

**Greenvale Township Planning Commission
Meeting Minutes
Thursday, September 8, 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: Teri Jensen (National Land Realty), Tony Rowan, Dave Roehl, Perry Collins, Mary Collins, Maynard Bolton, Jerry Bolton, Terry Mulligan, Lois Berg, Gregory Langer, Andy Anderson, Dick Moore, Matt Robey, Ryan Blumhoefer, Jan Hansen (St. Olaf College), Joy Royle

Opening of the Meeting:

Chairman Malecha called the meeting to order at 7:00pm with the Pledge of Allegiance.

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: Malecha asked if members of the PC had additions to the agenda. Legvold suggested moving the Ordinance Establishing a Procedure for Registering Nonconforming Land Uses and Implementing a Safe Harbor Date from Old Business to New Business. Norkunas has comments he wants to make under New Business. Malecha wants to add an item to New Business which is a discussion he had with Jane Kansier from Bolton & Menk about our Comprehensive Plan. Legvold asked for assurance the PC meeting was posted in accordance with Open Meeting Laws. Dilley confirmed that it was. Legvold made a motion to approve the agenda with changes, seconded by Moore. Motion passed 5 – 0.

Meeting Minutes: The July 12 minutes prepared by former Clerk Langer were tabled from the prior meeting as changes were required. Malecha was unable to obtain minutes with the changes or a Word document from the former clerk, so typed them himself. The changes made were outlined. Malecha made a motion to approve the PC July 12 minutes as amended and presented. Norkunas seconded. Motion passed 5 – 0. The minutes will be posted on the website showing the original minutes, handwritten corrections, and the final minutes.

The August 11 minutes were reviewed. Moore made a motion to approve the minutes. Volkert seconded. Motion carried 5 – 0.

Citizens comments. Malecha asked if there any citizen comments. Perry Collins asked to confirm that the former clerk prepared the original July 12 minutes.

Board Liaison report: Supervisor Charles Anderson reported on a conversation he had with Steve Fenske, an attorney with the Minnesota Association of Townships, answering the question if PC members can use their personal laptops or tablets during PC meetings. Mr. Fenske said so long as personal devices are used to look up information, that is fine. He further stated that it is not advisable to enter township information into PC members' personal devices, as it would then belong to the township.

Supervisor Anderson also shared he was advised by both Mr. Fenske and Mike Couri, Couri & Ruppe (our township attorneys) that all PC members should set up an email address to be used exclusively for township business. The township is already dealing with issues created by using personal email accounts for township business.

Supervisor Anderson also addressed feedback he received about a letter he sent out to all residents. In the letter he described the process for new PC members being selected and said his statement was not entirely correct and apologized for the misstatement.

Permit Requests:

Matt Robey: Robey appeared before the PC. Materials were provided ahead of time and distributed to the PC members. Robey plans to build an ag building on a newly split parcel. Materials included a site plan with setbacks. Legvold made a motion to approve; seconded by Volkert. Motion carried 5 – 0.

Jeremy Johnson: Johnson was accompanied by Chris Kennelly of Northfield Construction. Prior to the meeting Johnson submitted a thorough and comprehensive list of documents for construction of a new home, which were distributed to the PC. The property had a home which burned down 4 – 5 years ago. The materials submitted included a letter signed by the Greenvale Township Board in October 2016 stating there was a building right for this parcel. Legvold noted that the Township performed an extensive and painstaking study on building rights and created a 3-ring binder (aka the "Green Book") documenting the study. The intent was that it be updated whenever the Town Board documented a building right that was not part of the original study. However, the letter approving a building right for this property was not entered into the Green Book. Legvold suggested carrying this topic into New Business. The building plans involve reestablishing a horseshoe shaped driveway on the property. Jerry Bolton indicated he would supply a driveway permit for the new half of the horseshoe and

asked that the existing driveway be re-graded for better drainage. Motion made by Moore to approve the building plans, seconded by Volkert. Motion passed 5 – 0.

St. Olaf College: The college was represented by attorney Ryan Blumhoefer. He presented a five-acre split for a parcel that is north of the Benedictine Living Center near the Northfield Hospital. For purposes of transparency Blumhoefer described that future plans involve selling the newly split parcel to the City of Northfield, with the intent to construct a water tower. Legvold indicated the parcel would still be in Greenvale Township, and subject to our ordinances. When the ordinance is silent on a topic, that topic is not permitted in the township. Blumhoefer said the parcel would eventually be annexed into Northfield. Malecha reminded the group they were taking action only on the parcel split at this meeting.

Hofschulte subdivision: The Hofschulte Trust was represented by Teri Jensen with National Land Realty. A subdivision agreement was distributed to the PC members in the meeting packet. The request is to move a building right from the south quarter-quarter to the north quarter-quarter. The existing building right is documented in the Green Book. A copy of the page showing the building right was part of the PC packet. This is not a true subdivision, but Greenvale does not currently have a form to document a request to transfer a building right which is allowable under our ordinances. Future project to create a form for this type of transaction. When this request is presented to the Board for approval, Malecha asked that a copy of the Hofschulte Trust document and a list of authorized signers for the Trustee (Securian Trust Co., N.A.) be provided. Malecha made a motion to approve the building rights transfer; seconded by Legvold. Motion passed 5 – 0.

Old Business:

Planning Commission member contact information on the website – a couple of members asked for their phone numbers to be added to the website. If members want their contact information on the website, work directly with the Clerk.

Residential Energy Ordinance: The date of the Public Hearing was originally set for September 8, but due to technical and administrative difficulties, the hearing needs to be rescheduled. It is now planned for October 13, the same date as the next regular PC meeting. Our Planner, Steve Grittman, is available that date. The public hearing will be at 6:00pm. Legvold requested a two minute recess and the meeting was reconvened shortly after. Legvold moved to approve the recommendation the Public Hearing be held on October 13, with the regular PC meeting to start immediately following the Public Hearing. Norkunas seconded the motion. Motion passed 5 – 0.

New Business:

Malecha said when he first became Chair of the PC, he had printed copies made at Carleton College for PC members of our ordinance manual, the Executive Summary of the Comprehensive Plan and the Policies and Procedures Manual for the Planning Commission.

There are no printed copies of the full Comprehensive Plan in the Town Hall. Malecha asked the audience if anyone was in possession of a printed Comp Plan. From the audience, Gregory Langer said the Comprehensive Plans should be and were in the Town Hall and suggested that copies may have been loaned out and not returned. Printing of the full Comprehensive Plan was quoted by Carleton as \$160 per plan due to the size of the maps. Malecha reached out to Bolton & Menk who prepared the Comprehensive Plan as part of a consortium of several surrounding townships. Jane Kansier of Bolton & Menk said they would provide 5 printed copies of the full Comprehensive Plan for \$300. Malecha made a motion to request the Town Board authorize the expenditure of \$300 to obtain printed copies of the full Comprehensive Plan. Norkunas seconded the motion. Motion passed 5 – 0.

Malecha has proposed the Clerk prepare a quarterly over the counter (OTC) building permit report. The first one will be presented in October and cover the months of July – September 2022. Legvold suggested if we are making a procedural change, it should be included in the PC Policies and Procedures manual and made a motion to make that change. Malecha seconded the motion. Motion passed 5 – 0.

The permit checklist project is still under development.

Legvold addressed the need to have updates made to the Green Book to document additional building rights granted. The issue has come up before and was most recently evidenced with the Town Board letter presented as part of the Jeremy Johnson new home construction project, where the Green Book did not have a record of this building right. The PC is an advisory board, and the responsibility of determining building rights rests with the Town Board. The Town Board should take action at its next meeting to formalize the updating of the Green Book. Teri Jensen asked if Dakota County could add these building rights transfers as part of their GIS online records. Legvold suggested the PC Policies and Procedures manual be updated with a paragraph documenting building right updates approved by the Board. Legvold will draft language to be added to the manual and asked this be added as Old Business for the next PC meeting.

Norkunas presented his observations to the PC after reading the online version of the full Comprehensive Plan. Mike Couri was present at the August 18 Board of Supervisors meeting and explained that the provisions of the 2040 Comprehensive Plan take precedence over the Township's ordinances, contrary to what we've been told in the past. Mike Couri further stated there is commercial and industrial property in the township per the Comprehensive Plan based on land use, not taxation, also contrary to what was discussed in the past. The previous Zoning Administrator was at odds with what was in the Comp Plan and pushed back strongly on both of these points and was also the gatekeeper of much of the information provided to the PC. Norkunas cited page 97 of the Comp Plan, citing that the cities and townships in the rural collaborative of the Comp Plan will be seeking a community block grant to update ordinances in concert with the Comp Plan provisions. To meet the goals of the 2040 Comprehensive Plan, cities and townships will commence a review within nine (9) months after the adoption of the

Comp Plan. The Comp Plan was signed as adopted Greenvale Township by Supervisor Langer in September 2019. This means action should have been taken by May or June of 2020, now over two years ago. We have density issues, permits issued for solar even though we lacked a solar ordinance and commercial usage issues. The people who were responsible to have our ordinances updated, along with others, have suggested through a variety of channels that the members of the PC lack the competence and qualifications to serve on the PC. The current PC has only met together three times and has already asked for rulings on discrepancies between our ordinances and the Comp Plan, pushed for compliance with the Policies and Procedures Manual, pushed for meetings with our Planner, started work on creating a checklist of required documents for permit applications to better serve our citizens, along with the regular work of the PC and the upcoming Public Hearing on Residential Energy Uses. Malecha thanked Norkunas for his comments. The full text of Norkunas's comments is included with these minutes.

Malecha then started a discussion on the Ordinance for Establishing a Procedure for Registering Nonconforming Land Uses and Establishing a Safe Harbor Date. Malecha confirmed his understanding with Supervisor Anderson that the Board passed the ordinance to the PC for its review and requested the Clerk forward it to the township planner. Legvold inquired who presented the ordinance to the Board and asked about who would be paying. Terry Mulligan spoke from the audience saying when the ordinance was presented on his behalf by Scott Norkunas, his request was that the township pay for the ordinance. Terry said he has been in business for 47 years. Over the years he has applied for and received permits for buildings associated with his business from various Town Boards who knew full well they were for his business. Legvold reiterated his question about who would be paying for the ordinance for the benefit of the few. Malecha suggested the funding decision be deferred to the Board. Legvold requested clarification on the directive from the Board relating to the PC's actions to be taken on the ordinance. Malecha restated he understood the Board's direction was to review the ordinance, involve the planner and ultimately make a recommendation to the Board. Malecha inquired if the planner was available September 22 to review the Nonconforming Land Uses ordinance. Using the Energy Ordinance as an example, the planner was given the product prepared by the PC, worked through it, supplied written materials to the PC prior to a discussion meeting and was then present for the discussion with the PC. Malecha envisions a similar process for the Nonconforming Land Uses ordinance. This is a more orderly process than has happened in the past with PC members having little or no time to review an ordinance before making a decision. Malecha made a motion to have a Special Meeting on September 22 for the sole purpose of reviewing the Nonconforming Land Uses ordinances with Steve Grittman in attendance and to review Grittman's input. Volkert supplemented the motion to include the Board's approval for the cost of the meeting. Legvold requested a brief recess and the meeting reconvened a short time later. Legvold asked if the meeting could be part of the next regular PC meeting, which is October 13; there is already a public hearing scheduled for

that night. Malecha reminded the PC of the motion, Norkunas seconded it. Motion passed 4 – 1, with Legvold voting nay.

The next PC Special Meeting is Thursday September 22 at 7:00pm to discuss the Nonconforming Land Uses ordinance. No permits or land use requests will be discussed at the September 22 meeting.

The public hearing for the energy ordinance and the next regular meeting of the PC is Thursday October 13, starting at 6:00pm.


Motion to adjourn was made by Moore, seconded by Norkunas. Motion passed 5 – 0.

Meeting was adjourned at 8:40pm.

APPROVED – October 13, 2022



Ken Malecha, Chair



Jane Dilley, Town Clerk