

**BYRON TOWNSHIP PLANNING COMMISSION**

**December 15, 2008**

**MINUTES**

**CALL TO ORDER, ATTENDANCE & PRAYER**

Chairman Dutch Zeinstra called a regular meeting of the Byron Township Planning Commission to order at 7:00 p.m., on Monday, December 15, 2008, at the Byron Township Offices, 8085 Byron Center Avenue SW, Byron Center, Michigan 49315.

Commission members present were: Dutch Zeinstra, Seymour Gould, Jeff Gritter, Mike Marshall, James Faber and John Stone. Absent: Tim Slot. Also present was Township Attorney James Brown, Township Planner Larry Nix & Brian Wegener, Building Inspector Randy Zomerlei and Recording Secretary LaVonne Kuiper.

Prayer was offered by John Stone.

**APPROVAL OF MINUTES**

A motion was made by Stone supported by Faber that the minutes of the November 17, 2008 meeting and the minutes from the Special Meeting held on December 1, 2008 be approved as written.

Yes - 6. No - 0. Absent - 1. Minutes approved

**PUBLIC COMMENTS**

No public comments were made.

**BUILDING INSPECTOR REPORT**

The building inspectors report was received and placed on file.

**SITE PLANS**

No site plans were submitted for consideration.

**To Set Public Hearing – Dykhouse Construction - (High Pointe Community Church)** - requesting a Special Use permit to erect a new church building for the property located at 2871 - 76<sup>th</sup> St. SW.

An application for Dykhouse Construction was reviewed.

A motion was made by Gould supported by Faber to set the public hearing for the next regular meeting to be held on January 19, 2009.

Yes - 6. No - 0. Absent - 1. Motion carried.

**To Set Public Hearing – Masterpiece Flower – for the final PUD Site Development Plan for the property located at 8122 Clyde Park Ave. SW**

An application for Masterpiece flower was reviewed.

A motion was made by Stone supported by Gritter to set the public hearing for the next regular meeting to be held on January 19, 2009.

Yes - 6. No - 0. Absent - 1. Motion carried.

**Public Hearing – Michigan Planning Enabling Act 12 of the Public Acts of Michigan of 2008. The amending provision covers membership of the Board, terms of office, jurisdiction, decisions of the Board, election of officers, meeting procedures, alternate Board members, removal of Board members and appeals from decisions and other matters.**

Chairman Zeinstra declared the public hearing open. Secretary Jeff Gritter read the public notice and affirmed that the notice was published once in the South Advance.

Chairman Zeinstra asked Attorney Jim Brown to give a brief report on the changes that are proposed for the Township Zoning Ordinance.

Attorney Brown stated that the proposed zoning ordinance amendment would revise Article XXII of the zoning ordinance covering the Board of Appeals and that would make other changes in the notice and amendment provisions of Articles XXII and XXIII of the ordinance. Because most of the amendments relate to the Zoning Board of Appeals he is in the process of making other changes in the Board of Appeals chapter for clarity and completeness. The provisions on dimensional variances in Article XXI and on land use variance have been placed in two different sections so as to more fully differentiate between these two types of relief. Some additional standards for granting of dimensional and use variance have been added. These are commonly used standards among other West Michigan townships. A one year time limitation on the commencement of work authorized by variance has been included. The planning Commission members should consider whether they wish to include this provision. Article 12, the members of the Board of Appeals who are members of the Planning Commission and or the Township

Board may not participate as Board of Appeals members on matters on which they previously voted in their respective capacities on the Township Board or the Planning Commission. Additional provisions on alternate members of the Board of Appeals have been included. A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office, based upon a written statement of the grounds for the proposed removal and after a public hearing by the Township Board. At the public hearing the member who is proposed to be removed must be given the opportunity to address the Township Board. Also a member of the Board of Appeals must disqualify himself or herself from voting on a matter in which the member has a conflict of interest. If a member fails to disqualify himself or herself from voting in a matter in which the member has a conflict of interest that failure to disqualify constitutes malfeasance in office.

Chairman Zeinstra opened the hearing to the public.

Abe VanderWoude – 8530 Clyde Park Ave. SW who is the chairman of the Byron Township Zoning Board of Appeals commented that he has a concern with Article 21.6 and 21.7. By requiring the applicant to meet three of the three requirements really makes it harder to grant a variance. It really puts limitations of the ZBA.

Attorney Jim Brown commented that #4 was added and keep in mind that with a public hearing and the public comments that will be made should give a good indication if there is an issue and if it is best or not best for the Township.

No further public comments were made.

Chairman Zeinstra closed the public portion of the meeting.

Seymour Gould commented that he also feels the way it is written will be difficult for applicants to meet. If we deny more requests we could be faced with more court actions. Every situation is different.

Attorney Jim Brown commented that if the Planning Commission feels this is too strict that it should be changed now instead of amending it later.

Commission member Jim Faber commented that he came to the Board of Appeals for a variance and it was a learning experience. It did turn out favorable but how many times do variance request come up? He agrees that he had a hard time meeting two out of the three condition. Does the ZBA approve more request than deny?

Seymour Gould stated that to clarify what Abe is getting at is the Byron Township Zoning Board of Appeals has always tried to help the applicant. We maybe don't always grant what they want but we work with the applicant to find what is the minimum variance to consider.

It was the consensus of the Planning Commission members to allow some flexibility regarding variance request for both dimensional and use variances by having an applicant meet 3 of the 4 standards.

James Faber stated that the Township Zoning Board of Appeals does a good job and they are able to give and take a little.

Attorney Jim Brown commented on 21.7 of the ordinance regarding Use Variances. If the Board of Appeals has a use variance it has to go to the Planning Commission for study and a report. He did not include this in the new draft. Should it remain with the Zoning Board of Appeals since they are an independent body not like the Planning Commission. It was suggested to maybe do away with a land use variance since they are so rare.

Seymour stated that the Zoning Board of Appeals does not deal with use variances very often, but we do have one coming up at the next ZBA meeting so he does not want to do away with this opportunity for the Township residence. 99.9% of the time the Board of Appeals handles dimensional variances but it is a rare occasion to have a land use variance.

Larry Nix also made a comment on Article 21.8 regarding the time limitations on variances. He feels that maybe we should take the 90 days out and replace that with 6 months as in the current ordinance.

Chairman Zeinstra asked Randy what his opinion was regarding the time limitations.

Randy thought it should remain the 6 months because sometimes it is 6 months or later before the people get their permits due to certain circumstances. Going back to 6 months would be better.

Abe VanderWoude commented that he likes to get a report from the Planning Commission with their thoughts and ideas. By getting that report from them it gives the Board of Appeals members time to think about the land use request.

Seymour did say that the Planning Commission should not influence the Board of Appeals regarding their decision.

It was the consensus of the Planning Commission to leave it in the Ordinance.

A motion was made by Gritter supported by Gould to recommend to the Township Board approval of the Michigan Planning Enabling Act 12 of the Public Acts of Michigan of 2008 with the changes that were discussed.

Yes - 6. No - 0. Absent - 1. Motion carried.

**Just Properties LLC (Ric Johnston to rezone property located at 7164 Clyde Park Ave SW (portion of) and 7160 Clyde Park Ave SW from R-U Urban Residential to D-1 Industrial. (Tabled at the January 21, 2008 meeting.)**

Larry Nix commented that this application can remain on the table.

**Miscellaneous**

□ **TOWNSHIP BOARD**

Tim Slot was absent.

□ **ZONING BOARD OF APPEALS**

Seymour Gould commented that they are still dealing with billboard issues.

□ **BYRON TOWNSHIP ORDINANCE**

Planner Larry Nix commented that he has been working with Attorney Jim Brown on some appropriate additions to the Township Ordinance. At the November meeting he indicated that they would provide a suggested priority list of various amendments that should be considered. In this way the work involved in revising portions of the ordinance could be divided into manageable segments and they could be considered, then developed into a final form for public hearing and then recommended to the Township Board without the need to wait until all possible changes have been completed. A complete rewriting of the zoning ordinance is not necessary but we suggest that the Commission proceed to consider various amendments and other improvements. A copy of that memorandum stating the various amendments and other improvements is attached and made part of these minutes. If everyone agrees with this suggestion they will prepare and submit a draft of the suggested amendments for your review at the January meeting.

James Faber asked if they intend to do these changes in segments which he feels would be a good idea.

Larry Nix commented that they do not intend to change the whole ordinance. Just clean up and make it easier to understand. All Commissioners were in agreement with the proposed approach and requested Mr. Brown and Mr. Nix to proceed.

□ **MERESTONE GROUP (VALLEY VISTA)**

Chairman Zeinstra stated that no one is present for the Merestone Group.

Seymour Gould commented that this is his last chance to have input on this project and he hopes everyone understands that the housing/condos are a great concern to him. The Planning Commission has to take a good hard look at this. By reducing even one of the buildings would give more green space.

Chairman Zeinstra agreed with Seymour.

□ **RESIGNATION OF DUTCH ZEINSTR**

Chairman Zeinstra stated that as of December 31, 2008 he will be resigning from the Planning Commission. He stated that everyone has been so supportive and he has enjoyed working with everyone over the past 15 years. He has enjoyed it but it is time to step down.

□ **PLAQUE PRESENTATION TO SEYMOUR GOULD**

Chairman Zeinstra presented Seymour Gould with a plaque from the Township showing their appreciation for the 20 years he has served the Township. He thanked him for his faithful service and he will be missed.

Jim Faber stated that has being a fairly new person on the Planning Commission he wished Seymour the best in his retirement and told him he is a class act and will be hard to follow.

Mike Marshall agreed with Jim and thanked him for his expertise and example he has set.

Township Planner Larry Nix then presented Seymour with a certificate of appreciation from the Planning Commission members.

Seymour thanked everyone and stated that the years he has spent on the Planning Commission has been a wonderful experience and he has learned a lot and hopes that he has been fair to everyone. The new members can handle this just fine.

## **Adjournment**

A motion was made by Stone supported by Gould that the meeting be adjourned.  
Yes - 6. No - 0. Absent - 1. Motion Carried

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Jeff Gritter, Secretary  
Byron Township Planning Commission