



Dexter Township

planning commission

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John Shea,
Chair
Ken Tappe,
Vice Chair
Vickie kooyers
Twp. Brd. rep.
Mary Adams
Secretary
James Korcek
Molly wade
Tom Lewis
Commissioners
Kim Jordan,
Recording Secretary

REGULAR MEETING OF THE PLANNING COMMISSION

Tuesday, September 9, 2008 7:00 PM

Present: Ken Tappe, Vice Chair; Vickie Kooyers, Township Board Representative; Mary Adams, Secretary; James Korcek and Tom Lewis.

Ken Tappe will act as Chair in John Shea's absence.

Also present: Pat Kelly, Supervisor, and Patrick Sloan, Director of Planning and Zoning.

Absent: John Shea

The meeting was called to order at 7:00 PM.

I. Approval of Agenda - Motion by Lewis, supported by Kooyers, to approve agenda as submitted. **Carried 5-0.**

Molly Wade arrived at 7:04 PM.

II. Approval of the Minutes - Motion by Adams, supported by Korcek, to approve the minutes of August 26, 2008 as amended. **Carried 6-0.**

III. Public Comment - None

IV. Action Items -

1) Verizon Wireless, Site Plan/Special Land Use –

Bienenstock Court Reporting & Video was present and taking minutes for Verizon Wireless.

Sloan informed the members that representatives from Verizon and the University of Michigan met last Wednesday, September 3, 2008, to discuss Verizon's pending lease agreement. He noted that the Township received two letters with regard to the outcome of this meeting today via FedEx, Tuesday, September 9, 2008. One from the University of Michigan (U of M), dated September 8, 2008, and one from Jonathan R. Crane, P.C., dated September 8, 2008. Copies of both letters are in the members' folder this evening and copies are on file at the township.

Sloan gave an overview of the letters previously mentioned, stating that there were three (3) discrepancies the parties are unable to agree upon and/or resolve:

1. U of M wants to limit Verizon's frequency band and Verizon wants to broadcast only within FCC frequency bands.
2. Verizon wants the FCC to resolve conflicts between themselves and the U of M should any interference issues arise in the future. The U of M wants the Township to be the arbitrator between the two parties.
3. U of M wants Verizon to test all new frequencies and/or configurations. Verizon is not in agreement with this condition. They said as new frequencies are acquired, they will abide by the FCC's regulations and not the U of M's.

Sloan noted for the record that courtesy copies of both letters have been sent to the Township attorney for review. However, it is unknown at this point if the Township attorney has read them and/or had time to review.

Jim Kosteva, representative for the University of Michigan, spoke on behalf of the observatory. He said that the observatory has fifty years of history at the current site with governmental investment funding. He said that they cannot simply stand idle and have a simple open-ended agreement with Verizon. He said that Verizon could change hands in the future. They want assurances of no interference and the recourse for resolution if needed. U of M is asking that the Township be the arbitrator of possible future disputes as they relate to the special land use permit.

Tappe asked what was the nature of the current testing regarding what would be the worse case scenario with regards to interference, and testing.

George Latimer, U of M observatory engineer, said that extensive testing was done on-site over a period of 6-7 hours and no interference was detected. However, U of M is concerned and is looking for further assurance that newly acquired frequency bands by Verizon will not interfere with the longstanding uses of the observatory in the future.

Jonathan Crane, P.C. Attorney and Counselor for Verizon Wireless, stated that Verizon's site plan application has been going on since April of 2008. He said that interference testing was done on April 4, 2008, and that they never received a response back from U of M. He said that the FCC registers all frequencies and sells them. He noted that every possible frequency which is currently available was tested. Verizon is currently and always has been in good standing with the FCC. He said that any problems and/or issues with frequencies should be taken up with the FCC because it is not the job of the Township and/or Planning Commission to regulate.

Wade asked Crane to confirm his remark that U of M never acknowledged the testing results that Verizon completed in April 2008.

Crane said that's correct. They never voiced any concern or complaint and never responded to Verizon's test results. When asked if Verizon would make its test results available, Crane stated that they would not.

Adams asked if Verizon has ever encountered any other similar pre-conditions as they have with the U of M.

Crane responded, No, this is the first time.

Korcek commented that it is the Planning Commission's responsibility to promote general harmony within the community. He said that, during the Public Hearing, Crane brought up the lease agreement and stated it would be resolved easily. Harmony is a concern and stated that the Planning Commission cannot be an arbitrator for the two parties. It is unfortunate they could not resolve their issues.

Lewis asked whether or not there was an agreement between the two parties?

Crane answered there was that they did not and stated that the application has been going on for a long time and they are looking for planning commission approval this evening of a special land use permit.

Kooyers asked if a Land Division was needed.

Crane said, maybe. However, they need their Special Land Use permit approved first and would like to move forward tonight.

Tappe said he is leaning toward tabling the issue until the Township attorney can review.

Sloan said that the Township attorney, Peter Flintoft, has not commented on either of the letters that have been submitted to the Planning Commission this evening.

The most recently submitted letters from the University of Michigan and Verizon Wireless are on file at the township hall for public review.

Sloan stated that the Planning Commission does have an obligation to the Special Land Use review process to promote general harmony in the community as well as compliance with the technical aspects of the use. He noted that ITC, a recently approved Special Land Use, has come back to the township with tangible noise issues.

Tappe said that we have an obligation to the community. We need time to confer and solicit advice from our attorney. He suggests tabling.

Crane asked for a vote tonight and wants to move forward.

Kooyers said that the members have not had enough time to review the two letters submitted for the first time this evening and would like to have comments from the attorney.

Kosteva said he believes there is a way to move forward: To ~~accept~~ ~~except~~ U of M's conditions this evening and protect their investment. He believes the Township has the right to impose and enforce conditions of a Special Land Use. Just like they enforce the regulations of a day care parking lot or any other SLU regulations.

Jack Irwin, no address. Said he didn't understand why Verizon doesn't know what each proposed frequency will do.

Bill Rowe, 10101 North Territorial Road -stated that the testing was asked to be done in order to lease the land.

Crane praised Mr. Kosteva for his summary of a regulating a day care parking lot. However, the radio spectrum/frequency cannot be regulated by the Planning Commission. The FCC is the only governmental agency with authority to regulate. He stated again that Verizon will not turn over authority and/or arbitration to the Planning Commission. It is an FCC issue.

Lewis asked if Verizon would agree to test frequencies in the future.

Crane answered no. But co-locators will.

Tappe stated that the members were not in the position to adopt a resolution this evening. We haven't had time to review a draft of a resolution, the chair is absent, and new information has been given to us this evening that needs to be further reviewed.

Sloan commented that it is wise of the members to table for further review.

Motion was made by Adams, supported by Wade, to table Verizon Wireless Special Land Use application until September 23, 2008. Carried. **6-0**

Planning Commission discussion.

Lewis suggested that they ask Flintoft to identify just what the commitment of the Planning Commission is. Whether it be technical and/or operating regulations. He then asked Crane if any new technology came in would they use it.

Crane said yes and only if it is federally licensed.

Korcek stated that this situation is very unique. He is in favor of the cellular tower and believes the community is in need of one. However, the members have an obligation to the community and responsibility in keeping general harmony.

Crane stated that he is available to the U of M attorneys at any time and gave out his cell number.

No further discussion.

2) Amendments to the Planning Commission By-Laws-

Sloan said that in the Commissioners' packet this evening is a draft copy of the "Dexter Township Planning Commission By-Laws" per the revision of the new Zoning Enabling Act. He said that at this time he is seeking comments from the members of their likes and dislikes. They can e-mail their comments to him.

No further discussion.

3) Review Zoning Ordinance Amendments 34-7-

Sloan informed the members that this batch of proposed Zoning Ordinance amendments of 34-7 was derived from the original version zoning amendments 34-6. He said that the amendments in batch 34-7 are some of the more complicated ones. He gave a brief overview of each amendment.

These amendments will be further discussed at the Planning Commission meeting on October 14, 2008.

V. Township Board Up-Date -

Kooyers noted that the Township Board has not met since the last Planning Commission meeting and asked Pat Kelly, Supervisor, to share the news about the Townships most recent State Tax Commission 14 point review.

Kelly told the members that last year the Township received the lowest score from its 14 point review. But she is now pleased to announce that our most recent review passed by receiving the highest score possible.

VI. Concerns of Commission Members, Director of Planning and Zoning, Supervisor, and Recording Secretary-

Sloan informed the members that Hartman Farms application for Final Site Plan has been submitted

VII. Public Comment – None

VIII. Future Agenda Items -

Tuesday, September 23, 2008

- 1) Public Hearing for ITC Majestic Station, Amended Site Plan/SLU
- 2) Dexter Dental Site Plan Review
- 3) Hartman Farms, Final Site Plan
- 4) Verizon Wireless, Site Plan/SLU

Tuesday, October 14, 2008 – Work Session

- 1) Zoning Amendments 34-7

IX. Adjournment – Tappe, acting Chair, declared meeting adjourned at 9:14 PM.

Respectfully submitted,

Kimberly Jordan, Recording Secretary

Mary Adams, Secretary