

Greenvale Township Planning Commission
Meeting Minutes
Thursday, October 13, 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: Cindy & Dave Roehl, Maynard Bolton, Tate Stanton, Jack Stanton, Mary Collins, Perry Collins, Gregory Langer, Karen Blandin, Jerry Gehler, Richard Fott, Andy Anderson, Lisa Legvold, Jess Bodnar, Joe Kalina, Patti Christianson, Eric Christianson, Terry Mulligan, Tony Rowan, Erv Ulrich, Carolyn Fott, Mary Langer, Linus Langer, Simon Tyler, Cindy Larson, Linda Wasner, Jennifer Welbaum, Mary Huerter, Craig Host, Tom Williams and one illegible name.

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 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 to sign in and silence their electronic devices.

Agenda: Chairman Malecha called the meeting to order at 6:50pm with the Pledge of Allegiance. Malecha asked if there were any citizens comments (none). Malecha asked if there were any changes to the agenda. He asked to have the quarterly permit report prepared by the Clerk to be added to #7, and under zoning and land use #8 to add Legvold’s suggested language for the Policy and Procedure Manual relating to ongoing updates to the building rights study. Malecha moved to approve the agenda with these changes, Norkunas seconded. Motion carried 5 - 0.

Minutes: The September 8, 2022 PC minutes were reviewed. Volkert made a motion to approve the minutes, seconded by Norkunas. Motion carried 5 – 0. The September 22, 2022 minutes were also reviewed. Malecha made a motion to approve the minutes, seconded by Volkert. Motion carried 5 – 0.

Guests: Malecha introduced Steve Grittman, our Planner.

Permits: There were no requests for permits presented for the PC's review. The PC reviewed the new Over the Counter (OTC) permit report which covers requests for window replacements, re-roofing and re-siding. These permits are issued by the Clerk. The report covers the period of July 1 – September 30, 2022. There were no questions.

Zoning and other land uses: There were no requests for zoning or other land uses presented for the PC's review. Legvold presented a draft of proposed language to add to the Planning Commission Policies and Procedures Manual. Malecha said he concurred with the procedure and the responsible parties. He shared that he received the recorded document from the Hofschulte Trust where a building right was transferred from one area to another within their parcel. This transaction was approved by the PC September 9, 2022 and the Board on September 14, 2022. He made a note on the building rights map for that section of the township, recorded a summary of the transfer on the page behind the building rights and also inserted a copy of the recorded document into the 3 ring binder (currently known as "The Green Book.") Malecha learned the lot split for St. Olaf College and the City of Northfield has not yet been recorded at the County. This will be done when the property is transferred to the City.

The "Green Book" has a proper name: Greenvale Township Buildable Site Information and Activity Records. The responsibility for ongoing updates will be shared by the Chair of the PC and the Town Clerk/Zoning Administrator. The trigger for documenting will be the date of Board approval. Documentation to be done within 30 days. Recorded documents can be added as they are received.

Legvold asked to table the changes to the next PC meeting so the procedure can be rewritten to incorporate the items discussed.

New Business: Alternative Energy Source proposed zoning amendment: Malecha invited Steve Grittman to address the PC during the discussion of testimony received at the public hearing. Volkert commented he thought it was a mistake not to include commercial solar in this proposed ordinance. He spoke with County Commissioner Mike Slavik who thought it would be beneficial for the township; other agricultural townships allow commercial solar. Volkert also spoke to PC members and Supervisors from other Dakota County townships. Volkert also talked to Dakota Electric personnel. Each solar installation has its own arrangements but reported that townships are getting as much as \$50,000 per year in payments. Norkunas stated he agreed with Volkert but said their assignment from the Board was to work on residential energy sources. Volkert

suggested the PC ask the Board for direction to undertake commercial solar.

Malecha started a discussion of the comments from the public hearing. Malecha asked Grittmann if there were any state laws that would address the abandonment of solar installations. Grittmann is not aware of any specific state laws; believes this would be addressed by the Minnesota State Building Code if it is addressed at all.

The question was asked if the state building code is separate from electrical or fire codes. Eric Christianson added the state building code includes codes.

Malecha stated he does not think solid fuel even needs to be regulated via this ordinance. Norkunas added the original assignment was to address solar to legitimize the solar permits previously granted without the benefit of an ordinance. The Board later asked that solid fuel (wood) and LP gas be added to the proposed ordinance. Legvold concurred. Malecha said the PC can go back to the Board and say the PC has investigated solid fuel devices and does not think they need to be addressed in this ordinance. Same thoughts on LP tanks. The Board can decide whether to include one, both or neither. Norkunas asked to verify that permits are not required to install a solid fuel wood boiler or an LP tank.

There was discussion on solar panels and setbacks. Continue with the state building code, give consideration advances with photovoltaic methods as they arise. The PC also discussed the provision about clearing trees. Malecha wondered if we were overstepping our bounds by putting a two year lookback on tree clearing. Legvold said the students added it to prevent an ecological bad for an ecological good.

Discussion about aerial photography vs using the Dakota County GIS system. An effective date was addressed. On the issue of abandonment of solar systems, Wayne Peterson suggested that the owner acquire a bond instead of requiring an escrow deposit. The abandonment section would apply to all existing solar installations.

An appeals process was addressed. If an applicant is denied, a request for an appeal is filed which would be heard at a public hearing. The PC would then make a recommendation to the Board. A further appeal would go to district court.

Legvold asked if one section of the ordinance is removed before recommending the ordinance to the Board, is another public hearing necessary. Grittmann said no.

Malecha moved, seconded by Norkunas to exclude Section 1 solid fuels from the ordinance for presentation to the Board. Motion carried 4 – 1 with Legvold voting no, as he felt it was part of the assignment from the Board.

Legvold moved to adopt Section 4 of the ordinance for liquid propane and other gas fuels and be recommended to the Board for adoption. Malecha seconded. Motion carried 5 – 0.

Malecha made a motion to adopt current sections 6 & 7 (to be renumbered to make the ordinance flow). Legvold seconded. Motion carried 5 – 0.

Grittmann will incorporate the PC's changes into the proposed energy ordinance and provide a clean copy and a redlined copy so the Board can see what the PC considered.

Old Business: The PC moved to the next item on its agenda. Malecha responded to a follow up question from Legvold about annexation, he has not addressed that yet. Malecha then addressed previous comments made by Legvold that he thought the PC was rushing the review of the proposed ordinance on Nonconforming Land Uses. Malecha does not feel the PC is rushing, stating that former Supervisor Langers said he has been working on this for 10 years and has files on businesses. Langer vehemently disagreed with that statement. Prior to CoVid (March 2020), a group assembled to discuss and work through a previous iteration of the ordinance. The group met several times and was made up of community members, business owners, PC members and a Supervisor. Legvold led the meetings. Ultimately the PC did not take action on the ordinance and instead recommended to the Board that letters be sent out to businesses. No action was taken by the Board.

The ordinance in front of the PC originated in large part by efforts of the business community. The ordinance was sent to Township Attorney Bob Ruppe by then Clerk Langer in November 2020. Ruppe's written response summarized after reviewing the ordinance be careful with this ordinance, it may grandfather some businesses and some uses may be incompatible. Malecha said some of the businesses have been in the township for 40 years. Ruppe further wrote the issue should be tabled until the Board learns more about the composition of the business community. Ruppe said sending this draft ordinance to the PC is consistent with the provisions of the Municipal Planning Act.

In July 2022 Scott Norkunas presented the current version of the draft ordinance to the Board on behalf of Terry Mulligan (who was unable to attend). The ordinance was forwarded to Bob Ruppe by then Clerk Langer in an email that stated this represents new efforts to break things again and hope we can see through the plotting. Malecha commented there is no plotting. Instead it is coming forward now to reach a resolution.

Legvold added he agreed with the historical rendition of Malecha's comments. Legvold feels that the proper procedure was not followed when the ordinance was first presented to the PC. Now it is in front of the PC and is being treated as if it is urgent. It is important, not urgent. Legvold said it takes time and good discussion to get a good end result and wants to make sure the PC does so. Malecha said our planner will help guide the PC through discussions.

The PC then went through the proposed Nonconforming Land Uses ordinance. Malecha asked Grittman to share his ideas on the proposed ordinance. Grittman used parts of the originally submitted ordinance, which was set up as a resolution. This language was removed as it belongs in the resolution representing the findings of facts if the Board adopts the ordinance. The prior version of the ordinance referred to a Parcel Identification number (PID). Grittman altered this in the application to require more specific information about the scope and size of the land use – either a hard copy survey or a copy of an aerial photograph. He also added an appeals process, which would essentially bring it back to a public hearing. Records from that public hearing are meaningful if the matter makes its way to district court.

In the second section of the township's current ordinance on nonconforming land uses, language from state law is used, but the state has revised its language. This would update the township's ordinance to current state law provisions.

An application draft was created. It is similar to the township's current zoning application and includes a description of the property, the extent and type of use on that property, perhaps using a map, and gives the applicant a document to have recorded if the land use is approved.

Norkunas asked for a definition of a business, would a separate tax ID be necessary. Grittman said it is more about the use of the land than the structure of the business whether it be a sole proprietorship, partnership, or corporation, etc. Volkert asked if we should be inquiring about number of employees or gross sales. Grittman suggests not, difficult to monitor and track. Volkert asked if Grittman had thoughts on a standard fee for applicants. Not at this time, it would be the decision of the Board.

In a prior meeting Legvold asked who would be the voice of the neighbor. How is "neighbor" defined – adjoining property lines, across a street/road, within a certain distance? Grittman said there is no universal standard, but regular zoning matters usually reference 350' or 500'.

Applications for registration would be reviewed at a public meeting (not public hearing) of the PC. The PC will need to come up with a way to inform the public which applications will be reviewed at which PC meeting(s).

Malecha stated the usual standard would apply where applications need to be in complete form and to the PC ten (10) days before a PC meeting. Otherwise, will be heard at the next PC meeting. This should give adequate time for public notice. Public comments will be heard, noting it is not considered a public hearing.

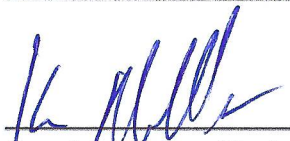
Grittmann was asked about the use of the term legal nonconforming, as though we already have legal nonconforming uses. Grittmann said if businesses were in existence before zoning, they are considered legal nonconforming land uses and do not have to register under this proposed ordinance.

Volkert asked if spouses should sign the application. Grittmann said all property owners should sign. Volkert asked if the 900 sq ft building size for home occupations stays intact. This provision is not impacted by the proposed ordinance.

Legvold made a motion that the PC go forward with a public hearing on the proposed nonconforming land use ordinance on Thursday November 10 at 6:00pm prior to the already regularly scheduled PC meeting. The ordinance and application should be posted on the website. Malecha seconded the motion. Motion passed 5 – 0.


Moore made a motion to adjourn, Legvold seconded. Motion passed 5 – 0. The meeting was adjourned at approximately 10:15pm.

APPROVED – November 10, 2022



Ken Malecha, Chair

Prepared by:



Jane Dilley, Town Clerk