

Greenvale Township Planning Commission Meeting Minutes Thursday, March 9, 2023

Present: Ken Malecha (Chair); Commissioners Mark Legvold, Joyce Moore, Victor Volkert; Supervisor Charles Anderson, Board Liaison and Jane Dilley, Town Clerk

Absent: Scott Norkunas

Others Present: Charles Anderson, Andy Anderson, Cindy Roehl, Dave Roehl, Mary Collins, Perry Collins, Jenn Welbaum, Marcia (Budin) Simon, Kathy Kalow, Rusty Kluver, Duane Fredrickson, Jeff Damm, Jess Bodnar, Bruce Paulson, Wayne Peterson, Russ Hoheisel, Joyce Moore, Dean Odette, Linus Langer, Greg Langer, Tony Rowan, Lisa Legvold, Bruce Heikes, Ken Langeslag, Bill Mueller, Carolyn Fott, Brian & Rita Kruckow, Stu Berg, Ron Welbaum, Eric Christianson

Chairman Malecha asked the audience to join in the Pledge of Allegiance at 7:00pm.

Guests: Chairman Malecha introduced Mary Collins, President of Castle Rock Tree. She presented the new, handcrafted board table as a gift to Greenvale Township residents and friends of Greenvale Township. The lumber originated from trees along Foliage Avenue that were removed prior to the construction on Foliage Ave/County Road 23 (aka Cedar Ave). Matt Collins and brothers sawed the logs into lumber and then it dried for a year. Matt Collins spent over 100 hours handcrafting the table. This table has deep roots in Greenvale Township and will witness the growth of new roots in our community.

Opening of the Meeting: Malecha stated the Planning Commission ("PC") is an advisory body that makes recommendations on planning and zoning issues to the Town Board. The elected Town Board members make the final decisions on matters brought before the PC. The PC will act tonight on matters received by the Zoning Administrator by noon ten (10) business days before the meeting tonight. Items received after that time will be placed on the following month's agenda. The audience was reminded this is a public meeting, not a Public Hearing. Audience comments are limited to topics being discussed. Malecha reminded the audience to sign the attendance sheet and silence their electronic devices.

Agenda: Malecha asked if there were any changes to the agenda. Legvold inquired about the status of his February 24 request for a report on monies received and disbursed related to the Nonconforming Land Use Ordinance. Malecha added this to the agenda. Legvold made a motion to approve the agenda, Moore seconded. Motion carried 4 – 0.

Minutes: The February 9, 2023 Public Hearing minutes were reviewed. Volkert made a motion to approve, seconded by Moore. Motion carried 3 – 0 (Legvold did not vote, as he was not at the meeting). The February 9 Planning Commission minutes were reviewed. Malecha requested several changes, and all were incorporated into the final minutes. Malecha made a motion to approve the minutes, seconded by Moore. Motion carried 3 – 0.

Citizen Comments: Rusty Kluver said he was very sorry he didn't get his ducks in a row and thought his proposal would be on tonight's agenda and wasn't notified until the day before that his proposal was not. He's disappointed in the process and the outcome. Greg Langer spoke and noted he lives across from the Wirtzfeld disposal site. The minutes reflect that material is worked into the ground within 6 hours. Langer said that he, his family and neighbors will confirm this does not happen – it is more like a couple times a year.

Board Liaison Report: Charles Anderson reported action taken by the Board at its February 16 meeting to approve Ordinance 2023-01 for Nonconforming Land Uses. The new ordinance adds a 60-day time limit on appeals of applications approved under the ordinance. The ordinance was published February 22, 2023 and became effective March 5, 2023. The new ordinance also extends the last date to apply for Legal Nonconforming Land Use status **by 90 days to May 5, 2023**. Any nonconforming land uses after this date would need to apply using an Interim Use Permit. So far, 22 nonconforming land use applications have been approved with five more with applications submitted for tonight. The businesses already approved under this ordinance represent 137 full-time and 72 part-time employees for a total of 209 employees. Legvold asked what the reasoning was to add another 90 days for new applications. Rowan made the motion at the Board meeting and indicated he'd talked to a half dozen people who were still considering making applications. Legvold asked how many more applications were think may be forthcoming. Anderson said he believed it to be 10. Anderson further reported the Board is working on township email addresses for all Board and Planning Commission members. Working towards an April implementation date.

Building Permits: none.

Zoning and Other Land Use: Representatives of the Budin Family Trust came forward for the discussion on the proposed subdivision and building entitlement confirmation. Present were Marcia (Budin) Simon and realtor Kathy Kalow of Edina Realty. Malecha said the split agreement was drafted by Ryan Blumhoefer. After approval by the PC and the Board, Blumhoefer will record the information with Dakota County and update the legal descriptions. There are two parcels "B" (47.52 acres) and "A" (100.87 acres). The three building rights will be moved to parcel "A." Malecha made a motion to approve, Legvold seconded. Motion carried 4 – 0.

An Interim Use Permit (IUP) request for Terry LaCanne was presented by Duane Fredrickson of Circle City Outdoor Advertising. Mr. LaCanne was ill so could not attend. Fredrickson stated he is not doing anything new, as he previously applied for and received an IUP for the advertising sign he has on County Road 86 near Cedar Ave. He focuses on local advertisers. One exception is Red Wing Shoe, which is now an international company, but they are advertising their local shoe store. He wants to be able to point out to his advertising to his family and be proud of the work he has done. His signs are engineered to 110 lbs. per square foot. A tornado caused significant damage in Cannon Falls; his sign was unharmed. Malecha said Fredrickson requested a "fast track" for this. Outdoor advertising is regulated by the Department of Transportation, and he wants to get this through before road restrictions are lifted, and the bidding and road construction season starts. There is lead time for publishing and notice requirements for a Public Hearing, so a Public Hearing followed by a Planning Commission Meeting and then a Board of Supervisors meeting has already been scheduled for Monday March 20, 2023 starting at 2:00pm. If a quorum of members cannot be present, the Public Hearing would have to be rescheduled. Commissioner Legvold is not available on March 20. Norkunas, Moore and Volkert are available. Legvold expressed concern that the application presented to the PC is not signed by the property owner. Fredrickson does have the owner's signature on his copy, obtained after Mr. LaCanne recovered from his illness. Malecha said LaCanne should plan to come to the Board of Supervisors meeting on March 16 and the Public Hearing on March 20. Volkert asked if Fredrickson has a lease agreement in place with LaCanne. He does. Legvold asked about lighting of the outdoor advertising sign given the close proximity to a residence. Fredrickson is not proposing at this point to have the sign lit although he would like the flexibility to come back and seek approval for lighting. His sign on County Road 86 is not lit. Legvold had procedural questions next. He noted the application does not specify a termination date or a triggering end date as required by the township's ordinances, so believes the application to be complete and should be tabled. The previous IUP did contain a termination date. Malecha said this is an informational presentation, not a request, as that will take place after the Public Hearing

where we will hear the full extent of Fredrickson's request. At that time the PC can specify any needed terms and conditions. If our attorney was present Legvold would inquire if the prior approved IUP sets a precedent. He noted the township's ordinances (5.04.E) do not specifically allow for outdoor advertising signs and when the ordinances are silent an item is not permitted. He urged Fredrickson to have LaCanne request an ordinance change. Legvold wants to move this forward but wants it done properly and to protect the township. Malecha said he would request the Board's approval at their next meeting to have the township attorney review this request.

New Business: Applications received for consideration under the Nonconforming Land Use Ordinance were next on the agenda. Application materials were shown to the audience via the overhead projector.

1. The first application was from Jeff and Amber Damm for PID 16-01500-50-011. The land uses are an education center, short term rental, a demonstration garden and a horticulture operation (landscaping). Jeff considers himself a gardener. Norkunas submitted questions ahead of time, wanting to know more about the short-term rental aspect. They infrequently host his wife's team from school for professional development events and they receive a stipend. Legvold asked the amount of the stipend. Malecha said it is not appropriate for the PC to inquire about income. The Damms also host a local professor who uses their facilities as a retreat where he composes music. Damm indicated he is looking for diversification in his revenue stream. Legvold pointed out that applying under the Nonconforming Land Use Ordinance means no growth. Legvold believes the Damms "have an agricultural business and have friends over." Malecha asked if there were any questions from the audience about this application. Legvold made a motion to have the application from the Damms rescinded and return the application fee. Moore seconded the motion. Malecha asked if the landscaping work Damm does takes place offsite; Damm confirmed it does. Malecha said it is the applicant's choice to move forward and he would not support the motion. A vote was called: Legvold and Moore yes; Volkert and Malecha – no. Motion failed. Malecha made a motion to recommend approval of the application from the Damms as a legal nonconforming land use and to forward it to the Board of Supervisors. The motion was seconded by Volkert. The motion carried – 4 – 0.
2. The application from Russ Hoheisel was reviewed. The PID is 16-00300-77-017 and the land use supports his licensed general contractor business. The application included identification of the buildings, equipment used in the business and the number of employees. Norkunas submitted a question about outdoor storage. There is some outdoor storage. Malecha reviewed an overhead photo which looks like 1.5 acres is used for the business. Legvold asked about the types of activities that take place on the property. Hoheisel retrieves and returns equipment and materials at the beginning and end of the day. His employees are rarely on site. No customers on site. No storage rental. Malecha asked the PC and the audience if there were any questions. None. Moore made a motion to recommend approval of the application from Hoheisel as a

legal nonconforming land use and to forward it to the Board of Supervisors. Malecha seconded. Motion carried 4 – 0.

3. The application from the Bruce and Laurie Heikes Trust was reviewed. Bruce Heikes was present. Besides their home office and shop, the land uses are inside and outside storage, training center and entertainment venue on PID 16-02000-50-018. They've hosted a couple of weddings and use the training center with home school groups teaching and demonstrating welding, wood working and general mechanical. Malecha asked if they could limit the weddings to two a year. The events at the training center involve 30 – 40 for a day perhaps two times a year. Bruce is the only employee. Norkunas asked about the scope of outdoor storage. Using a GIS map, Malecha estimates the area to be possibly five acres. Other applications that have been reviewed by the PC for indoor and outdoor storage have had more indoor and less outdoor. It is the opposite for Heikes as he stores construction and road grading equipment for TJ Grossman. Most of the equipment is out on jobs in the summer. Heikes will get a list of equipment from TJ to present to the Board, recognizing that similar to other operations with machinery and equipment, items on the list will be replaced periodically so this is not intended to be a static list. Malecha asked the audience if there were any questions. There were none. Moore made a motion to recommend approval of the application from Heikes as a legal nonconforming land use and to forward it to the Board of Supervisors. Malecha seconded. Motion carried 4 – 0.
4. The application from Bill Mueller was reviewed for PID 16-00200-50-015. Bill has a glass company. Norkunas left a question about equipment stored outside. One work truck and one work van. Other equipment listed were snow and law equipment and a trailer, but these are personal items, so will be removed from the application. Bill has three employees who are generally not present on the property. There were no further questions from the PC and none from the audience. Malecha made a motion to recommend approval of the application from Mueller as a legal nonconforming land use and to forward it to the Board of Supervisors. Volkert seconded. Motion carried 4 – 0.
5. The application from Ken Langeslag for PID 16-02900-50-030 was reviewed. Langeslag does indoor car and boat storage. Maximum capacity is 42 vehicle equivalents. Also uses the shop for personal woodworking. Norkunas did not submit any questions, nor were there questions from the audience. Malecha made a motion to recommend approval of the application from Langeslag as a legal nonconforming land use and to forward it to the Board of Supervisors. Volkert seconded. Motion carried 4 – 0.

Next was Legvold's request for funds spent to date on the attorney and the planner on the Nonconforming Land Use Ordinance and the funds received from applicants. Legvold requested this information from Treasurer Wayne Peterson. Peterson said this request would take a substantial amount of time to compile

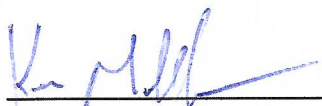
and was not able to do this before this meeting. Peterson has a full-time cattle operation and the Treasurer responsibilities. There are incomplete items from the prior clerk he has been helping with. At the annual meeting he will present the information is able to compile at that point. Our accounting system does not detail the nature of items in the attorney invoices so a manual review of invoices would be necessary. Legvold reminded the group of his objections at the beginning of the Nonconforming Land Use Ordinance undertaking that the Board was fronting the money for this and “there is no accountability in darkness.” Peterson believes we should not measure the receipts from applicants against the overall costs of the ordinance and processing the applications. This is uncharted territory, and it was important that both the PC and the Board get good advice and guidance. Peterson will provide as much information as he can at the annual meeting and will continue to work on Legvold’s request. He also has requests for accounting of the monies the township received from the C.A.R.E.S. Act (CoVid Relief) and ARPA (American Rescue Plan Act) to handle at the same time. A full recap will be completed when the last application under the ordinance has been reviewed.

Old Business: Malecha reported on the grant from Dakota County for updating the township’s ordinances. Two firms submitted proposals: WSB and Bolton & Menk. Malecha had a call from Steve Grittman, as his firm did not submit a bid. His firm will be reducing in size, and they cannot provide the services we would need to update our ordinances. Cannot find planners who want to work in the municipal ordinance field. The firm will continue to work with us on current items through their completion. Maggie Dykes will analyze the two proposals and make a recommendation to us, but the decision is ultimately hers.

Charles Anderson asked Ken to have another discussion with Grittman and see to what extent he can help us going forward and if necessary, consider hiring a new planner.

Malecha asked for a motion to adjourn. Legvold so moved, seconded by Malecha. Motion carried 4 – 0.

APPROVED – April 13, 2023



Ken Malecha, Chair

Prepared by:



Jane Dilley, Town Clerk