

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP <u>PLANNING COMMISSION</u> Regular Meeting Thursday, September 19, 2013 Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333 MINUTES </p>	<p> FINAL MINUTES Page 1 of 9 APPROVED: Nov. 19, 2015 </p>
<p>Meeting called to order at 7:00 PM by Chairman Frank Fiala.</p> <p><u>PLEDGE OF ALLEGIANCE</u></p> <p><u>Roll Call</u>: Present: Cunningham, Purcell, Strickland, Beukema, Wells, Campbell, and Fiala.</p> <p><u>Staff Present</u>: Zoning Administrator Larry Knowles, Sandy Marcukaitis, Mark Englerth.</p> <p><u>Also Present</u>: John Lohrstorfer, YS Twp. Legal Counsel</p> <p><u>Visitors</u>: 24 (not including staff present)</p>	<p> CALL TO ORDER PLEDGE ROLL CALL </p>
<p>ADDITIONS OR CORRECTIONS TO AGENDA:</p> <p>Addition of Report: ZBA meeting of Sept. 10, 2013 Summary to come before Public Comment period.</p>	<p>ADDITIONS TO AGENDA</p>
<p>REPORTS:</p> <p>ZBA Report by R. Beukema:</p> <p>The Sept. 10, 2013 ZBA Meeting resulted with the following decisions:</p> <ol style="list-style-type: none"> 1. Variance request was approved for above ground utilities if updated within three to five years. Votes: 4-yes, 1-no. 2. Variance for acreage was granted as ZBA felt the ten acre requirement was too extreme with no fault of the owners and with no ability to acquire land. Votes: 5-yes, 0-no. 3. ZBA voted (5-yes, 0-no) to take no action on the variance request for year-round occupancy for units 18 – 21 at this time due to lack of health department approval for the well. It was noted that seasonal use may be possible in the future if occupancy permit is obtained. 4. Variance for road width was approved 5 to 0. The ZBA found that the road is an easement and Whispering Pines is not able to increase the road width. 5. Variance request for paving was denied finding that WP should pay their portion of the road required in the ordinance. Work should commence within three years after which the township could create a special assessment district to get the work done if it is not done. Vote 5 – 0. 6. Variance granted for 21 boat slips for 21 units with details for dock configuration to be approved by DEQ. Vote 4 to 1. <p>The ZBA clearly cautioned that all variances granted will not be valid unless the Planning Commission and Township Board approve of the PUD and Condominium project.</p>	<p>REPORTS:</p> <p>ZBA by R. Beukema</p>

APPROVAL OF MEETING MINUTES:

Motion by Wells with support from Cunningham to accept PC minutes of August 15, 2013 meeting as presented. All ayes. MOTION CARRIED.

FINAL MINUTES

September 19, 2013

Page 2 of 9

APPROVED Nov. 19, 2015

NEW BUSINESS:

Fiala spoke of the purpose of Whispering Pines and the reason for the Public Hearing. WP (Whispering Pines) is currently zoned Resort and Recreational. Their goal is to make it a PUD (Planned Unit Development) and Condominium.

APPROVAL OF MEETING MINUTES (Aug. 15, 2013)

NEW BUSINESS

Fiala review the Test of Practicality for the project. He also commented that the PC is present and is a recommending body to the township board.

Whispering Pines Discussion

M. Cunningham, PC member, asked that the final vote be put off until the meeting at the end of the month, since he will not be here. It was noted that after the comment period, the PC will probably work on it at the next meeting of Oct. 3rd. The Oct 3rd meeting will be a public meeting, but not a public hearing.

Robert Byington, Legal Counsel for Whispering Pines (WP) Condo Association commented that WP was a Michigan non-profit association. It has existed as a resort up to the time it was sold seven or eight years ago. The initial plan at that point was to do what WP is doing today. The individual units are owned by the property owners and the common areas are owned by the association. The plan fell through and all the properties went into foreclosure by three different banks. The current property owners with the possible exception of the 4-unit, acquired title to their units from various banks in West Michigan.

Last fall, it came to the attention of the current owners that nothing had been done properly to get the project moving. To that end, WP met with the township in April and developed sketches and met informally and formally to bring WP and YS Twp. to the draft (Site Plan) that is behind the PC (on the wall) at this time.

Byington commented that tonight, WP Condo Assoc. was seeking from the PC, and ultimately the township board, the approval on the site plan, the approval of the condominium, the approval of the Planned Unit Development and the approval of the special use permit of the property to be used as a resort under individual condominium unit ownership.

No new construction is planned at this time with the exception of Sandon Circle which would be extended so that it connected to Whispering Pines and Russell Drive to allow for a thru drive on the property. No other improvements are contemplated with the exception of the docks, subject to the approval of the DEQ as well.

Bob Bartman, of WP, commented that according to the Master deed, the unit owner is responsible for inside and outside of the unit. Further discussion took place regarding tax assessment and the value of the land being spread amongst the unit owners. Restrictions are in place for decks and sheds, and WP has an Architectural Building Committee that reviews building projects.

PUBLIC COMMENT: (Opened at 7:30 p.m.)

Andy Vredenburg, representing the GLPA, commented that the GLPA's membership is a non-profit organization made up of 1,000 owners with riparian rights. Vredenburg believes that WP's request is a use request and went on to explain his reasoning for this. Vredenburg doesn't believe in an expansion of the riparian right of WP. Vredenburg asked that the PC would not go forward on the ZBA's decision for dockage. Vredenburg noted that WP has a unit on the lakefront side. Other units are on the other side of the road. Vredenburg will submit capacity studies done on Gun Lake from Progressive AE showing over capacity of boats on weekends. He also added that WP didn't have the right to have the docks before and now they (ZBA) are going to give it to them. This would create a bad precedent going forward according to Vredenburg. He also commented that the township didn't have a specific ordinance to address dockage and funneling. Vredenburg commented that it is being agreed upon for them (WP) to have basically a marina. Vredenburg asked the PC to table this issue and take a look at the ordinance and determine if it needs to redraft this to really address these situations going forward. Vredenburg also proposed looking at the DEQ permit for the dockage. Vredenburg commented that once use of dockage is authorized, the next question will be what do you do with jet skis and boat lifts.

Deb Masselink, of the GLPA, commented regarding the DEQ application for docks that are to be used by owners. Masselink commented that if renters use the docks, it is a case of funneling and that's against the law.

Paul Heystek, ZBA, taking his ZBA hat off, and commenting as a citizen, mentioned his concern regarding the master deed. He commented that it was not constructed properly and doesn't follow the condominium act. Heystek commented that if it is flawed, then anything else going forward is flawed. Prior to the master deed being recorded it was supposed to come before the Board (Section 8.6). Heystek discussed other items that have bothered him regarding the master deed.

Heystek was also concerned about docking. He voted against the variance in the ZBA meeting. Heystek mentioned that the WP Association owns the common ground, not individuals.

**PUBLIC COMMENT:
(Opened at 7:30 p.m.)**

Phillip King, of Oak Grove Association, wanted to know how a site plan is submitted and approved. He mentioned that single units have turn into double units. The four unit is now a much larger building and will hold many more people. King felt that adding only eight parking spots for the four-unit is very conservative. One of the logical solutions that King can see is to have a plan where WP would reduce their size. "There are seven units for sale right now, if those seven were absorbed by the current owners ...then that would greatly decrease the amount of capacity area." He mentioned this as being an expensive solution, but the current owners bought for pennies on the dollar. King felt that the current owners knew to some degree that there were problems before they bought their units.

Another concern was dockage and creating view problems for the neighbors. Twenty-one boat lifts on the beach is going to be quite an eyesore according to King.

Jim Riehl, GLPA, mentioned that he had been asked to be in WP meetings in early March. He commented that he had spoken with the WP people regarding their dock requests and they seemed to be generally nice people. He commented that he had no idea of the tangled web he had stepped into. Riehl commented that the ZBA has awarded a 90% reduction in zoning. If 21 units are to be given access to the lake, the requirements are 100' per unit. WP has only about 220'. Riehl commented that the ZBA gave them a 100% of what WP asked for in the boating slips. Riehl commented that lakefront owner's value has decreased and they pay higher taxes and pay more for their property. There is a benefit to living on the lake and you get taxed more on it, based on that according to Riehl. "You are now reducing your zoning requirement for funneling by 90%..." commented Riehl.

Ron Heilman, of Johnson Rd., owns property to the west and south of WP. He has recently called Don Cote who used to own the parcel which was originally 20 acres. Johnson bought 10 acres of it and parceled it out. The other 10 acres is WP. Mary Fox was sued by Paul Johnson over Johnson Road because she was using it. As a result of the court case, there is a fence up. She had to create a driveway on her property on that side with ingress and egress for the cottages that were on the lake. Don Cote said that he bought the property and what it is – is just ingress and egress to get across the property. The driveway was called Whispering Pines Driveway Private. It was never a road and it is not a road now. It is just a driveway. Heilman also mentioned that if the township is asking neighbors to pave a driveway, the township may have some problems with that. Heilman added that Don Cote will be at the Circle Inn next Tuesday and give out paperwork. Heilman also mentioned the split rail fence. He has been having issues with fires being built, shooting 22's and also cutting trees down on his property. He is asking for a 6' chain link fence. G. Purcell, PC member asked Heilman if it would be to his benefit to have a paved road. Discussion occurred regarding Cote's previous comments, speed, dust, and maintenance responsibility.

Bruce Culver, of 2751 & 2753 Russell Drive, mentioned that he has been familiar with Whispering Pines for around 70 years. His aunt, Bertha Fox, was involved in a lawsuit in 1998 in Judge Fischer's court. He commented that the road (involved in the lawsuit) was only for the access of the people who lived on the lake. Culver mentioned that he has seen a one-unit house become a four-unit, and a workshop is now a home. Ten to twelve units are now 21 units, and 20 acres is now 3.2 acres according to Culver. Culver mentioned that when Don Cote owned it there were 10 to 12 units. Culver mentioned a roller rink that was built over the lake near the WP property. Culver also mentioned that he had been out their cleaning boats since he was five or six years old.

Brent Maurer, of 2655 Russell, commented that the township can't let everybody have their way for a lake that is overrun and has a lot of traffic. Maurer is concern about renters at WP and would like it to be owner-occupied and the boat slips owner-occupied as well.

Robert Byington, WP Assoc. Legal Counsel, mentioned that one of the things WP asked for was a PUD. Byington commented that the ordinance requires approximately 30% of the WP area be devoted to open area, and it totals roughly 24,000 sq. feet on approximately 4 acres. Byington commented that if all the decks were built it would amount to less than 15% of the total land area devoted to this parcel. Byington mentioned inconsistent "chunk" talk (i.e. 20 acre chunks and 10 acre chunks) with his title research. Byington summarized what had transpired with the selling of chunks of land according to his research and that a property split was approved by the township before it took place. The anti-funneling ordinance is well-represented by the person on his right (John Lohrstorfer) according to Byington. Byington likened WP to Oak Grove regarding a number of home owners in the area sharing a common area. The lake association represents the riparian owners and WP is a riparian owner. "They certainly don't sound like they are representing the interests of this association (WP)," added Byington. Regarding docks, Byington commented that WP was asking for one boat per unit so watercraft can be handled in an orderly and reasonable fashion. "We can't go back and unwind the clock and fixed those things that were not done properly," added Byington. In regards to road paving, Byington advised to remember the road is a 20' road going to Patterson. A chunk is owned by Heilman, but there is also a chunk by Patterson that is not owned by WP. Byington also spoke of the widening of the easement.

Bob Bartman, WP Assoc., commented that he is one of the WP unit owners and that the owners know the issues that the neighbors have brought up and they (WP) are working on it. Bartman commented that the WP Assoc. has a plan in place and will move forward with it when WP gets the final approval. Bartman also commented about the six foot chain link that R. Heilman has asked WP for. Bartman mentioned WP's plan for a split rail fence to keep people from driving on Heilman's property and if Heilman has a business, he can put a fence up. Bartman also asked why Heilman is running a business under a Single Family Residence zoning.

Jim Riehl, GLPA, commented that he represented a thousand families who have riparian rights on Gun Lake, but not all of them. Riehl commented that the GLPA is not representing WP, because they are not members.

FINAL MINUTES

September 19, 2013

Page 6 of 9

APPROVED: Nov. 19, 2015

Mike Cunningham, PC asked how this issue came up for the GLPA to be involved in the WP issue. Riehl explained that they have a nine member board which decides what their position should be. The board members talk to their neighbors to get input. It was noted that no general meeting was held.

Kevin Kavanaugh, of WP, commented that he didn't get the feeling that we (WP) are welcome here. Kavanaugh mentioned that WP was told that wells were contaminated and they are fine. They were also told they had ecoli issues with their sewers and that turned out to be fine. Kavanaugh also commented about the paved roads that WP would be paving and the neighbors wouldn't have to pave them but would be using them. On Russell Drive, a Stanley Cup party was held. It was not a WP resident having the party, but WP was used for some of the parking. Kavanaugh said that was okay with WP owners, but then WP hears complaints that they are parking in the wrong places. Kavanaugh mentioned the dock issue, and commented that Shady Grove has 100 units and only about a dozen of those units are on the lakefront. Kavanaugh mentioned that Russell Drive is a private road. He questioned if he does not get a dock because he is across a public road, or because he is across a driveway. Kavanaugh also mentioned storage complaints, and the plans WP has in place. Kavanaugh asked if all of us are playing in the same sand box and cooperating to make this thing happen. He mentioned that his daughter had attended other township meetings about WP. She said to him at the last meeting "Daddy, why don't you just sell that place?" Kavanaugh commented that he appreciated the Russell Drive neighbors who have been very kind and accommodating to WP.

Dale Heintzelman of Russell Drive, noted that she was the neighbor who held the Stanley Cup party and she didn't think that was an argument. She commented that she felt that WP's parking situation was a safety hazard. Heintzelman also mentioned that WP has to have a place designated for parking in the back for trailers and other things. She mentioned the issues her trash man has in trying to get to her home. Heintzelman mentioned that she didn't mind that they (WP) have a great time, but WP has too many people. Heintzelman also commented that she met neighbors that told her they were renting at WP. The renters were there two weeks after the rental season was over. She mentioned that she has lived on Russell Drive for 25 years and this is the worst it's ever been. She commented, "We want out." Heintzelman mentioned drunks walking on her seawall and that they could fall and she could get sued.

Bob Bartman, WP Assoc., mentioned that he had a letter from the mail carrier making a comment regarding how nice the road was and how easy access was. Bartman commented that he didn't know about the drunks on the seawall, and it didn't necessarily mean it was WP people.

Art Shook, of WP, commented that previous mention of the Stanley Cup party was not a criticism. Shook was in support of the party. K. Kavanaugh commented that his comment was not about the party, but about parking.

FINAL MINUTES

September 19, 2013

Page 7 of 9

APPROVED: Nov. 19, 2015

PUBLIC COMMENT: (Closed at 8:35 p.m.)

Frank Fiala, PC Chairman, commented that the Planning Commission took their job very seriously and about 80-85% of the people on the PC live on lakes and think that's appropriate. Fiala noted that YS is kind of a lake community, but there is also someone who represents agricultural and someone who represents the non-lakes on the PC as well.

Fiala summarized the eight letters that came in regarding WP. Fiala mentioned the issue of smoke and firepits didn't come up at tonight's meeting as well as noise, such as dogs barking. Other issues in the letters were: parking (especially over holidays), emergency unit access (or lack of), short term rental, renters not following rules, and not being good neighbors. Fiala thanked all in attendance for being helpful. Fiala explained that the PC will be taking some time trying to work on this situation.

Larry Knowles, ZA, commented that the information received at this evening's meeting was refreshing and it keeps continuing.

John Lohrstorfer, YS Twp. Attorney, suggested going over the site plan as much as possible at tonight's meeting.

Mike Cunningham, PC, commented that he appreciated the chance to hear from the public. Cunningham has felt that the PC sometimes operates in a vacuum as the meetings are not generally well-attended.

Greg Purcell, PC, echoed Cunningham's comments. Purcell mentioned that he had a fairly long list of conditions that he thinks the PC would want to discuss in terms of the conditions that would be requirements of approval (from Purcell's perspective). Purcell has added to that list from the comments received this evening. Purcell mentioned that it should be realized that Whispering Pines is not going to go away, and we have to find a way to make WP the best development possible. It's part of the community that is going to be there. Purcell is looking forward to discussion and feels that everybody would want to get the best possible outcome.

BREAK: 8:46 P.M. RESUME: 8:55 P.M.

BREAK

After the meeting resumed, the PC started discussion regarding the Site Plan of WP by identifying issues.

Site Plan Discussion

First items discussed were setbacks from the road and landscaping/screening. Discussion took place regarding fencing, and 6' screening in the ordinance.

Fire Department approval was discussed as well. WP is still waiting to hear from the fire chief. Impact assessments were mentioned as well as Sandon Circle issues. L. Knowles, ZA, mentioned that Dave Middleton wants to get a truck within 50' of a unit on stable ground. G. Purcell commented that he'd be happy to go with Larry Knowles, ZA to talk with Dave Middleton. More discussion occurred regarding Russell Road being a private road and WP not having a right to use it. John Lohrstorfer commented that clarification is needed on this.

Projected time for completion is difficult to determine right now, because everything is not finalized. Also mentioned was if WP is proposing any phasing.

Parking, especially for trailers and guests, was discussed. Fifty-two spots are available according to Bob Bartman.

Firepits was mentioned as something that may not have been on the checklist. Because of density, and letters of smoke issues, Fiala asked that it could be looked at. Bartman mentioned six other units, that are not WP units, on the lakefront that the smoke could be coming from. Phillip King mentioned that he lives in the association to the north of WP and commented that smoke came from WP all summer long. King's association has one fire pit for their whole association.

Wells and water was another item to be covered. Well permits were discussed. R. Beukema brought up the point that the water is high enough that anyone could put in a stick well in a matter of a few hours.

Docks were brought up. L. Knowles mentioned that there should be more of a description of what the DEQ is asking for. Knowles asked if it was the responsibility of everybody to look at the DEQ permit, because there wasn't information regarding the length of the boats vs. the docks, etc., (on the site plan).

Roads were mentioned to cover briefly at this particular meeting. G. Purcell inquired as to what were the financial plans/financial pro forma for the cost of road paving within three years. The special assessment district was discussed as taking place if the roads are not paved within the three year allowance. Purcell referred to Sect. 13.5 in the ordinance. John Lohrstorfer recommended that a Special Assessment District be established as soon as possible. Further discussion took place regarding placing the assessment as a condition. Paul Heystek mentioned Sect. 8.7 of the Master Deed addresses the issue.

Overhead Wiring was mentioned by Purcell. R. Beukema reviewed the ZBA's action on the overhead wiring. J. Lohrstorfer commented that it was up to WP to start accessing and establishing how WP will put the funds together to do this. Discussion took place on establishing a fund, dues, and capital outlay. Purcell questioned the possibility of this occurring (fund for overhead wiring to be installed underground).

FINAL MINUTES

September 19, 2013

Page 8 of 9

APPROVED: Nov. 19, 2015

Bruce Culver, of Russell Drive, who is not a resident of WP, asked if he and his neighbors on Russell Drive would also be part of the special assessment for the new WP road that was proposed. Fiala asked WP representatives about this. Bob Bartman commented that the extension of Sandon Circle was to satisfy the requirements of the fire department so that there would be ingress and egress with out having to back up. Further discussion occurred regarding two parts of Russell Drive do not connect, Johnson Plat, former lawsuits, and five units that use the road year round that are not in the WP association. B. Culver mentioned the road discussed was a driveway for strictly the use of the five houses on the lakefront as an access easement according to the most recent lawsuit in 1998. J. Lohrstorfer commented that the court order should be reviewed.

Mark Englerth, Twp. Supervisor, commented that he knows there is some friction among the neighbors and asked everyone to negotiate towards a win-win situation to make it the best for everybody.

Purcell mentioned the subject of docks to review. Discussion occurred regarding the increase of dockage, labeling docks per unit, size limits, DEQ permit requirements, limiting dock usage to unit owners only, and no boatlifts. It was mentioned that not all of the requirements for the docks/boat slips were detailed in the site plan. Paul Heystek commented that the DEQ established the allowed length of the boats. Heystek commented that WP has to adjust its docks to the DEQ standards. Deb Masselink mentioned that this is a marina construction and the DEQ revamped all their marina regulations a year or so ago. Instead of requiring this group every three years to maintain a marina permit, once their marina is built, they do not have to "re-up" for a permit. But, in doing that, they did change a lot of the regulations for marina construction. Heystek spoke with Judge Fischer regarding the DEQ limitations, and Judge Fischer was willing to speak with representatives regarding the dockage/slip requirements of the DEQ.

M. Cunningham mentioned a previous comment made of no boat lifts allowed in WP, and Cunningham read off a document from WP that allowed boat lifts. Bartman of WP, apologized commenting that it has been altered. Cunningham asked, "What are we eventually going to pass or turn down? We have all this conflicting stuff..." Cunningham added that there was a comment that there aren't any boat lifts, but there is paperwork that says that there are boat lifts. Bartman apologized again for the old version that has since been altered.

In closing, Fiala, commented that his goal was to get most of the major issues so that everyone is aware of them, and take each of the items and explore them to the point that everyone feels comfortable. At this time, with no further thoughts or questions to be made, Fiala entertained a motion to adjourn.

ADJOURNMENT: Motion by Beukema with support from Cunningham to adjourn meeting at 9:55 p.m. Approved by all. MOTION CARRIED.

Approved by: _____
Cathy Strickland, Secretary Date

FINAL MINUTES

September 19, 2013

Page 9 of 9

APPROVED: Nov. 19, 2015

ADJOURNMENT

Deb Mousseau
Recording Secretary
September 24, 2013