

**NORTHFIELD TOWNSHIP
PLANNING COMMISSION
Minutes of Regular Meeting
January 19, 2011**

1. CALL TO ORDER

The meeting was called to order by Chair Marlene Chockley at 7:03 P.M. at 8350 Main Street.

2. PLEDGE OF ALLEGIANCE

**3. ROLL CALL
AND DETERMINATION OF QUORUM**

Roll call:

Janet Chick	Present
Marlene Chockley	Present
Glen Ewald	Present
Sam Iaquinto	Present
John Mayleben	Present
Larry Roman	Present
Tracy Thomas	Present

Also present:

Planning Consultant Douglas Lewan,
Carlisle/Wortman Associates
Jim Nelson, Volunteer Broadcast Technician
Recording Secretary Lisa Lemble

4. APPROVAL OF AGENDA

- ▶ **Motion:** Iaquinto moved, Roman supported, that the agenda be adopted as presented.
Motion carried 7—0 on a voice vote.

5. FIRST CALL TO THE PUBLIC

None present.

6. CORRESPONDENCE

Lewan noted that the Michigan Townships Association's Annual Conference will be held January 26-28 in Grand Rapids and there are many valuable sessions that Commissioners could attend.

7. REPORTS

7A. Board of Trustees

Iaquinto reported that he informed the Board of the Commission's last discussion about options for a medical marijuana ordinance, and they decided to wait for recommendations from the planning consultant and Township attorney. He said this will be discussed at the next Board meeting.

7B. ZBA

Roman reported that the ZBA approved a variance on December 20th. He noted that its next meeting will be in February, and discussion of non-conformities per Article 65 will be a discussion item.

7C. Staff Report

Nothing to report.

7D. Planning Consultant

Lewan noted that he and Brad Maynes, Township attorney, met last week and discussed the medical marijuana ordinance options.

8. PUBLIC HEARINGS

None.

9. OLD BUSINESS

Master Plan Update. Lewan reported that the subcommittee has been meeting and has taken a preliminary look at the future land use map. He noted that the formal public input part of the project has been completed. In answer to a question from Chockley, Lewan said the analysis of the public survey has been expanded, and he is in the process of addressing comments from various sources, including the Blue Skies Advisory Committee.

10. NEW BUSINESS

10A. Election of Officers and ZBA Representative.

- ▶ **Motion:** Iaquinto moved, Roman supported, that Marlene Chockley be elected as Chair of the Planning Commission for 2011.

Chockley called for additional nominations and discussion. There were none.

Motion carried 7—0 on a voice vote.

- ▶ **Motion:** Iaquinto moved, Chick supported, that Tracy Thomas be elected as Vice-Chair of the Planning Commission for 2011.

Chockley called for additional nominations and discussion. There were none.

Motion carried 7—0 on a voice vote.

- ▶ **Motion:** Iaquinto moved, Ewald supported, that John Mayleben be elected as Secretary of the Planning Commission for 2011.

Chockley called for additional nominations and discussion. There were none.

Motion carried 7—0 on a voice vote.

- ▶ **Motion:** Iaquinto moved, Chick supported, that Larry Roman be elected the Planning Commission representative to the Zoning Board of Appeals for 2011.

Chockley called for additional nominations and discussion. There were none.

Motion carried 7—0 on a voice vote.

10B. Review of Non-Conforming Uses and Structures. Planning Consultant Douglas Lewan made a presentation on the issue of zoning nonconformities which he noted was a small portion of a 2.5 hour presentation he made two years ago at the Michigan Association of Planning conference. His comments included:

- There has been a lot of discussion recently about this by both the Planning Commission and Zoning Board of Appeals.
- Nonconformities are commonly referred to as “grandfathered” structures or uses.
- The Michigan Planning Enabling Act (PA 33) of 2008 and the Michigan Zoning Enabling Act (PA 110) of 2006 give the Township the right to enact zoning laws.
- The Planning Commission’s role is to write ordinances and make recommendations to the legislative body, and the Zoning Board of Appeals can allow variances and make interpretations of the zoning ordinance.
- At one time all communities had no zoning laws, and many Michigan communities first adopted zoning laws as late as the 1970s. Prior to adoption of such laws there were no regulations regarding what uses or buildings could be placed where. Nonconformities arise whenever zoning ordinances and maps are adopted or changed.

- Per the Michigan Zoning Enabling Act, lots, buildings or uses made nonconforming by an ordinance change may continue, and local governments may allow for them to be changed, restored, reconstructed, extended or substituted.
- Lots, structures, and uses can be nonconforming. Structures built on non-conforming lots must meet the other requirements of the district, including setbacks. Nonconforming structures may remain and be sold, but may not be enlarged without a variance. Nonconforming uses may continue and may be sold, but the intensity of the use cannot be increased. In answer to a question from Mayleben, Lewan said a change in a nonconforming use—such as substituting a convenience store for the mechanic bays of a service station—would require a variance, but it would probably be granted as being a reduction in the intensity of the use. He added that after approval of a variance of that type, return of the space to the previously more intensive use would not be allowed.
- Nonconforming structures which are more than 50% damaged may be not be reconstructed. Nonconforming structures may be altered to make them less nonconforming.
- Nonconforming uses may not be enlarged or expanded, and once the nonconforming use ceases for more than a specified period of time—typically 180 days—the use may not be revived. There are many gray areas involved, such as when a sale is being attempted of a property which has a nonconforming use operating on it.
- Generally, nonconformities are allowed to exist but are not encouraged to continue.
- Illegal nonconformities are code violations and are not entitled to the protections afforded legal nonconformities. The Township must keep good records to be able to determine whether a nonconformity is legal or not.

Lewan said issues of nonconformities are generally quite black and white. Chockley said it appears that most of the Township’s nonconformities involve properties around the lakes. She added that this has come up frequently and noted that getting variances involves a lot of time and cost. She questioned whether any changes can be made to the zoning ordinance to lessen the burden on property owners who wish to improve these types of properties.

Lewan said in the downtown area some of the requirements for setbacks and other elements are more demanding than can typically be met. Iaquinto brought up the example of the Yarn Shop on Main Street, explaining that the owner would like to enlarge and add windows to increase visibility for the store, but has been told a variance would be required because the building is nonconforming. He said the footprint of the building is not being changed or enlarged.

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Lewan said this is the type of thing that is being very strictly interpreted by the zoning administrator due to some particular language in the ordinance, and that could be changed. He said, however, that making that change may not necessarily help other property owners who wish to make other types of changes.

Thomas said he sympathizes, but is leery of rewriting ordinances to accommodate specific cases. He said he would be interested, however, in looking at overall district requirements to see if changes can be made to accommodate property owners without compromising the goals of the Township.

Iaquinto said there was discussion a number of years ago of adopting a hamlet overlay district (Village Center District), but there were concerns at the time—which he feels were unfounded—that there would be a negative effect on the area as a result. In answer to a question from Iaquinto, Lewan said the Commission can make a recommendation for adoption of that district after following the public hearing process. He said he would like to look at that ordinance to see if it would address some of the issues that have been coming up. He added that he feels the ordinance's language regarding nonconformities would still need to be changed.

Lewan noted that currently if someone wanted to build a new building downtown they would be required to provide a certain number of parking spaces, and that does not make sense. He said many successful downtowns have no parking requirement or provide for purchase of parking credits (for provision of parking elsewhere) when a new structure is built.

Chockley said she would like property owners to be able to improve their properties—as long as there are not issues of safety or infringement on other properties—without requiring overly burdensome measures, such as ZBA variances.

There was discussion about references to building codes in the zoning ordinance. Roman said he agrees with Lewan that reference to alterations cannot simply be dropped from the language of the zoning ordinance. He said the repairs and maintenance section of the ordinance that refers to 25% or 50% of the replacement cost needs to be looked at.

Chockley said Zoning Administrator Kurt Weiland gave her a memo on this subject just before the meeting. Iaquinto said it appears Weiland does not reference the Yarn Shop issue, and he noted that a new façade improvement grant program (which will be administered by the Downtown Development Authority) may bring out some of these issues. He said those grants will be awarded in late spring, and those who participate will be interested—as the Yarn Shop owner is—in improving the appearance of their store fronts.

Lewan said he is quite confident that some relatively minor text changes to the zoning ordinance could solve many of the problems brought up rather than trying to adopt an overlay district or a new zoning district, and he can have recommendations ready for the February 2nd meeting.

Iaquinto asked if Lewan knows why the Home Occupation ordinance changes the Planning Commission recommended have not been scheduled for a Township Board meeting. Lewan said he will check on that tomorrow.

Chockley asked Commissioners to provide any additional input to Lewan soon so he can prepare a recommendation for the February 2nd meeting. In answer to a question from Iaquinto, Lewan said Weiland's memo should also be addressed on February 2nd. Iaquinto also asked Lewan to share an early draft of his recommendations with the Commission so they can provide feedback before the February 2nd meeting to help move the process along.

Iaquinto said he respects Weiland's work and acknowledged that it is his right to use a strict interpretation of the zoning ordinance, but he does not agree with Weiland's ordinance interpretation regarding the Yarn Shop window. Mayleben said the community should be finding ways to say "yes," rather than "no" to property owners.

11. MINUTES

December 15, 2010, Regular Meeting

Chick made two minor changes.

- ▶ **Motion:** Iaquinto moved, Roman supported, that the minutes of the December 15, 2010, regular meeting be approved as corrected, and to dispense with the reading.

Motion carried 7—0 on a voice vote.

12. POLICY REVIEW & DISCUSSION

A. Discussion of the project application process from initiation to approval. Chockley explained that Mayleben asked what process a property owner would have to follow from beginning to end of various types of projects. She passed out the applications and instructions for various actions that were provided to her by Pam Boegler in the Building and Zoning Department.

Lewan said even before someone is given these forms and instructions, they should request a pre-application meeting with the planner, and he noted that he reserves Wednesday afternoons for such meetings. He said in addition to the instructions provided to applicants, the zoning ordinance clearly lists all of the requirements for each type of request, and the

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Township also provides a three page overview of the process.

Lewan said if someone meets with him about a project that he feels confident it will be denied, he makes that clear to the applicant but also tells them it is their right to apply. Chockley said it would be nice to have the applications and related information available on the Township website. Lewan said he is concerned that someone might simply download the forms and spend time and money applying without first having a pre-application permit.

Mayleben questioned whether there is a way to provide electronic copies of forms so that applicants do not have to hand write the information. Iaquito questioned whether there is a way to have an inter-agency review within a 30-60 day time period to get information to applicants quickly. Lewan said the Zoning Enabling Act allows the Township to appoint one or more people to review plans—rather than having the Planning Commission do it—and that type of review might be appropriate for projects such as small building additions. He said that would leave Planning Commission agendas open for more important issues, including larger projects, while allowing property owners to proceed quickly with smaller projects.

Iaquito said changing the process to allow those types of administrative reviews would tell the community that the Township is interested in allowing people to proceed with their plans as quickly as possible while still making sure projects conform to Township ordinances. Mayleben said that is definitely preferable to a situation in which the Commission tables a project due to a minor technicality or lack of some small piece of information.

Iaquito said this will be a transition year for growth and development, and it is a good time to make the community more welcoming to businesses that want to move into the Township. He said while development is still slow it would be a good use of the Planning Commission's time to do housekeeping work on the Township's ordinances to make reviews of future projects more streamlined. He said he wants the Township to be known as a place where businesses do not have to unnecessarily jump through hoops. He said this will have a positive effect on the Township's attractiveness to business and developers. Mayleben said developers of a variety of projects, including the light industrial types of businesses, often have options to do business elsewhere.

Thomas said it is hard to see a down side of making changes of this type, but it does involve putting a lot of trust in non-appointed, non-elected administrative staff. He added that a lot of the delays he has seen during his years of service on the Commission have been due to developers who have submitted incomplete plans. He said some of them have seemed

to be sounding out the Commission before deciding where to go with their plans, and the Commission has on occasion given preliminary site plan approvals with very lengthy conditions, so the cause of delays has not always been the Township.

Mayleben said he is trying to understand the process, and he can understand that developers may try to test the Commission or the Township. Lewan said the ordinance should be clear enough that there is no reason for developers to have to try to test the system. There was additional discussion about how to make expectations clear to applicants, including provision of reports and checklists.

Iaquito asked that this be scheduled for discussion in February or March.

Chockley referred to the fee schedule for various types of applications. She said this shows that making some types of requests can be quite expensive. Iaquito noted these fees were adopted in 2006. Chockley said she would be interested in knowing how these compare to other communities. Thomas suggested consulting some developers to get their input about these issues to find out which issues are of most importance or concern to them. Iaquito said that is a great idea. He said he assumes that all of the ordinance requirements are there for a reason, but it's possible that some things are no longer necessary and others are being missed.

13. COMMENTS FROM THE COMMISSIONERS

Welcome. Chockley welcomed John Mayleben and Glen Ewald, said the Commission is very fortunate to have them on the Commission, and asked them to introduce themselves. Mayleben said he has lived in the Township for 15 years and serves on the Whitmore Lake School Board (previously serving as the Board's President and Vice-President), and professionally he works with the Michigan Retailers Association. Ewald said he graduated from Whitmore Lake High School in 1981, his four children have gone through that school system, he has served on the school board, and he is branch manager of an electrical distribution company in Ann Arbor.

Iaquito said he is excited about the Commission as a whole being interested in making improvements to create a welcoming business environment.

Chick said she agrees with Iaquito's statement about this being a transition year to a better economy and cited specific examples of new hiring in the area.

14. SECOND CALL TO THE PUBLIC

None present.

15. ANNOUNCEMENT OF NEXT MEETING

February 2, 2011, at 7:00 P.M. at the Public Safety Building was announced as the next regular Commission meeting time and location.

16. ADJOURNMENT

- ▶ **Motion:** Thomas moved, Ewald supported that the meeting be adjourned.
Motion carried 7—0 on a voice vote.

The meeting was adjourned at 8:54 P.M.

Prepared by Lisa Lemble.
Corrections to the originally issued minutes are indicated as follows:
Wording removed is ~~stricken through~~;
Wording added is underlined.

Adopted on _____, 2011.

Marlene Chockley, Chair

John Mayleben, Secretary

Official minutes of all meetings are available on the Township's website at http://twp-northfield.org/boards/planning_commission/minutes.