

Minutes of the Meeting of the Avon Township Planning Board
August 27, 2008
Avon City Hall

Call to Order: The regular meeting of the Avon Township Planning Board was called to order by Chairman Ken Mergen at 8:00 P.M.

Pledge: Everyone stood for the Pledge of Allegiance.

Roll Call: Present – Gerry Kremers, Ken Mergen, Lowell Rushmeyer and Stephen Saupe. Absent – Joe Scepaniak. The Board of Supervisor's – Chairman LeRoy Gondringer, Richard Breshnahan and John Merdan were also present.

Approval of Agenda: Saupe moved to approve the agenda. Mergen seconded. Approved unanimously.

Minutes: Mergen moved to approve the minutes of the July 30, 2008 meeting. Rushmeyer seconded. Approved unanimously.

Business

1. Strenger Variance – Mr. Jerry Strenger and Mr. Mike Torberg appeared to request a variance for constructing a new home on the site of a previous cabin on Pelican Lake. They are requesting to build the cabin with a setback of 48 feet. The home will line up with the both cabins on either side. Rushmeyer moved to recommend to the Supervisors to set a public hearing for 8:25 PM on September 24, 2008 for Jerry Strenger's request for a variance. Mergen seconded. Approved unanimously. Mr. Strenger was requested to provide the Township Clerk with the names/addresses of the 10 nearest neighbors.
2. Planning Board Vacancy – The Township is looking to replace Joe Scepaniak on the Planning Board. Gondringer indicated that it will be announced in the *Avon Newsletter*. If anyone is interested in the position he/she should contact Gondringer. Breshnahan mentioned that he hoped Mr. Scepaniak would still be willing to share his expertise in road/gravel pit issues in the future. Breshnahan also suggested that St. Anna is growing and it would be good to have a representative from that area. Roger Nelson, a former member of the Stearns County Environmental Planning Board, is one possible contact. Another place the vacancy could be advertised is the St. Anna Church bulletin.
3. Public Discussion of Noise Issues – The Board of Supervisors and Township attorney, Adam Ripple, were present to hold a public discussion on noise issues related to Cone's bar. Mr. Ripple suggested that there are four major options: (a) nuisance ordinance; (b) zoning regulation – require conditional use permits for food/beverage establishments; (c) permits – require special events permits; and (d) enact County performance standards for noise. Breshnahan reported that Don Adams said that the sheriff's department will only respond to noise complaints if there is an ordinance in place. Ripple stated that a person in the County Attorney's office said the county will essentially not prosecute city or township ordinance violations, only criminal violations of state law. This essentially means that the sheriff isn't going to write a ticket for noise ordinance violations. It also suggests that even if there is an ordinance, the Township will have to contract the County to prosecute. Alternatively, Ripple said that his firm

could prosecute the violation.

Ripple said that noise ordinances have been challenged in court. In part, because it is difficult to define noise/nuisance. For example, the City of St. Cloud ordinance states if you can hear voices clearly from 50 feet it is a violation. In contrast, Brockway Township ordinance simply states that it is a violation if the noise is disturbing to others. The Board wants to insure that normal township noise, such as farm equipment, wouldn't fall under any ordinance that might be enacted.

Ripple indicated that another option is that the Township can refuse to renew a liquor license. Although commonly done when there are safety concerns, he is not certain about noise issues. Ripple suggested an ordinance narrowly tailored to our needs (i.e., only apply to commercial uses in densely populated areas) would be one likely option. Ripple stated that once an ordinance is enacted, we are obligated to enforce it.

Changing zoning is probably not the best option since the County normally handles zoning requests.

Mr. and Mrs. Lemcke were present to testify to the loud noise from Cone's. They stated that it was a much greater problem since the bar was sold to Cone's because the frequency and loudness was much greater than the past and the music was more hard rock. The Lemcke's previously presented a petition with the signatures of approximately 10 neighbors. The Board suggested that a larger number of signatures might strengthen their case.

If an ordinance is enacted to regulation outside entertainment/noise, it would have to pertain to all establishments in the Township (i.e., Landing, Cone's, Pelican Lake Ballroom). If the Township opted to give conditional use permits, how many times per season would be permissible?

It was generally agreed that there needs to be a compromise and that the owner's of Cone's need to know that this is a problem and that they are welcomed to be part of the solution. Otherwise the Township will need to respond in some manner. Rushmeyer moved to invite the owner's of Cone's to the September 3rd Supervisor's meeting to discuss this issue so that they can be part of the solution. Saupe seconded. Approved unanimously. Gondringer will contact Clerk Smith to notify the owner's and invite them to the September 3rd meeting.

Breshnahan indicated that St. John's was required to hire many security for their outdoor music festival and wondered whether this would pertain to the Cone's situation.

Announcements: Breshnahan announced that he had been in contact with Blattner's about the possibility of record storage and use of their vacant facilities and is waiting for feedback. The bike path connecting Avon Estates and the Lake Wobegone trail was removed because the work wasn't performed to Township specifications nor was it approved prior to beginning. Gondringer announced he had been contacted by the Humane Society about a residence with 12 dogs that were being neglected; he forwarded the concern to the Sheriff's office.

Next Meeting: The next Planning Board meeting will be September 24, 2008.

Adjournment: Rushmeyer moved to adjourn the meeting at 10:00 PM. Mergen seconded.
Approved unanimously.

Respectfully submitted,

Stephen Saupe
Deputy Clerk

Minutes amended & approved: September 24, 2008