

**WATERVLIET CHARTER TOWNSHIP
PLANNING COMMISSION
REGULAR MEETING MINUTES
JANUARY 6, 2015**

Present: Joseph Stepich, Richard Quinn, Robert Spaulding, Joseph Engel, Joseph Frontczak.

Also Present: Thomas Scheid, Carl Spessard

Vice-Chairman J. Stepich called the meeting to order at 2:00 p.m.

Roll Call was taken

The minutes of the December 2, 2014 meeting were read. R. Quinn made a motion to approve the minutes as read. J. Engel seconded and the motion carried unanimously.

Yard Art Resolution

J. Stepich, who headed up the review of options as requested by the Township Board, outlined the process in which he took in the process. He said that the first thing he tried to accomplish was to define "yard art" by making a distinct delineation of what is "art" and what is "junk." He said that through his research the only example definition of junk he could find was the non committing, "Junk is whatever the ordinance says it is" and that the matter of art versus junk is really just a subjective matter of individual interpretation and preference. He added that, "One view may be that it is art if it is not near my property but it is junk if it is near my property." He continued by noting that various potential options were considered as a mean of permitting yard art. He said that permission could be accomplished through a change in the ordinance, a zoning variance, as an historical landmark or through the issuance of a special land use permit. He said that he preferred the option of the issuance of a special land use permit because that would require the most comprehensive submission of material for the review process coupled with the fact that, by ordinance, if any of the conditions of a special land use permit are violated or not adhered to, the special land use permit could be revoked by the Township and the materials utilized as art would have to be removed.

In further support of the special land use permit option he suggested possible conditions as the art must be displayed with a theme, the display must be decorated at all times to fit the theme, must be perpetually maintained and the area surrounding the display must be maintained as well. He noted that special land use permits run with the property and not with the property owner, hence, if any subsequent owners of that property choose to display yard art, they, too, would be subject to the same conditions and requirements of the original permit recipient.

Stepich continued his presentation by providing arguments against the issuance of a special land use permit for what would otherwise be considered an ordinance violation. He questioned that if we permit the utilization of violating vehicles to be used as art, would this be opening a door for other ordinance violations to be tolerated as well. He continued by stating that, referring to the instant at hand, that no one with the Township told them they had to move the vehicle and that it couldn't be used as yard art. All they were told is to bring it into compliance with the ordinance violation cited. He stated, "They created the problem and now they want the Township to accommodate them."

The Commission reviewed a report submitted by the Zoning Administrator which stated that the specific use of an unlicensed and inoperable vehicle for aesthetic purposes can only be permitted if certain modifications of current township ordinances are made. The report cited three discrete ordinance sections which count unlicensed and inoperable motor vehicles as violations, which are: the International Property and Maintenance Code, being Ord. No. 41 adopted by reference; the Township's Nuisance Ord. No. 37, Section 1, Subsection B (b); and Article VI, Section 6.11 of Zoning Ordinance No. 50.

The report stated that the Zoning Ordinance has appellate recourse and contains provisions to amend, Ord. No. 37 may be amended by simple motion of the Township Board at conclusion of two readings at any two Township Board meetings, however, Ord. No. 41 cannot be amended in any way at the local level. The report went on to say that by amending either the Zoning Ordinance or the Nuisance Ordinance to allow the maintenance of unlicensed and inoperable vehicles on any property for any reason would create a conflict with the International and Property Maintenance Code. The report also stated that, after consultation with the Township attorney, it was learned that it is an enforcement tenant in local government that in the event of a conflict the more restrictive ordinance shall take precedent in any enforcement action. As such, the permitting of a use under the authority of one ordinance will subvert a prohibition in a conflicting ordinance and, in this case, Ord. No. 41 would take precedent.

R. Quinn stated that, in his opinion, the most suitable course of action would be to leave the currently adopted ordinances as is, surmising; "We could make things better or we could make them worse and we certainly don't want to make things worse."

J. Stepich said that by creating conflicts within the extant ordinances the Township would be opening itself up to serious legal action. He also stated that action to rescind Ord. No. 41 would not be possible as, by doing that, the Township would lose its statutory authority to enforce its Rental Inspections and Property Maintenance Ordinance. Stepich then stated in conclusion, "Ultimately it (the yard art truck) is allowed if its just brought into compliance."

With that said, J. Stepich entertained a motion on the matter. R. Quinn made a motion to continue to enforce current zoning and ordinance regulations. J. Engel seconded and the motion carried unanimously.

With there being no further business before the Commission J. Frontczak made a motion to adjourn. J. Engel seconded and the motion carried unanimously.

The meeting was adjourned at 2:28 p.m.

Respectfully Submitted,



Robert Lohr
Zoning Administrator