clear that he didn't want to design it, but there needs to be a hard surface that holds 60,000 pounds of fire equipment. It was noted that these changes (staked out last evening – and approved by the Fire chief) need to be reflected in the site plan.

**Regarding Road Pavement:**

**Purcell** also mentioned that the PC is waiting for design, location, and materials to be used for the road. Timing is also of question. The PC has an interest in their financial capability to meet the ZBA variance requirement that this construction happens in a three year period of time.

**Fiala** commented regarding roads, and paving all the way to Patterson Rd. It was determined that 31 units would access Patterson Rd. (21 WP units included). Discussion occurred regarding payment of pavement among 31 units.

**J. Lohrstorfer** commented that the district should be set up today, and assessment be applied in three years if it has not been done by WP before then.

**Fiala** summarized that the data from the Fire chief for the internal roadway is to be included in the site plan. The second part is the paving of the WP Drive to have that divided by 31 units and set up immediately for Special Assessment.

**Phil King, of Oak Grove**, asked what would happen if at the end of three years, if the paving wasn't done. J. Lohrstorfer commented how it could then be handled by the township. Township funds may or may not be available at that time. Possibly the township would have to collect funds if they are not available. Phil King also mentioned the dust problem with current roads.

**Paul Heystek, ZBA Chairman**, commented that other residents have talked about the WP Drive as being a right-of-way. Heystek asked what would happen if a property owner didn't want his property paved. J. Lohrstorfer commented that if there is an objection, that is another issue that will have to be dealt with. It was mentioned that Ron Heilman (of Johnson Rd.), didn't want to pay for it, but didn't mind having the road paved.

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**As presented**

**NEW BUSINESS**

**Whispering Pines Discussion**

Heystek cited a similar case in Douglas, MI in which the courts required a condo association to pave the road. Discussion continued on who would possibly be responsible for paying of pavement, 31 shares involved, and who would receive the benefit of the paved road, thus having to pay for it.

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**Bob Byington, Legal Counsel to WP Assoc.**, commented that he'd like to divide Russell Drive into three sections.

Bruce Campbell commented that it may not be a popular thought, but described the two roads being made into one road and all the underground utilities moved over to the side, running a sewer line down and paving that one road. The special assessment would be spread over more people, and also it doesn't have to go all the way down because there is a barrier a couple hundred yards near Patterson and the beginning of WP. It may make more sense because there would be a paved road next to a dirt road, and it would clean up a lot of dust.

Phil King commented that his association (Oak Grove) overwhelmingly did not want to have any part of the possible proposal.

It was noted that other township officials had mentioned the same idea brought up by B. Campbell.

Fiala summarized that the fire chief has specified what is to be paved (all the way to Patterson Rd.) and put on the site plan, and that each unit (31) would pay 1/31<sup>st</sup> of paving cost.

**Buffer on West and South Side of property:**

At the beginning of this discussion it was noted that a split rail fence was initially decided upon. Discussion began regarding putting up a six foot opaque fence for screening purposes. Also discussed was whether the fence be put up by people who want the fence up.

It was mentioned by B. Bartman of WP that there are not any residential homes there to shield it from people viewing. Bartman also mentioned that the only future residents on Hielman's land would be in the woods to the north. He commented that a person would not tear down all the trees if they lived there. There would still be a natural buffer of trees there by a future owner. Bartman added that if there is new construction in that area, the buffer issue could be reviewed.

R. Beukema of the PC commented that in farming, if a fence were to go up on a property line, it would be paid 50/50 by both owners. When Beukema moved to a residential area and wanted to put a fence up to protect his grandchildren, Beukema put up the fence, totally at his own cost, because he was the one who wanted the fence.

C. Strickland of the PC didn't see the purpose of the fence because it could block the lake view of others and its open ends won't keep anyone out.

**R. Byington, of WP**, commented that he had a letter from one of the lakefront owners to the east. Byington asked if the township had received the letter, dated Sept. 20, 2013. Byington presented the letter. Byington commented that the fencing requirement is there to potentially buffer from new developments from existing residential areas. It's all vacant land for roughly a city block. There are no residences there. The scenic portion for the owners on the lake to the east and south of this development would be taken right out of existence.

G. Purcell of the PC had heard that there were complaints from property owners of people crossing over and shooting and starting fires in the woods, etc. Purcell would still side with appropriate screening as called for (6 foot opaque) in the ordinance. Purcell mentioned that previous discussion had been about putting up a chain link fence.

J. Lohrstorfer mentioned that there are options there that the PC has for flexibility. J. Lohrstorfer noted that a six foot item is not mandatory. (Sec 3.9 E5)

Fiala commented that there is a split rail consensus for the time being amongst the PC.

**Ruling of the ZBA Variances/ PC and Twp. Approval:**

Fiala consulted the YS Township attorney regarding all the variances granted by the ZBA were subject to the Planning Commission and Township Board approval of the PUD. Fiala's question was if the township board denied the PUD, the variances would go back to zero? J. Lohrstorfer confirmed that this was correct. Fiala then asked would the township board or PC have the authority to modify what the ZBA has granted? Lohrstorfer commented the ZBA wanted it understood that this is a variance as it relates to this project (WP) and that at this point the PC cannot go in and change what the ZBA has done. There may be modifications down the line, but it is what it is (for the time being).

**Underground Utilities:** The ZBA required that in four years all utilities would be placed underground unless repairs had to be made before the four years expired. Discussion occurred regarding a special assessment occurring after the four years. It was determined that the special assessment condition was not made by the ZBA on WP's underground utilities, and Lohrstorfer stated he would have to research whether Spec. Assessments could be used for utilities.

**Boat slips & boat lifts:** Fiala clarified that the ZBA only addressed a maximum of two docks and 21 boat slips with one boat slip per owner. Boatlifts, beaching and shorestations were not referenced. Byington, Attorney of WP, mentioned that beaching of a boat was difficult due to a seawall all along the lakefront.

Discussion took place with Paul Heystek regarding what the ZBA allowed (the structures). The discussion then went into density, public safety, and renters using boat slips. Lohrstorfer commented the YS Township could pass an ordinance restricting the amount of boats allowed (at a dock), but one strip of homes or one organization could not be singled out with this ordinance. Lohrstorfer cited these limitations occurring more on the east side of the state and they can be upheld in court.

Fiala summarized that the ZBA granted two docks and a maximum of 21 slips (one per unit), and the PC is not able to cut back on that. Also there would be no boat lifts, no mooring of boats and no storing on the shore line as conditions. Byington of WP asked for clarification on "mooring". Fiala commented that mooring would be the anchoring of boats off the shoreline.

**Campers, pop ups, tents, parking:** It was proposed that it might be addressed that no tents, campers, RV's or temporary mobile sleeping facilities be allowed in the development. Bartman of WP commented that these rules are already in their by-laws. C. Strickland commented that with the history that YS Twp. has had on camping issues, "You need to be specific." Phil King, of Oak Grove, asked who would be enforcing these rules.

**Parking Spaces:** 52 parking spaces are posted on the WP site plans.

**Fire pits:** C. Strickland read what the fire pit ordinance states including setbacks. Density problems were discussed. P. King mentioned issues of smoke in July and August and fires left unattended on the beach. Heystek commented that the twp. was dealing with the one association not 21 single owners. Purcell mentioned the lack of supervision/management, and mentioned that the WP owners that were at the meeting were very trustworthy, but they weren't always at WP. Rental of the units causes a different situation, and it benefits people who want to make a profit. The owners are not present to police and manage the units. Bartman of WP, commented that there are six units right on the lakefront, five of which are rentals. Three of those rentals have a fire pit per unit and fires are going all summer long. Bartman continued that WP has rentals all around them and they are not supervised 24/7. He asked how those particular rentals can be controlled. J. Lohrstorfer commented that he wasn't aware of where it can be mandated that any project not do rental.(See Section 3.9 C 4a) Lohrstorfer cited issues in South Haven where half the homes are rented, and commented on rental issues, as well as, enforcement issues. Theoretically, WP Association is the policing group for the by-laws and making sure people are doing the right things according to J. Lohrstorfer. Lohrstorfer mentioned that the township could have an **annual review of the project**. Fiala asked a year from now, in an annual review, what would be the township's options at that point. Lohrstorfer commented that a year from now, if things are not working, then the township has to put some other conditions on the project. Discussion than occurred regarding fire pits, and the amount of fire pits allowed. Purcell commented on behavior of owners vs. renters. Byington, of WP, commented that the closer and more controls that are put on a property, the more the rights of property owners are interfered with. Jan Bartman, of WP, commented that some owners have no intentions of renting, but the restrictions penalize those that are not renting. Jan Bartman also mentioned that her family likes to have a fire pit close by so that adults can still enjoy the fire and not have to worry about the children who are sleeping because they are near them. C. Strickland commented that she enjoys a fire with her own family, not with strangers and feels that this is what families usually prefer. Strickland commented that if it were a question of behavior, maybe the variance for year round residency should have been allowed so that someone would be there all the time to supervise activity. Further discussion occurred regarding supervision of activities, particularly those activities of renters at WP.

**Annual Reviews:** Lohrstorfer commented that with a PUD you are always back to reasonable conditions and you follow your guidelines. In reference to annual reviews, Lohrstorfer commented that it can be reviewed if conditions are followed or not followed, and sometimes adjustments have to be made to make sure conditions are enforced or being abided by. Bob Bartman of WP, asked how long the annual reviews go for, for two years, ten years, etc. Lohrstorfer commented that the PC should reserve the right to waive it, stating it is not going to do an annual review this year.

Fiala brought the discussion back to fire pits and polled the PC members as to what they felt was a reasonable number. Fiala felt that the first cut at this issue should be one fire pit by the beach and a couple in strategically placed locations.

**Supervision:** Phone numbers of owners displayed on WP units that are rented out was mentioned as a form of supervision. Purcell mentioned the State Park had rangers for supervision and security, and maybe security services could be hired for WP.

**Summary:** Fiala commented that reasonable conditions could be put on the preliminary approval by the PC, and then the preliminary approval would be sent to the Township Board for preliminary approval. After that point, the township board would send it back to the PC for final approval and then go to Township Board for final approval.

**Boat Slips Revisited:** The issue of docks and boat slips was requested to be discussed prior to the preliminary approval of the PC. Discussion occurred on the amount of slips used (including non-use of 4 slips because of the non-occupancy of the four-plex), the definition of use of a boat slip, and the DEQ permit and condition requirements necessary to get the permit. Lohrstorfer commented that maybe the DEQ should be contacted for clarification. Further discussion occurred regarding the letter of application made by WP to the DEQ, as well as conditions to be placed by the PC regarding dockage, the length of watercraft allowed, and ownership of watercraft in the dock slip. A portion of the letter dated February 28, 2013 written by Bob Bartman, was read by G. Purcell, referencing docks used by association members.

**Subcommittee Formation:** Fiala asked Lohrstorfer what needed to be done to get to the preliminary approval. Lohrstorfer commented that by ordinance, a findings of fact need to be done. Lohrstorfer has drafted a proposal for this. Also, the conditions needed to be spelled out for the preliminary approval both for the PUD Special Use permit and the Condominium approval. Also a site plan is needed to be approved and right now there is a road issue involved with the site plan.

It was decided that a subcommittee would be formed to come up with a draft to lay out and to go over with the PC and then submit to the township board as the PC's preliminary approval. Purcell mentioned that it would be good for WP to get a copy of this prior to the next meeting.

G. Purcell also noted the resort zoning district says only one dock for the personal use of the owner or on-site manager of the resort, campground or B & B inn shall be permitted.

Guests of the resort, campground or B & B inn, may launch watercraft at the public launch sites only. "So the inherent aspect of the zoning ordinance is that renters may have docks and boats, but they must launch it at the public launch site," commented Purcell. Purcell also noted the letter from the GLPA (read this evening) says "never to be allowed (boats) by renters" (out on the docks). Purcell wanted the PC to be well aware of both of the items just mentioned.

Fiala mentioned Mike Cunningham wanted to be present when the vote was taken on the preliminary approval.

Discussion occurred regarding information of WP's master deed, by-laws and covenants and restrictions within the by-laws. G. Purcell asked for a digitized version to be sent to Larry Knowles, ZA.

Mark Englerth, Supervisor, recommended somebody from WP and the PC to get together for dialog between meetings.

It was noted that the next meeting would be October 17, 2013. Fiala asked that the PC would have distributed to them the finding of fact documentation, as well as the updated site plan from WP.

Fiala appointed the subcommittee to get together before October 17<sup>th</sup> to talk about the finding of fact, conditions, site plan and by-laws. The committee will be made up of: John Lohrstrofer, Greg Purcell, and Frank Fiala.

**ADJOURNMENT:** Motion by Purcell with support from Cunningham to adjourn meeting at 9:15 p.m. Approved by all. MOTION CARRIED.

Approved by: \_\_\_\_\_  
Cathy Strickland, Secretary                          Date

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**APPROVED: Oct. 17, 2013**

**As presented**

**ADJOURNMENT**

Deb Mousseau  
Recording Secretary  
October 6, 2013

Gun Lake Protective Association  
P.O. Box 319  
Shelbyville, MI 49344  
269 217 3514  
01 Oct 13

Frank Fiala  
Chairman  
Planning Commission  
Yankee Springs Township  
284 Briggs Road North  
Middleville, Michigan 49333

Mr. Fiala,

The Gun Lake Protective Association, as you know, has serious concerns relating to the Whispering Pines issue before you. At previous Yankee Springs hearings and meetings our attorney and I have enumerated those concerns. Since neither he nor I could attend your hearing scheduled for October 3, 2013 I ask that this letter be read aloud and be accepted into the record to enumerate our concerns and position on these matters.

We are concerned about the following issues:

1. 21 Boat slips being allowed when NO historic use exists to support this number of slips.
2. The weakening of your township's anti-funneling ordinance by setting a dangerous precedent in allowing such a high density of units to have unfettered access to the lake by way of the requested dockage through a relatively small lake front area. The requested number of slips equates to a 90% reduction in your water front zoning requirement for back unit access.

We feel strongly that you should use the authority granted to your commission to mitigate the issues listed above by implementing the following restrictions:

1. Allow only the 9 boat slips from one dock with the restrictions you have currently granted to their association. Their association can set up a lottery or other system to decide who uses the 9 slips.
2. If the 9 slips mentioned above, or more are allowed, we feel they must be;
  - a. For owner use only.
  - b. Never rented.
  - c. Never allowed to be used by renters.
  - d. No owner boats, parked at the dock, should be allowed to be used or rented by renters.
  - e. The dock be placed in the lake no earlier than May 15 and must be removed by September 15 each year.
  - f. No overnight mooring/docking/beaching of any watercraft.



- g. That NO expansion of units or dockage be permitted going forward.
- h. No boat slip authorization can ever be assigned, or sold by any unit owner to any other party by any means.

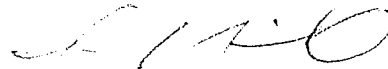
In order these restrictions to have teeth, as well as all restrictions you place on the Whispering Pines Association, they should be spelled out in a legend box on their site plan before your approval of said site plan. This will ensure that all of your restrictions are known by all parties and are permanently part of the approved plan. This will remove any guesswork going forward as to what restrictions are in place for the association and will be clear to future township administrations.

Alternatively, all of the restrictions could be enumerated in a PUD restriction agreement document included in their PUD approval, which would have the same affect. Both of these methods will ensure meeting minutes will not have to be referenced by any party to verify restrictions.

All of your zoning requirements for this such development were published in publicly available documents well before the original developer filed documents with Barry County to become a condominium. These should have been dealt with at the time of the filing instead of now, but your requirements have not changed in the interim. Please uphold the same standards that would have been required at the original time of filing.

Thank you very much for your time. We understand you have been handed an ugly mess to attempt to fix. However, we ask that you do so in the manner, which imposes the least negative affect on the current residents of Gun Lake who have followed all the rules and count on you to uphold their community standards.

Respectfully,



James Riehl  
President