

**Orange Township
Planning Commission Meeting**

**Berlin/Orange Fire Department Bldg
265 W David Hwy
Ionia MI**

June 30, 2008 - 7:00 p.m.

Approved 7-15-08

Chairman Dan Reeder called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.

Roll Call:

Present: Don Nash, Dan Reeder, Tom Green, Wayne DePotty, Brian Stuart, and Zoning Administrator, Jeanne Vandersloot.

Minutes Approval: Chairman Reeder asked Nash to read the minutes aloud. Green motioned, Nash seconded, to approve the May 8, 2008 minutes as presented. Motion Carried 5-0.

Agenda Approval: Nash asked to add #3 to discuss the Brown property accessory building. Stuart motioned, DePotty seconded, to accept the amended agenda. Motion Carried 5-0.

Agenda Item # 1 – Flea Market Final Site Plan Review

Vandersloot gave an overview of the site plan revisions since the last meeting where the members reviewed a concept site plan. The new site plan met the list of items in the site plan review chapter except that the plan was not sealed by an engineer (existing building and parking area are being used so no new earth changes). The proposed landscaping did not meet the street frontage formula for trees. The applicant proposed a spacing of maple canopy trees along the two street borders. Landscaping and site plan items can be modified by the Planning Commission. She noted that the private road to service the campground and the other front lots north of this site is under review with her and the Township Engineer. The private road will also be extended to meet with the parking lot for the flea market so visitors can go between all of these lots and businesses without going in and out of State Rd. The developer asked to waive paving of the access road until the next front lot was developed but the Engineer and I will permit gravel for two years with a letter of credit submitted for the cost of paving. A letter was submitted by the Drain Commissioner approving the storm water plan. An email was received from the Ionia County Road Commission stating that the Nicholas Rd driveway was never approved and they recommended closing it off and adding a storm water ditch. They do not want vehicles using it due to the poor site distance at State Rd. Two accesses will be available with the State Rd driveway and the service access private road.

Bill Overbeck was present representing the new owner of the property who is proposing the flea market. He said the owner would like to postpone building the addition until after she starts the flea market and the extra space is needed. They would like to keep the Nicholas Rd driveway, keeping it gated, to use for emergency and occasional supply trucks. The previous mobile home dealership used it when homes were delivered so they would be off State Rd while being maneuvered inside. He proposed the amount of trees because the formula would almost hide the business and this is a corner lot needing more visibility at the corner area. The lot already has parking area and they will be adding end caps with landscaping.

The members asked various questions and reviewed the plan. Nash motioned, DePotty seconded, to allow the use of the Nicholas Rd driveway for emergency and occasional supply truck use if the Road Commission approves. The zoning administrator was requested to send a letter to the Road Commission for reconsideration of the driveway use. Motion Carried 5-0.

The members studied the proposed landscaping plan. They noted that the inside landscaping met the ordinance. They thought some of the street side trees should be removed for vehicle sight visibility at the driveway on State Rd and at the corner. DePotty motioned, Green seconded, to approve the landscaping plan with the exception of removing the tree on the north side of the driveway, the next 2 trees just south of the driveway, and the 2 trees along State Rd at the north side of the corner of Nicholas. Motion Carried 5-0.

Nash motioned, DePotty seconded, to allow up to 5 years to construct the addition with a zoning and building permit. If the building size changes or the 5 years expires, then a new site plan will be reviewed by the members. Motion Carried 5-0.

Nash motioned, Green seconded, to approve the site plan with the exceptions/conditions above. DePotty added to the motion with the member's agreement, that the north access private road between the other front lots and the flea market lot be completed with paving within two years. Motion Carried 5-0.

Agenda Item # 2 – Nuisance Ordinances Review and Discussion

The zoning administrator gave a brief overview of the reason for the sample nuisance ordinances that were given to the members. A resident has a track for family use of quads and motorcycles next door to another resident. That resident has submitted a petition of other neighbors to the Township Board requesting that something be done such as an ordinance for noise and dust. The Board reviewed the sample nuisance ordinances and has sent them to the Planning Commission for their recommendation. Nuisance ordinances have several parts to them and need good descriptions so that they can be administered fairly without individual judgment or preconceptions. Exceptions to certain types of noises can be put into the ordinances.

The Chairman noted that many residents were in attendance and asked each to offer their concerns to the Planning Commission. Bev Barnhill spoke first; she provided the petition of concerned neighbors to the Board. She lived in her house before the next door neighbor. After the neighbor moved in, they bought the additional land between their houses and put in the track about three years ago. They do not use it for commercial use, just family. The floors shake, the noise and dust has become intolerable. They cannot even grill food outside because of the dust. They have talked to the neighbor many times but they do not listen. They ride all times of the day and for hours at a time.

The neighbor with the track, Dale Highlen, said he owns an L shaped property (showed survey). They put in the track for family use. They have had trouble with the neighbor often. His kids and sometimes neighbor kids ride 15-20 minutes at a time. He works nights and sleeps during the day so they can't ride at that time. About twice a year he has a family get together at his house and they do a lot of riding on those days. The Barnhill's mother once threw stones at the kids and they had to call the police. The vehicles have stock legal exhaust and are not made louder. They have tried watering the dirt but once caused mud to get on the neighbors fence. It dries up quickly and makes mud when wet. He said the pictures of the dust happened three years ago. They do not ride all day long. The son said three years ago he bought a new motorcycle and had to ride it a lot at first to break it in. Most complaints were at that time.

Kristen Ferris said that she has a noise ordinance concern for the farmers, it could cause them to be in violation and that could harm their businesses. An agriculture exemption could be exploited in an ordinance. Quentin Harwood said he farms behind these two properties. Nuisance ordinances can start small but can mushroom with additional language in the future. The Barnhill's complained to him about his agriculture noise and dust when working the fields.

Roy Barnhill said the farmer spread chicken parts and the smell and flies were overwhelming. The Dept. of Agriculture came out and said the parts were too large and made them plow them under. Bev Barnhill said the track lot was bought later by the neighbors. Dale Highlen showed County records that it was not bought later. Brian Stuart said that there should be some agreement to compromise in exchange for not having to adopt an ordinance. This should be able to be worked out. Bev B. said yes as long as they don't ride when the wind is toward them and not after 8:00 pm. Highlen's son said the vehicles do not have lights.

Tom Green asked if a water system would work. Highlen said not well, either is mud or dries to fast. He also said that the neighbor's mother slapped one of the boys and they had to call the police again. Don Nash said this should be worked out without an ordinance and did Highlen understand that with an ordinance he would not be able to ride in the yard? He said he understood and was willing to try but can't control the wind direction and they only have the two family outings where it is noisier than usual.

The Chairman said that Orange Township is an agriculture community; farming is on a weather related timely basis. If an ordinance was adopted, it does not take long to change it with a different Board. A neighbor conflict can be settled by talking it out, or taking legal civil action, it should not be aired in the Township meetings, hard feelings are involved, a use of common sense and courtesy should be taken by any neighbor. Q Harwood said that farmers are protected by the Right to Farm Act; they have regulations to follow for farming. Kristen Ferris said Michigan has very good farming laws.

John Winters spoke about having a small family track too. He works it out with his neighbors with courtesy and thoughtfulness. He makes the kids quit if it gets dusty and windy, if they run into the farmers field, offers to pay for damage, don't ride at meal times if people are eating outside, don't ride if neighbors have company over.

The attendees and Commission talked about possible dust control. Brining, soybean oil, other products out there should be investigated. After all had spoken, Chairman Reeder motioned to recommend to the Township Board not to draft or adopt a nuisance ordinance at this time. Tom Green seconded the motion. Motion Carried 5-0. DePotty said he has mixed emotions, sees both sides of land owners wanting recreation and peace, but people must work these things out, be courteous to each other. The Chairman asked if the other person with the track could offer to help with these neighbors. He said yes, although he was friends first with his neighbors, and then added the track but used common sense and courtesy with them about the track use.

There was a brief discussion about the dangerous and falling down home also located on Peck Lake. An ordinance could be adopted to clean up these types of buildings. A neighbor said that the Fire Dept was burning the house and it would be gone and cleaned up soon including the mobile home and garage.

Agenda Item # 3 – Brown Property Accessory Building

Vandersloot explained that she met the builder out there at the site (vacant lot) but could not issue a zoning permit for an accessory building on a parcel without a house on it. There are principal uses (one per lot allowed such as a house) and accessory uses such as garages, decks, pools, etc. The accessory building section only allows a farming related building on a lot without a house on it. She talked to the Planner that wrote the zoning book about this problem. He confirmed what the ordinance said. He suggested that because the neighbor was a brother, that the land could be transferred to him and then build the building. The land could be transferred back when he was ready to build a house there. She suggested that the owner could also ask the Township Board if they would consider an ordinance amendment to allow an accessory building without a house in certain circumstances. If the Board was in agreement to that, then the Planning Commission could be directed to write some language to be adopted into the ordinance. A variance would not likely be approved because it is a “use” variance and nearly impossible for any land to qualify. It has to be land that cannot be used for anything else. The variance section has special standards to follow. Nash said he would talk to Mr. Brown on these options.

Public Comment:

None

Adjournment

Green motioned, DePotty seconded, to adjourn the meeting at 8:16 pm. Motion carried 5-0.

Next meeting: The next scheduled meeting is at 7:00 pm, July 15, 2008, at the Fire Dept. Bldg.

Submitted by Jeanne Vandersloot, Recorder