

**BINGHAM TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
August 17, 2005**

CALL TO ORDER: 7:00 P.M.

ROLL CALL: Cathy Jasinski, Mike Park, Phil Anderson, and Mary Bush
Guests: There were 8 guests present.

**AGENDA APPROVAL: MOVE BY BUSH SUPPORT BY JASINSKI TO
APPROVE THE AGENDA AS PRESENTED**

Aye: All Motion carried.

PUBLIC HEARING:

Applicants are Attorneys Gary M. Ford and Jeffrey McManus on behalf of Clark and Lynn LLC and Alan and Michelle Weversted for a rezone from the Agricultural Zoning District to the Residential Zoning District for property numbers 45-001-011-00 and 45-001-017-00 on Lee Point Road.

Larry Whiting spoke on behalf of Clark Lynn LLC and indicated this rezone request was based on a lawsuit filed last year and that was the purpose of the request.

Planner/Zoning Administrator Rochelle Rollenhagen submitted the following report.

STATEMENT OF REQUEST:

That Bingham Township rezone the northern portion of the respective parcels that is presently zoned Agricultural to Residential, with the result that the entire parcels owned by Clark & Lynn LLC and the Weverstads be rezoned Residential.

HISTORY

These two contiguous parcels were initially a tract of land under common ownership and therefore constituted a parent parcel effective as of 1997 according to the Land Division and Subdivision Control Act of 1997. The original owners requested a boundary adjustment in 2004 in order to bring both parcels into compliance with the zoning ordinance in regard to road frontage, the one parcel being deficient. The Land Division Committee approved the boundary adjustment believing the parcels were all zoned Residential and therefore a 150 foot road frontage was the requirement. No building restrictions were placed on the parcels by the Land Division Committee. Subsequently the two parcels were purchased in good faith by the applicants with the belief that the parcels were buildable. It has since been noted that the parcels are in two zoning districts, both Residential and Agricultural. The following facts apply:

FINDINGS OF FACT:

1. The property is located both in the **Agricultural Zoning District** which is regulated by Article IV of the Ordinance, and in the **Residential Zoning District**, regulated by Article V of the Ordinance.

2. Article III, General Provisions, Section 3.3 states:
It is the intent and understanding of this Ordinance to have all land within Bingham Township zoned. Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning Map, the following rules shall apply:
3.3 (7) Where the application of the aforesaid rules creates parcels with multiple zoning districts or creates a reasonable doubt as to the boundaries between two (2) districts, the following shall apply:
Lot/parcel minimum size: the lot size regulations of the most restrictive district shall govern the entire parcel in question.
Use/structure requirements: the district in which the use/structure is located shall be the governing district in establishing the requirements and regulations for the use/structure.

3. Section 12.1 Standards states that the minimum width and road frontage requirements in the Agricultural District are 200 feet, while the corresponding requirement in the Residential District is 150 feet.

ANALYSIS

Section 3.3 (7) makes it clear that the required road frontage for these two parcels is 200 feet, not 150 feet as previously thought by the Land Division Committee. A rezone of these properties to Residential moves the applicants closer to a conforming parcel as far as road frontage is concerned. These two parcels are still approximately .13 feet under the 150 foot requirement. The applicants have also requested a variance to this road frontage requirement and are scheduled for a Zoning Board of Appeals hearing on August 31, 2005.

Rochelle indicated that the Commission could grant this request and label the back portion of the lots as un-buildable.

PUBLIC COMMENT:

Applicant Larry Whiting indicated that the back portion of his lot is buildable and on higher ground. He stated he would like the opportunity to portion off the back lot and sell the same at a future date if this request was granted.

Attorney Michael McManus spoke on behalf of the Weversteds and indicted that the Weversteds would be agreeable to labeling the back portion unbuildable.‘

Whiting indicated he had 35,000 into this lawsuit and if having another lot could help

bare the costs, then he did not want to be restricted.

Tom Fleming presented a written statement and indicated that he was concerned about this rezone resulting in higher density along Lee Point Road.

Bob Foster stated he walked the property and stated if a rezone request is granted and other property owners follow suit, this could cause a number of back lots being formed and an increased density in the area.

PUBLIC HEARING CLOSED.

PLANNING COMMISSION DISCUSSION:

Anderson asked how we could be sure a rezone would eliminate the lawsuit.

Jasinski indicated that the rezone application will be looked at if this meets the Master Plan and whether it has an adverse impact on the adjacent area and has nothing to do with a lawsuit. She added her concern is the possibility of increase of splits along that area. Park asked why the applicant did not go directly to the ZBA and request a variance on the road frontage requirement rather than this rezone request.

**MOVE BY JASINSKI SUPPORT BY BUSH TO RECOMMEND THE REZONE REQUETS FROM THE AGRICULTURAL ZONING DISTRICT TO THE RESIDENTIAL ZONING DISTRICT FOR PARCELS 45-001-011-017-00 AND 45-001-011-020-00 ON THE CONDITION THAT ONLY ONE RESIDENCE CAN BE PERMITTED PER PARCEL AS THE PARCELS EXIST TODAY.
ROLL CALL VOTE: JASINSKI-YES, BUSH-YES, PARK-YES, ANDERSON-YES. 4-YES MOTION CARRIED.**

MOTION BY BUSH SUPPORT BY ANDERSON TO ADJOURN.

Respectfully Submitted,

**Dorothy Petroskey
Bingham Township Clerk**