City of Frankfort Planning Commission
Zoning Ordinance Public Hearing Minutes
November 17, 2010
7:00 pm City Council Chambers

7:00 pm Call to Order

Roll Call: Ogilvie, Martin, Storrer, Campbell, Fairchild, and Miller
Absent: Bartley, Larson, Penne.
City Superintendent: Josh Mills
Public: Suz McLaughlin, Norma Elias, Donald Bondarenko
Quorum present

Moved Miller, seconded Fairchild, to approve agenda. Storrer amended the motion, requesting the addition of Chair Report on status of Zoning Ordinance, at number 4a. Moved Miller, seconded Martin, to approve agenda as amended. All ayes (6), motion carried.

Status of Zoning Ordinance - Bruce Ogilvie
Chair Ogilvie advised that the Zoning Workshop Committee (attended by City Superintendent Josh Mills, Andrew Martin for the Planning Commission, Larry Miller for the Zoning Board of Appeals, Bruce Ogilvie for the public of Frankfort, and Pat Storrer as recorder) met for 4 hours on 11/16/10. Notes of this meeting will be made available. Meeting purposes were:

- to reconcile differences between the 11/9/10 Zoning Ordinance version draft with previously agreed details, and,
- to agree needed language clarifications.

Chair Ogilvie responded to written comments received at the 10/7/10 and 10/28/10 special Commission meetings and at the 11/17/10 Public Hearing. Due to the technical nature of the comments and the Planning Commission response to these comments, Chair Ogilvie read his written report, which is included as follows:

Planning Commission Report by Bruce C. Ogilvie, Chair
November 17, 2010
Report on Public Hearings and Communications

A. Public Hearings are reported in the minutes of those hearings.

B. Written Communications requiring response:

1. Michael Campbell: Email of 10/25/2010 regarding Lawn Signs for "home occupations" along highway corridors.

Sign issues were a subject of considerable discussion at the Subcommittee on Home Occupations and Home Based Businesses. Conclusion was to retain a general prohibition of lawn sign – rather allow a wall affixed signage (or a single window sign) allowing the possibility based on facts and circumstances to ask for a special use from the Planning Commission. Section 8205.15 pg. 100, in residential districts a single flush mounted exterior (unlighted) sign of no greater than 4 square feet is allowed.

2. Norma S. Elias: Letter of 10/7/2010: Issues 1) ***City Engineer*** *- resulting in change of definition and change of description for services, specifies a Licensed Professional Engineer, either an*

employee or vendor. 2) ***Section 8101.3 Questioned the method of Interpretation:*** *resulting in a change to specify exactly what will be the basis for interpretation by enforcement officer(s), departments, agencies, courts, commissions or boards of appeal: the minimum acceptable standard is the zoning ordinance.* ***(3) Section 8201 Shared Parking*** *– questions the year round prohibition parking signs in the marina. Discussed will be subject of Marina Board and City Review to cover or remove "No Parking Signs" after the Marina Season. (4)* ***Section 8203.14 & ff*** *Home Occupations and Home Based Businesses – subject to substantial review and subcommittee work. Definition of "Home Occupations" pg 33, and the* ***Section 8203.14*** *(pg 55-57) substantially changed and improved.*

3. D. D. Bondarenko: 10/12/2010 wrote about the construction prohibition on land with a slope greater than 15%. Specifically referred to an inclining or declining (reference point unclear) slope:

At ***Section 8203.20****,* ***pg 59 & ff*** *the zoning ordinance* ***does not prohibit*** *construction: Design Standards (at #3) require the 15% slopes are subject to limitations of disturbance to existing vegetation and when the slope is greater than 25% no site disturbance is allowed, <u>except when approved methods of grading and a site plan</u> certified by a certified soil or geotechnical engineer is required. Also impacting the development of a sensitive site will be the* ***Stormwater Control Ordinance*** *at Section 8204, see pg 70 & ff.*

Additional issue addressed by correspondent concerning the imposition of new standards at the site of an original foundation, salvaged after fire or destruction. Height of the replacement residence and the protection of the original site from such imposed standards are raised, as protected under Act 110 of 2006, Subsection 1 of Sec. 208, at 125.3208. The citation requires that there be a dwelling on the property, " If the use of the dwelling, building or structure or of the land is lawful at the time of enactment of a zoning ordinance, or an amendment … then that use may be continued although the use does not conform to the zoning ordinance…" however, at (2) … may provide for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures upon terms and conditions provided in the zoning ordinance."

This draft zoning ordinance provides at 8205.05 ***(****Restoration and Repair): all repairs … required to keep non-conforming buildings … sound may be made, but it shall not be structurally altered to permit the use of the building … beyond its natural life. In the event any non-conforming building or structure is damaged by fire, wind, Act of God, or public enemy, it may be rebuilt or restored if the cost thereof* ***does not exceed sixty (60) percent of the value*** *of the non-conforming building … after the rebuilding … Any such restoration must be started within a period of one (1) year of the time of such damage …. The Zoning Board of Appeals may consider a variance request. At* ***8205.06*** *(Non-conforming Due to Reclassification, and at* ***8205.07*** *(Non-conforming use discontinued) "Whenever the non-conforming use of any building or structure, lot or parcel … has been changed to a conforming or more conforming use, the use shall not thereafter be reverted to any less conforming use.* ***If the non-conforming use of any building … is abandoned or discontinued for continuous period of one (1) year, then any future use of said building … shall conform in it entirety to the provisions of this ordinance.*** *I believe the draft zoning fully complies with the spirit and intent of the controlling State Enabling Act****.***

4. D. D. Bondarenko: 11/8/2010 wrote about substantially changing Steep Slopes Ordinance language to reduce the importance of the 25% standard as being of questionable (nature) siting the example of the Leelanau Avenue (north side) houses built on a "large slope" of 40 to 45 degrees. We will not change the current "steep slopes" portion of the zoning ordinance. These were developed with great care and reliance on objective engineering and geo-technical work by the both State of Michigan and US Department of Agriculture. The slope on Leelanau Avenue hill, where the houses were built is not 40-45 degrees until the northern edge of the built property. The experience of run off by 231 Leelanau Avenue is a case in point. The disturbance during their reconstruction and replacement of the existing driveway four years ago brought about severe erosion and excessive water flow on to

Leelanau and 3rd Street. Were those houses to be built today, a significant engineering and site preparation design would be required.

There were two letters received on the subject of Agriculture and Home Occupations within the City of Frankfort. Both issues received substantial public and subcommittee work, and were individually reported both at subsequent public hearings and through subcommittee reports as required.

In response to Chair Ogilvie's written statement,
Donald Bondarenko, 314 Leelanau Avenue: asks if any one has reported damage or negative effects of building on steep slopes that could not be remedied, other than the one example on Leelanau Avenue. He referenced Chapter 4 Building Code measures that adequately cover the issue. Ogilvie responds that situations like the one on Leelanau Avenue will be ameliorated in advance by the steep slope and storm water ordinance. Bondarenko asks the reason for 15% as a measure. Ogilvie responds that 15% is the Michigan standard for land disturbance and erosion control. Bondarenko concerned that the ordinance will supercede the building code requirements. Ogilvie responded that it doesn't prevent building on steep slopes, only that there are limitations on what you disturb, and if slope is greater than 25% an engineer will need to review the site plan at the city's expense. Bondarenko, coming from the standpoint of a builder, feels that the expenses and charges being imposed will discourage building in the city of Frankfort. Ogilvie responds that the Planning Commission heard from the public that they want to "protect steep slopes and vegetation and not encourage excessive storm water run coming through the city. It is an important conversation and I don't deny you the opportunity to bring this issue up". Ogilvle added that the Commission tried to balance the opportunity to build with reasonable standards that protect the welfare of the people of Frankfort. Suz McLaughlin suggested that the 15% measurement comes from soil erosion criteria.

Moved Fairchild, seconded Miller, to reopen Public Hearing on Draft Ordinance for the City of Frankfort recessed from October 28, 2010. All ayes (6), motion carried.

Written comments were received in advance of the meeting from Donald Bondarenko: these will be included in the public record.

Public Comment Period:

Questions (of General Nature, neither for nor against) concerning the Zoning Ordinance.

Norma Elias, 107 Park Avenue: felt that the Planning Commission did an excellent job, making many recommended changes. She asks if additional changes will need to be made before submitting to City Council, and if building height inconsistencies have been addressed. Ogilvie gave example of errors that were found and building height reference points. He believes they have taken care of 99% of the issues and that the ordinance is ready to be forwarded to City Council.

Donald Bondarenko, 314 Leelanau Avenue: expressed that his remarks were not personal and appreciated that Ogilvie went to great lengths to answer his questions.

Chair Ogilvie vacated Chair in favor of Planning Commission Vice Chair Martin, in order to run the computer projector and demonstrate the Zoning Ordinance hyperlink.

Persons speaking in favor of the draft Zoning Ordinance:

Suz McLaughlin, 670 Crystal Drive: appreciated the hyperlinks and references but was frustrated that you could not go back to the same area after accessing the hyperlink. She appreciated the use of encouraging language and phrases that referred to quality of life in Frankfort. Miller appreciated the time, effort and work put in by the commission before his appointment and noted the commission's commitment to public input. Fairchild feels he missed a lot by coming in at the end of the process. Martin appreciated the new tools, research and data uncovered since the previous ordinance; that society norms and practices have changed dramatically since 1997 and he feels that they had the resources, data and tools to better the community by raising the standards. Miller impressed that Frankort is the first city to take on this enormous task [of having online ordinance with hyperlinks?]. Mills was anxious for the adoption and excited about hyperlink efficiency and ancilliary buildings that advance the social-economic welfare in the community. Ogilvie is overjoyed to be done; it was a labor of intense emotion and a learning experience in engaging the community and becoming more open to suggestions; he feels that the ordinance reflected the need of the community to work as a cohesive unit and be involved. The public participation surprised everyone, including the consultants. Storrer , responding to a question by Miller explained the time frame involved. She endorsed the ordinance, the whole process, and learned a lot.

Persons speaking in opposition to the draft Zoning Ordinance:

Norma Elias, 107 Park Avenue: had a question answered by Ogilvie that dormers or cupolas do not require a site permit. She objected to duplexes in areas around hospitals, as it is her observation that in other cities, such areas have become degraded.

Donald Bondarenko, 314 Leelanau Avenue: noted some minor points to consider: dictionary definitions of steep slope and storm water; Page 47 City Residential Streets: unreadable cookie cutter measurements do not subscribe to actual facts or measurements; objection to Item 7, page 52, regarding "similar quality or workmanship as original structure": he feels that someone may want to vastly improve the quality of workmanship; Item 10 on same page: he would like to see maximum pitch listed; page 53 ingress and egress requirements need widths; page 54 8203.13 on garages: precludes building of tandem garages; page 59 subsection 2A, fifth line: language confusing "multi level building and/or terracing" gives no exception for single story dwelling; Subsection 2B, same page: does not like the word 'caution', prefers 'measures'. Next sentence "approved City of Frankfort permit" : a double negative; questioned storm water ordinance application to single unit lots; page 125 in North Residential District minimum and maximum pitch and height applications: single family residences with single stories will have to be rebuilt as two stories; would like to see railing and first floor minimums, requirements indicated; gave hypothetical example of situations that make it expensive to comply; concerned about zoning ordinance superseding building code per discussion with Building Inspector, Steve Haugen. Ogilvie and Miller feels that these are building code versus planning issues. Fairchild suggests a hyperlink to building code.

Norma Elias asks commission to think about taking duplexes out of the north city district and review standards for steps and safety issues.

Discussion between Mills, Elias, Storrer, McLaughlin and Ogilvie about need to address walls, fences and ramps in the Zoning Ordinance. Ogilvie said this will be included.

Elias: Planning Commission has done a good job.

Martin thanked Mr. Bondarenko for his input and attention to detail. Storrer asks Mr. Bondarenko to submit written questions and comments to Josh Mills.

Moved Miller, seconded Storrer, to close the Public Hearing. All ayes (6), motion carried.

Moved Miller, seconded Fairchild, to adopt, as submitted, the proposed Zoning Ordinance for the City of Frankfort.

Moved Miller, seconded Fairchild, to adopt Amendment Number 1, that Section 8309, page 136, minimum rear and side setbacks be amended to 25' instead of 50'. All ayes (6), motion carried.

Moved Miller, seconded Ogilvie, to adopt Amendment Number 2, that the Walls and Fences ordinance from the old Ordinance be included in the new Ordinance, with any needed updates. All ayes (6), motion carried.

Moved Miller, seconded Fairchild, to adopt, as amended, the proposed Zoning Ordinance for the City of Frankfort. All ayes (6), motion, as amended carried.

Moved Storrer, seconded Fairchild, to forward the Zoning Ordinance, as amended, to the Frankfort City Council, with the approval of the Planning Commission. All ayes (7), motion carried.

Motion to adjourn meeting moved Fairchild seconded Campbell all ayes (6); motion carried.

Meeting adjourned at 8:40 pm.

Next meeting: 7:00 pm December 14, 2010 in the City Council Chambers

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