

**Greenvale Township Planning Commission
Meeting Minutes
Thursday, February 9, 2023**

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

Absent: Mark Legvold

Others Present: Maynard Bolton, Andy Anderson, Tom Wirtzfeld, Dave Roehl, Mary Collins, Perry Collins, Jenn & Ron Welbaum, Jess Bodnar, Bruce Paulson, Bob Ruddle, John Fink, Linus Langer, Greg Langer, Tony Rowan, Mittelstaedt Family, Dean Odette, Geralyn Odette, Township Attorney Mike Couri

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

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. When the PC begins its review of applications under the Nonconforming Land Use ordinance, the public may comment. Raise your hand and wait to be recognized. Malecha reminded the audience to sign the attendance sheet and silence their electronic devices.

Guests: Malecha introduced Township Attorney Mike Couri.

Agenda: Chairman Malecha called the meeting to order. Malecha asked if there were any changes to the agenda. Malecha asked to add an update on Rusty Kluver under #9. Mark Legvold provided comments on various agenda items which will be discussed when each item is addressed. Norkunas made a motion to approve the agenda, Moore seconded. Motion carried 4 – 0.

Minutes: The January 12, 2023 Planning Commission minutes were reviewed. In written form, Legvold requested an addition be made to Lisa Legvold’s comments, noting that when asked for an explanation, the Chair did not answer. Malecha noted it

is the practice of both the Board of Supervisors and the Planning Commission not to dialog with members of the public based on their comments. Legvold also commented on the Board Liaison report, asking for less hearsay. Malecha asked Board Liaison Anderson if his report was accurately portrayed in the minutes. He confirmed it is. Legvold's comments questioned what enforcement action would take place after March 30 for businesses that don't apply under the Nonconforming Land Use. Malecha said we would follow our ordinances. If a complaint was filed, it would be up to the Board to take action. It is not an issue for the Planning Commission.

Moore made a motion to approve the minutes, seconded by Malecha. Motion carried 4 – 0. Malecha thanked Dilley for the very thorough minutes.

Citizen Comments: Malecha invited comments on topics that are not being covered by tonight's agenda. There were none.

Board Liaison Report: Charles Anderson reiterated his previous reports, urging business to consider making an application under the Nonconforming Land Uses Ordinances. There is a limited period of time in which to apply. After the deadline date, no additional applications will be considered. Any requests by businesses after the end date would follow our ordinances, and involve applying for a variance. Additionally, the businesses may be subject to enforcement.

Building Permits: none.

Zoning and Other Land Use: Malecha updated the Planning Commission on Rusty Kluver's subdivision request. At the previous Planning Commission meeting, Malecha said there was very little documentation in the office for the Kluver project. Since then, he came across a folder in one of the boxes that came from Linus Langer's house, which contained additional items. One was a handwritten note dated February 15, 2022 containing verbiage for a motion to approve in principle the Kluver family request to cluster three (3) building site rights on approximately 143 acres in Section 10 of the Township to three (3) yet-to-be surveyed parcels of two (2) acres each. Also in the folder was a driveway access permit request, and old plat drawings. Malecha asked Mark Legvold via a February 6, 2023 email if he would work with Klusers to get all of their documents in order. Legvold responded he would be happy to work with Rusty.

New Business: Malecha asked if any of the PC members had comments about the Public Hearing. There was no public testimony. Malecha said he read through the original ordinance and compared it to the “red-lined” copy of the ordinance provided by our planner, Steve Grittmann, and he confirms there are no changes to the ordinance other than those items that are highlighted. The proposed revision to the ordinance establishes a sixty (60) day time period in which an appeal can be made to the Board of Supervisors. There is another sixty (60) day time period after a decision of the Board where the decision could be challenged in District Court. Malecha referred to Legvold’s comments about a 120 day appeal period and takes issue with the reasoning behind it, as all applications have been reviewed in full view of the public. Malecha wants to go with the recommendation of the township planner and attorney of a sixty (60) day appeal period. Moore and Norkunas agreed Attorney Couri commented the new ordinance does not need to be published again. Assuming the Board approves the ordinance, it becomes effective ten (10) days after Board approval. The sixty (60) day appeal period then starts on the effective date for all previously approved applications under the ordinance. Malecha made a motion to approve the new ordinance as written with a sixty (60) day appeal period. Volkert seconded. Motion carried 4 – 0.

The PC then began the review of the applications submitted for consideration under the Nonconforming Land Use ordinance.

1. The application from David T. Mittelstaedt Investments was reviewed. The Mittelstaedts operate a manufacturing wood shop, online auction company and outside storage and rental on PID# 16-00200-27-012. They are also known as Country Cabinets. They have one building of approximately 6,200 square feet and have 10 full-time employees. Malecha asked if there were questions from the Planning Commission. Volkert remarked that their business was the runner up in the Northfield Chamber of Commerce Business of the Year; the business was also nominated last year, too. Norkunas asked for the residence address of one of the owners. He also asked to verify who signed the application (Dave Sr. and Dave Jr.). Malecha asked if there were questions from the audience. Tony Rowan asked about chemicals used in their business and the storage. Flammable cabinets are used; they are reviewed by Dakota County. Periodically, the County will also ask for receipts quarterly showing that materials were recycled through the County. They maintain a file of these reports that can be viewed by the public. Rowan asked them to bring those records with them when their application is reviewed by the Board. Legvold noted the listing of full-time employees, and wants any part-time employees listed as full-time equivalents. The business does not have any part-time employees. Norkunas asked about the number of items for storage rental. Typically, 10. There are more vehicles on the property, but those either belong to the business or a family member. Couri thought it prudent to specify the area where rental storage takes place. The entire 2.7 acre parcel, less easements is the storage area. Malecha made a motion to recommend approval of their application for

- PID 16-00200-27-012 as a Legal Nonconforming Land Use and to forward it to the Board. Volkert seconded. Motion carried 4 – 0.
2. Dean and GERALYN Odette's application for PID # 16-00800-25-013 was reviewed. Their business involves welding repair, general fabrication, welder training, welder testing, qualification testing and consulting. There are two employees. Volkert remarked this is a second-generation business. Odette said his father moved the business to Greenvale Township in 1973. Equipment is stored in the two buildings. Malecha asked for audience questions. Charles Anderson commented that if a vehicle and a trailer are used for deliveries, they should be added to the equipment list. Legvold asked if there were significant changes to the application, the matter should be moved forward to the March Planning Commission meeting. The changes to the application were minor. Malecha made a motion to recommend approval of their application for PID 16-00800-25-013 as a Legal Nonconforming Land Use and to forward it to the Board. Norkunas seconded. Motion carried 4 – 0.
 3. The application from Petals & Twigs, LLC was reviewed. Chris Kennelly was present to discuss the application for PID #16-01800-28-016 which is a 13.92 acre parcel. The business is Northfield Construction Company and uses 6.45 acres for outdoor storage and 2 buildings and a gravel parking area. There are 20 employees who do not work on site. The employees come and go picking up or delivering materials or equipment. Legvold did not have any questions about this application. Malecha asked if there were questions from the audience. Tony Rowan asked about an equipment list. Equipment will change from time to time, but is confined to items generally used in the construction industry. Norkunas suggested he bring a current equipment list to the Board meeting next week. Malecha made a motion to recommend approval of the application for PID 16-01800-28-016 as a Legal Nonconforming Land Use and to forward it to the Board. Moore seconded. Motion carried 4 – 0.
 4. The next two applications were from Tom and Bev Wirtzfeld. He said it was good to be here – he's been waiting for this for 11 years. The PIDs for the Wirtzfelds are 16-02200-28-010 and 16-02200-29-030, which encompass their home, farming operation and two businesses. The first application to be reviewed was assigned the number of 2023-07 for ATB Professional Services. The business involves projects for land management and development, soil testing and soil usage. An equipment list was provided. Legvold did not have any comments on this application. Malecha remarked the application was very thorough. Wirtzfeld supplied an aerial map of all of the parcels he owns to supplement his application. Norkunas said he is a neighbor and rents his land to Wirtzfeld to farm, so he will step away from the voting. Our attorney says no conflict exists, but Norkunas will still abstain from voting to avoid any appearance of impropriety. Malecha made a motion to recommend approval of the application for PID#s 16-02200-28-010 and 16-02200-29-030 as a Legal Nonconforming Land Use and to forward it to the Board. Moore seconded. Motion carried 3 – 0, with Norkunas abstaining.
 5. The second application for Tom and Bev Wirtzfeld was reviewed. The PIDs application number 2023-08 for the Wirtzfelds are 16-02200-28-010, 16-02200-29-030 and 16-02200-76-020. This is a septic system business. It includes the design, installation, service and maintenance of systems under all five licensed categories under the

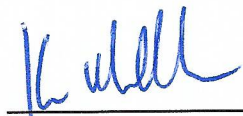
Minnesota Pollution Control Agency (MPCA) applicable rule 7080 series. The business operates and maintains vehicles, equipment and inventory on site; dispatching and loading; system component fabrication, routine training and retail sales, temporary septic storage and disposal with operations 24/7 as necessary. The application lists the usage in the buildings and an equipment list was supplied. Number of employees is 8 on the high side. Malecha asked if there were questions from the Planning Commission members. Legvold asked if the business involved dumping of septic waste on the surface (yes). Legvold asked further about compliance with rule 7080. Wirtzfeld replied that he is. This is a highly regulated arena by the MPCA with a lot of rules about how and where waste disposal occurs. He has never had an issue with an audit. Malecha reminded the public, and both the planner and attorney concur our role is not to regulate or inquire about the rules of the County, State or other agencies. Further, we cannot apply more restrictive criteria than the regulating organizations. Legvold commented about what appears to be a piece of equipment infringement upon a bordering property. Wirtzfeld took pictures to confirm there are no infringements. Malecha asked if there were questions from the Planning Commission. He invited questions from the audience. Greg Langer had comments to share. His home is directly across from where Wirtzfeld disposes of waste materials. Langer said he has talked to the Wirtzfelds on two occasions and this violates our township ordinances. Family members have complained to the MPCA, and were told this was a township issue to settle. Langer distributed photos taken from the vantage point of his house looking towards the disposal area. Copies of the photos were distributed to the Planning Commission and the Township Attorney. This is what his family looks at regularly, all year long. Langer feels the it is not necessary for Wirtzfeld to dispose of septic waste in front of his house, as he has perhaps hundreds of acres where disposal could take place. Langer noted other providers take waste to a waste treatment plant for disposal. Langer feels this is a hazard not only for his family but also for animals, birds, insects etc. that track through the disposed material. It smells horrible. It sits there for days, weeks, months. The wildlife visits not only the disposal site, but also his front yard where his grandchildren play. Langer asks that the Planning Commission and the Board insist that Wirtzfeld pick a different site for waste disposal. Malecha then read a letter from Wirtzfeld dated February 18, 2012 addressed to the Greenvale Town Board about potential lack of compliance with Township ordinances. Wirtzfeld responded as a retired naval officer, he has had to adjust to various circumstances outside of his control and is willing to discuss this matter. Malecha asked if there was any follow up. There was none. Wirtzfeld then asked to comment. He does haul industrial waste to Pigs Eye, one of the facilities authorized by the MPCA. He cannot take septic disposal materials to the Northfield Sanitation Plant, as they will not take it. His disposal methods are legal, and common practice. While he runs 300 acres of farmland, there are seven (7) soil types on his property and not all soil types are appropriate for septic disposal. The site he currently uses has the appropriate soil type. He called attention to past septic disposal practices on the home Langer farm which are not legal. Wirtzfeld drew the comparison of animal waste (manure) spreading on top of the ground which is not treated. Human waste receives a treatment with specific temperature and pH requirements before it is

disposed of. The pathogens contained in human waste which are harmful if consumed are treated before the material is spread or incorporated into the land. Vector attraction is used to discourage wildlife from tracking through the material. When waste is incorporated into the land, he generally does it within 6 hours of application, per MPCA and is a function of soil type. The MPCA allows 48 hours. Couri asked about whether different types of disposed materials have their own specific method of disposal. There are some exceptions, but generally human waste disposal can be done by topical application, injection or incorporation. Couri then asked Langer if he could specify what ordinance he believed Wirtzfeld was violating. He could not remember the specific citation, but described the language where it is prohibited to spread waste material not created on site. With more than one employee, the operation is outside of the home occupation definition, and would require obtaining an Interim Use Permit (IUP). Couri believes the MPCA pre-empts any Greenvale ordinance (Section 7.07). This answers Legvold's question if Wirtzfeld is in compliance. Malecha made a motion to recommend approval of the application for PID#s 16-02200-28-010, 16-02200-29-030 and 16-02200-76-020 as a Legal Nonconforming Land Use and to forward it to the Board. Volkert seconded. Motion carried 3 – 0, with Norkunas once again abstaining.

Old Business: Malecha and Tony Rowan received an email update about the grant for reviewing our ordinances. Requests for proposal have been mailed out.


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

APPROVED – March 9, 2023



Ken Malecha, Chair

Prepared by:



Jane Dilley, Town Clerk