

# *Bridgewater Township*

Planning Commission  
Minutes of Regular Meeting  
July 11, 2005

Location: Bridgewater Township Hall, 10990 Clinton Road, Clinton MI 49236

**1. Call to Order** Chair Fish called the meeting to order at 7:30 PM

**2. Roll Call** Present

Mike Bisco, Glenn Burkhardt, Glen Finkbeiner, Dave Faust, Jim Fish, Jim Tice and Dave Woods.

Absent: Mark Iwanicki and Amy Riley

Also present: Wanda Fish, Adm. Assistant, Ron Finkbeiner, Gary Niethammer, Marcus McNamara, Gretchen Barr, Sheryl Knight and Steve Knight

**3. Agenda** Accepted as prepared

**4. Minutes Review** The minutes of June 13, 2005 were accepted as prepared.

**5. Public Comments** There were no public comments.

**6. Bridgewater Farms**

A. Private Road

1. Chair said that the variance request on the road length was pending with the Board. Ordinance 27, Section 8, 2, B 1 states that a dead-end road shall not exceed one thousand (1000) feet in length as measured from the center of the cul-de-sac to the point of intersection with the public road. While the Planning Commission at the last meeting had generally indicated support for a variance, there needed to be a specific recommendation from the Planning Commission to the Board, demonstrating clearly the project meets the requirements for the variance, as described in Section 8, 2, B of Ordinance 27, as follows:  
*a. The variance is necessary due to unique natural or physical features of the property which render it impractical to adhere to the maximum road length.*

Finkbeiner: The shape of the property and the lots is such that a longer road is necessary to provide access while accommodating retention of the wetlands.

Motion: Finkbeiner, second by Burkhardt: The circumstances, including the shape of the lot, the natural features and the wetlands are unique and require a road length longer than 1000' to facilitate a cluster development. Motion adopted unanimously.

Finkbeiner: Asks about the easement that was sold with the property purchased from the Township for the project. Chair: Understand it will revert if the project goes forward as presented. G. Niethammer: States there is a sunset provision on the easement.

*b. The variance will allow development of the property in a fashion which maximizes the use, size, accessibility, or view of dedicated open space within the cluster development.*

Chair: Stated that some of the open space would not be accessible without the additional road length. Refers to material distributed to members prior to distribution of the regular agenda package.

Motion: Burkhardt, second by Finkbeiner: The additional road length is needed to provide more direct access to the open space at the west end of the development. Motion adopted

unanimously.

*c. The density of development is not increased over that which would be permitted under the maximum road length standard.*

Chair stated that from the outset, only 12 lots have been considered even though the road length has changed, only the configuration has changed. Finkbeiner: Observes that density is more affected by the open space rather than the road length, at least in this case.

Simply provides better access.

**Motion: Woods, second by Burkhardt: The project's density is not affected by the additional length of the road. Motion adopted unanimously.**

Chair: Believe the Planning Commission has taken the steps needed for the Township Board to act on the variance request.

## 2. Fire Department Report

A. Chair stated he had asked Mike Scully, Fire Marshall, Manchester Township, to review the site plan, letter dated July 5, 2005 from Fish to Scully, provided for the record and that Mr. Scully had responded, letter dated July 10, 2005, provided for the record. Indicated the turning radius was acceptable and that parking along a private road had not been an issue for the Manchester Fire Department while Scully has been inspecting for Manchester Township fire.

Woods: Asks if Scully had compared road widths. Chair looked at the 66' width. Did indicate that he thought inspection by the engineering firm and by the Fire Marshall was necessary during construction, prior to certification and acceptance, to assure road is built as planned. Woods: Then OHM and the Fire Marshall will inspect. Chair: Yes, believe this is provided in the Ordinance. Needs to be worked out prior to construction.

Marcus McNamara, OHM: Notes that any changes from the plan after it has been approved would involve a return automatically to the review process including OHM and the Fire Department.

## 3. OHM Review - Dated 7/7/05 provided for the record.

Chair: OHM Review takes no exception to the proposed variance for the length of the private road. Birchler Arroyo report notes the proposed roadway maintenance agreement must be approved by the Township attorney. Chair stated that no response has come from the Township attorney as yet. Also need to have written verification of approval from the Washtenaw County Road Commission for the intersection with Kaiser Road. Gary Niethammer confirmed there has been no response to their application.

Chair indicated outstanding items on the private road application are the maintenance agreement review by the Township attorney, the Planning Commission's consideration of the maintenance agreement for the private road and the written approval from the WCRC of the intersection. Asks if members have other items.

Glenn Burkhardt: Asks about the wetland area in lot #6, is it a regulated wetland and if so what the offset mitigation plan is? Gary Niethammer: States the area in question relates to the drain and tiled area near the treatment plant. Woods: Comments the wetland drains to the ditch which ultimately flows into the Saline River. Gary Niethammer stated it was an enclosed drain. Glenn Burkhardt: You indicated before that you didn't know if this was a designated wetland. Need to have that question answered. Chair: Asked Gary

Niethammer if he had not earlier indicated that the wetland area in lot #6 was part of a larger wetland that might be regulated and that it might be necessary to have the Department of Environmental Quality review it. G. Niethammer: Replied that the biggest issue we have now is the County drain. Replacement of the tile won't happen until 90 days after the treatment plant goes on line. Asks for an update on the status of the treatment plant. When the tiles and drain are in place, that will take care of the wetlands situation. It will disappear when the plant is on line and the drain is going. Chair: Don't know the status of the sewer treatment plant. Asks Dave Faust to comment: Faust: Still not resolved the problems with the grinder pumps and will not put the treatment plant on line until that happens. G. Niethammer: Asks why that should make a difference for the Bridgewater Commons and Bridgewater Farms projects. Faust: Until there are enough installation to maintain flow, can't go on line. McNamara: Danger of the mains becoming septic if there isn't sufficient flow. Chair: Summarizes that it isn't clear when the plant will come on line, and from what Gary Niethammer said earlier, it has to be on line for 90 days for the Drain Commission to make decisions. Woods: Does the resolution of whether or not the land in lot six is part of a regulated wetland rest on the drain? You have indicated that whether or not it is a wetland hinges on the drain and I don't understand that. G. Niethammer: States they are related because the tile needs to be replaced. Woods: So you are saying that if the tile is in place, that problem goes away. G. Niethammer: Yes. Woods: Sounds as though the Drain Commission will have more to say than anyone, but you're saying it's the treatment plant? Chair: Do we have a determination with regard to the wetlands and the possible need for revision of lot six where it seems there is the largest impingement on the described wetlands exists, does that impact and does there need to be some kind of mitigation. That is a DEQ question. According to the communication, it is unclear if this is a regulated wetland or not. Can we get a determination from DEQ? No one wants to have development in a regulated wetland. G. Niethammer: Will look into it.

Glenn Burkhardt: Asks if the Drain Commission has reviewed the retention and detention volumes and confirmed their accuracy? G. Niethammer: They have reviewed, but some details still need to be provided. The treatment plant needs to be on line before we can continue the process. Mentions a letter from the Drain Commission. Chair asked it be provided to the Planning Commission. Burkhardt: Is there anything so far in the Drain Commission review that would alter the plan? Niethammer: No.

#### 4. Road Section - Master Deed

Chair asked if Members have any observations or questions about the language in the Master Deed, page six and forward regarding the private road? Burkhardt, notes that common elements of the project, including the road, the costs for maintenance, repair or replacement will be borne by the Association. Notes that OHM report indicates the need for language regarding the Township's right to maintain the road if the Association fails to do so. Discussion of language in the By-Laws and the Master Deed, relationship of both to making changes. Burkhardt: Need to have the Township attorney's report before any decisions are made. Woods: Calls attention to page 13, article 14 of Master Deed, series of procedures to amend the Master Deed and By-Laws. Chair: See #8, page 14 and then compare it to #12, page 15. Is there a conflict between the two? Woods: It can be

read that the developer can modify the plan and elements of the plan at will. Gary Niethammer: States the intention of the language is to give the developer some flexibility to make modifications that, if anything, are more restrictive. Chair: Either the language should be more clear or we need help understanding it. Woods and Burkhardt: Need to have a report from the Attorney. Finkbeiner: Asks if the planner will also review? Chair: Yes.

Finkbeiner: Asks if there is adequate reference in the Master Deed and By-Laws to assure full compliance with the Township Zoning Ordinance. References page 13-14 of the By-Laws regarding the developer's ability to downsize the minimum square footage of the dwelling unit. Could the developer reduce the size to less than the Ordinance minimums? Discussion that a certificate of zoning compliance and a building permit are required and that provides the Township Zoning Ordinance will be followed or the necessary permits will not be issued. Bisco: Asks if the developer didn't put in size restrictions, would the Township's apply? Chair: Generally condo associations have size requirements.

Chair: Have dealt with most of the issues regarding the private road that we can at this point. Asks if there should be a latent assessment district for private road maintenance by the Township, to be exercised if the Association does not act in a timely way? Derek Niethammer: Asks if that extends to drains, etc., comments it could be a long process. McNamara: Drain and Road Commission responsibilities begin and end with right of way and defined inspections, not long term. Chair: Have to understand the Township was reluctant to allow any private roads at all because in too many cases, Townships were asked to take care of problems but didn't have the authority to act or assess. Will take that forward to our attorney.

Further action on the private road was laid over pending resolution of outstanding issues, including comments from the township attorney, questions about the By-Laws and Master Deed, a latent assessment district for the private road, WCRC approval of the intersection and other matters.

5. Revised preliminary site plan – See comments from Birchler Arroyo dated July 11, 2005, attached to record.

Chair stated the private road concerns had been addressed in the previous discussion. Members concluded that items 2.1 and 2.2 had been addressed by the Planning Commission already – extension of principal streets into adjoining properties not yet developed will not be necessary and no sidewalks will be required.

Chair referred to 2.3 in the Birchler Arroyo report stating that the applicant had not indicated which of the identified significant trees will be preserved. Discussion of which trees will be impacted by treatment plant and drain activities. Applicant agreed to provide further information and a landscape plan to Birchler Arroyo for a further report on natural features, retention of significant trees and landscaping. Blueprints for landscape screening along Kaiser Road were provided at the last meeting.

According to the report dated 7/11/05 from the planner, *The Planning Commission should determine whether the intent of the Ordinance is met. Furthermore, the detention ponds and retention area are located within and cover a significant portion of the open space areas; this requires approval by the Planning Commission under Section 1101.C.3*

*of the Zoning Ordinance.*

Members agreed this had been covered already and that there was approval of including the detention and retention areas in open space. Noted that MDEQ approval or waiver was still needed.

Will forward a copy of the road screening landscape plan for review by the Planner.

Glenn Burkhardt: Before the Township can approve the site plan, will have to have the results of the test well. Derek Niethammer said they were holding on doing the test well until they had more information about the impact of work by the Drain Commission and also the status of the treatment plant. Burkhardt reminded the applicant that no final site plan approval could be made without the test well results.

Members agreed several issues remain outstanding:

MDEQ approval or waiver or mitigation plan

Planner report on the screening landscaping

Attorney comments

Road variance

Question of lot 6

Drain Commission approval

Washtenaw County Road Commission approval of intersection plans

Test well results and county approval.

## **7. Bridgewater Commons**

Chair said there is a new plan sheet and a verbal indication from the applicant that they want a private road and want to have the proposed project reviewed under Section 1103 of the Township Zoning Ordinance. States they need to have written confirmation of application under the cluster option.

Chair stated that June 22, 2005 letter from Gary Niethammer to him included statement that "Enclosed herewith are final calculations for the detention pond. The storm system has been previously approved by the Washtenaw County Drain Commissioner." Chair asked if the Drain Commissioner had approved the site plan as currently being considered?

G. Niethammer: The proposal has not changed for two years. Chair: Then if there is approval by the Drain Commission, that should be provided to the Planning Commission. Niethammer agreed to do so.

Chair asked if the Washtenaw County Road Commission had approved a permit for the road. G. Niethammer stated the Road Commission has had the application for two years, but has not signed off. The SAC meeting will take place July 14. Stated he had to have a letter from the Township indicating conceptual approval of the project before the Road Commission would consider permits for the intersections.

G. Niethammer: Said that current plans had changed only slightly, and indicated the open space areas. Needs to have Township Board approval of the variance for the turn radius being less than 230 feet.

G. Niethammer stated the road off Boettner would be moved north to make it further away from the Cornell house, an item of concern identified by OHM report dated July 7, 2005.

G. Niethammer also stated they would move the sidewalks back away from the curb, as per the OHM report.

G. Niethammer stated the applicant's attorney would soon complete the master deed and By-Laws for review by the end of this week.

G. Niethammer: Will add more parking off road to the area near the Cornell house to increase parking as suggested by OHM July 7, 2005 report. Chair asked if there would be additional screening for the Cornell house and if the Cornell property line was accurate, indicating two parcels. He believes it should reflect one parcel. Further discussion.

McNamara raised the question as to how close parking area can be to the Cornell house and property.

Chair asked if the Planning Commission members were willing to approve the concept to permit the Washtenaw County Road Commission to move forward.

McNamara asked why the radius had been configured the way it was. Ron Finkbeiner said it was to slow traffic. G. Niethammer said they could install a stop sign. Glenn Burkhardt asked why 230 feet had been determined. Faust: Probably came from road commission standards. Chair: Would be helpful to have more information. G.

Niethammer: Said the tighter turn radius would slow traffic. Asks applicant to provide information in writing to document the reasons for the variance. McNamara: In response, says that he could see it to calm traffic if cutting through were likely, but no reason to cut through in this area and suggests turning templates, and applicant agreed to prepare.

Bisco: Asks why not speed bumps instead. McNamara: May create more problems - ADA issues, maintenance, etc.

G. Niethammer: States must have conceptual approval for the meeting Thursday, the Road Commission will not consider without it.

Chair: Asking for more information on the turn radius, the alignment of the road on the north side, and some parking and screening concerns. Appears the development and the road can ultimately be approved, subject to WCRC, Drain Commission approval, the turn variance and the like.

Burkhardt: Asks how much further north the intersection with Boettner will move. Ron Finkbeiner: At least 20 feet.

Motion: Burkhardt, second by Finkbeiner: The Planning Commission is in general agreement with the conceptual plan for Joann Trail with the understanding that the Boettner Road connection will be moved no less than 20 feet north of its present location. Motion adopted unanimously.

Glenn Burkhardt: Asks for clarification regarding OHM comments on off street parking. How much is needed? McNamara: The ordinance is not specific as to the number of off street spaces per unit in addition to drive and garage space.

Visitor parking is desirable, scattered throughout the development, but not mandatory in terms of the ordinance. Chair: Asks for general observation on this issue from OHM and stated will also ask the planner. Tice: Asks about the access to the open space. Chair: Ownership of the common space is in common, question may be about comfortable utilization, defined access paths. Chair: Will ask the planner to comment if this meets the requirements for open space.

McNamara: A portion of the open space has to be actively useable. Chair: You calculate what is the total net buildable space. Of that, 10% minimum has to be open space and half of that must be accessible for active open space use.

Discussion of the size of the pond, the variance that was granted for it. Burkhardt: Should there be a defined pathway access? Dave Woods: Raises the question of the pond easement buffers encroaching on neighboring properties? Burkhardt: Will have to have tangible evidence of pond easement when it is on other properties. Chair: That's also why we need to have clear approval of the Drain Commission for the pond as it is proposed, as improved. Woods: Recalled that last letter from the Drain Commission referenced a pond this size, but there remained questions about the retention with the additional drainage. None of the plans indicate the freeboard on the pond. Question if the pond indicated is the size that the Zoning Board of Appeals approved in September 2003. Woods: The ZBA approved a pond half this size. Finkbeiner: Agrees, there was concern about the proximity of the pond to property lines. This is closer than approved. Chair: Need to have the Drain Commission comments. Chair: Notes the pond is proposed, not existing.

Chair: Items remaining include the maintenance agreement for the road, Road Commission approval, the road variance for the turn radius, Drain Commission approval, easement agreements and fire department approval. Will also need to have floor plans, etc.

## **8. Master Plan**

Chair said that information from Township Treasurer indicates that in 2000, there were a total of 1050 parcels, 15 of which are tax exempt. Sixty eight are personal property and real property is 981 parcels in 2000 summer. In 2005, there are 1100 parcels, 19 are tax exempt and 68 are personal, leaving 1013 real property. In five years, an increase of 32 parcels or 3.62% increase. Woods: Seems low.

Chair: Not really – we are dealing with parcels only. More parcels may have been developed, we need to see where there has been building. For example, the Dingleday property build out.

Burkhardt: Does that level of change a compelling argument to change the Master Plan substantially? Have we safeguarded adequately and legally the agricultural areas we want to preserve? Have we sufficient legal authority to defend elements of the Master Plan?

Discussion of general parameters of how growth takes place and what the changes will be due to changing technology, for example treatment. Chair: Further concerns over whether or not the Zoning Ordinance actually carries out what the Master Plan states we want to do in terms of protecting agricultural land.

Does the 2 net acre building site work?

Discussion of need to either add special meetings or restrict discussions of non-plan. Question of budget, need to discuss with the Board.

Will distribute material for members to check existing land use.

Discussion of comparison between survey results for 1992 and 2001. Lot of consistency.

Gretchen Barr and the AA will try to further summarize for members. Glenn Burkhardt observed that a survey of property owners and voters was probably needed to validate the plan whether or not it is likely to change. Discussion of a visual preference approach. People need to have the same perceptions of what

is being considered.

**9. Zoning Administrator Report**

Glenn Burkhardt: Asks about the kennel problem. Chair: No application has been filed for a special land use for a kennel, as required by the Court. Understand that legal counsel is pursuing a “show cause..”

**10. Member Reports**       None

11. SWWCOG               Was cancelled

12. Zoning Board of Appeals   Glen Finkbeiner said there was no activity.

**13. Other Business**

Chair: The special land use for the SMR operation called for a three year completion date for the road. The road is substantially complete but the checklist has not been finished. Question if SMR is technically in a position of non-compliance with the special land use as of 3/15/05. Woods: Suggests there should be a letter from the Zoning Administrator. Woods: Notes it was discussed at the last Board meeting and that a punchlist had not been received from Lenawee County Road Commission, which is doing the inspection on the road. Burkhardt suggested that the Zoning Administrator should at least call. Issue of bond call.

Chair: Bridgewater Estates has requested a meeting to discuss conditional zoning. Both the planner and the legal counsel have stated there is no need to schedule a meeting. If they want to do so, they can apply for rezoning or conditional zoning. They are requesting a major change from the Master Plan adopted in 2001.

**14. Public Comments**

None

15. Motion to adjourn: Bisco, second by Faust. The meeting was adjourned at 10:10 PM.