

Greenvale Township Planning Commission
PUBLIC HEARING – NONCONFORMING LAND USES
Meeting Minutes
Thursday, November 10, 2022

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

Others Present: Mary Collins, Perry Collins, Donita Anderson, Maynard Bolton, Victoria Langer, Jim Larson, Dan Kelley, Gregory Langer, Alison Bartlett, Tom Wirtzfeld, Lisa Legvold, Andy Anderson, Dave & Deb Mittelstaedt, Dan Hron, Kurt Hembd, Terry Mulligan, Cindy & Dave Roehl, Steve Rasmussen, Skip Ruppe, Patti Christianson, Eric Christianson, Dean Odette, Jennifer Welbaum, Bruce Paulson, Joy Royle, Dan Stanton, Jerry Bolton, Jack Stanton, Mike McNamara, Jim Cihak, Buck Nelsen, Tom & Lori Robey, Linda Wasner, James & Carol Null, Mary & Linus Langer, Judi Malecha, Karl Bouvin, Carolyn Joyce, Nick Darling, Cindy Larson, Vickie Tyler, Alison Lea, Ron Welbaum, John Wedel, Carolyn Fott and Tony Rowan.

Agenda: Chairman Malecha called the meeting to order at 6:00pm with the Pledge of Allegiance. Malecha asked if there were any changes to the agenda. Legvold moved to approve the agenda, Norkunas seconded. Motion carried 5 - 0.

Opening of the Meeting: Malecha stated the Planning Commission ("PC") is an appointed body that makes recommendations on planning and zoning issues to the Town Board. The PC's recommendations are advisory only. The elected Town Board members make the final decisions on matters brought before the PC. The audience was reminded to sign in and silence their electronic devices.

The sole purpose of tonight's meeting is to hear public testimony on the proposed zoning ordinance amendment 4.04 relating to nonconforming land uses and uses of accessory buildings. Persons wishing to make comment should come to the front of the room to a microphone and state their name/address. There will be a five (5) minute limit on testimony. The testimony is to be directed to the Planning Commission. After all testimony is given a person may speak again at the discretion of the Chairman.

Malecha offered background on the ordinance amendment. Greenvale Township's ordinances were established in the 1980s and have never addressed commercial

businesses, even though they have been around for years. Past Boards have allowed this to continue, including issuing building permits for these businesses.

Over the years, multiple attorneys and planners have addressed the Greenvale Town Board. Attorney Bob Ruppe noted that the penalty for lack of compliance with ordinances is a misdemeanor and didn't know of a County Attorney who would file a misdemeanor against a business. Attorney John Ophaug said these businesses have statutory rights. Planner Steve Grittman recently spoke about the estoppel rights these businesses have. One attorney suggested the Board and the businesses work together.

Pre-CoVid, a task force was established to look at the issue of the commercial businesses. The group was headed by Mark Legvold and included a Board member, commercial business owners and non-business owner residents. The group met multiple times. No written work product came out of the group. Ultimately the PC recommended the Board send letters to the businesses saying they were out of compliance. No letters were sent.

A separate group of business owners and non-business owners started meeting and created a draft of an ordinance amendment to allow the businesses to exist as Legal Nonconforming Land Uses. This draft was sent to Attorney Bob Ruppe who recommended forwarding it to the PC for study and analysis. This occurred two years ago. The PC did not receive the draft ordinance for review.

This past summer, a draft ordinance was presented to the Board of Supervisors by Scott Norkunas on behalf of Terry Mulligan with a request it be forwarded to the PC to act.

The PC met September 22, 2022 with Planner Steve Grittman for discussion and suggestions for potential changes. The PC met again October 13 with the recommendation from Legvold the ordinance be presented at a Public Hearing.

Before public testimony is given, Malecha asked if the Clerk had received any written comments. Dilley replied she received a hand delivered letter from Erv Ulrich on November 10. Copies were shared with the PC, and Dilley read Ulrich's letter to the public. Ulrich explained his absence, stated the township's first priority is to protect its residents, that all residents and owners should maintain and update their practices and equipment to eliminate or reduce any negative impacts on the peace, safety and livability in the township. Are these uses polluting our air, water and ground? Are there safety measures already in place? Possible land uses were listed. The township should keep in mind there may be more demand for fire, ambulance, EMS and law enforcement services. A future safe harbor date allows expansion of existing businesses. Consider a five year look back.

Malecha then opened the meeting for public testimony. Gregory Langer stated the PC Chair made comments that implied the previous Boards did not take action regarding the businesses. Langer served as a Supervisor for 12 years. Two times in the last 10 years he made a motion to invite the township's attorney to address the board to deal with violations of the nonconforming businesses. Both times the motion was not approved. Both times Langer was voted out of office within three months. Langer said the nearly all the members in the audience with a business are already compliant. Already allowed in our ordinances: the growing of (or selling via roadside stand) fruits, vegetables, berries, trees; running a business out of your home, boarding and training horses and running a dog kennel. Langer said contracting business who do their work off-site are already compliant. He cautioned people about getting their names on a list managed by someone they may not know. Fewer than 10 businesses will benefit by the passage of this ordinance in his opinion.

Resident Bruce Paulson introduced himself as the former Chair of the PC. He objects to the newest revision with a March 31, 2023 safe harbor date. Previous versions of the ordinance had effective dates March 2020 and July 2020. Paulson feels people will take advantage of a March 31, 2023 safe harbor date.

Jim Larson owns the former Ted & Diane Fredrickson property located on Foliage & 290th. He runs his business out of Lakeville where he lives and wonders if the Board would consider commercial zoning. Chairman Malecha said he would make a note of this and address it at a future meeting.

Karl Bouvin is a 25 year resident. He owned a business for 25 years and does not understand why we can't just run businesses that are compliant. He sees some of the businesses that exist and it doesn't look good from his vantage point. To him, it seems like you can provide a GIS photo and you can do anything you want for the next 100 years. Seems unfair to the businesses that are compliant. Regulations are set up so people do things the right way. This just seems backwards.

Jim Cihak of Lonsdale grew up near Greenvale and owns property on 320th and Jamaica. Why do we even have businesses that are not compliant? We have ordinances which should have been enforced early on. This seems to be directed at a limited number of businesses. Does the township have a blight ordinance? Township is responsible for maintaining roads – this will impact care and maintenance of the roads – urge we budget for it. He is not in favor of the ordinance as it is worded now. He understands there needs to be progress with give and take between the parties.

Alison Bartlett spoke as both a resident and as founder/Treasurer of the Greenvale Township Preservation Watch. She and her family highly value the American Small Business. Small businesses are a hallmark of American society and we need them. But she endorses standards of behavior, and notes there are no standards of this type in the ordinance amendment. What standards are there for light, noise, air, soil and water pollution? She believes there are some businesses that are currently in severe violation. No one wants to put anyone out of business – just need it done the right way. She is also concerned about the funding of this ordinance and the public hearing, understanding this was not a budgeted item when the citizens approved the 2023 levy in March 2022. She urges more time for consideration.

Resident Vickie Tyler said she echoes the comments about air and water quality. Urges we slow down to make sure we are doing it right. Has a friend in Eureka Township which considered a similar approach to dealing with businesses but have not done so. Wording needs to be done very carefully. Concerned about this being a slippery slope. She doesn't want to see Greenvale become a dumping ground for the south metro area.

Resident Tony Rowan said the planner has looked over the ordinance, shouldn't an attorney do likewise to make sure everything is worded right? He worked on a grant for us to work on our ordinances to make it easier for businesses to comply. This process hasn't started yet.

Linus Langer said he was Town Clerk for 8 years and Zoning Administrator as well. He is quite opposed to the ordinance itself and somewhat opposed to the procedure. There was not a published end time for the Public Hearing and is concerned someone may not be able to have their testimony heard. He believes it is good to feed America and our community and that our ordinances focused on agriculture represent what we are. He is in favor of leaving the zoning the way it is.

Alison Lea is somewhat new to the township – how does she find out what nonconforming means, what businesses are included in this definition. Grew up in the cities, is relatively new to living in the country and would like to preserve the rural nature of the township.

Carolyn Joyce has been in the township over 20 years and knows most of her neighbors. Has a neighbor who is running a noncompliant business, they have never come to her house and introduced themselves or described their business, nor is there a sign in front of the property. She doesn't know what type of business is being run there. If this process slowed down a bit, it would allow an opportunity for businesses to engage with their neighbors so those neighbors could better understand the nature of the business.

Steve Hansen moved into the township 17-18 years ago, introduced himself at a town meeting. He makes his living repairing boat motors and made a point of asking at the beginning if he needed a special permit to continue doing so in Greenvale. Not necessary, felt very welcomed. This all changed a few years ago and said it seemed like he was #1 on the list. He knows there are a lot of businesses in this township. Hansen has repaired a lot of boat motors for his neighbors and members of the Board. His is a seasonal business and does not have hundreds of boats coming down the road as has been suggested. He's glad to help his neighbors fixing lawn mowers and tractors.

Resident Cindy Larson is fairly new to this area. Sees residents sharing their skills with future generations – being it farming or excavating or other businesses. A township setting allows more affordable location for a business than in the city limits of a town. Some of these businesses wouldn't be at all compatible if located in downtown Lakeville for example.

Terry Mulligan lives and has a business on 330th St W (Highway 19). About three years ago a group of business owners got together to look into zoning. Heard rumors about the Board wanting to shut some businesses down, so the group started looking at what other townships were doing. Waterford was going through the process of addressing nonconforming land uses, working with the businesses. Looked at Eureka which went through this process ten years ago. The Greenvale group of business owners hired an attorney who drafted the original ordinance. The original ordinance has been changed 2 or 3 times since the beginning. He asked the PC to fully support the ordinance as it is now and recommend passage by the Board. Terry started out growing trees in 1974, bought out a business in 1976 and built the first building for his business before the township was handling planning and zoning. The County gave him the go ahead. After the township took over planning and zoning in 1980 he approached the Board about building trailers which go behind tree spades. In order to get the trailers licensed, he had to become a dealer. To become a dealer he had to become zoned commercial. The Board approved. This part of his business was eventually sold. He has since come to the Board for permits for new buildings. Although he believes his business is already ok since it predates township zoning, he is still plans to participate in applying for legal nonconforming land use if the ordinance is passed. This makes it cleaner for his family to take over one day. The issue of the businesses didn't just pop up out of nowhere. Every board since 1980 has been aware of this. It's time to fix this and move on. Terry went on to comment that he made an appointment with the new Town Clerk to look over his property file after there was discussion at a PC meeting about building right entitlements not being recorded in the notebook which holds the records from the

building rights study of the entire township. A person's property file should contain permits, land cluster agreements or splits among other things. As he reviewed his file, he noticed there is not one document or permit request related to his business in his file. No file for his business has been found in the file room. He's been in business for 45 years, surely there is a file. He asked if someone has it, please return it to the township.

Linda Wasner shared her story about moving to their current home on 120 acres owned by relatives in the southeast corner of Greenvale 43 years ago. They learned how to farm and became accustomed to the hard work and the unpredictability of making a living farming. When one relative passed on they took over the cattle and feeder calves operation. Both she and her husband sought jobs off the farm in order to continue living the rural life. When the last relative passed away they purchased the farm. To raise the money to do so they sold off the cattle and the machinery. In 1997 they began renting out the acreage and wondered what would become of the barn and other now empty buildings in the barnyard. Fast forward to 2009 friends asked to use the barn for their daughter's wedding reception. Many hours were spent cleaning out bedding and manure, patching the walls and fixing up the windows. Over the years, more memorable events were held at the barn including their own daughter's wedding, which included their relatives with childhood memories of the farm and barn. Word got out as the trend in barn weddings became a thing. The past seven years there have been between 2 – 5 weddings per year held at the barn, treating people to a temporary taste of rural life and the memory of a lifetime. She hopes her story helps people appreciate today's rural lifestyle is not as simple as it used to be and to understand that preserving our agricultural heritage means different things today – it is broader than preserving farmland. It involves being flexible in allowing people who live here on farms to find acceptable ways of making their living in a way we can all benefit from and maintain the sense of community.

Mary Collins spoke next. She and her husband live in Castle Rock and own land in Greenvale where the family business, Castle Rock Tree and Contracting, is located. She thanks the residents for their patience as we have worked long and hard to try and resolve this ongoing issue and bring back harmony to the township – but it will take all of us working together to do so. Our company's presence in the community has been a good thing, providing a service to farmers and our neighbors (and they keep calling us back!) Their company is a member of the local 49ers union, they pay union scale wages, provide health, fringe and retirement benefits. They are always ready to help open up the roads after a snow and have even pulled the road contractor out of the ditch so they

can continue their work. They keep a pile of gravel on their site and fill in potholes as needed. They have offered financial assistance to the township to maintain and improve our roads but these offers have been rejected. On behalf of their company and the other businesses in the community we believe we can live in harmony and find a way to move forward.

Skip Ruppe moved to the township about 30 years ago coming from Minneapolis. He is a contractor and it was a stark change coming to Greenvale when he was told he did not need to get a permit to replace a water heater. Referencing the citizen who said she did not know her neighbor, he's "one of those guys" – pretty much keeping to himself. When he started his business, the advice he received was hire an attorney, an accountant and get to know your banker. He urges the PC and the Board to find a way to make this work. Find middle ground. Anything too far at one end or the other will create anger and then the lawyers get involved and it gets expensive. Find the compromise and make it a win/win for everyone.

Charles Anderson remarked that his business has been in existence since 1974. His company will be hurt by signing up for the safe harbor since it predates the township's zoning, but he will do so anyway to make sure he can turn the business over to his son.

After three calls for additional testimony there were no more "first round" comments to be heard. Chairman Malecha conferred with the PC members about whether citizens could speak a second time. The PC decided to move forward with it, but limit the time to three minutes.

Karl Bouvin said he enjoyed hearing the stories of the business owners. He continues to wonder why we don't have ordinances that allow these businesses to operate legally and in compliance with our ordinances adding it just seems backwards to him.

Alison Bartlett echoed Vickie Tyler's comment that we did not want Greenvale to become a dumping ground in the south metro. Landfills in Scott County and northern Dakota County are near capacity so this is a true danger and that's why performance standards are important. She cited the Collins family business which is near her home. They put up a berm on the edge of their property and planted evergreens. They didn't have to do that but it was much appreciated as a neighbor. She hopes we can slow down this process for performance standards.

Greg Langer told the audience he has attended every meeting and has never heard anyone say they wanted to close down the businesses, but rather find a way to bring them into compliance. It is not mentioned once in any of the minutes on our website. He also said the City of Northfield annexed 560 acres of Greenvale Township land 14

years ago for residential development and commercial development. The written agreement read that immediate annexation was needed. Yet in this time frame, not one residential or commercial building has been built.

Bruce Paulson said that although not stated, it is implied that the PC was looking for a way to shut down or place severe restrictions on the businesses. He noted he does not see performance standards, an appeals process, compliance checks or enforcement in the ordinance.

There were no additional "second round" testimony to be heard. Malecha thanked everyone for coming and said the Public Hearing was now ready to conclude. Moore made a motion to adjourn, Malecha seconded. Motion carried 5 – 0.

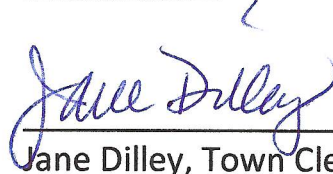
The Public Hearing adjourned at 7:15pm. The PC's regular meeting will convene at 7:30pm.

APPROVED – December 8, 2022



Ken Malecha, Chair

Prepared by:



Jane Dilley, Town Clerk