

WEST LAKELAND TOWNSHIP

September 12, 2016

7:00 p.m.

Oak-Land Jr. High

Present: Chairman Dan Kylo, Supervisor Steven Ebner, Supervisor Dave Schultz; Carrie Seifert, Clerk; Mr. Scott McDonald, Township Attorney; Ms. Marsha Olson, Treasurer; Mr. Dave Dupay, Planning Commission Chair; Duane Stensland, Building Inspector

Call to Order

Chairman Kylo called the meeting to order at 7:05 PM, and delayed the start of the public hearing to allow for presentation of the Treasurer's Report and Payment of the Invoices.

Treasurer's Report and Pay Invoices

Ms. Olson presented the Treasurer's Report for August 2015, reflecting \$4,189 in receipts and \$15,674 in expenses, bringing the Township's net assets to \$1,689,162. Chairman Kylo moved to accept the treasurer's report and pay the invoices presented for payment. Seconded by Supervisor Ebner, the motion carried.

Public Hearing, Home Occupation Ordinance

Chairman Kylo suspended the regular meeting and opened the public hearing at 7:13 to continue the public hearing from August 1, 2016, to review the amendments to replace Section 10 regarding home occupations and modifications to sections 4.4.1 and 4.4.2 regarding allowed uses in the SFE district.

Supervisor Ebner provided a summary of the changes, and the comments received. Recommendations accepted were to update the table to reflect if a public hearing was required or not, and what type of permit was required for each business type. The discussion from the last hearing concerned the number of employees, and the conclusion of the planning commission was the concern was more around the number of individuals visiting the lot associated with the business, regardless of their role in the business. The proposed code was modified to reflect that discussion.

Chairman Kylo opened the discussion for public comment.

Mr. Vince Anderson noted what he considered policy questions and conflicts within the ordinance which could be clarified. Of concern were conflicts of the limits on the size and number of vehicles. Supervisor Ebner clarified when a public hearing would be required for a renewal of Type 3 and Type 4 permit. Mr. Anderson asked if an inspection could be required. That would be at the discretion of the board.

Mr. Anderson contends that the public hearing is in error, and that the documents were not properly provided in advance of the hearing. Mr. McDonald expressed the opinion that the documents were provided in sufficient time. Mr. Anderson believes that it is not appropriate to leave the suspension of the permit to the discretion of the board, as it may leave the board open to claims of bias. Mr. Anderson suggested a formal resolution to grandfather existing home occupations rather than as part of the ordinance. Mr. McDonald indicated that uses that are valid and in compliance with the current code can continue as part of the ordinance. The language could be more specific that the use needs to be compliant and currently existing. Mr. Anderson is of the opinion that there are conflicts in the existing ordinance, specifically with vehicle size and screening. The permit process can allow this section to supersede other sections. Mr. Anderson suggested that the limitations should also address the retention of the rural, residential character of the neighborhood.

WEST LAKELAND TOWNSHIP

September 12, 2016

7:00 p.m.

Oak-Land Jr. High

Supervisor Schultz asked about the revisions to the number of persons on the property with regard to employees or persons associated with the business compared to students. He is of the opinion that the persons associated with the business should be a higher number to be fair. It was noted that the time spent on the property and the level of intensity might be different. The intent of the change was to allow employees or contractors at the job site, but limit the number of persons on the residence.

Mr. Steve Rolf, 1465 Neal Ave Ct, proposed that the board consider hours of operation where there is a period where there is no business activity, regardless of the type of permit issued. Chairman Kylo did note that the application does ask about of hours of operations, and this could be a consideration depending on the nature of the business.

Mr. Bob Schwartz asked if there is a fee associated with the application. There is a one-time fee for the application, and no annual fee. There are costs associated with permits that require a public hearing.

Chairman Kylo closed the public discussion and opened the discussion to the board. Chairman Kylo moved to table the action on the amendment and proposed Section 10 to allow comments to be incorporated into the draft. Seconded by Supervisor Ebner, the motion carried.

Public Hearing for Laurie and Russ Beebe variance request to build an accessory structure closer to the road than the main residence.

Chairman Kylo initiated the public hearing for the variance request for Mr. and Mrs. Beebe at 7:47 PM. Mr. and Mrs. Beebe are requesting a variance to build an accessory structure in front of the main residence at 12421 24th St N.

Mr. Beebe presented the proposal to the board. The practical difficulties include the slope of the lot, the wetland at the back of the lot, the location of the septic behind the house for 115' feet across the lot, the location of the swale directing drainage into the wetland area and the location of the well at the side of the house. There is potentially space that is behind the front of the home, but this site would block the view from the neighboring home. There is a spot that would be out of the line of sight that would be ahead of the existing garage. There is an option to attach the garage to the house, but Mr. and Mrs. Beebe would prefer the more pleasing curb view provided by the proposed angled separate structure. The required site survey is still pending.

Mr. Dave Dupay presented the recommendation from the planning commission. The first comment is that the application was not complete, as a current survey was not available to support the practical difficulties. The sketch was done on a survey from prior to the house construction, and the house was not constructed where indicated on this survey. Without the accurate survey, the planning commission could not fairly evaluate the proposed practical difficulties. The planning commission tabled its review until updated information could be provided. The recommendation was made to review options to attach the structure to the house, but that is up to Mr. and Mrs. Beebe.

Ms. Mary Schoenthaler, 13055 4th St N, believes that the board is being too strict in requiring a survey, and supports the practical difficulties presented by Mr. Beebe. She believed the garage will look nice. Chairman Kylo noted that the additional requirements for survey was generated by the need to have more accurate information as markers are moved or lost. This is done to ensure that buildings are constructed within the setback and within the property line. This protects the property owner as well as the Township.

WEST LAKELAND TOWNSHIP

September 12, 2016

7:00 p.m.

Oak-Land Jr. High

Mr. Larry Schoenthaler, 13055 4th St N, asked if the decision could be made pending the survey confirming the information provided. Mr. Dupay indicated that the results of the survey are needed to judge the practical difficulties. The distance of the proposed building and the house, and the proposed building to the setback line, need to be confirmed by the survey.

Mr. Jim Franklin, 642 Midwest Trail, asked if the septic could be moved to allow the building to be built behind the residence. It was noted that you can't drive over a septic drainfield. The location of the septic system would be considered as a characteristic of the property.

Chairman Kylo closed the public comments and opened for board discussion. Chairman Kylo noted that there are often lots where the street is not necessarily parallel to the house, and it becomes more difficult to determine what is the front of the house.

A request for extension of the time for consideration for 60 more days to December 1, 2016 was requested and approved by Mr. Beebe. Chairman Kylo moved to continue the public hearing and defer the request back to the planning commission for further recommendation, pending receipt of the survey. Seconded by Supervisor Schultz, the motion carried.

Approval of the Minutes

Supervisor Schultz moved to approve the minutes of August 1, 2016 with minor corrections. Seconded by Supervisor Ebner, the motion carried.

Public Comment

Mr. Vince Anderson believes that if two of the board go to meetings such as the Gateway Alliance or Training without notice, would be in violation of the open meeting law. Mr. McDonald noted that the publication was not done because they were regularly scheduled meetings. Ms. Seifert confirmed that these meetings are posted as regularly scheduled meetings, and as such, are not required to be posted. It was noted that the deputy clerk was appointed by the board, and when she should have been appointed by the clerk. Ms. Seifert clarified that she did appoint the interim Deputy Clerk. The minutes are in error, the focus of the board action was to determine the salary rate for the deputy clerk. Chairman Kylo moved to correct the minutes to reflect that the deputy clerk was appointed by the clerk with the motion to set the wage at \$12 per hour. Seconded by Supervisor Ebner, the motion carried.

Mike Bieble, 12020 18th St N, Lake Elmo, wanted to bring to the board's attention with regard to the development at the Tartan Park site. The residents are concerned with the additional traffic on Manning Trail. It was a concern with Tartan Park, and will be more of a concern with a larger development. The neighbors are also concerned about stormwater management, specifically the capability of the existing retention pond to manage all the water. There are also concerns about closing 18th Ave N, and how this will interface with the Manning Avenue reconstruction project. The developer indicated that there was an agreement for access along the emergency access road, and what that would mean for the Township if this becomes an entrance to this development.

Request for Variance, Jason Gorman

Jason Gorman, 13233 22nd St N, appeared before the board with a request for a building variance. When the house was built, the setback was 35 feet, and would like to build a pool house behind the house that would be within the setback. The setback is actually 50 feet, and the website was out of date. The survey is complete. The board directed Mr. Gorman to complete the application.

WEST LAKELAND TOWNSHIP

September 12, 2016

7:00 p.m.

Oak-Land Jr. High

Chairman Kylo moved to defer the request to the planning commission for review and to direct Mr. McDonald to draft the public hearing notice for Oct 10, 2016 at the next regular meeting. Seconded by Supervisor Ebner, the motion carried.

Royal Golf Course Development, Tom and Pam Barnes

Tom and Pam Barnes, 1734 Manning Trail North, appeared before the board to express concerns with Royal Golf Course development adjoining their property. The property is on the east side of the Tartan Park Golf Course. Six years after the purchase, a survey identified that the property line was actually 40 feet closer to their house than believed, and that part of the septic drainage field was installed over the property line. In 2005, they remodeled the house and added a garage, and were allowed to build the garage within the setback. When the Tartan Park property was put up for sale, Mr. and Mrs. Barnes negotiated an easement with 3M to allow them to continue to maintain trees and vegetation. At that time, Mr. and Mrs. Barnes were assured that there was no planned development. The easement was signed, however the original purchase agreement fell through, as with the assurance of no development.

Mr. and Mrs. Barnes are concerned with how close the houses in the new development would be built to the property line, and the fact that the initial proposal included no buffer between the development and their property. The Lake Elmo planning commission subsequently recommended a 100 foot buffer. The developer included a 35 foot buffer on that property line, which is the area provided in the easement. Mr. and Mrs. Barnes would like the same level of buffer as provided to the Lake Elmo residents or as recommended by the Lake Elmo planning commission.

A second concern is the emergency access road that will run adjacent to the south side of the property. The trees along that roadway will need to be removed. There is also a concern that this would be an unpatrolled road, and could allow access to the property owned by Mr. and Mrs. Barnes.

The third concern is the added traffic on Manning Trail, as discussed earlier. It was suggested by Lake Elmo that the concerns be brought to the West Lakeland Town Board.

Chairman Kylo noted that Lake Elmo has not been communicating with the neighboring communities on this development. With regard to storm water management concerns, this would be addressed by Valley Branch Watershed District, who has authority over both municipalities. Compliance with the Minimum Design Standards should ensure that water is treated before it leaves the site.

With regards to the emergency road access, Lake Elmo was concerned with not having an access point. Mr. McDonald summarized the possibility of a public road easement out to Manning to allow access only for emergency vehicles. It is not known if Lake Elmo is considering that option. If Mr. Emerson grants an easement across his property, the question is what is within the jurisdiction of the Township. The township may be able to control the authority to open the road onto Manning Trail, as the permitting agency of the access on to Manning Trail. There are standards that govern construction of driveways and public road standards. Chairman Kylo moved to direct Mr. McDonald to research controls and authority for a private road or driveway along the easement. Seconded by Supervisor Schultz, the motion carried.

Chairman Kylo is concerned with the increased traffic, and suggested a letter to Lake Elmo with regard to the traffic related issues. In regard to the buffer space, there is limited ability to influence what Lake Elmo does within their city limits. This is potentially a change in Lake Elmo's comprehensive plan, which may be an ineffective place to address concerns.

WEST LAKELAND TOWNSHIP

September 12, 2016

7:00 p.m.

Oak-Land Jr. High

The board discussed drafting a formal letter expressing disapproval of the current concept and asking for accommodations for the residents of West Lakeland similar to those made for Lake Elmo residents. Supervisor Schultz moved to authorize Chairman Kylo and Mr. McDonald to draft a letter of disapproval and concern to the City of Lake Elmo and distribute the letter to the Mayor, City Attorney, City Administrator and Developer. Seconded by Supervisor Ebner, the motion carried.

Concerns with Storm Water Conveyance with Regard to Potential Development at I 94 and Manning Avenue

Mr. Charlie Devine, representing a citizens group, raised concerns with the land being acquired by the Prairie Island Indian Tribe. What is unusual about this location is that there is jurisdiction of the Metropolitan Council. There are conflicts between the Metropolitan Land Planning Act and designation of Federal Trust Land. Mr. Devine recommended West Lakeland consider incorporating as a city to provide for more control over land use and land acquisition. Mr. Devine noted that full development of this land would provide for extensive traffic and environmental issues. There are concerns about water, sewer treatment and storm water management for a full density development. Existing systems are at capacity without this additional extensive development.

Mr. Devine noted that the Metropolitan Land Planning Act takes precedence over other regulatory agencies. The Metropolitan Council should, according to Mr. Devine, be involved in that application, as this is a land use change and would be changes to the approved 2030 plan. It was suggested that West Lakeland put agencies such as Metropolitan Council, Washington County, Valley Branch Watershed District, and Minnesota Department of Natural Resources on notice of the concerns.

Chairman Kylo did concur that there are deep concerns about the impact of development of this corner. The application for addition to the Federal Trust Land has not yet been provided to the Township. It is expected around the end of September. Part of the application is a statement of intended land use. Chairman Kylo did contact Met Council representative, and was told that the Met Council did not have jurisdiction. There may be jurisdiction or responsibility as the impact crosses between community boundaries. The Township continues to investigate options for response.

Marie Brenden, 545 Midwest Trail, has been in contact with the Bureau of Indian Affairs to determine the timeline of activity. The process is regimented as to who is notified at what point of time, and suggested that the board enter themselves and these other agencies as known interested parties. She also suggested the board or members provide comments and can ask for a thirty day extension for additional time for review.

Mr. McDonald noted that there are some limits to what can be done, but it is not understood where those limits might lie. Chairman Kylo has been in contact with the Bureau of Indian Affairs to get more information on the application.

Cheryl Rock noted that the land impact use on the St Croix River protected waterway may influence the transfer of the property land grant. Environmental attorneys could be available to assist in this avenue.

Mr. Steve Norenberg, 795 Midwest Trail, recommended that the township get an attorney specifically to address this issue. Chairman Kylo noted it would be logical and prudent move to call a special meeting to determine the course of action once the application is received.

The Prairie Island Indian Council is available for an open special meeting in October. Dates will be coordinated, and a special meeting notice published.

WEST LAKELAND TOWNSHIP

September 12, 2016

7:00 p.m.

Oak-Land Jr. High

Additional Business

Due to Mr. Dupay's absence, the planning commission meeting date was changed from September 27 to October 4.

The counter claim has been served by Mr. Lind on the revocation of his home occupation permit, and the Township's insurance company has agreed to defend the township on the counter claim.

MPCA has discovered PFC contamination in 4 homes on the west side of West Lakeland as a result of a pipe from Eagle Point Lake to Horseshoe Lake. The EPA has issued new guidance standards for PFC contamination. MPCA will be assisting with carbon filters for those homes.

Supervisor Ebner met with Mr. Mike Isensee of the Washington County Conservation District, and he has completed review and revision of Section 9 of the Township Ordinance concerning erosion and water management. The revision takes into account the Minimal Impact Design Standards (MIDS). He is available to assist on this project until mid-November, and would like to see these revisions adopted by that time frame. Supervisor Ebner proposed the revision be directed to the planning commission and a public hearing on October 10th. Supervisor Schultz moved to defer the review to the planning commission and schedule a public hearing. Seconded by Chairman Kylo, the motion carried.

Adjourn

Supervisor Schultz moved to adjourn the meeting. Seconded by Chairman Kylo, the motion carried. The meeting was adjourned at 10:20 PM.

Respectfully submitted,



Elizabeth Vance
Recording Secretary