

VEVAY TOWNSHIP PLANNING COMMISSION
Regular Meeting
Wednesday, April 9, 2014
Vevay Township Hall – 7:00 p.m.

MINUTES

Members present: Jack Cady, Roger Cargill, John Lazet, Ilene Thayer, and Bruce Walker.

Member absent: Stacy Byers.

Other Persons present: Supervisor Gary Howe, consultant Mark Eidelson, and legal counsel Dave Revore.

I. Call to Order: The meeting was called to order at 7:00 p.m. by Chair Thayer.

II. Pledge of Allegiance

The audience joined the Commission in reciting the Pledge of Allegiance.

III. Set/Amend Agenda

The agenda was accepted as presented.

IV. Approval of 3-5-14 Regular and 3-26-14 Special Meeting Minutes

March 5, 2014 regular meeting minutes – no amendments were offered.

March 26, 2014 Special Meeting Minutes – Amend page 1, under Public Comment, the first line, after the dash, by striking “note” and inserting “noted”.

MOTION Walker, seconded by Cargill, to approve the March 5, 2014 regular meeting minutes as submitted; and to approve the March 26, 2014 special meeting minutes as amended.

CARRIED

V. Brief Public Comment

Comm. Lazet – commented briefly on this week being National Crime Victims’ Rights Week.

VI. Recess to Public Hearing

Zoning Ordinance Signs and Lot Widths Amendments

SIGNS: Mr. Eidelson – gave a brief overview of the proposed amendments. The current Ordinance has repeated regulations with minor variations in several places throughout the Ordinance, causing difficulty in having people understand exactly how the regulations are to be applied. Some commonly used signs are not currently allowed, such as a temporary builder’s

sign. The proposed amendments are intended to address signs that are reasonable, to clarify language, remove non-essential language, allow for more flexibility in lighting of signs, and replace the current language throughout the Ordinance with a new Chapter 20 that is inclusive for all sign regulations. Proposed basic standards are as currently allowed, but with more clarity, and more detail.

Laurence Heuer – noted that he is Quartermaster for the VFW post – he has read the proposed amendments, and asked:

- If existing signs are still allowed even if the amendments would prohibit them? **Chair Thayer** – yes, if the sign is lawful under the current Ordinance.
- Are existing LED lighted signs allowed if they are not addressed in the current Ordinance? **Chair Thayer** –LED lighting is not specifically mentioned in the current Ordinance.
- So if there are no current regulations on LED lighted signs, then the Township can't regulate such signs? **Mr. Revore** – if the sign is currently unlawful, these proposed amendments do not make it lawful. Signs must conform to the existing Ordinance to be allowed/grandfathered under the proposed amendments. **Chair Thayer** – pointed to the proposed language addressing lighted signs within the US-127 Corridor, Table 20-1 Special Provisions, (2)(B)(2)(b)(1), and read the provision. **Mr. Eidelson** – urged caution in answering questions in a public hearing about specific situations without all of the specific conditions being known. He recommended bringing the matter to the attention of the Zoning Administrator, and asking questions of that person. **Mr. Heuer** – commented that for the record, he had talked with the Township before the sign was erected, and was told that as the Ordinance had no regulations on LED lighted signs, the Township had no say in what the VFW did in mounting an LED sign on the wall. If the VFW is now being told the sign is illegal, they will need to talk with folks before they take other action on this matter. **Mr. Revore** – recommended that it would be helpful for the Zoning Administrator to review the current ordinance and that specific property. For purposes of this public hearing, the proposed amendments are for the entire Township, and are not directed at a specific property. The VFW has conveyed their concerns, but this is not the forum to address those concerns. To have a definitive decision from the Township is for another forum; tonight is not about specific parcels.
- When would the right time be to discuss the existing LED sign? **Mr. Revore** – suggested he talk with the Township office about when the VFW could talk with the Zoning Administrator about it. Other jurisdictions commonly have much lengthier language on signs, up to 30 pages. Vevay is a developing Township, and addressing changes in signage is a common result in developing Townships across the state.

Kevin Hershey – commented that:

- People should be able to use their property in any manner they so choose, and if neighbors or others don't like it, they can move. Why can't people use their own property for whatever they want to do? **Chair Thayer** – the point of zoning is essentially to address and avoid conflicts.
- The VFW is veterans working to help other veterans and is a good cause; if people don't like their sign, they can close their blinds, or find other ways to avoid people doing what they want to do on their own property. **Chair Thayer** – noted that there are a lot of residential parcels within the US-127 corridor that are potentially affected by signs.

- A sign promoting a business is appropriate. **Chair Thayer** – the VFW hall is in an agriculture district with a lot of residential use. The LED sign wouldn't be a problem if it were in a business district. The proposed amendment is for the entire US-127 corridor.
- Apparently Christmas lights are OK but not this sign? **Comm. Cargill** – Christmas lights are fine so long as they are taken down within 30 days. There are business operations on a parcel in full view of his house, and he planted 400 trees to block the view. Decisions made by this Commission impact everyone, which is why he's asked to be on the Commission. The goal is to work to minimize conflicts.

Greg Shaw – had several questions and comments:

- At one of the Commission meetings, he had asked about roof signs, such as shingle signs, especially on barns. He hasn't received a good answer; would they be allowed under these amendments? **Mr. Eidelson** – neither the proposed draft in front of us tonight nor the existing Ordinance allows for roof signs.
- Why can't it? **Mr. Eidelson** – such signs could indeed be allowed in agriculture districts. Most communities discourage or prohibit roof signs, and that is also the history in Vevay.
- He requested that the amendments allow roof signs that are the name of the farm or the family. **Mr. Eidelson** – legally there would be some concern with a certain class of property owners being allowed to have signs that other property owners cannot have. Freedom of speech is a major consideration. Courts have been hesitant to allow municipalities to regulate signs in a manner that provides differential treatment. **Mr. Revore** – commented that governmental jurisdictions cannot differentiate between parties on what speech they can or can't have. If regulation affects free speech or the content of speech, government cannot carve out niches or pick winners and losers based on the content or the message. What some find favorable is objectionable to others. Government has to treat all parties equally, and can't limit roof signs to one group or another. The goal with the proposed amendment is to be fair across the board.
- If the Commission is looking to maintain the rural character of the Township, roof signs should be allowed. **Mr. Revore** – again noted that even if the intent is to maintain the rural character of the Township, regulation needs to be uniform for the entire community.

Tami Shaw – had questions and comments:

- They used to have their name on the roof, but when they re-shingled, the name was not included. They want to put the name back on eventually, and she believes that a family or farm name on a barn is a part of rural character.
- Temporary and grand opening signs – on page 6, Sec. 20.04 (A)(15)(e), temporary signs are allowed for 2 events per year, but many businesses have more than that; this provision is too restrictive, and should allow for more. Shawhaven has 3 to 4 events per year; Bluegrass is another business that changes signs with the seasons. When asked how many times she would recommend allowing signs, she suggested 4 to 6 times per year.
- Asked if wind-blown signs – on page 6, Sec. 20.04 (A) (16) (e) - includes a flag, or entrance signs? Are they allowed only for temporary purposes or a grand opening? **Chair Thayer** – yes, temporary purposes only, and pursuant to Subsection (16) (a), for not more than 30 days.
- Noted that their events in the fall are for more than 30 days, and they use temporary signs.
- Stated that under Subsection (17), allowing special purpose signs for only 14 days is not long enough; 45 to 60 days would be more reasonable. There are other businesses in the

Township that also advertise on a seasonal basis. **Mr. Eidelson** – responded that he is not sure these sections apply to the Shaw operations, as what they do does not sound like a grand opening, and they are not a traditional commercial business. Perhaps the Shaw activities and similar are not being adequately addressed. There may also need to be clarification in addressing the allowance of illuminated wall signs versus EMCs in wall signs.

Mr. Eidelson – noted for clarification:

- comments have been referring to section 20.04 allowable signs, PLUS other types of signs. Sec. 20.04 addresses “minor” signs, such as real estate for sale, as opposed to permanent signs. Sec. 20.05 allows by Table for additional wall and free-standing permanent signs, with respective standards and regulations. The Township would require a permit for signs governed by Sec. 20.05 but not for signs under Sec. 20.04.

Doug Shaw – commented that:

- a 24 square foot sign is too small for a business district; 32 square feet would be a better size, including in agriculture districts. Their Halloween banner is about 50 square foot in size. **Mr. Eidelson** - the 24 square foot limitation on a free standing sign is a carryover from the current Ordinance; this proposal is not more stringent. The current Ordinance does not expressly allow for a wall sign in an agriculture district; this amendment would.

Tom Hugsby – stated that he was on the Zoning Board of Appeals in another community.

- Could the VFW or others ask for a SLU variance, or are there other ZBA options? **Mr. Eidelson** – courts do not favor signs as SLU permits, as then the regulation would be based on the governing body having discretion in regulating a free speech issue. Any Ordinance must have clear standards, and if met, signs must be approved. Anyone can come before the ZBA for a variance, but the ZBA has a substantial obligation to not grant variances freely, as again, their decisions are based on discretion. The applicant has the burden of proof of showing a need to the ZBA’s satisfaction that unique conditions specific to that property that are not found elsewhere are sufficient to justify being treated differently than other property owners or uses.

Noland Douglas – had questions and comments:

- Have there been any complaints from neighbors or anyone else about the VFW sign? **Supervisor Howe** – he is unaware of any complaints on the EMC wall sign, but people have been asking if the sign is in compliance with the Ordinance.
- Has the sign been the cause of any accident? **Supervisor Howe** – not that he is aware.
- The sign doesn’t distract anyone. **Chair Thayer** – the Township has never allowed lighted signs in agriculture districts; these proposed amendments would allow limited EMC sign use for the first time in an agriculture district time if they are placed along the US-127 corridor. The Commission has been looking to accommodate parcels uniquely situated along the highway. **Comm. Cargill** – the purpose of this public hearing is to hear from all sides, and that’s what we’re hearing tonight. **Mr. Revore** – without zoning, city-like uses and standards will move into the Township, and Vevay will end up looking like a city, not a rural community. Annexation is always an issue. If the Township is not protected, it will be annexed part by part. The Ordinance is a work in progress.

Greg Shaw – had additional thoughts and questions:

- Given the consideration of uses along the US-127 corridor, is it time to re-zone the corridor? **Chair Thayer** – that has been discussed, and we have decided against doing so. There are the matters of driveways and traffic. **Mr. Eidelson** – on any re-zoned parcels, uses would be by right. In Vevay, the US-127 corridor is about 4 miles in length. What is the predominant character of uses? **Mr. Shaw** – small businesses, commercial. **Mr. Eidelson** – Vevay Township has a Master Plan with policy for growth development and land preservation. That Plan in part explains the zoning pattern today. Your question gets at the broader question of planning, which could be discussed during the Master Plan review. The Township can only justify significant re-zoning if it is allowed by the Master Plan. That can be complicated based on various diverse uses, and would likely create a number of non-conforming structures or uses. For instance, golf courses are not agricultural uses, but commercial. Shooting ranges tend to be in agricultural zones. Vevay’s types of existing uses in the US-127 corridor are not trending towards justification for complete re-zoning.

Laurence Heuer –

- Commented that in Meridian Township, the Commission considers the American flag to be a banner and limits their size to 32 square feet and limits the number of flags allowed to be flown. Both Belle Tire and Meijer have taken Meridian Township to court over this issue, and have lost. He recommended that the Ordinance specifically not limit use of the American flag.

Doug Shaw –

- Commented that on page 6, Sec. 20.04 (A) (7), directional signs - entrance and exit signs - are not to exceed 4 feet in height. That likely needs to be higher to be visible over other vehicles and because of snow cover. Six feet would be more reasonable.

There being no further public comment on the proposed amendments addressing signs, at 8:28 pm the public hearing on signs was closed.

LOT WIDTH AND FRONTAGE: Mr. Eidelson – explained that all of the proposed changes are very similar; the current Ordinance could most likely be interpreted to measure lot widths at the front yard set-back from the right-of-way. This is not a common means of measurement. Most jurisdictions require that measurements be along the front lot line. This is seen in Sec. 3.06 on street access, and also in Sec. 3.07 when the parcel is on a cul-de-sac. All of the proposed amendments are intended to clarify the point of measurement as the right-of-way line.

Greg Shaw –

- Noted that lot width says “horizontal distance”; should it be “parallel”? **Mr. Eidelson** – horizontal means straight across versus following the topography. If side lot lines are not perpendicular to the road, such as on Dexter Trail, “parallel” could allow for a lot to have less than the required width.

VII. Adjournment of Pubic Hearing and Recommencement of Regular Meeting

There being no further public comment, the public hearing was adjourned at 8:37 pm, and the regular meeting recommenced.

VIII. Reports

A. 2013 Annual AGS Building/Zoning Permits Report

The report had been previously distributed to Commissioners, and specified that in 2013 a total of 51 permits had been requested for 64 projects.

B. March 2014 AGS Building/Zoning Report

The report indicated that there had been 8 permit applications: for demolition of an accessory building, construction of a pole barn, a room addition to a house, and the construction of piers on 5 lots in Mason Manor. There were no complaints/authorization to enforce.

C. SLU Check-off Sheets

1. SLU permit #5 – Don Launstein – 384 Every Road - Sawmill
The operations are active and the annual fee has been paid. There have been no complaints and no change in operations.
2. SLU permits #7 and #37 – Family Life Broadcasting – Tomlinson/Ives – Radio Tower
The operations are active, and the annual fee has been paid. There have been no complaints and no change in operations.

To preserve his right to vote on the SLU permit renewals when they are considered by the Township Board, Comm. Walker recused himself from voting on the following motion:

MOTION Cady, seconded by Cargill, to recommend to the Township Board renewal of SLU permits #5, #7, and #37.

CARRIED

IX. Pending Business

A. Zoning Ordinance Amendments (received with last packet)

1. Signs

Supervisor Howe – stated that while the VFW had commented tonight that they had spoken with someone at the Township about their LED wall sign, they had not talked with him.

COMMISSION – all commented that no one from the VFW had spoken with them as individual commissioners.

COMMISSION – had discussion on: the size of EMCs in signs; what sizes are commonly offered for sale; where signs with EMCs should be allowed; and the point of EMCs being integral with a larger sign so as to limit the visual impact.

Mr. Eidelson was asked to draft language in all appropriate sections and tables that would establish the proposed EMC size limitation of 18 square feet, retain the requirement that it be part of a larger sign, and keep the EMC percentage composition of an overall sign at 60%.

APPROVED: 4-0.

Mr. Eidelson was asked to draft language in all appropriate sections and tables that would allow for all free-standing and wall signs to be up to 32 square feet in size.

APPROVED: 4-0.

Mr. Eidelson was asked to draft language in all appropriate sections and tables that would allow wall signs to be illuminated; to eliminate in its entirety Sec. 20.06 (A) on Class 1 Off-Premises Signs; add language in the appropriate subsection of Sec. 20.04 to allow for temporary directional signs; and to draft a new subsection in Sec. 20.04 to address seasonal activities of businesses, with specifics based on the public input heard earlier this evening.

Mr. Revore – given that these are significant changes, he would recommend another public hearing once the changes are agreed to by the Commission.

2. Lot Width

COMMISSION - amendment #11 needs language to be crafted for parcels where side lot lines are not perpendicular to the roadway; Mr. Eidelson will draft new language.

B. Revised Draft Zoning Ordinance Amendments (dated 3-31-2014)

1. Cellular Tower facilities

This item was tabled for the evening.

2. Generally Accepted Agricultural Management Practices (GAAMPs)

This item was tabled for the evening.

3. Solar Energy Systems

This item was tabled for the evening.

X. Any Other Business

Commission – discussed Mr. Eidelson’s March 26 proposal for changing the font, spacing, and formatting of the re-codified Ordinance. The Commission chose Option A for formatting.

Mr. Eidelson – commented that in his work on recodification he found that Sec. 16.06 QQ was added by amendment – twice; first for new language on Wind Energy Conversion Systems, and then for new language on Junkyards. Mr. Revore – recommended an Ordinance amendment to correct the section lettering.

XI. Additional Public Comment

Greg Shaw – announced that the Raynor Park volunteer clean-up day will be Saturday, April 26, from 10 am to 1 pm.

XII. Adjournment

There being no further business, the meeting was adjourned at 9:52 p.m.

John Lazet, Secretary