

MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION MEETING HELD ON WEDNESDAY, APRIL 23, 2003 IN THE CLAY TOWNSHIP BOARD ROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP, MI 48001.

1. Meeting called to order by Chairperson Mark Getman at 7:38 p.m.
2. Roll Call: Present: Chairperson Mark Getman; Vice-Chair Dorothy DeBoyer, John Makuch, Pat Sharrow, Sandra O'Conner, Chuck Michel, Louise Cooper, Tony Antkowiak, Edward Keller II.
Absent: None.
Also present is Linda Anderson, Wade-Trim Planner, Barbara Schutt, Assessor, Tim Wiggle, Zoning Enforcement Adm. and Michael Kras, Building Inspector Official.
Approximately thirty-five (35) citizens in attendance.

3. Communications: None.

4. **APPROVAL OF APRIL 9, 2003 MINUTES:**

Moved by Cooper, supported by DeBoyer, to approve the April 9, 2003 Planning Commission Minutes with the following amendments:

R/C should include John Makuch present.

1st page, 1/2 way down, Chairman Getman, not Wagner.

2nd page, 1st paragraph: Differences of opinion, Chairman Getman will check with Attorney McNamee re: advertising or not.

2nd page, motion shall read: ".....having a pole barn without a primary residential building."

AYES: All. NAYS: None. ABSENT: None.

5. **PUBLIC HEARING:**

Chairman Getman: Proposed text amendments to Ordinance No. 123 and proposed map amendments to Ordinance No. 123 requires a public hearing individually.

The following letters received were read into the record:

- Margaret Rose, 5609 Pte. Tremble Road: objecting to vacant Pte. Tremble Road (Part of W-268-A) C-3 to Multiple Family Residential.
- Mr. & Mrs. James O. Johnson, 9444 S. Channel Drive, Harsens Island: Opposed to any map changes to Lots 8-12, Lots 25-29 Lemke's Tashmoo Sub from C-2 to R-1.
- Ed and Judy Hotchkiss, 120 Petoskey, Harsens Island: objecting to re-zoning for Wm. & A. T. Fisher's Sub and all re-zoning on the Island, Township does not have jurisdiction over Harsens Island.

Chairman Getman: Informed the public why the map was changed, new Zoning Ordinance adopted by Township Board in Oct., inadvertently the map had error due to a computer glitch, legally cannot change the map, corrections properly noticed in the newspaper, property owners notified of the public hearings, merely correcting the map to the intended use.

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Chairman Getman: Reverse the agenda order: map changes, followed by the text amendments. Rules for the public hearing, state name and address, refer comments to the Board, any actions will take place at the end of all the public hearings.

1. **PROPOSED MAP AMENDMENTS TO ORDINANCE NO. 123**

(a) **MAINLAND PROPERTIES PUBLIC HEARINGS:**

5626 PTE. TREMBLE ROAD R-1 to C-2.

Open the public hearing.

Pamela Leidlein, 5720 Pte. Tremble Road: Where is property located?

Getman: Property for Budget Trucking, was commercial, inadvertently changed to R-1.

Sharrow: Property to the west is still residential; it is for sale and remains residential.

Close the public hearing.

7291 & 7297 DYKE ROAD R-1 to C-2.

Open the public hearing.

No public comments.

Close the public hearing.

7225 & 7227 DYKE ROAD C-1 to R-1.

Open the public hearing.

No public comments.

Close the public hearing.

LOT 866 (PART OF) DYKE ROAD R-1 to C-3

Open the public hearing.

No public comments.

Close the public hearing.

9616 KRETZ DR. IND. TO R-1

Open the public hearing.

No public comments.

Close the public hearing.

2034 FRUIT ROAD (BACK PART) R-1 TO IND.

Open the public hearing.

No public comments.

Close the public hearing.

3420 PTE. TREMBLE ROAD R-1 to C-3

Typographical error, should be C-3 and not B-3.

Open the public hearing.

No public comments.

Close the public hearing.

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CHANNELVIEW (FOLKERT/TAFT) R-1 to MHP

Sharrow: A road on Folkert to Channelview MHP, zoned many years for MHP.

Open the public hearing.

Jeff Castonia, 9305 Folkert Road: Will this road open up to traffic?

Getman: No, not that we are aware of, just correcting the zoning.

Close the public hearing.

VACANT ISABELLA ACRES AND LOT 6 WANKET SUB. RS TO R-1

Open the public hearing.

Richard Szefer, 8812 Anchor Bay Drive: Own property to the east, zoned RS, am I included in this, would like my property zoned to R-1

Getman: Just Isabelle Acres on Folkert Road.

Close the public hearing.

VAC. PTE. TREMBLE (PART OF) C-3 TO MULTIPLE

Open the public hearing.

Dr. Kasperowicz, 6603 Dyke Road: Property owner in question, like to see the property stay C-3 for following reasons: wetlands on property 1,500' back, DEQ designated much of my land, intended to be used as multiple dwelling, utilize the land for its best use, leave it C-3.

Pam Leidlein, 5720 Pte. Tremble Road: Inquiry where is property in relation hers, stay Residential.

Rich Szefer: C-3 designation what can you put in that area?

Getman: Anything that is commercial i.e. doctor, lawyer, professional offices.

Brian Elliott, 5760 Pte. Tremble Road: What size is the property?

Assessor Schutt indicated on the map the location of the property to the citizens questioning.

3040 FRUIT ROAD IND. TO R-1

VAC. FRUIT IND. TO R-1

Open the public hearing.

Brian Beaver, 2985 Fruit Road: Are you referring to the landfill?

Sharrow: Land is to the far East of the landfill and incorrectly zoned back to Industrial.

Close the public hearing.

9600 NOOK ROAD (PART OF) R-1 to MHP

Open the public hearing.

Molly Beaver, 2985 Fruit Road: When was this section rezoned to MHP?

Getman: Couple of years ago, Plng. Comm. turned it down, Township Board passed it.

Close the public hearing.

Tom Stitt, 9327 N. River Road: Leases Park General Store near the State Park, questioned property zoned from Commercial to Single Family Residential.

Getman: Notices sent to property owners on this list for the proposed map amendments.

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(b) HARSENS ISLAND PROPERTIES PUBLIC HEARINGS:

3982 MIDDLE CHANNEL C-2 TO R-1

Getman: Typo to the zoning designation, should read C-2 to R-1.

Open the public hearing.

No public comment.

Close the public hearing.

VAC. COTTAGE LANE (LOT 76) C-3 TO R-1

Open the public hearing.

No public comment.

Close the public hearing.

VAC. COTTAGE LANE (LOTS 28-36) C-3 TO R-1

Open the public hearing.

No public comment.

Close the public hearing.

LOTS 13, 14, 23, 24, 80 Lemke's Tashmoo Sub. R-1 TO C-2

Open the public hearing.

Judy Hotchkiss, 120 Petoskey: Letter sent regarding that document, did Board read it?

Getman: Yes, it was referenced at the beginning of the meeting.

Judy Hotchkiss: Subdivision was established prior to zoning map, restrictions of record.

Getman: Subdivision restrictions does not impact zoning.

Hotchkiss: Restrictions are deemed zoning, residential purposes only.

Getman: Residential to Commercial, a civil manner, do not enforce deed restrictions.

Sharrow: Mrs. Hotchkiss wrote similar ltrs. to ZBA and Twp. Board addressing some problems, all correspondence is being addressed to Township Attorney, he will advise.

Close the public hearing.

LOTS 8-12, LOTS 25-29 C-2 TO R-1

Open the public hearing.

Norman Rhodes, 3206 S. Channel: Questioned notices received pertaining to this property, concerned as to typo errors, notification time. Questioned letter from Mr. Johnson.

Getman: Stated Mr. Johnson's concerns, he is opposed to the change in zoning.

Rhodes: Proper procedure not followed to conduct a valid hearing. Personal opinion the zoning should stay R-1.

Getman: The notification is within the law, per Mr./Mrs. Johnson's letter are aware of the proposed change.

Close the public hearing.

LOTS 80 & 81, WM. LACROIX SUB. #1 C-2 TO R-1

Open the public hearing.

No public comments.

Close the public hearing.

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LOTS 105-106 LEMKE'S TASHMOO SUB. C-2 TO R-1

Open the public hearing.
No public comments.
Close the public hearing.

LOTS 1-2, LOTS 44-45 WM. & A.T.FISHER'S SUB. R-1 TO C-2

Open the public hearing.
Sandra Weaver, 3847 Green Drive: Lots 3, 4 & 5 were not changed back to commercial, according to tax paper it should be all commercial.
Getman: Reason did not receive a notification because those lots were not changed, Lot 3, 4 & 5
Judy Hotchkiss: Owns Lot 206 in Wm. A & T Subdivision (Maple Leaf Summer Resort Association) opposed to lots rezoned commercial, residential purposes only and a private estate.
Assessor Barbara Schutt: Explained Weaver's property for Lot 3, 4 & 5 is not zoned commercial, property taxes indicates all lots descriptions are together, map change only correcting the four that were commercial.
Close the public hearing.

LOTS 9, 10, LOTS 19-47 JOE BEDORE SUB. C-2 TO C-3

Open the public hearing.
No public comments.
Close the public hearing.

LOTS 405-413, 416-425, 432-441

LOTS 444-453 SOUTH CHANNEL DRIVE R-1 to C3

Open the public hearing.
No public comments.
Close the public hearing.

BAY PTE. CONDO'S (OLD CLUB) SOUTH CHANNEL DRIVE R-1 TO RM

Open the public hearing.
No public comments.
Close the public hearing.

CONCLUDES THE PUBLIC HEARINGS FOR ANY REZONING ISSUES.

Chairman Getman: Dr. Kasperowicz request to permit his property remain C-3, majority of property on M-29 are zoned C-3.

Sharrow: Dr. K. requesting 200' of depth be zoned Commercial as the rest is wetlands, if a motion like it to specify only 800' from M-29 not all the way through to Phelps Road, most properties are contained by ending at the swale w/o commercial fronting on Phelps Rd., want it limited.

Chairman Getman: Any other problems with any Mainland changes?

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John Makuch: Purpose of public hearing is to make corrections to fit what the zoning was to the map, if property owner wants a different zoning should follow the rezoning process, we are only correcting errors made in the first place, deviating from how advertised is not right.

Getman: Asked Planner Linda Anderson if there would be a problem with making these requested changes? Answer: No.

Sharrow: Understand John's reasoning, could be considered favoritism.

Getman: Pointed out to Planning Commissioners property owners opposed to changes had an opportunity to speak their position on either one, request from the property owner not from us.

DeBoyer: Property owners within 500' were notified of these changes, changes were made not at the property owner's request, property owner did not cause it to happen.

Getman: Repeated his original question.

Discussion of Dr. Kasperowicz's property.

Michel: We are in the same process if he were requesting a zoning change, property owners affected have been notified of a hearing and have heard from them, public hearing like any other time, have no problem going along with the changes.

Getman: Stated the three options Planning Commission members have in making a motion re: ML map amendments and Dr. Kasperowicz's property request to change.

MOTION BY MICHEL, SUPPORTED BY DEBOYER, TO RECOMMEND TO THE TOWNSHIP BOARD THE MAINLAND MAP CHANGES TO ZONING ORDINANCE NO. 123 AND TO GRANT THE CHANGE FOR THE PROPERTY ON PTE. TREMBLE ROAD (74-14-057-0002-000) OWNED BY DR. LEONARD KASPEROWICZ TO REMAIN AS C-3 FOR THE FIRST 800' BACK AND THE REMAINDER TO BE ZONED MULTIPLE.

Discussion of Motion:

Tony Antkowiak: Would rather the motion had stated to accept everything the way it is and make a separate motion for Dr. Kasperowicz's property, very muddled at this point, definitely will vote no against this.

John Makuch: Reiterated his opinion, can't go along with deviating from the corrections.

ROLL CALL VOTE: AYES: Keller II, Cooper, Michel, DeBoyer, Getman.

NAYS: Sharrow, O'Conner, Antkowiak, Makuch.

MOTION CARRIED.

HARSENS ISLAND PROPOSED MAP AMENDMENTS

Dorothy DeBoyer: Questioned Mr. & Mrs. Johnson's letter does not refer to Lot 11 & 12 and Lot 25 and 26.

Asked Barbara Schutt is there anything that would cause it to be different, left out Lot 11 & 12 and Lot 25 & 26?

Barbara Schutt: Lot 11 & 12 should be residential and Lot 5 & 6 is the next block over.

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Sharrow: There are homes on most of these lots, their request is only commercial we would be extending the commercial district of Sans Souci down into the residential.

Getman: Not what we want to do.

MOTION BY SHARROW, SUPPORTED BY ANTKOWIAK, TO RECOMMEND TO THE TOWNSHIP BOARD THE APPROVAL OF THE SAID CORRECTIONS TO THE MAP PROPERTIES ON HARSENS ISLAND AS SUBMITTED.

Discussion:

Chairman Getman: Lot 3, 4 & 5 are not included in this motion.

Dorothy DeBoyer: Problem with not approving the rezoning for Lot 3, 4 & 5 for Wm. & A.T. Fisher's Subdivision can tend to look like favoritism.

Makuch: Deviated from the Mainland, being inconsistent.

Antkowiak: Could come back with a separate motion for Lot 3, 4 & 5 to make it clearer.

Sharrow: Problem is have not had a hearing on Lots 3, 4 & 5, could call tonight for one and show our intention to do so.

VOTE ON THE MOTION: AYES: ALL. NAYS: NONE. ABSENT: NONE.

Chairman Getman: Not noticed in the newspaper, a public hearing was not held for Lot 3, 4 & 5 of said Subdivision.

Richard Szeter: Voiced strong objection to Dr. Kasperowicz's property not following the procedure for rezoning.

Getman: The public notice and letter you received said we were going to consider proposed corrections; explained was not the intention of the Planning Commission to leave the zoning for the property as it was, if wanted it to remain the way it was would not have put it on the agenda or had a public hearing, did not have to make any change or consider any change.

Sharrow: Plng. Com. Can only recommend to Twp. Board, proceed to the County Planning Commission, Township Board makes final decision, voice objection to Township Clerk, public hearing will have to be held.

MOTION BY ANTKOWIAK, SUPPORTED BY MAKUCH, TO CALL A PUBLIC HEARING FOR LOT 3, LOT 4 and LOT 5 FOR Wm. & A.T. FISHER'S SUB. TO CONSIDER THE CHANGE FROM RESIDENTIAL (R-1) TO COMMERCIAL (C-2) FOR SANDRA WEAVER, 3847 GREEN DRIVE, HARSENS ISLAND.

AYES: ALL. NAYS: NONE. ABSENT: NONE.

2. PROPOSED TEXT AMENDMENTS TO ORDINANCE NO. 123

Open the public hearing.

Anyone wishing to make comments on the proposed text amendments to Ordinance No. 123?

No public comments.

Close the public hearing.

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Board comments:

Chuck Michel: Stated additional changes to Article XXVIII, Administration and Enforcement text: page 8, under 1. Administrative official,

Paragraph a. remove “Building Inspector” and Zoning Administrator be inserted;

Paragraph c. remove “Building Inspector” and Zoning Administrator be inserted;

Paragraph d. After the word “Building Inspector” insert or Zoning Administrator;

Paragraph e. 1st after “Building Inspector” insert and/or Zoning Administrator;

Page 9, Item No. 5 insert and Zoning after “All building”;

Page 9, after Item No. 5, insert No. 5a. All Zoning Permits shall be renewable on an annual basis.

Comment by Zoning Adm. Tim Wiggle re: zoning permits.

Page 10, Section D, Item No. 3, add and Zoning Permit after “building permit” on the 2nd line.

Page 10, Item No. 3, Expiration of Building Permit, insert the words “and Zoning”;

Dorothy DeBoyer: Page 10, No. 2, section d., 5) change the sentence to read:

“The Zoning Administrator shall maintain a record of all certificates of zoning compliance.”

Item 2. Permits Required; section d., questioned does the building inspector also issues the zoning compliance, add the words “certificate of zoning compliance shall have been issued by the Zoning Administrator.”

Sharrow: What advice did you receive from Atty. regarding enforcement issues?

Getman: Enforcement section has to be specifically stated and a public hearing held. Anything approved tonight will be without Section 6.

MOVED BY MICHEL, SUPPORTED BY DEBOYER, TO ACCEPT THE PROPOSED AMENDMENTS TO ORDINANCE NO. 123, ARTICLE III, ARTICLE XV, ARTICLE XVI, ARTICLE XVI, ARTICLE XVIII, ARTICLE XX, ARTICLE XXIII, ARTICLE XXIV, ARTICLE XXVII WITH THE EXCEPTION OF SECTION 6 IN ARTICLE XXVIII – VIOLATIONS. THE CORRECTIONS TO THE ADMINISTRATIVE SECTION OF ARTICLE XXVIII WERE AS FOLLOWS:

- page 8, under 1. Administrative official, Paragraph a. remove “Building Inspector” and Zoning Administrator be inserted;
- Paragraph c. remove “Building Inspector” and Zoning Administrator be inserted;
- Paragraph d. After the word “Building Inspector” insert or Zoning Administrator;
- Paragraph e. 1st after “Building Inspector” insert and/or Zoning Administrator;
- Page 9, after Item No. 5, to read: “All building permits and zoning permits shall be valid for one (1) year. Building permits may be renewable on an annual basis.”
- Page 10, Section D, Item No. 3, add and Zoning Permit after “building permit” on the 2nd line.
- Page 10, Item No. 3, Expiration of Building Permit, insert the words “and Zoning”;

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- Page 10, Permits Required, Section d. Certificates of Occupancy. Change the last sentence to read as follows beginning with “therefore by the Building Inspector and a certificate of zoning compliance shall have been issued by the Zoning Administrator.”
- Page 10, No. 2 – Permits Required, Section d., paragraph 5) remove “Building Inspector” and add The Zoning Administrator shall maintain a record of all certificates of zoning compliance.
- Page 11, Section 4, Paragraph 2, insert “Zoning Administrator” after Building Inspector and/or Zoning Administrator.

Discussion:

Sharrow: referred to page 11, 4. Inspections; re: Zoning

Tim Wiggle: comment regarding section.

DeBoyer: referred to the Inspection section:

Amendments to motion:

- add under #4, 1st paragraph, down the second half at the first inspection, remove “Building Inspector” in the 4th line down and insert Zoning Administrator;
- 2nd paragraph in Section 4. 1st sentence, insert “and/or Zoning Administrator” after Building Inspector.

AMEND THE MOTION BY MICHEL, SUPPORTED BY DEBOYER, TO INCLUDE THE CHANGES TO PAGE 11, NO. 4. INSPECTIONS AS STATED ABOVE.

VOTE ON THE AMENDED MOTION: AYES: ALL. NAYS: NONE. ABSENT: NONE.

VOTE ON THE ORIGINAL MOTION: AYES: ALL. NAYS: NONE. ABSENT: NONE.

COPY OF TEXT REVISIONS WILL BE INCLUDED IN THE MINUTE BOOK.

6. **CHAIRMAN’S REPORT** - No report.

Thank you to Assessor Barbara Schutt and Tim Wiggle for their input.

7. **PLANNING CONSULTANT’S REPORT**

Linda Anderson: Would you like to call a public hearing for the Violation Section on June 11th?

Chairman Getman: Don’t have to do that by motion, will have it put on the Agenda.

8. **ZONING ADMINISTRATOR REPORT**

Tim Wiggle updated the Board on Township zoning issues.

9. **PLANNING COMMISSION COMMENTS**

John Makuch: Referred to the rezoning issues that occurred earlier in the meeting.

Sandra O'Conner: Property at 9327 N. River Road that gentleman was questioning the zoning.

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Chairman Getman: After the meeting will talk to the gentleman and what he can do.

Dorothy DeBoyer: Comment re: action we took, zoning is suppose to follow our master plan; properties on Pte. Tremble Road are generally commercial.

Tony Antkowiak: Disagreement with the 1st motion not because of the property, believe need motions that are precise and clear and would have rather seen a separate motion on Dr. Kasperowicz's property.

Pat Sharrow: Use variances are being allowed in Townships, if stated in the Ordinance cannot be granted then the ZBA could not grant a use variance, ZBA needs to know this.

Sharrow: Update on recent recommendation of a Lot split on the airport property on Harsens Isl.

Sharrow: States in Ordinance Site Plan Committee and Zoning Enforcement will meet with all owners of businesses that have closed, changed, etc., short brief to members what this committee does.

10. **PUBLIC COMMENTS**

Richard Szefer, 8812 Anchor Bay Drive: Zoning change to Dr. Kasperowicz's property the way it was done is misleading, when will this be going to the Township Board?

Chairman Getman: Proceeds to the County next, probably in June will be at the Township Board level.

Denise Tilly, 7886 Inglewood: Comments re: Nelson's Sand Bar, concerned about noise, outside entertainment; is this the Board if they want outside entertainment?

Chairman Getman: Did apply for a site plan approval from the Planning Commission, deck was an expansion and never came before the Commission, should be on the 1st meeting in May.

Pam Leidlein, 5720 Pte. Tremble Road: Subdivision going in where I live, how do I find out if that is true?

Chairman Getman: Large lots, long process would need to subdivide, mandates a public hearing.

Pam Leidlein: Comment as to the voting that occurred tonight re: rezoning, hearing was to correct the map errors, other neighbors if had known property was to stay commercial would have been in attendance, disagree with the process, will write a letter to the Twp. Board.

Getman: Much of the property on side of the street is already zoned commercial.

Dr. Kasperowicz: Pte. Tremble Road property and what the issues are re: wetland, Master Plan designation and keeping it commercial will utilize the property the best use for the public.

Jerry Green, 10217 St. John Drive: Outside storage for an amendment was that tonight?

Getman: Approved in the Text changes.

Tom Stitt, 9327 N. River Road: For the record would like the store changed back to commercial.

Getman: Does not impact you as far as the use of your store.

Tom Stitt: More restrictions, may want to add on.

Getman: If zoned commercial, you tear it down could not rebuild it, can discuss after mtg.

ADJOURNMENT

Moved by DeBoyer, supported by Michel, **MOTION CARRIED**, to adjourn the meeting at 9:50 p.m. AYES: All. NAYS: None. ABSENT: None.

