

**Greenvale Township Planning Commission  
Meeting Minutes  
Thursday, January 12, 2023**

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

**Guest:** Mike Couri, Township Attorney

**Others Present:** Mary Collins, Perry Collins, Gregory Langer, Kurt Hembd, Nathan Gerlach, Bruce Paulson, Andy Anderson, Lisa Legvold, Ruth Legvold, Duane and Cindy Larson, David Roehl, Cindy Roehl, Nick Darling, Dan Stanton, Skip Ruppe, Ron Welbaum, Jenn Welbaum, Tony Rowan, Donita Anderson, Wayne Peterson, Linda Wasner

Chairman Malecha asked the audience to join in the Pledge of Allegiance at 7:00pm. Guest Mike Couri, our Township Attorney, was introduced.

**Opening of the Meeting:** Malecha asked if there were any guests to be introduced (none). 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 the PC members had any changes to the agenda, there were none. Malecha added appeal language in the Safe Harbor ordinance and an update on the grant. Volkert moved to approve the agenda, Legvold seconded. Motion carried 5 - 0.

**Minutes:** The December 8, 2022 Planning Commission were reviewed. Malecha made a correction to the minutes relating to the Helling property. Legvold asked that he be listed as present, as he called in, and also requested that his absence was due to military orders. Malecha asked for a copy of the orders. Malecha made motion to approve the minutes, seconded by Volkert. Motion carried 4 ayes, 0 nays, 1 abstain.

**Citizens Business:** Malecha asked if anyone in the audience had business they wanted to discuss in front of the PC. Legvold asked if members of the audience would be able to speak about each application – yes.

Lisa Legvold commented that at the last Board meeting, Supervisor Anderson said Malecha is the reason M. Legvold remained on the Planning Commission and asked for an explanation. Malecha thanked her for her comments.

Scott Norkunas remarked that some statements and published remarks by M. Legvold, David Legvold, Lisa Legvold and the Greenvale Township Preservation Watch (GTPW) were false and have not been retracted. M. Legvold did not inform the rest of the PC members of his absence for the December PC meeting, although published materials indicate he did. Further, David Legvold said the PC was violating federal law by not allowing Legvold to participate in the meeting. Not true. M. Legvold did retract the comment about violation of federal law.

**Board Liaison Report:** Charles Anderson said he has heard someone in the township is telling businesses they do not have to apply under the Nonconforming Land Use Ordinance (Safe Harbor). After March 30, 2023, which is 120 days after the effective date of the ordinance, no more applications can be accepted. The purpose of the Safe Harbor is to protect those businesses that do apply. After the Safe Harbor window closes, enforcement may be taken against remaining or new businesses as they are illegal nonconforming land uses.

**Building Permits:** None.

**Zoning and Other Land Use:** Rusty Kluver presented soil tests that demonstrate each of the three proposed building sites can support two type 1 septic systems. He asked if I have a parcel that has a building right, why do I have to get a soil test done? Rusty contacted the Metropolitan Council and was referred back to the township. Kluver said this was all already approved. Why didn't Nicolai have to do that? The Nicolai split predates this PC, so he is not aware of what was asked for in those splits. Malecha asked Rusty exactly what had already been approved? As he reviews the minutes, the PC at its January 11, 2022 meeting discussed a pre-split inquiry and the matter was tabled to the next meeting. At the February 8, 2022 PC meeting Legvold moved to approve 3 building sites; Paulson seconded. Motion passed 4 – 1 with Workman voting no. At the February 15, 2022 Board meeting, Langer moved to approve in principle three building sites coming from the 143 acres in two parcels (16-01000-75-020 and 16-01000-75-030) and can in principle be clustered in an Exhibit A which is not in the Kluver file. Motion carried. Malecha does not have Exhibit A, or a subdivision agreement or a cluster agreement. Malecha has gone through all the boxes of papers that came out of

the former clerk Linus Langer's home, the files in the Town Hall and all of the loose, unfiled papers in the file room and finds nothing relating to Robert (Rusty) and Nancy Kluver. Kluver believes Malecha told him he had to get soil tests. Malecha said he should check with Dakota County Soil and Water because of the number of houses already on that quarter-quarter. Couri added to the discussion that he believes after 1995, per the Minnesota Pollution Control Agency (MPCA) any subdivision has to show that two drain fields can be supported. Kluver asked what exactly he needs to provide. Legvold read a comprehensive list of requirements for subdivisions from our ordinance manual. It was suggested Kluver follow the guidelines set forth in the ordinance manual – Section 6, specifically 6.04. Volkert made a motion for the Clerk to send Kluver Section 6 of our ordinance manual; Moore seconded. Motion carried 5 – 0. Legvold moved that under Section 6.04 B. 5. of the ordinance manual, no further requests for information be made of Kluver regarding this proposed subdivision. There was no second.

A request was made on behalf of the Budin family for the farm in Section 19 of the township. There is nothing in the Building Rights Manual, nor is there a file for the Budin property. Malecha talked with Bernard Budin who informed him there had been some building rights transferred. Malecha also talked to Marcia (Budin) Simon who recalled this as well. Malecha suggests obtaining copies of the paperwork from the Budin families and reviewing it and let the Board decide. Volkert recalls the Budin families shared quarter-quarters and that agreements were drawn up to address that.

### **New Business:**

The PC then began the review of the applications submitted for consideration under the Nonconforming Land Use ordinance. The overhead projector was used to share the content with the audience of each application as it was being reviewed.

1. The application from Skip and Marietta Ruppe was reviewed. Norkunas inquired about the type of business: industrial coatings; and number of employees: 5, including Ruppe. Legvold asked if Ruppe used hazardous materials in his business and if so, are they stored in compliance with state law. Ruppe uses a flammable storage locker. All work is done off premises. There is a personal boat behind the shed that appears to encroach onto a neighbor's property. One of his employees moved the boat and did not get it moved back over the property line. Ruppe has talked to the other property owner. Couri added he sees a number of items stored outside. This information should be added to the application when it goes to the Board. Malecha asked for comments from the public. There were none. Norkunas made a motion to recommend approval of the application for PID 16-01100-55-010 as a Legal Nonconforming Land Use and forward it to the Board of Supervisors. Legvold seconded the motion. Motion carried 5 – 0. Ruppe is not available for the Board meeting; Norkunas will fill in as his representative.
2. The application from Nate Gerlach was reviewed. He owns three parcels – one for the house, one for the shop and a third one he also uses for his business. His business is

automotive and agricultural repair. He has no employees other than himself. After a discussion with the attorney, the mention of agricultural repair was removed, as that is already allowed under the ordinances. Legvold asked how many cars he stores on the property. Gerlach said the most he's ever had at one time is 10; they are on premises for no more than a week. The photo provided showed 5 vehicles, 2 of which are his own. Gerlach agreed to a maximum of 8 customer vehicles at any given time. Malecha asked if there were questions from the audience. Hearing none, Norkunas made a motion to recommend Legal Nonconforming Land Use for PID numbers 16-02500-76-015 and 16-02500-76-017 and forward it to the Board of Supervisors. Legvold seconded; motion carried 5 – 0.

3. The application from Darling Properties South, LLC was reviewed. Nick Darling gave his application fee check to the Clerk. Malecha said the application was very thorough and included a list of equipment, most of which is stored indoors. He does have some outside storage. Any future expansion would take place at another location. Jenn Welbaum asked the nature of the business – lawn, landscaping, and snow removal. Norkunas made a motion to recommend approval of the application for PID 16-00200-28-010 as a Legal Nonconforming Land Use and forward it to the Board of Supervisors. Moore seconded. Motion carried 5 – 0.
4. The application from Dan Stanton was reviewed. His business spans four parcels, none of which include his home. Legvold noted they don't all touch each other. Stanton said the land in between belongs to his father. His business is diverse – gunsmithing, construction, manufacturing, fabricating and general repair. He also has some outside storage. Couri asked if the business uses for each parcel could be listed. There is some carryover between parcels as well as equipment. Legvold asked that the equipment used be identified with each parcel. Norkunas asked if he ever parks a trailer in front of the garage near the house. Stanton said yes, sometimes. From an enforcement standpoint, all he needs to do is move it, but if this is a somewhat common occurrence, it should be noted in the application to avoid future issues. Discussion ensued. Malecha asked if there were questions from the audience. Hearing none, Norkunas made a motion to recommend approval of PIDs 16-00800-76-012, 16-00800-76-015, 16-42500-01-043 and 16-42500-01-052 and forward to the Board of Supervisors. Volkert seconded. Motion carried 5 – 0.
5. The application from Duane and Cindy Larson was reviewed. Total number of employees is 4. The primary shop for the business is in Dundas, but some excavating machinery maintenance and repair takes place at their home. Duane estimates that a week out of a month business equipment may be parked outside; however, his pickup truck is parked outside almost daily. Malecha asked if there were questions from the audience. Hearing none, Norkunas made a motion to recommend approval of PID 16-00400-01-016 as a Legal Nonconforming Land Use and to forward this application to the Board. Moore seconded; motion carried 5 – 0.
6. The application from Craig and Linda Wasner was reviewed. The Wasners run an event venue. Norkunas distributed information from the MPCA regarding noise levels. Legvold, talking about the Welbaum event venue at the last Board meeting, referred to state standards and implied that 10:00pm was the cutoff for quiet time. Norkunas read

from the MPCA publication about noise levels for entertainment assemblies. The State lists 65 decibel noise levels for daytime 7:00am – 10:00pm, with caveats for duration. After 10:00pm to 7:00am, the MPCA lists maximum allowable levels of 55 and 50 decibels with varying caveats for duration. The MPCA publication does not contain any provision for a “noise-free” environment. The MPCA publication says that no local government can establish stricter guidelines than those established by the MPCA. The Welbaums were led to believe they needed to comply with a noise standard that is more stringent than the State standard. Put another way, 10:00pm is the MPCA’s cutoff for quieter (not quiet) time. Malecha suggested continuing with the Wasner application for now and dealing with the Welbaums later. Couri commented they tell their clients it is problematic to deal with decibel levels, as you need a device and it needs to be calibrated correctly, and it is best to work out an agreement amongst neighbors. The firm has never prosecuted a case involving noise levels. Linda asked how a noise cutoff might’ve worked for the Legvold’s own wedding at the Wasner venue. She went on to say the guidance they had received from Greg and the prior board was shutting down the venue at 11:00pm was acceptable and that is how they have run it for 10 years. She has talked to her immediate neighbors about sound levels and no one has a problem with music at their past events. In fact, they rather appreciate it. Moore remarked she thought 11:00 was fine. Wasner herself wants the venue shut down at 11:00 so they can clean up and be done by midnight. Legvold brought up the number of events per year for discussion. Wasner said they have had between 5 – 8 events with music. Legvold said events without music still involve traffic and dust. Couri wanted to pinpoint how many total events – weddings, showers, educational events, memorials, workshops etc. – might be held in a year. They sometimes let certain groups use the venue without charging. Couri said if you aren’t charging, you’re having friends over. The PC and Wasner agreed to a maximum number of events to 10 a year – recognizing not all have music and not all are heavily attended. Malecha asked if there were questions from the audience. Bruce Paulson spoke. He is a neighbor and lives ¼ mile south of the Wasners. He would like to see the number of events limited to 8 and a maximum size for attendance as he is concerned about road usage. Couri commented that the ordinance grandfathers in past practices. Lisa Legvold also spoke, she lives ½ mile west of the Wasner venue. She stated their wedding was an afternoon event and ended early. She finds the noise level troublesome. Greg Langer spoke, and hopes that Wasner was talking about another Greg, as he would not have given his blessing to anything because he alone would not have the authority to do so. He met with the Wasners twice and described the ordinance and what it would take to change it. Norkunas spoke and addressed statements by the GTPW saying it was unneighborly of him to recommend contacting law enforcement for noise complaints. He read an excerpt from the MPCA manual that states the proper procedure is to contact law enforcement. Norkunas is troubled the GTPW does not retract incorrect information. Malecha made a motion to recommend approval of PID 16-02400-01-011 as a Legal Nonconforming Land Use and to forward this application to the Board. Volkert seconded. Motion carried 4 – 1 with Legvold voting no.

7. The addendum to the Charles & Donita Anderson application was reviewed. The Board requested additional information including an improved equipment list and map. Andy Anderson was present to answer questions. Malecha and Legvold both said Andy provided an opportunity separate from the PC to review all vehicle titles in his possession and a list of VINs, noting that only the last four numbers of the VIN are on the equipment list. Volkert and Norkunas both made visits to the property. Malecha asked if there were questions from the audience. Legvold read letters from 3 of the 4 property owners (sisters) of the adjoining property to the south of Charles & Donita Anderson. The letters stated there was no intent to sell or give more land to Anderson. The letters address an historical easement through the Anderson property to get to the farmland to the south. There were concerns expressed about oil or other hazardous materials leaking into the ground from the many vehicles on the Anderson property. In the past Charles Anderson has said he's had the soil tested, and the letter writers would like proof of these tests. Malecha remarked of all the comments in the letters, the only thing that would pertain to the business use is the possibility of oil spillage into the ground. Malecha has a copy of a letter from Dakota County Environmental Services dated April 19, 2021 saying they received an anonymous complaint about alleged storage of scrap metal, tires, vehicles and vehicle parts on Anderson's property. These activities are allowed but with guidelines. On May 7, 2021 Dakota County Environmental Services sent a follow up letter stating that staff did not observe any solid waste violations regarding the storage of tires, vehicles or vehicle parts. Anderson was required to register as a hazardous waste generator to deal with used oil, used oil filters, used antifreeze and any other hazardous materials used in the maintenance of business vehicles. Anderson provided information about the state's minimal hazardous waste license he obtained. Legvold asked if this information could be shared with the sisters who own the adjacent property. The Clerk was directed to send copies of the Environmental Services letters to the adjoining property owners. Legvold asked about the field road and requested that it be accessible from May to the first frost for farm machinery. Anderson did not agree to this as no such easement exists in the property records. Couri said the issues between the Andersons and the neighbors is not relevant to the nonconforming land use application; it is a dispute amongst neighbors and the township should not be involved in it. As there were vehicles stored on the neighboring property for a period of time, there are concerns the neighboring property may have contaminated soil. Legvold asked about mitigation possibilities. Couri said the property owners could order their own soil tests. Couri also remarked that storage of vehicles outside the parameters of our ordinances presents a zoning violation for those neighbors. Assuming this application is approved by the Board, Anderson will have the ability to legally store materials related to the business only on his own property. Malecha asked Andy to comment on a GIS photo of the property from Dakota County. The photo is old, and the vehicles moved onto the neighbor's property was so the farmer could get to the field. All vehicles and materials stored are now back on their own property. Future storage will be confined to the property owned by Anderson. Malecha asked if there were any further questions. Norkunas to recommend approval of

PID 16-00800-51-010 as a legal nonconforming land use and forward it to the Board. Moore seconded. Motion carried 5 – 0.

Malecha has had conversations with the planner Steve Grittman, Mike Couri and the Town Board about establishing a time frame for appeals to the Nonconforming Land Use Ordinance in Section 4.01, paragraph 3, item g. Couri recommends an appeals period of between 30 and 60 days. This protects property owner as well as the township because we would be involved in any appeals that are filed. State Statutes often address the length of an appeals period, but those statutes do not deal with ordinances. Malecha will have Grittman draft the change. Legvold made a motion to forward this to the Board to get their direction amend the above section to include a limitation on the appeals period and to hold a Public Hearing. Malecha seconded. Motion carried 5 – 0.

**Old Business:** The Clerk prepared an Over The Counter (OTC) Permit report for the time period of October 1, 2022 – December 31, 2022 for review by the PC. This is informational only. Malecha asked if there was a fee for an ag building. There is not.

The changes to the Planning Commission Policies and Procedures Manual regarding buildable rights recording have been updated and it will go to the Board for their approval.

Malecha reported he and Supervisor Rowan received an email from Maggie Dykes of Dakota County Community Development Agency (CDA) with a draft copy of the Request for Proposal (RFP), which was sent to four planning firms, including Bolton & Menk and Steve Grittman’s firm. The responses will go to the CDA, a selection will be made and the project awarded to the selected planner. The Board will review and approve the RFP so the project can move forward. Norkunas asked about the timing. The project time period is March 2023 to December 2023.

Malecha asked for a motion to adjourn at 9:10pm. Moore so moved, seconded by Volkert. Motion carried 5 – 0.

APPROVED – February 9, 2023

Prepared by:



Ken Malecha, Chair



Jane Dilley, Town Clerk