

West Bloomfield Planning Board Workshop

August 17, 2005

PRESENT: Chrmn. Gripe, John Champlin, Todd Campbell, Scott Harman,
Dick DelVecchio, Andrea Scott, Bob DeSanctis & Scott Storke, CEO

ALSO PRESENT: Supervisor Kay Baier, Clyde Rehberg, Guy Ball, Jim Powers,
Art Babcock, Kris Hughes (Ontario Co. Planning Bd.) & Tim Rock (Larsen Eng.)

7:30PM - Chrmn. Gripe called the meeting to order. There are (3) Public Hearings scheduled for this month and the board members briefly discussed each one.

Deborah Charlebois (Bill Manely) - (2) Lot Subdivision.....The Chrmn. passed out maps for review and noted Tim Rock's comments on the driveway. Chrmn. Gripe asked Art Babcock if he had any additional comments? Art noted that he had sent the Site plans to DOH for review and they should be back by next week. He also inquired whether or not Approval of the Subdivision could be given before the Site plans come back from the Health Department, as Mrs. Charlebois needed to close on the land as soon as possible? Tim Rock stated that, even if DOH modified the Septic System, it would not affect the Site plan submitted to the Planning Board for approval.

Keith Nally - (2) Lot Subdivision.....Art Babcock passed out maps to the Planning Board members. He also gave Tim Rock a copy for review and Tim noted that he will get back to us by next week with any questions or concerns he may have on this Subdivision. Art went over the plans and briefly discussed the results of the perk tests, leach fields and the emergency vehicle bypass area that would be required. He also noted that a Driveway Easement would be necessary and a Legal Agreement would be drawn up between the two parties involved. Dick DelVecchio discussed the possibility of a conservation easement and asked Art if any of the area was considered Wetlands? Art replied that he had checked on that but has not been able to find the answer to that yet. Kris Hughes informed Art that he could call the County Planning Office for help with that information. Tim Rock asked Art if he had checked the Flood plans for the area and also inquired if the Well was 100'? Art replied that he had checked the Flood plans and the property was not in a Flood zone. He noted it was in Zone C. He also affirmed that the Well is 100'.

There were no further questions and Chrmn. Gripe advised Art that he needs to submit the Subdivision Application, SEQRA Form, and AG Data Statement prior to next weeks meeting. He also asked him to find out if there were any Wetlands in that area.

Annette Zielinski - (2) Lot Subdivision.....Chrmn. Gripe passed out the maps for review. Tim Rock noted that, although the Water Main is maintained by Monroe County Water Authority, it is in the West Bloomfield Water District and the Town would have to get approval from the Authority to tap the main. We also need extra copies of the maps.

Planning Board Workshop

8/17/05

SBA/Cingular Wireless....Chrmn. Gripe stated that Cingular Wireless has withdrawn their Application for a Cell Tower on County Road 14, in the town of Ionia.

Supervisor Baier....Chrmn. Gripe noted that Supervisor Baier was present, along with Kris Hughes from the Ontario County Planning Board. Supervisor Baier had asked to be put on tonight's agenda as she wanted to speak to the Planning Board members about the Application from Tom Tenny for a (5) Lot Subdivision they had approved last month. Supervisor Baier first noted that she wanted to thank the Planning Board for allowing her to speak at tonight's Workshop meeting. She then advised the members that after reading the minutes from last months Planning Board meeting on 7/20/05 she, along with the rest of the Town Board members, were "not at all pleased" with the Planning Board's decision to approve Tom Tenny's Subdivision. She stated that they consulted with the attorney to see if "anything was amiss" in the Application process, that would allow for the approval to be rescinded. The attorney has advised the Town Board that a "Jurisdictional Defect" has occurred as a result of the Planning Board's decision to have the Developer's Engineer (Art Babcock) remove the Signature Lines from the Tenny Subdivision Maps. Supervisor Baier noted the Subdivision is not Legal and the Town Board is requesting the Planning Board's decision to Approve Mr. Tenny's Subdivision be reversed. She added that, if the Planning Board is concerned that Mr. Tenny may bring an Article 78 action against the Town, it would be a problem for the Town Board to deal with and they (the Town Board) will assume all responsibility. Supervisor Baier went on to say that, after reading the Planning Board's June 22nd minutes, she thought the Planning Board was finally on the right track when it came to Subdivision requirements and whether or not Site plans should be waived. Then she added, after reading the July 20th minutes, she was shocked to see that the Planning Board had approved Tom Tenny's Subdivision without full Site Plans for each lot. She then addressed Scott Storke and reprimanded him in front of all those present for an item she read in the July 20th minutes. She commented on how upset and disappointed she was with Scott for advising the Planning Board to remove the Signature Lines from the Tenny Subdivision Maps. She noted how inconceivable it was to her that Scott would even suggest this to the Planning Board since she had previously discussed Subdivision issues with him. In reply, Scott asked if he could "explain that moment" and proceeded to clarify that, when the Planning Board members were reviewing the maps for approval, he pointed out that they had not been sent to the Town Engineer, the Fire Chief or the Highway Superintendent yet, as there was no information on the maps that required their review or comment. He suggested that first the Planning Board decide what information they need in order to make an informed decision on this application. He recommended that, if the Planning Board were ready to vote on the maps as they were submitted, they should ask that the Signature Lines for the Town Engineer, Fire Chief and Highway Superintendent be removed because they would not sign the maps as submitted.

Planning Board Workshop

8/17/05

Scott also suggested to the Planning Board that, if they wanted to have the maps signed by the Town Engineer, Fire Chief and Highway Superintendent, then they would need to inform Mr. Tenny that additional information was required on the maps. Scott was very adamant about the fact that he never tells the Planning Board what to do. He noted that he attends the meetings and is there to answer any questions the Planning Board members may have and offers advice when they ask for it.

Supervisor Baier replied that all Signature Lines should remain on the maps and each line should be noted N/A when appropriate.

Art Babcock from Kent Land Surveying was present and asked Supervisor Baier where it is stated in the Subdivision Regulations that maps must contain all those Signature Lines? Supervisor Baier did not know where or if that information was listed in the current regulations but noted the Town Board had met with the Planning Board and that it was required, per the February 18, 2004 Minutes. Todd Campbell asked if there was a check list available of all the items that should be included on Subdivision Maps? Kris Hughes replied there was no list available and noted that items the Planning Board would like to have included as part of the Subdivision Regulations can be done administratively without an amendment to the Regulations. At this point in the meeting Kris Hughes spoke in length about Subdivisions, Site Plans, Waivers, and the hard job the Planning Board faces every time they have to decide on what course of action to take on these applications. Kris noted that Waivers are supposed to be exercised with great caution and must only be used in extreme circumstances when nothing else will work. He stated that Waivers should not be used as carte blanche by the Planning Board. He went on to say that he knows the local ordinance is not perfect and is very old. He realizes the time has come for the law to be updated. However, the Waiver law has been used by this Planning Board inappropriately. Kris noted that, if you act outside your authority, you are acting unconstitutionally, which is where the jurisdictional defect law applies and you can be asked to reverse your vote. He added that you cannot use the Waiver provision to change the law. He advised the Planning Board that they must hold everyone to the same standard on all Subdivision Applications and everyone should be required to submit the same information on all maps.

Chrmn. Gripe commented about other towns and their ability to approve subdivisions without full site plans. He spoke about the difference between subdivisions like Factors Walk and Tower Lake Estates, in comparison to subdivision applications being applied for by farmers in our town who are trying to sell some of the land they own as they are in need of the money. He explained how the farmer is merely concerned with getting the approval needed to divide the land into parcels he can sell and, in most cases, does not have the money required to have an Engineer provide Site plans for these lots.

Chrmn. Gripe attempted to show Supervisor Baier maps from previous Subdivisions that the Planning Board had approved as "Land Transfer Only".

Planning Board Workshop

8/17/05

However, the Supervisor stated that it was her understanding, as well as the rest of the Town Board members, that the Planning Board was moving away from that direction. She read a portion of the letter that Mr. Domville had sent the Planning Board on 11/3/03 noting that full site plans were required on all Subdivisions. She reiterated this again and noted that she, along with the rest of the Town Board, want to see full site plans provided on all subdivisions and does not want any Waivers granted. Dick DelVecchio asked about the purpose of the Waiver Clause in the Subdivision Regulations. He wanted to know why the Town would leave that paragraph in the Regulations if they did not want any waivers granted? Supervisor Baier noted that the Town Board is considering having the Waiver Clause removed from the Subdivision Regulations.

Chrmn. Gripe asked if there were any other questions or comments? Councilman Ball remarked that he was also shocked at the decision made on the Tenny Subdivision. Councilman Powers thanked Kris Hughes for being present at tonight's meeting and agreed that, after listening to some of the issues that come before the Planning Board, they do indeed have a hard job.

John Champlin noted that he will be applying for another Subdivision in the near future and explained that his intention is for the maps to show there is plenty of room for the location of a House, Septic System and Well on each parcel. The maps will also show Site Distances and all Setbacks. He will also ask the Engineer to add a note to the maps indicating that, although a Perk test has been performed, this is not an approved building lot and additional Engineered Site plans must be submitted prior to a Building Permit being issued. Kris Hughes advised John that all Subdivision Applications must be treated equally and are subject to the rules & conditions set forth in the Subdivision Regulations. Chrmn. Gripe thanked Supervisor Baier, the Town Board members and Kris Hughes for attending tonight's Workshop meeting and noted that the Planning Board will discuss the issues regarding Tom Tenny's Subdivision at their regular meeting on 8/24/05.

Supervisor Baier was not pleased with that and advised Chrmn. Gripe that she would like the Planning Board to vote on this matter tonight. Chrmn. Gripe noted that it is not customary for the Planning Board to vote at Workshop meetings and he would prefer to adhere to their usual practice of voting at their regular meetings. Supervisor Baier persisted and stated that she would like them to vote on this issue tonight. She advised Chrmn. Gripe that a Legal Notice had been published in order to advertise tonight's joint meeting between the Town Board and Planning board, therefore providing the proper forum needed in order for the Planning Board to vote. Chrmn. Gripe asked the Supervisor exactly what she wanted the Planning Board to vote on? She replied that the Town Board wants the Planning Board to vote on reversing the approval of Tom Tenny's Subdivision due to a Jurisdictional Defect and to also require that full Site Plans be submitted prior to a rehearing on this Subdivision. Chrmn. Gripe asked Supervisor Baier exactly what the legal issue was regarding this application? He wanted to know if it was the fact that the Planning Board waived full Site Plans or the removal of the Signature Lines? She replied the Legal issue is with the removal of the Signature Block.

Planning Board Workshop

8/17/05

Todd Campbell asked how the Planning Board would accomplish what the Town Board is asking them to do? Supervisor Baier recommended that Chrmn. Gripe send Mr. Tenny a letter advising him that, due to a Jurisdictional Defect, the Planning Board has decided to reverse their decision to approve his Subdivision. She noted they should include in the letter that, it has been brought to our attention, we acted without the proper authority when we requested the Developer's Engineer to remove all Signature Lines, with the exception of the Planning Board Chairman. Therefore, our decision to approve your Subdivision is not legal. We have received instructions from the Town Board that full site Plans will be required prior to the Board proceeding any further with your application. Chrmn. Gripe asked if any of the Board members would like to make a motion on this matter? Todd Campbell made a motion to reverse the decision on the Tom Tenny Subdivision due to the fact that they have been informed by the Town's Attorney that a Jurisdictional Defect has taken place regarding the removal of the Signature Block. Motion was seconded by Bob DeSanctis with ayes by Chrmn. Gripe, Dick DelVecchio, and Scott Harman. There was one opposed (nay) by John Champlin. **Therefore, motion carried and Approval of the Tom Tenny Subdivision was rescinded.**

Tim Rock (Larsen Engineer) - Drainage District @ Tower Lake Estates.....

Tim explained the benefits of a Town Drainage District to Supervisor Baier and the rest of the Town Board members. He noted that it is simply a mechanism the Town Board can use to assess the costs of maintaining the drainage improvements to the residents who benefit from them, as opposed to passing the costs on to all the people in Town who pay taxes. He added that, if the Highway Department did not want to get involved, the Town could "bid out" mowing around the ponds. When he was done speaking, Tim Rock asked if anyone had any questions? Supervisor Baier asked Kris Hughes if he would comment on this matter. Kris asked why the Town would want to get involved in this and noted that another option would be to have the Developer provide a Homeowners Association. Kris stated that a Homeowners Association could be required as a Condition of Approval and the following items be noted:

1. There must be a guarantee that the Town has the authority to go on the property at anytime.
2. It must be noted on every property owner's Deed that they are a member of the Homeowners Association and all that it entails, in order to maintain the subdivision.
3. If the Town finds that the Pond is not being maintained, they will hire someone to maintain it and put a Lien against the property owners.

When Kris Hughes was finished speaking, Tim Rock stated that he disagrees with (going the route) of establishing a Homeowners Association because, if the dam should happen to get backed up, it would cost the Town quite a bit of money to take care of it.

Page 6

Planning Board Workshop

8/17/05

Kris Hughes and Tim Rock discussed the issue between themselves. When they were finished speaking, Kay noted that the Town Board would have to look into the issue of a Drainage District. She also asked if it would be possible for the Town to require both a Drainage District and a Homeowners Association? The answer was yes. There were no further questions or comments on this matter.

Chrmn. Gripe advised the Planning Board members to look over the Minutes for June and July so they may be able to vote on them next week.

9:45PM - There was no further business to come before the board and John Champlin made a motion to adjourn the meeting. Motion was seconded by Dick DelVecchio, with ayes by all, and motion carried. Meeting adjourned.

Respectfully Submitted,

Debbie MacDowell