

GLEN ARBOR TOWNSHIP  
Planning Commission  
Glen Arbor, Michigan 49636

February 3, 2022

**CALL TO ORDER:**

Chairman Lance Roman called the meeting of the Planning Commission to order at 8:00 P.M.

**ROLL CALL:**

Lance Roman, Bill Thompson, John Pepler, Bob Ihme, Andy Dotterweich, Jeff Gietzen, and Lance Roman.

Tim Cypher, Zoning Administrator was also present.

**AGENDA:**

Approved as amended.

**MINUTES:**

Motion Pepler, support Dotterweich, to approve the minutes of the January 6, 2022 Planning Commission meeting. Motion unanimously carried.

**CORRESPONDENCE:**

The correspondence was reported with the Public Hearing minutes.

**TOWNSHIP BOARD REPORT:**

Pepler reported the Township approved an amended Land Division Ordinance – Ordinance 1-1998 and a new Land Division Application. Both are now located on the Township's website.

**ZONING ADMINISTRATORS REPORT:**

Cypher stated he emailed his monthly reports to all Planning Commission members and asked if anyone had questions. There were none. The reports are available in the Township office.

**ZONING BOARD OF APPEALS REPORT:** none

**PUBLIC COMMENTS:**

Ms. Schoenemann would like to see more data in the minutes. She would like the minutes to reflect the names of the people who resigned from the various commissions.

Don Lewis suggested that we need an enabling act in the ordinance to be able to use conditional rezoning.

**BUSINESS:**

1. Recap of public hearing.  
Roman suggested that amending the Master Plan and working on a text amendment might be better than pursuing conditional rezoning. He stated that both can be done at the same time.
2. Discussion of rezoning.  
Roman presented a copy of MCL 125.3405 Use and development of land as condition to rezoning, to each member for their review.

MCL 125.3405 Use and development of land as condition to rezoning sec. 405 states:

- 1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.
- 2) In approving the conditions under subsection 1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection 4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.
- 3) The local government shall not add to or alter the conditions approved under subsection 1) during the time period specified under subsection 2) of this section.
- 4) The time period specified under subsection 2) may be extended upon the application of the landowner and approval of the local unit of government.
- 5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection 1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

Roman said that in order to better understand when, where, and how this statute is intended to work that he had a phone call with Mark Wyckoff the editor of *Planning & Zoning News*. Roman said that Wyckoff is a foremost recognized planner in the State of Michigan who has been a member of numerous boards and commissions that helped the MI State congress write zoning laws and statutes. Roman also said that Wyckoff reported on Conditional Rezoning in two consecutive issues of *Planning & Zoning News*, shortly after the statute was passed in 2006 and that Wyckoff's company assisted in writing the Glen Arbor Master Plan in 2005. Roman then recapped what he believed to be important points from his conversation.

- 1) Wyckoff feels that the statute was rushed through congress and as result is very subjective and abstract, hence is open for confusion and open-ended questions. He recommends that its use should be avoided, when possible, and especially for a small township such as Glen Arbor.
- 2) The statute does not reference a local ordinance clause, so one is not needed and the township cannot disallow an application.
- 3) It is very important that the conditions are authored by the applicant without influence of the PC or township board members outside a meeting.
- 4) There cannot be any negotiations on the conditions, it is a simple up/down vote by the PC, and then the actual decision is made by the township board. Hence there is not a necessity for a finding of facts.
- 5) There is no appeal to the ZBA as the statute is legislative in nature as opposed to administrative.
- 6) It is unknown if precedence is set, as court cases are few, so there are many possibilities for lawsuits.
- 7) Wyckoff indicated that an important requirement for conditional rezoning is proper record keeping. The Township will need to keep track of the conditions for each parcel as the conditions follow the property, not the owner. He feels a small township may not have the protocols in place to properly store and retrieve these records as Planning Commission members and Zoning Administrators change over time. Every time a zoning application is made, it will be the township's responsibility to determine if there are any pre-existing conditional rezoning issues.
- 8) It is also possible that township board accepted conditional rezoning's will set a precedent of applications by applicants who want to do something that zoning does not allow, but would not make muster as an appeal to the ZBA. It could flood the Planning Commission and Township Board with application requests that would take time to adjudicate.
- 9) Wyckoff suggested that we ask the MTA for their sample conditional rezoning material.
- 10) Wyckoff indicated that conditional rezoning is not that popular and rarely used for residential considerations.
- 11) Roman said that he related to Wyckoff, in great detail, the proposed use of conditional rezoning to rectify the single-family dwelling in the GA Business district issue the Planning Commission is currently dealing with. Roman also said that Wyckoff highly recommended against conditional rezoning and suggested an ordinance text amendment and, if necessary, amending the Master Plan.
- 12) Wyckoff suggested that Glen Arbor avoid conditional rezoning.

## 2.5 Zoning Map

Peppler: The County has not done a good job with keeping the zoning map up to date. He highlighted three corrections needed on the Zoning map dated 1/5/2022. Cypher will contact the County and have the maps corrected.

3. Review Township Board comments for Single Family Dwellings in business  
The Chamber is concerned that properties will go to Residential instead of Commercial. It was pointed out that several Residential properties have actually gone to Commercial. Members continued discussion of Business 1 and Business 2 idea that was brought forward at the January meeting.

**Pepler moved to add J. to Article VIII BUSINESS DISTRICT – SECTION VIII.1 Use Regulations with J. reading “Single Family Dwelling structures are allowed if the parcel of land does not abut M-22, north of State Street (at corner parcel 006-122-088-10) following M-22 through the end of the Business District, and that R-1 setback requirements are met. Gietzen supported. Roll call vote: Thompson aye, Ihme aye, Dotterweich aye, Gietzen aye, Roman aye, Pepler abstain. Motion carried.**

A public hearing on the preceding text amendment was set for April 7, 2022 at 7:00 pm in the township hall.

Roman: A text amendment can be changed following input from the public hearing.

4. Review ordinance update proposals (time allowing)
  - a. Relaxing off street parking requirements in Business District
  - b. Fences as structures reviewNot discussed – held for future agenda
5. Ordinance review sub-committee update (Hold for future agenda)  
Not discussed – held for future agenda

**PUBLIC COMMENTS:** none

**COMMISSION MEMBER COMMENTS:**

Gietzen thanked everyone for good discussion. He said it will be important to explain to the public in detail why the Commission feels the text amendment is necessary and that before he learned the details of the difficulties of certain properties he was opposed to any changes.

**ADJOURN:**

The meeting of the Glen Arbor Township Planning Commission was adjourned at 9:30 PM.

Respectfully Submitted,

Dotti Thompson  
Recording Secretary

DRAFT