

GOLDEN TOWNSHIP PLANNING COMMISSION
MINUTES
JANUARY 28, 2003

7:40 PM Meeting called to order.

Present: Helen Lefler, Terry Wiegand, Bill Kolenda, Anita Foster, Carl Fuehring, Steve Marciniak, Leo Terryn, Brad Whitney

Absent: Avery Wilson

Minutes of the November 26, 2002 and the January 15, 2003 meetings accepted as written on a motion by Carl and supported by Steve, all aye, motion passed.

New Business-

Site Plan Review in re: Application for Zoning Permit to change use of parcel 64-006-180-017 from residential to commercial. Located in the Resort Commercial District.

The property is owned by Dean and Renee Berens. Applicants are Susan and Sid Smith, dba Suncatcher's. County building and health permits also required.

Jake explained that the person operating the business is the applicant. This will change a non-conforming use to a conforming use.

Anita motioned to accept with the condition that the sign has a 10' setback. Terry supported the motion, all aye, motion passed.

Old Business-

Breakaway Bay PUD Preapplication Conference. This is a presentation of preliminary PUD plans and concepts for informal, non-binding informational purposes.

J. Glenn Sperry spoke in behave of Steve Bruce, basically reviewing his memorandum of January 22, 2003 that had been submitted to the board. He did stress for the definition of a resort from the board.

Helen informed him that at this point the definition of a resort is not a piviotal issue. His reading of 16.51 is correct. She is concerned with DEQ issues, ie- water supply, service buildings, sewage disposal. There are several issues against this project ie- ground water, septic. She advises to make note of the fact that the PUD application approval that is forwarded to the Township Board is not a ministerial function of this board, it is discretionary. Even if all of the standards of approval are met, for good reasons, this board might decide not to reccommend approval to the Township Board. When it was stated that the definition of a resort was not a pivotal issue, she had in mind- #1 a distinction between this project and the Hide-away project, there was not one voice of

opposition to the Hide- Away project. There has been a great deal of opposition to this project. That is something that we would take into consideration. The environmental effects of some of that land that is fragile, close to being wetland, etc. The additional septic use, the effect on ground water, etc, will have to have studies to see if that is at all acceptable. The matter of enlarging a non-conforming use and creating a commercial use

that doesn't exist now by expanding the store. What is proposed is so different from what is there now that it is definitely an enlargement in building and use. Those are things that we will take into consideration. Our choices range from shutting down the entire illegal operation to approval. It is very likely that we will decide something in between. This is our first chance to address this issue since the six month moratorium.

Brad asked what type of lodging accommodations are being considered.

Steve responded that he plans on having 16'x24' cabins located on the original sites approved by the DEQ. He is trying to scale back the resort part of the PUD.

Mr. Sperry added that the new plan is less intensive use of the entire site, it will have significant buffers and green space and set backs to make it compatible. When we bring in our site plan we will try to meet all the requirements and go to work on it.

Dave Roseman commented that as he read things there are three illegal non-conforming uses at this time. Keyholing is one. It is not permitted anywhere in the Master Plan or the Zoning Ordinance. He doesn't see how this could possibly be allowed. The store is a commercial activity- The Master Plan and the Zoning Ordinance are clear on commercial activities. It is clear that the expansion of the store is not meet the spirit of the PUD. As he understands it, it does not meet the case laws that apply to PUD's. PUD's cannot expand a non-conforming use. The third, is the present operation is an illegal non-conforming use. The present operation is not a resort. It is a campsite. Most of what is there are RV's. There are special rules in the Zoning Ordinance for RV's. They would not be permitted in this area as they are being used at the present time. The definition of a resort in the ZO is very clear. It focuses on buildings and lodgings. Campsites are incidental to the resort. To have 12 buildings and some 200 campsites is the tail wagging the dog. He doesn't see how the definition can be stretched to call this a resort. If it is not a resort, it is not a permitted use even with a PUD. These are real problems with this proposal. It doesn't even get into ground water run-off, etc. Going from 61 permitted sites to 230 sites is an enormous expansion of a non-conforming use.

Helen commented that if it were a resort now, which she does not believe it is, it would be a non-conforming use, because, as Mr. Sperry pointed out, a resort is only allowed as a part of a PUD. This is not now a PUD. There were less than 100 lawful non-conforming sites at the time the ZO went into effect. The additional sites that were added had the effect of making those original sites illegal non-conforming sites. It took away from them the status that they had. There is case law to show under those circumstances the Township can get rid of the whole operation. The job of this

commission is to access the situation and to see what the law allows. This presentation has been made well. Thank you for your input.

Mr. Sperry asked how long before a meeting do we need to receive the information?

Jake remarked that this is a new application and they will have to start from scratch. A couple of weeks.

Helen said that she felt it would be best for us to get back with them to advise them where we are coming from.

Carl has questions, but not at this time. As far as ground water, etc., the State would supercede us. The presentation has been well done, but there are issues that we have. The issue of the store, has to keep in mind of the location, etc. If the campground was illegal in its expansion both by the DEQ and the Township, can we approve this illegal project by circumventing and making it ok by using a PUD? Steve has a right to do something with his project and we have to make it compatible with the community.

Helen remarked that would be contrary to the Master Plan.

Steve said that somehow Wheeler's got all their permits except for the Township's. Now we are being held up because of this. Jake and I felt that a PUD would be required anyway and that a PUD would resolve the errors of the past and he still feels that way. The one issue is fairness. He feels he is being hung up to dry because Wheeler's, the Health Dept., the Electrical Dept. all made mistakes. This is on 100 acres. The Hide-Away which you reapproved last August for a change during this moratorium on zoning, they are on 26 acres. They have the same amount of pollution that is going into the lake that we think is a real problem. The campground has always been permitted.

Helen informed Steve that the action taken last August by this Commission was for a diversion of water run-off. It was not a re-zoning, it was ordered by the drain commissioner to resolve a problem.

Dave Roseman had two questions. How many campsites were with the Health Dept?

Steve responded that the license is for 176 sites, but the expansion is for 230 sites.

Dave's other point he wanted to make is that they do not have any quarrel with the people that are there now. He wanted to know how many contracts there are now?

Steve said that he has decided that he is not even going to talk about the marketing strategy. There is way less use. If he filled them up like he could, there would be lot more use. The true problem here is the use of the beach. It is a primary concern with all those that he has talked to.

Mr. Sperry said that they would bring in a plan so there could be an orderly discussion on the issues one by one.

Helen said that the commission can come to some sort of agreement to help you prepare that within one month.

Open Space Development-

Three different zoning districts- low density non-agricultural, agricultural and unplatted resort/residential. Provide incentives for the developers to opt toward the Open Space Development by decreasing the minimum size for building sites. Tonight we are going to address what the ZO should call for as the minimum building site and then allow the OSD to decrease that size for each of the three districts. Jake has distributed a conceptual map showing the zones.

PROPOSED:

DISTRICT	CURRENT	FUTURE	OSD
AGRICULTURAL	2 ACRES	5 ACRES	
LOW DENSITY AG		1 ACRE	
UNPLATTED R/R	12,000 SQ FT	1 ACRE	
R/R	12,000 SQ FT	15,000 SQ FT	

Dave Roseman commented that in page 9 of the Master Plan there is an inconsistency that needs looking into regarding septic limitations.

He also has a website set up, with the minutes, ZO, MP, etc

Helen would like more information from the Health Dept.

Meeting adjourned at 9:30 pm.