

**LELAND TOWNSHIP PLANNING COMMISSION MEETING,
PUBLIC HEARING AND PUBLIC FORUM
Wednesday, December 2, 2009
Leland Township Office
112 W. Philip St., Lake Leelanau, Michigan**

MINUTES

PRESENT: Planning Commissioners Keith Ashley (chairperson), Gary Bardenhagen, Jane Keen and Skip Telgard; Planner Mary Campbell, Zoning Administrator Tim Cypher

ABSENT: Glenn Gotshall, Peggy Schudlich, Jon Stimson

GUESTS: 20

CALL TO ORDER: Mr. Ashley called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA: Mr. Ashley made two changes: to delete Insignia Homes and add Allocation of Escrow Fees. Mr. Bardenhagen moved to approve the agenda as amended; supported by Ms. Keen. Motion carried.

DECLARATION OF POTENTIAL CONFLICTS OF INTEREST: None.

APPROVAL OF MINUTES, NOVEMBER 4, 2009: Ms. Campbell noted that the word “remove” should be “replace” in line 4 of the paragraph on Sec. 23.04B on page 2. Mr. Cypher said page 5, paragraph 5, line 5, should read, “. . . that extends some eight feet from shore. . . .” Mr. Telgard moved to approve the minutes as amended; supported by Ms. Keen. Motion carried.

GENERAL PUBLIC COMMENT: None.

REPORT FROM TOWNSHIP BOARD REPRESENTATIVE: None.

REPORT FROM ZBA REPRESENTATIVE: None.

RIVERTOWN PUD CHANGE REQUEST

Developer Jim Varley of Varley-Kelly said that because of issues with placement of wells, the details in the November 18, 2009, request for changes are no longer valid. The proposed changes are for the property east of Grand Avenue, Units 5 and 7. Because the state is requiring the developers to change the location of a well and because of the distance required between the permanent well and the sewer line, Unit 7 would be 70 feet wide, leaving only 50 feet of width for Unit 5 (instead of 60/60, as originally drawn). The house on the 70-foot lot would be a traditional condo, and the house on the 50-foot lot would be a site condo.

In addition, the developers want to add a dwelling in the form of a duplex on one of the lots at Grand and Cedar that had been approved for a single dwelling.

Mr. Cypher said the requests constitute a major change because proposed new lot dimensions exceed five feet and another dwelling has been added to the plan. The changes also will require revisions to the Master Deed and Bylaws.

Ms. Campbell said a public hearing would be required because the changes are major.

Dr. Varley confirmed that the DEQ concurs that Type 3 wells are appropriate for the development. Mr. Cypher said the Varley-Kelly consultant needs to substantiate the test well results and DEQ approval, as well as to address whether any nearby property owners must sign off on the isolation district.

Dr. Varley said one easement covers all utilities, and a separate easement is not required for underground water lines.

Mr. Cypher said updated letters would be required from the Soil Erosion Office, Fire & Rescue, the Road Commission and others.

Ms. Keen said she was more comfortable with the revised change than with the original proposal, which would have created 45-foot lots. Mr. Telgard said the proposed lot size fits with everything else in town. Mr. Bardenhagen said the lot size was OK with him.

Establishment of New Escrow Account: Mr. Bardenhagen moved create a new escrow account of \$2,250 for the proposed revisions; supported by Mr. Telgard. Motion carried.

Public Hearing: Mr. Cypher, Ms. Campbell and attorney Mardi Black will collaborate on a memo detailing the requirements. The public hearing was set for January 6; a legal notice will run in the December 17 issue of the *Leelanau Enterprise*. The public hearing date is contingent on the developers providing required documentation for staff review by December 15 and resolving the escrow and tax issues.

Rivertown Public Comment: None.

ALLOCATION OF ESCROW

Mr. Ashley led a discussion of what fees should be charged to developers' escrow accounts. Questions included whether taxpayers should pay any portion of costs to investigate a developer's application and whether some costs should be borne by the township if they are incurred to protect the assets of the township.

Mr. Ashley noted that the Planning Commission must adhere to the Zoning Ordinance, which is vague and finite in some respects. He said a clear understanding is needed of when escrow is to be charged to the developer.

Mr. Ashley suggested that he and Ms. Keen review Rivertown invoices with Ms. Black to determine which charges should be allocated to Varley-Kelly. Ms. Keen reiterated that Varley-Kelly will be required to pay its escrow balances before final PUD approval. Mr. Ashley will contact Ms. Black to arrange a meeting.

Public Comment

Dr. Varley said information that is specific to the township should be known by the township and its staff, and the developer should not have to pay for creating that knowledge. He added that the developers had agreed to move riverfront property lines so that the township's standpipe would be in the center of the township lot. He said it would have cost \$35,000 to put in a new standpipe, and he asked the Planning Commission to consider that when reviewing the escrow issue.

Bob Bunek (Lake Leelanau) said if the township was to profit from the well at Hancock Field, that research should have been a township charge. If not, the developer should pay. Mr. Cypher said the developer was not given the opportunity to have its attorney research Hancock Field as a potential well site.

Mr. Ashley said the communications tower that remains on the property is in violation of the ordinance and should be removed within 60 days. Dr. Varley said removal will be easier once the overhead wire is removed. Mr. Ashley suggested asking Mr. Cypher for an extension. Mr. Cypher said the Leland Township fire chief is interested in the tower.

ZONING ORDINANCE

Narrows Overlay District Draft

Public Comment

John Bunek (Lake Leelanau) said that at the last Lake Leelanau Chamber meeting, property owners felt there should be no more discussion of a Narrows overlay. He said he knows of no Lake Leelanau village business or property owner who favors an overlay.

Dave Fortner (Lake Leelanau) said the proposed overlay would greatly increase setbacks and reduce impervious surface allowances.

Bob Bunek said his plans and retirement would be thwarted by the overlay.

Bob Schaub (Lake Leelanau) felt the overlay concept was bureaucratic.

John Bunek said if the same rules were imposed on the Leland River, the Bluebird could not exist. Mr. Ashley said the Planning Commission is looking forward, not looking back.

Loren Schaub (Lake Leelanau) asked why restrictions should be added to properties in the Narrows area. He said many will stand to lose, and they will fight such a change.

Dave Couturier (Lake Leelanau) said he agrees with John Bunek, adding that the DEQ takes care of the wetlands.

Bob Bunek questioned the conflicts of interest item on every Planning Commission agenda. Mr. Ashley explained that conflict of interest carries specific legal criteria (for example, when Mr. Telgard excused himself from deliberation on a request to change his property). Township Trustee Susan Och said it would be unethical for a Planning Commissioner to claim a conflict to avoid making an unpopular decision.

Loren Schaub asked who originated the Narrows overlay idea. Mr. Ashley said the entire Zoning Ordinance is being rewritten for simplicity and clarity.

Bob Bunek said he felt the DNR adequately protects the Narrows.

Fred Plamondon (Lake Leelanau) said if the overlay is good for the Narrows, perhaps it should apply to the entire Lake Leelanau shoreline.

Jennifer Rodgers (Lake Leelanau) said she felt properties in the Narrows should be treated the same as those on the north end of the lake; i.e., zoned residential. She viewed the overlay as taking away development rights, which should be compensated with lower taxes or by some other means. She said property owners in Oregon are compensated for "regulation by acquisition." Mr. Ashley noted that owning property does not come without restriction on uses.

Mr. Fortner questioned the 30-foot vegetation strip; Mr. Ashley noted that regulation is in the current Zoning Ordinance.

Bob Bunek asked about Leland River setbacks; Mr. Ashley said they are the same as for the proposed Narrows overlay.

John Bunek said Lake Leelanau C-1 and C-2 owners don't want a Narrows overlay.

Steve Mikowski (Lake Leelanau) said he didn't understand why a Leland River overlay district is not needed but a Narrows overlay district is needed. He said the Planning Commissioners seem to assume Leland residents do no harm but Lake Leelanau residents would do harm. Mr. Telgard said those who think they know the Planning Commission's opinions are wrong, and that there is no hidden agenda. Mr. Mikowski said he thought the Planning Commission was moving toward overly restrictive regulations.

John Bunek said he doesn't want another agency telling property owners what to do.

Bob Schaub asked what process would be followed with the revised Zoning Ordinance. Mr. Ashley said the Planning Commission will discuss input and agree on what should go forward. A public hearing will follow, with subsequent changes. The Planning Commission will send the version it approves to the Leland Township Board for action.

Mr. Fortner said people catch fish outside the Bluebird, so commerce hasn't destroyed anything on the Leland River.

Bob Bunek questioned the 30-foot natural vegetation strip in the Narrows overlay draft; Mr. Cypher said the provision is in the current ordinance, in Section 24.10.

Dave Albert (Leland) asked how the Planning Commission knows the proposed development standards would preserve the fragility of the Narrows.

John Bunek felt only a handful don't want to see docks and boats in the Narrows.

Ms. Rodgers said controlling boat traffic in the channel would help environmental sensitivity. Mr. Ashley said the Planning Commission has no jurisdiction on water.

Mr. Fortner expressed concern about the 35-foot maximum height for a house; Mr. Ashley said that limit is in the current Zoning Ordinance.

John Bunek said the overlay would reduce the footprint of a house.

Planning Commission Discussion

Mr. Ashley outlined the proposed General Development Standards (page 3):

- A. Docks: The only reference to docks in the current ordinance is for shared frontage (Section 18.23).
- B. Deck Size: The draft overlay standards allow for a 170-square-foot increase in deck size, consistent with DEQ regulations.
- C. Waterfront Setback Pathway: At five feet wide, the draft standard is more liberal than the current three feet. In response to Bob Schaub, Mr. Cypher said the waterfront starts at the water's edge.
- D. Impervious Surfaces: The current ordinance limits structures but not impervious surfaces. Ms. Campbell noted that the draft restriction applies only to the first 100 feet from the water's edge; beyond that, the standards for the underlying district apply.
- E. Fences: Standard is the same as in the current ordinance.
- F. Natural Vegetation Strip: No change from the current ordinance.

Ms. Rodgers asked whether floating docks are allowed; Mr. Cypher said they are allowed as temporary structures.

Ms. Keen asked whether the township ordinance needs to specify a maximum depth for docks given that the DEQ controls this matter. Mr. Telgard said limiting the maximum depth to three feet would cause *de facto* dredging. After more discussion, the consensus was to eliminate water depth as a criterion. Also, Mr. Cypher clarified that under the proposed language, docks may have finger piers.

Standard Lots (proposed Section 5.05.4, page 4 of draft): Mr. Ashley noted that the minimum side-yard setback as drafted is 10 feet, an increase of five feet. The maximum dwelling height in the draft is 35 feet, consistent with residential districts but a reduction from 40 feet in C-2 districts. Mr. Cypher said 35 feet is consistent with the fire protection standard; he will ask the township fire chief for a memo to verify.

Mr. Ashley read two letters from property owners (on file at the Leland Township Office). They addressed docks, tree-cutting, native plants and soil erosion in the proposed overlay.

Mr. Cypher moved to the audience to comment on the proposed limitations on impervious surfaces. He said the ordinance now permits 80 percent lot coverage with no impervious surface restrictions. The draft standards, which limit impervious surfaces within the overlay area to 50 percent, narrow the building footprint and must meet the proposed 40-foot setback. The effect, he said, would be to reduce the lot coverage from 80 percent to 50

percent within the overlay area. Mr. Ashley noted that setback areas can be paved (as a restaurant parking lot, for example).

Mr. Cypher said he felt it would be fair to leave lot coverage at 50 percent with no impervious surface restriction. He said soil erosion standards cover drainage design for exceptional rain events; he will verify the specifics with the Soil Erosion Office.

John Bunek said he has built two subdivisions, and nothing would be built on the shores of Lake Leelanau without an engineer. He suggested using natural plants to filter rain runoff. Mr. Ashley noted that an engineer is not required for individual homes. Mr. Cypher said the Soil Erosion Office determines when an engineer must be engaged.

The impervious surface discussion will be continued at the next meeting.

Ms. Keen thanked the audience members for their input. Mr. Ashley said the Planning Commission wants public input and would like to have the chairs filled at each meeting.

OTHER BUSINESS: None.

ZONING ADMINISTRATOR COMMENT: Mr. Cypher noted that the information on parcel depth and width is in the draft standards for the Lake Leelanau Village Commercial Core; as drafted, the dimensions represent a benefit to property owners over the current ordinance.

PLANNING COMMISSION COMMENT: None.

PUBLIC COMMENT

Mr. Mikowski asked why an overlay district is being proposed for Lake Leelanau but not for Leland. He felt the overlay proposal should be dropped.

Deb Schanno (Lake Leelanau) thanked the Planning Commission for helping the audience better understand the proposed concepts.

ADJOURNMENT: There being no objection, the meeting was adjourned at 10:10 p.m.

NEXT MEETING: Meeting and Rivertown public hearing on Wednesday, January 6, at 7 p.m., Leland Township Office.

Respectfully Submitted,

Susan M. Buxton
Recording Secretary