

**White Oak Township Planning Commission
Special Meeting Minutes
March 16, 2023**

The meeting was called to order by Jeff Steckelberg, Chairperson at 7:00 p.m. with the reciting of the Pledge of Allegiance. In attendance were Jeff Steckelberg, John Kemler, Aaron Graf, Megan Willis-Redfern, Dave Mullins, Tom Brimhall-Zoning Administrator, Leela Vernon-Clerk, Brigitte and Denver Doxtator, our attorney Leslie Abdo and several members of the Township (list attached.)

The members of the board introduced themselves. Trustee Kemler made a motion to approve the minutes of the January 12, 2023 meeting. Seconded by Dave Mullins. Motion carried.

A motion was made by Trustee Kemler, seconded by Meg Willis-Redfern to have the Planning Commission go into a closed session with the Township attorney to discuss confidential attorney client privilege legal opinion. Roll call vote as follows: Jeff Steckelberg chairperson – yes, Aaron Graf – yes, Meg Willis-Redfern – yes, John Kemler – yes, Dave Mullins – yes. Motion carried.

A motion was made by John Kemler, seconded by Aaron Graf to go into open session. Roll call vote as follows: Jeff Steckelberg chairperson – yes, Aaron Graf – yes, Meg Willis-Redfern – yes, John Kemler – yes, Dave Mullins – yes. Motion carried.

Mr. Brimhall gave a briefing on history of the application to amend the ordinance submitted by Steve and Sally Bauder:

Mr. and Mrs. Bauder had been conducting equine exhibition events for several years now. In 2019 they had so many people there they were for all intents and purposes blocking Swan Road. They had been running these competitions for several years. At the time they were even serving food with no health permit. They continued to hold events through 2020 without a Special Use Permit, which is required for this activity. These events were not sanctioned under our Zoning Ordinance at that time, or even now. In 2021 they submitted an application for a Special Use Permit which was incomplete. They were informed of this deficiency, but they did not submit an updated site plan. The Bauder's continued to hold illegal events at their home and were noted on September 19, 2020, April 25 of 2021, May 8, 2021, July 10, 2021, August 21, 2021, and April 3, 2022. A Stipulated Injunction and Adjournment of the Preliminary Injunction Hearing was agreed to on May 12, 2022, as the Bauder's had advertised events on the Michigan Ropers Association website and on Facebook to be held monthly at their home. What that means is that they agreed to not hold any more events at their home unless they received a change in the zoning ordinance to allow this activity.

Leslie: The petition is asking to amend 3 sections of the zoning ordinance, section 9.3, 3.1 and 4.40 specifically to add "Equine Exhibition Events" as a permitted use with Special approval in the Agricultural Zoning district with specific standards, such as minimum site area, event lighting, parking, off street parking, certain other standards as well as to add definitions for what these event are to the zoning ordinance if they are not currently addressed and then to amend section 4.40 of the zoning ordinance which discusses setbacks for special exercise and training corrals for equine. Currently, 4.40 requires a setback of not less than 100' from any lot line. The application is asking that section be amended to be 100' from any neighboring dwelling instead of from the lot line. The Planning Commission tonight considers the amendment and may make recommendations to the township board. They are not the final decision on a Zoning Text amendment. They can make a recommendation to the board to approve the amendment, approve with amendments, or deny the proposed amendment.

Zac Clark introduced himself who represents Steve and Sally Bauder. Just to make sure we're clear that the bulk of the issue that we are here for is the Equine Events definition added as a special use under 9.3 for Agricultural Special Uses enumerated in the ordinance. The section 4.4 is a request but they are two independent issues and the main issue is adding Equine Exhibition Events to the definitions as well as a Special use under 9.3. I proposed a definition to the township I'll go ahead and read it for everyone that is in attendance. In section 9.3 there are specific enumerated uses under the Agricultural zoned land, I would like to add Equine Exhibition Event subject to the following conditions:

- The minimum site area shall be 10 acres.
- The use of temporary event lighting shall only be allowed between the hours of 8 am and 10 pm
- Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and recording devices, shall not be operated outdoors on the premises as to be unreasonable loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the Township. The use of sound producing equipment shall only be allowed between the hours of 8 am and 10pm
- Events held outdoors, in whole or in part, at such a facility and that is open to participants beyond those who board or train at the facility are allowed only if specifically permitted by the Township.
- Off-street parking, loading and unloading shall be provided in accordance with the standards set forth in Article 6 of the Ordinance.

This Ordinance would allow, with reasonable restrictions, we want to be good

community citizens while enjoying our property in the manner we believe is an agricultural use. The 8 am to 10 pm is not a live or die right, with reasonable time frames to not cause a nuisance to the neighboring properties. What we are asking the Planning Commission to consider amending the text of 9.3 to add "Equine Exhibition Events" as I read off in the definition to a special use still subject to a special use permit approved by the township, subject to conditions. We're proposing that this be presented to the Township Board as an addition text amendment to section 9.3 for special use for Agricultural lands. I think this is in conjunction with several other permitted uses: Country clubs, gun clubs, golf courses, driving ranges, contractor yards, veterinary office and animal clinics, outdoor recreational uses , dog clubs with or without facilities, beauty and barber shops, mining and excavation, small engine repair. These are uses that are currently listed enumerated special uses in agricultural and I think that to allow having an occasional horse exhibition event is in line with the intent of the ordinance.

Clerk Vernon pointed out that Mr. Clark stated "occasional" horse exhibition event when at the last meeting it was stated that they want to hold these events every other weekend April through September.

Mr. Clark responded that what they are asking for is a reasonable compromise if the township thinks it's reasonable for only one weekend per month for the summer months. Winter and cold weather prohibit these events. Wet springs and wet falls prohibit it. If it is determined that we can do it only one weekend per month, that's what we're asking for. At most it would be 2 weekends per month April through September, but in order to compromise and come to a reasonable resolution here one weekend a month would work. We're open to discussing reasonable changes or modifications.

Dave Mullins asked Mr. Clark to re-read #4. He felt that there was a discrepancy between what Mr. Clark read and what the Planning Commission had. He re-read, "Events held outdoors, in whole or in part, at such a facility and that is open to participants beyond those who board or train at the facility are allowed only if specifically permitted by the Township". The Planning Commission did not have the section, "only if specifically permitted by the Township." Mr. Clark stated that he had added that section after submitted the application.

Leslie: Any other questions from the Planning Commission for either Mr. Clark or the Bauder's?

Tom asked Mr. Clark to define Agricultural. He read the definition of Agricultural products from the Right to Farm Act. Mr. Clark stated that agricultural deals with livestock in the form of horses and cattle. Mr. Brimhall asked what product they were producing in order to consider this agricultural. He does not feel that it is an agricultural use. Mr. Clark stated that the raising of cattle is agricultural. Mr. Brimhall stated that what the Bauder's are proposing to do does not produce a

farm product. There was more discussion about the definition of “Agricultural”.

There was some discussion regarding overnight camping. Mr. Clark assured the Planning Commission that, “there is no intent to be non-compliant. Mr. Bauder is a man of his word and if no overnight camping makes it or breaks it and it’s not allowed, he will be sure there is no overnight camping. He’s a man of his word.” There was more discussion about the subject.

A motion was made by John Kemler, seconded by Dave Mullins to open public comment. Motion carried with no one opposing.

Steven Johnson, Gary Young, Jim Gregg, and James Rourk spoke in favor of the proposed Ordinance Amendment. There was one more but I could not make out his name. Alan Baker had a question about whose responsibility it is to enforce parking on the road, and questions regarding overnight camping. After everyone was allowed to speak, a motion was made by John Kemler seconded by Meg Willis-Redfern to close public comment. Motion carried with no one opposing.

Dave Mullins took over the hearing and after deliberation and questions regarding overnight camping, a motion was made by Aaron Graf, seconded by John Kemler to recommend adding the following definition to section 3.1 of the Township’s Zoning Ordinance: “Equine Exhibition Events are those which involve exhibition, competition, and recreational sporting use of horses and similar livestock subject to the requirements of this Ordinance.” Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.

After discussion a motion was made by John Kemler, seconded by Dave Mullins to recommend adding “Equine Exhibition Events” as a special land use to both sections 9.3 and 12.3 of the Township’s Zoning Ordinance. Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.

One by one the Planning Commission went over the conditions in the amendment application submitted by the Bauders.

- Request: The minimum site area shall be ten (10) acres. After deliberation a motion was made by John Kemler, seconded by Dave Mullins to recommend allowing the minimum site area to be 10 acres. Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.
- Request: The use of temporary event lighting shall only be allowed between the hours of 8 am and 10 pm. After deliberation a motion was made by Dave Mullins, seconded by John Kemler to recommend allowing

the temporary event lighting to be allowed only from 8 am to 10 pm. Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.

- Request: Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and recording devices, shall not be operated outdoors on the premises so as to be unreasonable loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the Township. The use of sound producing equipment shall only be allowed between the hours of 8 am and 10 pm. After deliberation a motion was made by Aaron Graf, seconded by John Kemler to recommend adding condition (3) to read as follows, “Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and recording devices shall not be operated outdoors on the premises louder than 90 db(a) Lmax measured at the property line between the hours of 9:00am and 9:00pm and louder than 60 db(a) Lmax measured at the property line between the hours of 9:00pm and 9:00am. Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.
- Request: Events held outdoors or indoors, in whole or in part, at such a facility and that is open to participants beyond those who board or train at the facility are allowed, Mr. Clark stated that he had added to his copy the statement, “if permitted by the Township.” A motion was made by John Kemler, seconded by Dave Mullins to recommend adding a condition as section (4) as follows: “Events held outdoors or indoors, in whole or in part, at such a facility and that is open to participants beyond those who board or train at the facility are allowed, if permitted by the Township.” Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.
- Request: Off-street parking, loading and unloading shall be provided in accordance with the standards set forth in Article 6. After deliberation, a motion was made by Dave Mullins, seconded by John Kemler to recommend adding a condition as section (5) as follows: “Off-street parking, loading and unloading shall be provided in accordance with the standards set forth in Article 6. All parking, including loading and unloading of animals, must be within the minimum site area of ten (10) acres.” Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.

There was more discussion regarding overnight camping. It was determined that the overnight camping issue could be addressed with the Special Use Permit.

There was discussion about the number of events that will be allowed per year. There was also discussion regarding the route traffic for these events should be routed. It was recommended that they route people M-36 to Brogan, left on Swan. Our attorney stated that the route would be more appropriately addressed as a condition to the Special Use Permit since it is specific to that property.

Section 4.40 (D) of the Townships Zoning Ordinance currently states, "Lots on which animals are kept shall be fenced. Special training or exercising corrals shall be located not less than one hundred (100) feet from any lot line." The Bauder's request that it be changed to read from any neighboring dwelling. Our lawyer pointed out that the Planning Commission could specify that the amendment change be specific to Equine Exhibition Events, making it not generally applicable to all lots where animals are kept. She also stated that the Bauder's request for variance on this setback was denied by the Zoning Board of Appeals. She also pointed out that it is the responsibility of the Planning Commission to take into account the safety of neighboring property owners. A motion was made by Dave Mullins, seconded by John Kemler to recommend amending section 4.40 (4) to read as follows, "Lots on which animals are kept shall be fenced. Special training or exercising corals shall be located not less than one hundred (100) feet from any neighboring dwelling." As proposed, this would apply to all exercising corrals according to Leslie. Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.

There was more discussion regarding overnight camping. Mr. Mullins stated that if we allowed overnight camping it should be treated as a campground. Leslie stated that this issue could be addressed with the Special Use Permit. Aaron stated that there is nothing in their proposed amendment that discussed overnight camping.

Leslie stated that the Planning Commission needs to asset forth findings of fact as stated in our Zoning Ordinance section 15.4. She read each one for the Planning Commission's response.

- Will the proposed amendment as it was modified tonight be in accordance with the basic intent and purpose of the Zoning Ordinance? Dave Mullins said, "Yes." Leslie stated that we need to give more of an explanation. Leslie stated they could refer back to the purpose of the Agricultural and Commercial zoning district. John agreed.
- Will the proposed amendment further the comprehensive planning goals of the Township? John said yes, based on keeping it AG. Dave stated that they added some restrictions to it, not just signed off on it.

- Have conditions changed since the Zoning Ordinance was adopted or was there a mistake in the Zoning Ordinance that justifies the amendment? Aaron stated that when the Ordinance was written it was applicable, time change. Leslie asked what were the conditions that have changed? John doesn't think it was taken into consideration when it was done. Leslie stated that the Zoning Ordinance didn't address this particular condition when it was first written. Aaron stated that when it was written everything was based off of commercial farming not even thinking about having these kinds of events. Lifestyle conditions have changed.
- Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather than merely grant special privileges? Dave-I would say yes because it was inequitable. It seems like this was more restrictive than someone having pasture horses.
- Will the amendment result in unlawful exclusionary zoning? Aaron, John and Dave said NO. Leslie stated that the amendment would be more permissive.
- Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes? Dave-I would say no because we added plenty of restrictions. It's not very open ended.
- If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land? Does not apply.
- If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel? Does not apply.
- If a rezoning is requested, is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question? Does not apply.
- Will the proposed amendment be consistent with the purposes of this Ordinance as stated in the Preamble, and in particular, will the proposed amendment promote the public health, safety and welfare? Dave has pause with the second part. He stated, "promote public safety, I mean that's like saying were going to, we're adding to public health, not just upholding, promoting." John stated that it depends how you look at it. It's better for the kids to be doing that than sitting playing video games. Dave agreed. Dave stated that he feels it is in accordance with our Preamble.

Dave suggested they do a vote on the amendments in whole.

Leslie did a recap and stated that the Planning Commission is making a recommendation to the Township Board to approve the application which would be amending the zoning ordinance to add a definition to section 3.1 to define Equine Exhibition Events as, "Equine Exhibition Events are those which involve exhibition, competition, and recreational sporting use of horses and similar livestock subject to the requirements of this Ordinance."

It would be to add to section 9.3 and 12.3 of the Zoning Ordinance which are the list of special uses in the Agricultural and Neighborhood Commercial zoning districts, Equine Exhibition Events as a special land use with the following standards,

1. Equine Exhibition Event Centers subject to the following conditions:
 - a. The minimum site area shall be ten (10) acres.
 - b. The use of temporary event lighting shall only be allowed between the hours of 8:00 am and 10:00 pm.
 - c. Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and recording devices shall not be operated outdoors on the premises louder than 90 db(a) Lmax measured at the property line between the hours of 8:00am and 9:00pm and louder than 60 db(a) Lmax measured at the property line between the hours of 9:00pm and 8:00am.
 - d. Events held outdoors or indoors, in whole or in part, at such a facility and that is open to participants beyond those who board or train at the facility are allowed if permitted by the Township.
 - e. Off-street parking, loading and unloading shall be provided in accordance with the standards set forth in Article 6. All parking, including loading and unloading of animals, must be within the minimum site area of ten (10) acres.

The final would be to amend section 4.40(D) of the zoning ordinance to read as follows: "Lots on which animals are kept shall be fenced. Special training or exercising corals shall be located not less than one hundred (100) feet from any neighboring dwelling."

John made the motion to recommend the above amendments to the Zoning Ordinance to the Township Board. Seconded by Meg Willis-Redfern. Roll call vote as follows: Meg Willis-Redfern – Yes, John Kemler – Yes, Dave Mullins – Yes, Aaron Graf – Yes, Jeff Steckelberg – Yes. Motion Carried.

Jeff Steckelberg asked if there was any other Township business. Mr. Bauder stated that he would like to thank everyone for the time and effort they put in.

Next Meeting:

The next Planning Commission meeting is scheduled for Thursday, April 13, 2023 at 7:00 p.m. We will conduct the public hearing for the Gun Range Ordinance and start to work on the noise ordinance. We will check with McKenna to see if they are available.

A motion was made by John Kemler, seconded by Aaron Graf. Motion carried.

Meeting adjourned 10:05 p.m.

Respectfully submitted,
Jeff Steckelberg
Planning Commission Chair