

Milton Township
Planning Commission
Approved Meeting Minutes
November 8, 2011

Members present: Chairman Stilson, Cole, Kopkau, Hefferan, Kingon and Merillat

Members absent: Lockett, excused.

Also present: Weinzapfel and six audience members.

Stilson called the meeting at order at 7 pm.

Approval of past minutes dated October 11, 2011:

Motion by Cole to approve the minutes as presented. Seconded by Kopkau. **Motion carried.**

Meetings and Announcements:

Watershed Council meeting tomorrow.

Approval of Agenda:

1. Public Hearing Wilderness Bay Condo Association.
2. Ordinance Review Subcommittee Report.
 - a. Section 309, B, the animal units table; draft page 3-6.
 - b. Section 1616, B, 3, roadways; draft page 16-14.
 - c. Section 1619,c,750ft isolation distance; draft page 16-18.
 - d. Map – Jay found a map with streams, do you want them on?
3. Septic Inspection.
4. Master Plan.
5. Rental Issues Subcommittee.

Add Shoreline discussion under #2

Motion by Kingon to approve the agenda as amended. Seconded by Hefferan. **Motion carried.**

Public Hearing for Wilderness Bay Condo Association:

The applicant is present. **Motion** by Cole and to remove the item from table. Seconded by Kingon **Motion carried.**

Stilson discussed the procedure for a public hearing. No one has a conflict of interest.

Wilderness Bay Condo Association, Property Tax ID: 0512-840-001-00; 0512-840-002-00; 0512-840-003-00; is requesting an amendment to their 2000 Special Use Permit approval. They wish to amend the master deed to allow for single family rental of their units for periods of no less than a six months.

History:

The commission had a subcommittee met with the applicant in the past months and the applicant at the August 9th commission meeting asked for a public hearing on September 13th and it was granted. The Subcommittee members were Kopkau, Hefferan and Luckett. At the September 13th commission meeting, Joe Tanis requested the public hearing be delayed until the October 11th. Without objection the Wilderness Bay Rental Public Hearing was rescheduled. On October 11th, Joe Tanis called Weinzapfel and due to a death in the family, he was unable to attend. Weinzapfel informed him that the commission would open the hearing to take comments for and against and then table the matter. It is noted that there were letters received and read at the October 11th public hearing. Four letters were in opposition and one in support. From the audience, one wished to speak in support and two spoke against. The hearing was then tabled.

One open question is regarding the period of six months. Is this fixed or floating, as per minutes of last meeting?

No additional letters were received. It was advertised in the Elk Rapids News.

Applicant Presentation by Joe Tannis:

Stilson asked regarding when the unit would be rented, which six months? Would it be a solid six months? Tanis would like to put a long term renter in the unit with a contract of six months or greater. Tannis thanked the board for their effort in getting us to where we are tonight and for postponing the decision until tonight. The question is do you vote no and make it a decision that you have to move your family in or leave it abandoned until you sell it or if you vote yes you allow an owner to lease it out to a long term tenant. The health department does not have an objection. Owners and association rules may change every month or with each new set of owners. We are asking to change our Special Use permit to allow long term rentals and let the association do its job of regulating the owners.

Cole asked regarding the Health Department's wording? Stilson read, "for a period of no less than six months."

Hefferan asked Tannis regarding how the other owners feel about the issue. The Hall's were in favor of short term rentals. Now both of the two other owners are objecting to the proposed change. We have an association rule book and the people should follow the rules of the association. But, if the association says no, then it should be no. Hefferan said if the board says yes, what do your bylaws say? Weinzapfel said under the original Special Use Permit approval was no rentals, only owner occupied. Any changes had to be approved by the township Planning Commission. In 2002, the Overzets requested a change with the health department and were granted long term rentals, but never asked the township. If you do not approve the long term rentals today, they need to remove it from the deed restrictions. The association is currently in violation of the Special Use Permit issued in 2000. They were aware that all changes must come through the Planning Commission and the Health Department. They are asking for an amendment to allow the deed restrictions to stand.

Hefferan discussed the subcommittee's findings: The minutes from 2000 are very clear as to

what the plan was back then. The Health Department has taken care of this issue and it should be owners only. There should be no rentals to outside parties. Then the Overzet's clearly changed the deed without the Township's knowledge.

Stilson continued the public hearing.

Those speaking in support:

No one wished to speak

Those speaking against:

No one wished to speak

Planning commission closed the public hearing and began deliberations.

We are being asked to amend the special use to include rentals of no less than six months. Staff report and subcommittee reports have been reviewed. It should be noted what transpired last month...those that spoke in support and those who spoke against and the letters that were received.

Cole said in looking at the letter from the Health Department, they were of the understanding that the township had gone along with the six month rental. Several of the things they write about refer back to that several times. That system right now, would not meet the new health code. Cole discussed the findings of the evaluation. There is no justification for lifting the restriction on the condo. Allowing rentals could have a negative impact on the septic and ground water. Cole said he was on the commission in 2000 when the original agreement was made. At that time, they wanted to go into individual ownership. The commission's position, that to go along with this would cut down on the density of usage. It was the intent of the planning commission to say no rentals because of the pressure this would put on the system and on the land.

Merillat said this application is by one of the three owners, not the association. Weinzapfel said initially the Hall's were in agreement with the amendment of no less than six months. As the meeting came closer, they submitted a letter in opposition to any rentals whatsoever. We do not get involved in the deed restrictions of an association. There are certain things they can change within their association. The septic/rental issue must come back to the planning commission. The application is actually from Joe Tanis rather than the association. We have a letter dated March 23, 2003 from the Overzet's which states that they could rent the units until they were sold. How does that play into this? Weinzapfel said that was only for the developer and the Overzet's were the developer. Once a unit was sold, there were to be no more rentals for that unit.

Motion by Kingon to change the special use permit for Wilderness Bay Lodge to allow long term rentals of no less than six months as amended in the master deed section 15, Leasing and Rental, Liber 00620, Page 1325, to a single family with all of the conditions as stated in the prior special use permit dated 5/18/2000. Seconded by Merillat.

Roll Call:

Kingon: Yea, based on the Overzets did something they should not have. We cannot punish them

and given the Health Department's approval of no less than six months.

Cole: Nay, based on the density and people pressure on the lot. The Health Department raised questions, but agreed to it. I have serious concerns.

Hefferan: Nay, based on the clarity of the planning commission's decision in 2000. The Master Plan pg 8-5 speaks to infringing on the rights of neighbors. They made it clear there is a lot of pressure on that space.

Kopkau: Yea, the family is renting there and could be renting to another family. We are looking at single family as long term.

Merillat: Yea, long term rentals makes the use no different from owner occupied situation. In 2002 the Health Department approved it.

Stilson: Nay, there is too much opposition by the neighbors and the waste water system is too small.

The vote is tied. 3-3. **Motion not carried** due to lack of support.

Public Hearing is closed.

Ordinance Review Subcommittee Report:

In reference to Jay Kilpatrick's email on October 26, 2011:

A. Section 309, B, The animal units table. Yes.

B. Section 1614, B 3, Roadways. Up to 15 % would be subtracted. He thought that the "up to" make it seem like we would barter. We could reword it or just call it 15%. Strike the words "up to". If the development uses less, so be it. All agree without objection.

C. Section 1619 C 750ft Isolation Distance: Yes, without objection.

D. Map-Jay found a map with streams. Should we use them? Yes, without objection.

E. Termaat asked regarding the draft on pg 2-18, there is a definition of surface water body. On pg 2-16, there is a definition of a shoreline protection strip. Did the surface water body definition come out? Cole said when we went through as a subcommittee we struck from the environmental zone, 25 feet from regulated land on pg 13-3. As a result of striking it, coming back to shoreline protection strip, surface water body precludes that setback of 25 feet. We changed "surface water body" to "lake, river or stream". That was changed at last subcommittee. The question was brought up at the last commission meeting, since we struck surface water body from shoreline protection strip; our decision at that meeting was to get this in print so we could all review it.

Scott Finch echoed Keith's concern regarding the evolution of this document and state law is changing quickly here. It is disconcerting here to have 11th hour changes that could have ramifications to the rest of the document. It is important we see a printed copy, but at what stage in the process, does this printed copy turn up? Merillat said these are not 11th hour changes.

Termaat said take us back to a baseline draft we all recognize and then show us the markup.

Stilson said let's get a final draft copy so we can all see it and have a chance to read it before we have a meeting on it.

The appearance of impropriety exists when you do not have version control. Cole said the change occurred between September and October planning commission meetings. The point is well taken. Cole asked who the special interests were. Termaat said there are uphill and downhill interests. This is not just language; this has a material effect on people downhill. Cole said he

does not see the tie in. Termaat said the lakes have their shoreline protection strip, but what about streams. People who are downhill should not have to catch what rolls down the hill. Shoreline protection strips on streams are necessary. It appears that has been weakened.

The intent is to get a final version we can review. Weinzapfel said Termaat can have it or anyone requesting can have it, but this is for the planning commission to review for adjustment. If it is okay as it stands, it will go up on the web site. There will be time to make comments. Based on discussions with Jay, if there are a lot of worries, we could have an open house with Jay to address those issues. If there is not, then we will go to public hearings. It all depends on the feedback we get. Termaat said they continue to work with us despite frustration. Back when all of this language was created on pages 2-16, 17, and 18 everyone agreed. And now it is changing. Weinzapfel said the whole intent of this is to address rivers and streams like lakefronts.

Septic Inspection at Property Transfer

This has been brought to the township board and they are concerned with the 3-2 vote. They want to have a joint session to discuss. If the full commission were to have been present to vote, it most likely would have come out, 5-4. The board would like to have a work session. The date is yet to be determined.

Master Plan:

Stilson said this needs to be reviewed. He is requesting a subcommittee to look at the goals and recommendations. Kingon, Luckett and Merillat. The date is yet to be set.

Rental Issue Subcommittee

This subcommittee has not met yet to review the weekly rental issue. Kingon, Cole and Merillat are on this subcommittee. The subcommittee will meet November 30th at 9 am.

Meeting adjourned by order of the chair by 8:30 pm.

Respectfully submitted,

Joseph Merillat
Secretary