

**ADA TOWNSHIP PLANNING COMMISSION
MINUTES OF THE AUGUST 18, 2011 MEETING**

A meeting of the Ada Township Planning Commission was held on Thursday, August 18, 2011 at 7:30 p.m. at the Ada Township Offices, 7330 Thornapple River Dr., Ada, MI.

I. CALL TO ORDER

Meeting was called to order by Vice-Chairperson Butterfield at 7:30 p.m.

II. ROLL CALL

Present: Commissioners Butterfield, Lowry, Hoeks, Lunn, and Treasurer Rhoades.

Absent: Commissioners Korth and Easter.

Also present: Planning Director Ferro

III. APPROVAL OF AGENDA

Motion by Lowry, second by Hoeks, to approve the Agenda. Motion passed unanimously.

IV. APPROVAL OF MINUTES OF JULY 21, 2011 MEETING

Motion by Hoeks, second by Lowry, to approve the July 21, 2011 meeting minutes. Motion passed unanimously.

V. PUBLIC HEARING

Continuation of Public Hearing, Revision to Riparian Protection Standards, Proposed by Ada Township Planning Commission

Planning Director Ferro explained that at the July meeting, the Commission postponed action, and continued the public hearing to the August meeting. He stated the riparian protection regulations have been in our zoning rules since 2005, and when those rules were adopted they contained several exemptions from the application of those rules. Ferro stated one of the exemptions in the rules states that a lot or parcel which was a lot of record on or before the effective date that the ordinance was adopted is exempt from the regulations. Ferro stated that the net effect of that exemption is that the rules only apply to lots that are newly created after the date those standards were enacted, either through a "metes-and-bounds" lot split or a new subdivision or a new site condominium development, which we've had a lot of in past years. Ferro added that in essence the rules create two different categories of properties in the township - properties that are subject to those rules and properties that aren't subject to those rules. Over time, as properties are divided the number and acreage of properties that are exempt will decline, and the acreage of land and the number of lots that are subject to the rules will increase, and that how fast that happens will depend on the level of new development activity in the Township.

Ferro noted there are also other exemptions in the rules that have no proposed change, including agricultural operations conducted in conformance with the Michigan Right To Farm Act, and activities that are authorized in a Michigan DEQ permit such as permits for flood plain fill and development, wetland permits, and permits issued under the Inland Lakes and Streams Act for things like bridge crossings of a creek.

Ferro stated this amendment was initiated by the Planning Commission, and would simply eliminate one sentence that exempts existing lots of record that were in existence at the time the rules were first adopted. The amendment would eliminate those two different categories of properties - properties that are exempt from the rules and properties that are subject to the rules. The rules themselves contain regulations concerning maintenance of natural vegetation within certain specified distances of water

features in the Township, and building setback requirements from those same features. So there are dimensional standards that are similar to building setback standards from property boundaries. Ferro stated the Planning Commission has considered amending the rules several times in the past; however, no consensus was reached in the past as to the best course of action. Ferro noted that at last month's public hearing, there was comment from one person. Ferro stated that there has been additional newspaper coverage of the proposed amendment in the last month, and that has generated several phone inquiries and correspondence from a couple of citizens - Jim Vogt, Pettis Ave., and Everett VanderTuin, East Fulton St., both of whom own property with Grand River frontage. Ferro referred the Commission members to copies of the written correspondence which was distributed.

Ferro went on to state the main argument for removing the exemption seems to be the fact that it does create two different classes of properties in the Township, properties that are subject to the rules and properties that are exempt, with the only criterion being whether the property was in existence prior to the rules or not, and that bears no relationship to the objective of trying to protect riparian features and water quality. A two-year review conducted by Township staff of building permit data showed 49 homes were constructed in that time period, and all but 1 of the homes were in compliance with the riparian protection standards even though 41 of the permits were on lots that were exempt from the regulations.

Ferro also stated a common question asked by property owners is if this exemption is removed what impact would it have on my property. Ferro stated there are two types of existing non-conforming conditions: 1. Nonconformities having to do with a building located in an area that wouldn't be permitted under the rules; and 2. Vegetation management that is not in conformance with the rules.

Ferro stated that a building that is made non-conforming by the new rules would be treated just like any other non-conforming building, in that non-conforming conditions are allowed to stay in place, but cannot be made more non-conforming, and may not be re-established if the nonconforming building is removed or destroyed. Ferro stated that recourse is available where re-construction in conformance with the rules is impractical, through a variance application. He referenced two recent cases in which homes with non-conforming conditions that were destroyed by fire were permitted to be rebuilt, after zoning variances were approved. Ferro stated this same recourse would be applicable to buildings made non-conforming with the riparian protection standards.

Ferro also stated that in the case of existing yards that do not conform with the regulations requiring natural vegetation in proximity to water features, owners would be permitted to continue to maintain those existing non-conforming conditions, but could not expand them to be more non-conforming.

Ferro stated another question that is asked is how will the Township monitor and enforce these rules. Ferro acknowledged that the Township does not have the resources or the ability to monitor what everyone on water-featured property is doing with their lawns and how close their lawns are to a creek, for example. It would be handled just like any other zoning violations are handled; if it's something we observed then it's something we would take action on.

Ferro stated that in looking at the building permit data for the last two years, there does not appear to be a lot at stake here, in that the exemption currently in effect has not resulted in a lot of degradation as a result of new construction activity.

Public Comment:

Don Shankin, 1022 Dogwood Meadows Drive, owns Chase Lakes, the largest wetlands in Kent County, which consists of 400 acres and draws in water from farmlands of about 700 acres. He stated he is concerned with the riparian regulations and being able to take care of Chase Lake, which has been there since the "ice age". Also, he stated one of the regulations prevents him from having a paved driveway

and he's off 700 feet from Honey Creek Ave. back to his cabin. He also questions the need for the Chase Lake properties being included in the riparian act.

Bryan Harrison, employed by Amway Corporation, stated Amway is opposed to the elimination of riparian property rights. He stated if the 90-foot setback requirement is imposed it would inhibit maintenance and improvement of buildings, roads, parking areas and other amenities fundamental to Amway's operations. Also, many storm water management systems that are located some distance away from water features either directly or eventually discharge into the streams, river and water bodies, and the burden of water protection should not be placed only upon those who own property with direct frontage.

Harrison also stated they seek clarification on how the Township intends to apply these restrictions to township-owned properties. Many Township properties contain facilities and grounds that are not in compliance with the ordinance. They also recommend a more intentional and deliberate effort is made to notify affected property owners. There has been very limited press coverage, and that was done during busy summer months. Amway requests that the Township identify and contact affected property owners when there are proposed changes.

Harrison stated there is a logical rationale for creating two classes of property: one, you maintain those property rights you had when you purchased the property and a new owner would not have that same expectation; and two, even if you eliminated the exemption you would still have two classes of property in the community, those who have exercised their rights up to this point and enjoyed the grandfathering in and right to maintain that and those who have not exercised their rights to make certain changes to their property.

Lunn asked for examples of how Amway would have trouble with maintaining existing property.

Harrison noted if a parking lot is damaged and needs to be repaved it is our interpretation you could not repave the parking lot, or if you have a sidewalk structure or a deck and it becomes damaged and needs substantial repair you lose the right to do that. If a building were to burn down or become damaged, you don't have the automatic right to simply come and pull a building permit, you'd have to go to the Zoning Board of Appeals and hope that they see the wisdom of rebuilding that building in its current spot.

Joel Schaafsma, 11085 Vergennes, stated he has an extensive area of frontage on Purple Creek, which runs through his back yard, and a lot of trees have fallen back there, and this states if a tree dies, if it falls, I cannot remove that tree. He stated he feels he should have full function of his own property.

Ferro stated the riparian regulations have language stating that within the natural vegetation zone it shall be kept in a predominantly natural condition with a limited extent of alteration and management. One of the exceptions is: removal of isolated diseased or dead trees and trees in an unstable condition that pose a safety hazard is permitted, provided the stumps and root structures of removed trees shall be left in place. He stated he doesn't think that prohibits removal of a dead tree.

Jim Stieber, 2920 Grand River Dr. asked of the 49 structures that were built how many properties were on a river, lake or stream, because if they weren't built on that type of property they have to be in compliance. Stieber also stated he understood the need for water quality for wildlife habitat. He worked with West Michigan Wildlife Foundation and the DEQ to implement a wildlife habitat enhancement project on his property, and under this riparian act we wouldn't be able to do that.

Lunn stated to Mr. Stieber that as soon as you received your DEQ permit you would have been exempted from the ordinance.

Stieber went on to ask if he wanted to build an observation deck such as the one at Roselle Park, would he be allowed to do that. He added that some of the restrictions may make it more difficult for him to sell his home, and reduce the value of it.

Ferro responded there is provision for those types of structures, but there is no provision for any structure like that in the natural vegetation zone, which is 25 feet from the riparian edge. In the 15 feet beyond the 25 feet, there's language that permits a viewing platform, deck or gazebo, with a maximum area of 200 square feet.

Seeing no other public comment, Butterfield closed the hearing.

Board Comments:

Hoeks referenced the correspondence from Everett VanderTuin, 8900 East Fulton Street, owner of 1,000 feet of Grand River frontage. Hoeks stated he's not sure Mr. VanderTuin understands the significance of what we're trying to do in terms of riparian rights. Hoeks read Mr. VanderTuin's correspondence aloud. Hoeks commented that Mr. Vandertuin focuses only on property owner rights, but not on property owner responsibility, which is the flip side of the coin. Hoeks commented the change in regulations would not necessarily require additional personnel or additional taxes. We are really trying to promote property owner responsibility.

Lowry stated everyone should get a copy of the draft because he does not believe the regulations are fully understood, and everyone should know and have a copy.

Ferro stated the text of the current regulations and the graphics showing the dimensions of the regulated areas are on the web site accessible from a link on the home page. Ferro stated he agreed with Amway's comment that this time of year is not conducive to broad public awareness, because a lot of people are not here.

Lunn stated he is the one that suggested this change because from the environmental side I think it's a good change. Riparian zones for the most part are in the flood plain, and by keeping these types of structures outside the flood plain increases property values. These practices actually reduce the erosion along the river bank.

Ferro stated the DEQ considers public benefit in determining when to issue wetland permits. He referenced as an example the wetland permits that were issued by the DEQ for the boardwalks on the Township's trail system. Ferro also commented it is true that agriculture contributes a lot to water quality problems and there is an exemption for agriculture from our riparian rules, but only to the extent that the agricultural practices comply with the State's adopted best management practices that are published pursuant to the Right To Farm Act.

Rhoades commented that the regulation themselves won't do anything if property owners aren't good stewards of their property. He concluded he does not have a good feeling about the ordinance change.

Hoeks asked, because two members are missing, if we should defer action to the next meeting, even though we called for a decision at this month's meeting. He also suggested the possibility of a work session in which all of the people here are notified of what we're doing so it is all fully public.

Rhoades stated he agrees with postponing action, but if we're going to have a work session then we have to notify everyone in the Township who has property that is abutting a river, creek, or wetland. He commented this would be expensive for the Township to carry out.

Motion by Hoeks, second by Lowry, to postpone action since two members of the commission are absent, and place this under Unfinished Business on the September Agenda. Motion passed by 4-1 vote, with Lunn voting no.

VI. UNFINISHED BUSINESS

None.

VII. NEW BUSINESS

Request for Extension of Special Use Permit Approval for Foster Care Group Home, 7133, 7147 and 7164 Rix St., SE, Parcel Nos. 41-15-33-231-019, 011 and 012, Thornapple Homes

Planning Director Ferro stated the project for Thornapple Homes was approved in August of 2010 and the zoning regulations state a special use permit is valid for one year, and if the project is not initiated within that year the approval expires, however the Planning Commission may grant a one-year extension of the approval. A letter was received on July 19, 2011 requesting an extension.

Tom Nobel, Thornapple Homes, stated they have continued to do fundraising for the project, and grant requests. Stated they have invested approximately \$75,000 in the project, but are not ready to break ground yet.

Motion by Lunn, supported by Rhoades, to extend the special use permit for Thornapple Homes for a year. Motion carried unanimously.

Site Plan Review, 252 Square Foot Addition to Existing 36,800 Square Foot Manufacturing Building, 4850 East Fulton St., Parcel No. 41-15-30-300-014, Perforated Tubes, Inc.

Joe Grochawalski, architect on the project with Omega Architects, stated this is a very small addition on the back of a very large manufacturing facility, and it meets all of the requirements. The owner is just going to be moving some interior compressors, etc., into this addition. It will open up a little bit more floor space on the manufacturing floor.

Lunn asked if there was noise attenuation in the building.

Grochawalski stated, no, but that it will be built out of block, and will be completely insulated so you don't hear anything outside the building. He added there is also nothing within ear shot of that part of the building within 500 feet or so.

Ferro stated the small addition backs up to the railroad tracks. On the opposite side of the tracks there is a large area that is owned by the railroad and behind that is the Amway catalog warehouse. There is language in the zoning rules that allow for staff approval of minor projects like this but this just barely falls outside of the parameters that allow staff approval.

Motion by Rhoades, supported by Lowry, to approve the site plan. Motion passed unanimously.

VIII. STAFF/COMMITTEE/COMMISSION MEMBER REPORTS

Revised Grading and Landscaping Plan, Redeemer Presbyterian Church

Planning Director Ferro stated he has signed off on a change in the grading and landscaping plans for Redeemer Church, and wished to inform the Commission of this. He stated there is a wooded hillside adjacent to the highway, and the original grading plan showed a large portion of that frontage adjacent to the road being all re-graded and all vegetation removed. Also, the original plans had the sanitary drain

fields between the parking and the highway. He stated the Health Department did not want the drain fields in that location, so it will be moved to the rear of the site. The church is required by MDOT to put a long center left turn lane in so the highway will be widened for several hundred feet on the south side of the highway. He noted there will be a lot of fill needed on the south side of the road because the grade drops off onto the pasture property there. The church is proposing to take the fill off the hill for use on the other side of the highway. Ferro stated the revised grading plan preserves more natural vegetation along the road frontage of the church property, while reducing the height of the existing wooded hilltop. He added there will be more berming and landscaping between the parking lot and the road. They will also be trees planted on the slope of the hill.

IX. PUBLIC COMMENT

Eric Piehl, 511 Adaway, stated that now that he has read the riparian protection standards he finds them to be very reasonable and considerate, and the amendment makes a lot of sense. He stated he would urge for them to approve the amendment at the next meeting.

ADJOURNMENT

Motion by Hoeks, second by Lunn, to adjourn the meeting at 8:56 p.m. Motion passed unanimously.

Respectfully Submitted,

Susan Burton, Township Clerk

SB/dr