

CHARTER TOWNSHIP OF MONITOR
REGULAR PLANNING COMMISSION MEETING
May 5, 2010

The meeting was called to order by Chairman J. Bellor at 7:00 p.m.

Members present: C. Hoyle, J. Frank, B. Campbell, D. Darland, Earl Arnold, J. Bellor
Members absent: F. D. Rochow
Also present: R. Sheppard, Planning Attorney, Z. Acuff, Planner, John Jackson, McKenna
Pledge of Allegiance was recited.

Motion by Campbell seconded by Frank to adopt the agenda as presented.
Motion carried.

Motion by Hoyle seconded by Campbell to approve the minutes of the April 6, 2010 regular meeting as presented.
Motion carried.

Public Comment

J. Bellor opened public comment at 7: 02 p.m. and closed with no one wishing to speak.

Items for Consideration

Edgar Roth Agricultural Land Division Special Use Permit Public Hearing
Public Hearing was opened.

Mr. Roth said that this land has been in the family for 110 years and he would like to keep the homestead/buildings, but sell the farmland.

Z. Acuff reviewed the McKenna letter of April 26, 2010 regarding this matter. The new residential parcel would be 1.6 acres and it is on the west side of 7 Mile Rd. between Salzburg and US10. The residential parcel would contain the house and three outbuildings: a pole barn, garage, and a smaller shed. The reason for the special use is because it would be a non-conforming parcel by having more than two accessory buildings.

1. Lot size meets requirements
2. The number of accessory buildings can be approved by Sec. 3.45 of the Ordinance.
3. Size of the accessory buildings cover 8.2% of the parcel when 25% is allowed.
4. Minimum setbacks: Pole building setback is not sufficient according to the sketch provided. It needs a 26 ft. setback from the proposed North and West lines.
Exact dimensions of house were not given. The house needs a greater setback from the proposed North line.

Section 3.45 allows approval with insufficient setbacks and conditions can be added as to rebuilding, etc.

The setbacks are the only issue. If we can resolve the setbacks, then all conditions are fine for approval of this split.

Mr. Roth said that the reason he had a 16 foot setback on the pole barn is because he has diverted the water runoff away from the property line. The other reason that it is 16 ft. is because all of the other properties along the road are 260 ft. deep. A change would mess up the farmland and cause a farmer to go around these buildings to farm the land.

Mr. Roth says that the pole barn is 72 ft. from the northern property line and the house is 48 ft. from the north line.

From the house to the north will be 48 ft. to the new line. The only problem on the western line is the pole barn.

Dick Falkenhagen of 5188 S. 7 Mile Rd. spoke saying that when his daughter and her husband bought Howard Weiss' house, they also wanted to buy the tool shed, but were told that they would need ten acres. He wondered if the same was true for Mr. Roth.

Sheppard said that, as a result of the Weiss sale, the ordinance was changed to allow the house and buildings to be split from farm property. That amendment took place about 2008.

Arnold said that Mr. Roth's property is immaculate. He asked whether we have the authority to change those setbacks. Acuff responded by reading 3.45(b)5 which gives the Planning Commission the ability to change those setbacks under the circumstances listed.

Sheppard noted that when the survey is done for the land split and submitted to the assessor, a copy should be placed in the Planning Commission file as well.

Public Hearing closed.

Motion by Frank to approve a special use permit for Edgar Roth to separate his homestead at 5228 7 Mile Rd. from his farmland as presented in his application. Drainage on the pole barn must be maintained to keep runoff on his own property as is presently done. This allows Mr. Roth a minimum setback of sixteen (16) feet from the west and forty-eight (48) feet on the north line. The Building Inspector must walk through the buildings and verify their condition. Supported by Hoyle.

Roll call vote:

Yes: Campbell, Darland, Frank, Bellor, Arnold, Hoyle

No: None

Absent: Rochow

Motion carried.

Grueber Trust Land Division Public Hearing

Public Hearing opened.

Z. Acuff summarized the review by McKenna dated April 27, 2010. There is a revised survey dated April 6, 2010 that shows Parcels A, B, and C. The members of the Grueber Trust are requesting a special use permit to allow the separation of farmland and buildings associated with 4422 S. Two Mile Rd.

Parcel A has two accessory buildings in addition to the attached garage. Parcel B has setback deficiencies and two accessory buildings in addition to a detached garage. Acuff noted that the reference to the height of the house does not apply in this case so disregard that requirement in the review letter. Parcel C has two buildings without a residence.

Bellor questioned setbacks. Sheppard explained that in the AG zone we have a side yard setback or specific setbacks for a house. Therefore, if the house meets the specific setback, no matter what the height of the house, it still only needs to be 10-15 feet off the side yard.

One of the applicants noted that there is an incorrect address on the survey for the property adjoining Parcel C on the south. There was discussion regarding Parcel C and the possibility of attaching it to a neighboring property. This may be able to be accomplished with a lot enhancement making the property less non-conforming.

Mr. Sheppard requested that the Assessor be informed that if this special use is approved, then it is noted that Parcel C cannot be sold until a residence is added or accessory buildings removed or a performance bond to remove non-conforming buildings if a house isn't built on the lot.

Arnold questioned whether the parcel north of A would have enough frontage to be considered a lot. Frontage of that parcel with the barn is questionable and needs conditions.

Motion by C. Hoyle supported by J. Frank to approve the Special Use Land Division of Parcel B for the Edwin Grueber Trust with conditions being mentioned in 4-27-10 letter from McKenna, page 4 under Recommendations, items 1, 2, & 3:

- 1. "No primary or accessory structure on the new Parcel B may be replaced or rebuilt (beyond minor repairs not to exceed the state equalized value of the structure) except in full conformance with the setbacks required by the Zoning Ordinance at the time of construction.**
- 2. No addition or renovation that increases the degree of non-conformity may be made to any non-conforming primary or accessory structure on the new Parcel B.**
- 3. Per Section 3.45(b)(13), the applicant must record documentation with the Register of Deeds that adequately described the terms and conditions of the special use permit as applied to Parcel B. We suggest the Township Attorney review the documentation before recording to ensure it meets the intent of the Ordinance."**

Positive drainage for the 26' x 40' pole barn must be maintained, the remaining parent parcel must maintain 330 ft. of frontage along North Union and Two Mile Road combined as long as the 42' x 64' barn is in existence or until the ordinance is amended to allow a lesser frontage. The Assessor shall be notified that Parcel C cannot be sold until a residence is first established except as a lot enhancement. Also, the Township Building Inspector must inspect the accessory buildings for structural soundness.

Applicant requested clarification of AG property vs residential use. There was discussion by Campbell regarding setbacks on Parcel A and Parcel B.

Roll call vote:

Yes: Darland, Frank, Bellor, Arnold, Hoyle, Campbell

No: None

Absent: Rochow

Motion carried.

Revisions to Proposed Fence Ordinance Sec. 3.13

Z Acuff reviewed the changes made as requested by the Planning Commission at the last meeting.

The definitions remain. There is still a provision for temporary fences. The section about getting a permit from the Township has been removed.

Bellor questioned the lot line vs. center of road. Darland explained how lot lines and setbacks are measured.

Sheppard suggested revisiting Sec 2.55 and Sec. 2.95 which are definitions of “front lot line” and “front yard” and talk to R. Austin, the Township Attorney, to see how much of a change we need to make to these definitions to try to re-adopt our intention in the ordinance which would make the decision by a local judge interpreting our ordinance moot because it would be our old ordinance he interpreted. It would be good to better clarify those definitions. Our ordinance reads that the front lot line is the right-of-way line. All of our setbacks are measured from the front lot line.

Arnold claims that he is taxed on the 33 ft to the center of the road. Darland said that no one is taxed to the center of the road and if there is a public drain going through your land, you are not taxed on that drain even if there is an easement. The property description goes to the Section Lines, however when an assessor is looking at your farm, he has to look at tillable acres. The right-of-way is in your property description, but it is not included in your taxable value.

Sheppard explained that we can't use the right-of-way line, that the judge has ruled that it is the center of the road. If that is true, we have a 35 ft setback requirement in a residential zone. If I went to build a house next to Monitor Sugar, my front door could be two feet off the sidewalk. That has never been the intent of this ordinance. The right-of-way line is 33 ft from the section line.

J. Jackson of McKenna was asked his opinion. He feels that, however we define it, it has to result in the ability to enforce where the fence or building is placed, whether it is from the center of the road or the right-of-way.

Arnold commended Acuff for condensing the earlier proposed ordinance although he would add “setback” to “required front yard” as it is in the present ordinance. Arnold questioned the reason why Page 1 (e) prohibits a chain-link fence with slats woven in. Darland's response spoke to how many of the slats would be missing after one winter in the wind. Article (g) speaks of “indicative of a state of repair.” What happens if this is a violation? How is it enforced?

Discussion of the ordinance determined that if you are on a farm you can fence anywhere unless it is regulated elsewhere as in corrals. Pasture land can, therefore, extend to the road right-of-way.

Darland feels that people should be able to have a picket fence in their front yard. Bellor wonders what the sense is in having an ordinance if it is not going to be enforced?

Motion by J. Frank supported by Hoyle to recommend the proposed fence ordinance to the Township Board for their input before a public hearing is set.

Motion carried.

Suggested Revisions to Wind Energy Ordinance Sec. 3.46

There was discussion regarding the enforcement of “perceptible vibration”. Reference was made to the legal issues and negative feedback in Huron County.

Motion by Hoyle supported by Darland to recommend Wind Energy Ordinance to the Township Board for approval or recommendation. Motion carried.

Reports

Acuff reported that all of the conditions put on Holly Springs for Final Preliminary Plat have been met. Sheppard reported that the same was true from his review.

Communications

Motion by Darland supported by Frank to accept Communications. Approved.

Public Comment opened and closed with no one wishing to speak.

Campbell moved to adjourn seconded by Frank. Motion carried.

Meeting adjourned at 9:16 p.m.

Respectfully submitted,

Dan Darland
Secretary

DD/jw