

ATHENS TOWNSHIP PLANNING COMMISSION

Minutes of January 22, 2015

Athens Township Government Center

1. *Pledge of Allegiance:* The Pledge of Allegiance was recited.
2. *Roll Call:* The meeting was called to order at 7:00 p.m. by Chairman Lyle Reynolds. Members present were Jake Carpenter, Dan Woodfill, Marlys Balfany, Lyle Reynolds, Cindy Anderson, Craig Bjorklund and Dave Henderson. Also present were Jim & Carolyn Braun, Staff Members. Guests included Melody Ausmus, Jan Palmer, Virgil Callin, Mike Waring, Don & Karen Mickelson and Matthew Loven, Rinke Noonan Attorneys at Law.

Note: Because of the absence of Approval of Agenda, Chairman Reynolds gave an overview of items that were scheduled for this meeting.

3. *Minutes of October 16, 2014:* A couple of minor typos were discovered and will be corrected. Motion to approve the minutes as amended was made by Dave Henderson, seconded by Cindy Anderson. Motion carried unanimously.
4. *Open Forum:* No one was on hand for the open forum portion of the meeting.
5. *Public Hearings:* Donald & Karen Mickelson – Amendment to the Ordinance

Carolyn Braun, Staff Member, told the Commission that they had a brief history of prior happenings in this case in their packets. Carolyn gave a brief detail of what the ordinance currently allows as to size of accessory structures on parcels less than 2 ½ acres and larger than 2 ½ acres to 5 acres.

Carolyn explained that the proposed amendment to the Zoning Ordinance would change the size requirements of the lots of less than two acres be allowed up to 1200 square feet accessory structure. Over 2 acres to 5 acres would allow up to 2400 square feet accessory structure. Over 5 acres unlimited square footage as long as setbacks are made and impervious surface coverage of the lot is compliant.

It was also noted that all parcels are allowed one utility shed no larger than 120 square feet without subtracting from the total accessory square footage. On lots that allow 1200 square feet, one accessory structure is allowed and lots that allow 2400 square feet two accessory structures are allowed to a maximum of 2400 square feet for both structures.

Carolyn suggested, that if a change is made to the ordinance and the requirement that the attached garage square footage is subtracted from the square footage of the accessory structure is no longer required, then the Ordinance should include a requirement that limits the size of attached garages at 800 square feet or the size of the footprint of the living area of the dwelling, whichever is greater.

Before taking public comment, Chairman Reynolds opened discussion to the planning commission. Dave Henderson questioned why the Town would change the ordinance for one resident when others have been turned down in the past.

Lyle Reynolds asked Jim Braun about past requests and if there were any problems. Jim replied that since the ordinance was amended about twelve years ago there have been about twenty-five requests for accessory structures on small parcels. Of the twenty-five requests there were no issues. Of the five that had issues the applicants were able to either phase back their projects or convert attached garages to make more square footage for the accessory structures. Dave Henderson asked that in cases that there maybe a hardship could the Town then grant a variance. Lyle Reynolds and Carolyn Braun both feel that variances are not the correct way to go if even possible by the statutes. Craig Bjorklund questioned if the Commission would be setting a precedent in changing the ordinance after making so many people in the past be compliant that wanted larger structures. Lyle Reynolds replied that ordinances do change from time to time.

At 7:24 p.m. Chairman Reynolds opened the discussion to the public for comment: Matthew Loven, Attorney for the Mickelson said that he feels the amendment as Carolyn explained it is not a far departure from what other jurisdictions have changed to in the area.

Marlys Balfany questioned what size structure that the Mickelson's have now. Jim Braun explained that because of the mistake he made during the application part of the Mickelson request the Chairman of the Planning Commission and the Board of Supervisors allowed him to do an administrative variance and allow them the total allowable square footage of 1200 square feet at that time. Because the slab was oversized for a larger structure a roof was allowed to cover that part as a "car port" open sided space. If the Mickelson's would have been held to the strictest terms of the ordinance and the attached garage square footage is subtracted, it would have left them with an accessory structure of 400 square feet or less.

With no more discussion from the audience, Chairman Reynolds closed the public comment portion of the meeting at 7:36 p.m.

Dave Henderson questioned if the Mickelson had ever asked for a permit to enclose the "car port" portion of the structure. Jim Braun replied that they had come before him and the Commission several times demanding a permit of which

none was ever given. Jim Braun went on to say that he received a telephone call asking if the Mickelson's had been given a permit to enclose the structure as they were in the process of doing so. Jim then called Karen Mickelson and asked her if they were indeed enclosing the "car port" portion of the structure and was told yes and was also told that they did not need a permit. At that time Jim Braun talked to the Board of Supervisors and was told to turn it over to Peter Tiede for prosecution and post the property with a "stop work order" which was done.

Jake Carpenter feels that maybe a variance would be a good alternative in this case instead of changing the ordinance. Carolyn Braun replied that the variance in this case would be too large and would be hard to approve.

The Commission further discussed the matter and some comments were made that they didn't like the fact that the ordinance was being changed for one property owner. Another comment was that this change needed more discussion time and one meeting was not enough time to make a decision.

After more discussion on the matter, the Commission stated that they needed more time to look at this request. Carolyn Braun then asked Matthew Loven if the Mickelson's would extend the 60 day rule to give the Commission more time to study the request. Carolyn Braun explained if the applicants did not give the extension that the request would have to go to the Board of Supervisors for the final vote at their next meeting. Matt Loven then agreed to an extension of thirty days.

The use of a variance in this case would be difficult as there is no hardship. Also, Carolyn said that anyone from the past that was denied a larger structure could challenge the variance decision. Given the statutes requirements, a variance would be near impossible to grant.

Dave Henderson made a motion to deny the application for the amendment, seconded by Dan Woodfill. The vote was Henderson, aye and Reynolds, nay. Motion failed.

After some brief discussion, Jake Carpenter made a motion to table the request until the next Planning Commission Meeting, seconded by Marlys Balfany. Motion carried with one abstention from Craig Bjorklund.

6. *Old Business:* Follow-up Discussion from Open House Informational Meetings regarding a potential change in density:

Carolyn told the Commission that there is a copy of the comments from the citizen surveys that were distributed at the open house meetings included in the packets. Carolyn also asked the Commission how they want to move forward on this issue.

Jim Braun opened with a remark that the discussion should start with the original request which was four-per-forty non-contiguous. Jim feels that the change could be made a still protect the agricultural areas and keep the treed areas in place for future development. Without some type of change the treed areas maybe converted into agricultural land in order for the farmers to cut their tax rates. Jim feels that at one of the open houses he heard from a number of people that there was some room for compromise to help the large landowners but still protect the smaller parcel owners.

One of the draw backs in the four-per-forty proposal is the maximum size lot being held to three acres. It has been noted that the Town wants a five acre maximum as people want to have horses and other animals that need area to graze. Mike Waring is trying to see if there is any support for a change at the County level.

Carolyn Braun has had some Email conversations with Peter Tide, Township Attorney. She wanted clarification on the word “consistent” Peter told her that if the County has something stricter than the Town, the Town must become consistent with whatever they require. If the County doesn’t allow something, then the Town can’t allow it.

Jake Carpenter questioned the lot sizes in the four-per-forty as being not large enough. Jake indicated he favors two-per-forty where larger lots could be split.

Dan Woodfill expressed concern about the lot sizes and the transfer of development rights. If there is transfer of development rights he feels that the transfer should require each parcel to be in common ownership for a time period.

Marlys Balfany said that she heard a lot of small parcel owners come out against the four-per-forty but at the end of the meeting they were taking compromise. She questioned what the compromise might be.

Cindy Anderson is not in favor of three acre parcels. She would like larger lots for larger homes. Jim Braun remarked that it is not necessarily what size structures you can get on the three acre lots, it’s how many animals will be allowed with the buildings on that small parcel.

Craig Bjorklund said that a few years ago the Town wanted to sit back and see how the change to four-per-forty worked for Isanti County. Craig went on to say that we have heard from County Officials that there have not been any negative issues since the adoption some years ago. Craig mentioned even if there isn’t a change in density the Town should allow transfer of development rights – non contiguous or they will see homes built on every forty acre parcel throughout the Township.

Dave Henderson is in favor of staying at two-per-forty but is willing to look at a compromise of some sort but not non-contiguous transfer of building rights.

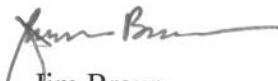
Lyle Reynolds told the Commission that he and Jim Braun had had some discussions on compromises. Lyle had a handout that he had drafted including with a possible compromise and asked that copies be made for the commission.

Lyle's proposal would allow four-per-forty and would allow three development rights from a forty acre parcel and one from another forty acre parcel be sent to a "landing area parcel" and the maximum number of dwellings on the "landing parcel" is eight. One building site must remain on any sending site. (See Exhibit "A") Lyle stated that the Town can no longer administer the 2 per 40 standard, He stated he was told that my County staff.

After further discussion and questions on procedure, Carolyn Braun said that she needs to see a current copy of the Isanti County Zoning Ordinance so that she can answer what the Township may be allowed to do and what the Township will not be able to do. She will try to have something ready for next meeting.

7. *News Business:* None
8. *Miscellaneous:* None
9. *Adjournment:* Because there was no further business a motion was made by Marlys Balfany to adjourn the meeting, seconded by Cindy Anderson, Motion carried unanimously at 9:36 p.m.

Respectfully Submitted,


Jim Braun
Recorder Pro-Tem

Enclosures