

Rochester Township

Board Meeting Minutes

May 12, 2022

Meeting was called to order at 7:00 pm by Chairman Jeff Orth.

Members present - Matthew Kitzmann, Jamie Neisen, Brian Zmolek, Nathan Clarke, Jeff Orth and Randy Staver

Guests – Pat McGowan, Dean Thompson, Bill Tointon, Brandon Theobald, Roger Ihrke and eight members of the public.

Minutes – Jamie Neisen moved to approve the minutes for the April 14, 2022 meeting. Matt Kitzmann seconded. All voted in favor and the motion passed.

Deputy's Report – Deputy Dean Thompson reviewed the call report of 47 calls for service.

Old Business:

Rookery Lawsuit

- No further information at this time.

2630 Wildrose Ln SW

- Matt Kitzmann provided an update. We have been contacted by a party who may wish to purchase the property and has posed a couple of options. He has requested whether the Board would be open to considering his proposal. A member of the public suggested that it might be appropriate to get input from some of the neighbors whether to consider these options. The proponent has proposed eliminating fees as a way to make the project more amenable. Jamie Neisen asked whether fees are in the Board's purview versus TCPA. Roger Ihrke responded that the TCPA board would need to take up the question. Jamie Neisen proposed that the Board is at least interested and that we should invite the proponent to the next meeting to present his ideas. The proponent has asked whether the township might contribute to the cost of the project but the Board was reluctant to consider that option. Jeff Orth reiterated that any communications should be forwarded to the clerk so that a complete record is maintained.

Pool covers

- Roger Ihrke said that the Boards proposed language will be presented to the Planning and Zoning Commission at their meeting on June 14th in the context of a public hearing. The results of that meeting will then be presented to the Board.

New Business:

Zoning Appeal – 2491 Hawk Hill Ln. SW –

- Megan Renslow presented on behalf of her client, Tamanna Krebsbach, and wished to respond to the staff report recommending denial of the conditional use permit application for establishing a business in her home. The business is intended to encompass a spa, pod casting studio and consulting.
- Ms. Renslow stated that the applicant is willing to amend the application to say that there will be no employees and that there would be no sale of supplies that would in turn require delivery vehicles in the neighborhood. She also stated that the ordinance language is not clear in defining a ‘beauty shop’ and that current language appears to support the kinds of personal services being proposed. Staff had stated as part of the denial that the chemicals typically used in a beauty shop could impact the septic system. Ms. Renslow stated that those kinds of chemicals will not be used.
- Nathan Clarke pointed out that the application is now being amended and questioned the credibility of the applicant based on other interactions with the township. Ms. Renslow responded that those interactions are separate and that this application must be viewed in terms of the ordinance.
- Roger Ihrke spoke and said that it is not appropriate to make changes to the application on the spur of the moment without language and time to review. Roger said that the ordinance does not clearly define all uses. Jamie Neisen asked if there are any similar businesses in the township and Roger replied no.
- Ms. Krebsbach clarified that only a few boxes would be delivered to the residence.
- Jeff opened the public hearing.
- Ramona Sear spoke and stated she has concerns about safety given that children are playing and people walking in this area. She said she feels the intended use would be in conflict with the area. She does not think the applicant has been clear about defining the exact services to be provided at the spa / beauty shop. She further stated that a criteria in approving a conditional use permit is that it will not detract from the demeanor of the area.
- Mark Pillars spoke and stated he has concerns about traffic. He would like to see the application denied.
- Sharon Joyce spoke and stated she has concerns about traffic. She would like to see the application denied
- Vicky Chen spoke and stated that the definition of a spa or beauty shop is not sufficiently clear in what it would or would not allow such as what products

would be used. Ms. Krebsbach responded that products used are considered all natural.

- Roger Ihrke presented some written comments that were requested to be read into the record. The Siontis family, residing at 2498 Hawk Hill Lane, supports denial of the application. They are concerned about the impact on the well as well as potential depreciation on value of other homes. Thomas and Diane Witzig, residing at 3500 Wright Road, noted that the area is zoned predominantly as neighborhood residential and is not intended to support business activities. They support denial of the request.
- Ms. Renslow stated that the ordinance could be amended but as currently written home based businesses are not outright prohibited. In terms of parking, she pointed out that we could have the same issues with traffic and parking during a residential holiday gathering. The ordinance as written does not address those kinds of activities.
- Sharon Joyce asked why this application is even being made. There are many other areas more appropriate for the proposed use. Jeff Orth noted that conditional use permits are entertained often but not normally appealed.
- Ramona Sear spoke and stated her concern about the level of business activity and traffic.
- Roger commented about typical home based businesses such as a financial advisor. Compatible home based businesses do not require updates or remodeling. Most of these businesses do not require a conditional use permit.
- Ramona Sear spoke and questioned the impact on the septic system depending on the chemicals used. She stated that septic systems are sized based on the typical number of household residents and is concerned if there are many additional people such as customers using the system.
- Ms. Renslow spoke and stated that they would be happy to see the item tabled since many of the questions are too speculative.
- The public hearing was closed.
- Nathan Clarke stated that it is hard to think of this in isolation given other interactions with the applicant. Jamie Neisen reiterated the decision before the board and whether it meets the definition / criteria within the ordinance. He sees this as a request for a beauty shop in a residential area which he does not think is appropriate. Matt Kitzmann and Brian Zmolek spoke and agreed that the proposed use is not compatible with the neighborhood.
- Matt Kitzmann moved to sustain the staff denial of the zoning appeal based on staff findings. Jamie Neisen seconded. All voted in favor and the motion passed.

Resolution Approving Plans & Specifications and Ordering Advertisement for Bids – Lilly Farms 4th – Res2022_05_01 –

- Roger Ihrke spoke. This item will be going before the Olmsted County Environmental Commission on May 19th. Roger asked that the Board table this item until after the commission has provided their input.
- Jamie Neisen moved to table the item. Matt Kitzmann seconded. All voted in favor and the motion passed.

Woodland Valley Estates Preliminary Plat –

- Roger Ihrke spoke. This item will be going to the Olmsted County Planning Advisory Commission and suggested that it be tabled. Roger wished to offer some comments though. He stated that the township Planning and Zoning Commission approved the preliminary plat 5-0.
- The next step is to work out details associated with the development agreement. Some questions have come up such as how the trail system may be continued.
- Jamie Neisen stated that there are benefits to extending the trail system given the proximity to a wildlife corridor. Bill Tointon spoke and said there would need to be a review in light of things like wetlands. Jamie asked who would determine the trail location. Roger Ihrke said that Bill Tointon would propose a trail location which would then be reviewed by Brandon Theobald. Brandon noted that he was on the telephone and available for questions.
- Jeff Orth commented that there may be some appeal to setting funds aside for construction of corridors such as this as a sort of trailway escrow fund.
- Jamie Neisen moved to add to the Development Agreement a proposed amount for future trail to be escrowed. Brian Zmolek seconded. All voted in favor and the motion passed. Roger noted that the preliminary plat will be presented for approval at the next meeting.

Planning and Zoning Discussion –

- Roger Ihrke stated that given that the Pavilion Estates and pool cover topics will be heard at the next Planning and Zoning meeting on June 14th, he suggested that both Peter Tiede and Brandon Theobald attend. Jamie Neisen moved to ask both to be present. Brian Zmolek seconded. All voted in favor and the motion passed.

Right of Way / Headwalls –

- Nathan Clarke wished to speak about township right of ways (ROW) and specifically headwalls. He distributed copies of the current ROW ordinance adopted in 2012. He referred to page 4 and sections 5, 7 and 9. He asked questions about the definition of a headwall.
- Roger Ihrke spoke and stated that the current ordinance language was drafted by a previous board member and not reviewed by legal counsel before it was

adopted. He said that in terms of headwalls the intent was to leave existing structures alone but prohibit construction of future headwalls. It has been difficult to monitor and some were caught in time but perhaps not all. Roger said that historical records would need to be reviewed to determine which headwalls existed at the time the ordinance was written. Board members commented that a headwall study had been completed which may have itemized existing headwalls. The clerk commented that he had recently found what may be the study referenced. He will research further.

- Brian Zmolek commented that headwalls could continue to be installed without township knowledge. Matt Kitzmann stated that his experience is that each scenario presents an opportunity to change the ordinance which may then cause other problems. Historically, headwalls have been problematic to manage and this will be an ongoing issue until the township finally resolves who pays to take out a headwall and who pays to make the necessary culvert modifications.
- Jamie Neisen referred to the resolution written by Peter Tiede recently considered but not adopted. The proposed resolution allowed for management of headwalls based on budget constraints.
- Nathan Clarke commented that he does not believe township residents want to see further development as witnessed by comments regarding the Pavilion Estates project. He questioned whether the board can ever say no and similarly, can the board require that a headwall be removed.
- Matt Kitzmann commented that it is unlikely that the township could outright prohibit further development. Jeff Orth commented that the board also has a responsibility to help all residents some of whom may wish to develop their property.
- Jamie Neisen stated that the township should have an overall plan like the City of Rochester to guide development. Matt Kitzmann suggested that MAT may have some resources related to planning. Brian Zmolek stated his support for a plan.
- Jamie Neisen suggested that Nathan bring ordinance language that he considers appropriate for some discussion. Nathan like the proposed resolution but Matt commented that he thinks it is a short term solution and the problem will still exist. Jeff wondered what the socialized cost would be to just get rid of all headwalls. He further commented that there may be resistance on the part of some homeowners to remove elaborate headwalls / landscaping.
- It was decided that the proposed ordinance should be brought back at the next meeting for potential action.

Audio / Video System –

- Matt Kitzmann provided an update and suggested that we move to a wireless

system. He also noted that the township may wish to add a video component but that such a system can cost several thousand dollars. However, the public seems to be accepting of the technology and its use could likely increase. The Board agreed that Matt should continue researching options with Sweetwater as well as other consultants.

Information Items:

- Audit Status – Randy Staver reported that the Smith Schafer audit is nearly complete and will most likely be presented to the Board at the June meeting.

Reports:

Treasurer's Report –

- Treasurer Randy Staver reported. He noted the reimbursement in the amount of \$6,564 received from MATIT related to the rookery lawsuit. He also noted that invoices have been mailed out to West Hill residents. Jamie Neisen moved approval of the treasurer's report. Matt Kitzmann seconded. All voted in favor and the motion passed.

Rochester Township Claims – Jamie Neisen moved and Brian Zmolek seconded to accept and pay Rochester Township claims #4991-5008 in the amount of \$37,727.58. All voted in favor and the motion passed.

JPB Claims – Matt Kitzmann moved and Jamie Neisen seconded to accept and pay Joint Powers Board claims #5806-5835 and the Rochester Township share in the amount of \$18,678.37, and a payroll share of \$8,258.03. All voted in favor and the motion passed.

Road Maintenance Supervisor Report –

- Pat McGowan reported. Construction season has begun. Driveways have been removed in anticipation of reclamation work. Mathy will begin reclamation work on June 1st. Bergen will be doing crack filling and sealing. Pat noted ongoing expansion work by Metronet expansion. Pat has completed several University of Minnesota in areas including asphalt management, gravel road maintenance and erosion control. In response to a previous question about equipment, Pat found out that Olmsted county charges \$118 per hour for mowers. The township tends to follow the same rates. Jamie Neisen had asked what it would cost to complete the work on 34th Ave SW and Pat responded that it would cost approximately \$50,000. Pat commented on the home that was experiencing some water runoff issues and said there will need to be final grading on adjoining property. In the meantime the temporary ditch will be dug deeper.

TCPA Report –

- Jeff Orth reported. Finances improved from a net balance of \$5,000 negative last month to a positive \$15,000.
- They interviewed a person for Roger’s position who is the city administrator for Lanesboro but the person ultimately decided against pursuing the position. The board is planning to speak to a person who is the assistant planning and zoning administrator for either Albert Lea or Austin.
- June 23rd is the 25th anniversary of TCPA.

Board of Adjustment Report –

- No meeting this month.

Planning and Zoning Commission Report –

- No further information beyond what was discussed in earlier topics.

Board Chair Report –

- Jeff Orth offered some general comments and said things seem to going well. He has received a few telephone calls but nothing that couldn’t be resolved.

Upcoming Meetings –

- OCTOA – May 26, 2022 – Dover town hall – 7:30 pm
- Planning and Zoning Commission – June 14, 2022 – 7:00 pm
- Joint Powers Board – July 22, 2022 – 9:00 am – Rochester town hall

Meeting Adjourned – Jamie Neisen moved to adjourn the meeting. Nathan Clarke seconded. All voted in favor and the motion passed. Meeting was adjourned at 11:00 pm.

Respectfully Submitted,

Randy Staver, Clerk / Treasurer

Jeff Orth, Chairman