

WEXFORD JOINT PLANNING COMMISSION ANNUAL MEETING

February 25, 2019

Overview and Updates on Current Issues Affecting the Wexford Joint Planning Commission

Presented by:

Richard M. Wilson

Mika Meyers PLC

414 Water Street

Manistee, MI 49660

rwilson@mikameyers.com

(231) 723-8333

Structure and Organization of WJPC

- Wexford Joint Planning Commission Ordinance and Agreement
 - Creates Wexford Joint Planning Commission and provides for its organization, powers and duties
 - Authorizes the adoption of a joint zoning ordinance pursuant to Joint Municipal Planning Act. MCL 125.131.
- Wexford Joint Master Plan
 - Essentially the former Wexford County Master Plan, adopted on an emergency basis to support Joint Zoning Ordinance following Wexford County's action to eliminate zoning
- Wexford Joint Zoning Ordinance
 - Establishes zoning regulations throughout the geographical area covered by the WJPC and the Master Plan.

Structure and Organization of WJPC

Under Section 4 of the Joint Planning Commission Ordinance and Agreement, all zoning powers and duties have been transferred and assigned to the WJPC. Requires unanimous consent to alter or amend the ordinance/agreement.

Joint Zoning Ordinance that was adopted by each participating municipality provides that any amendment to the JZO must be approved by majority vote of each Township Board of each participating municipality.

Growing Pains

- Issues with amendments to the JZO:
 - Definitions, land use district regulations, etc. that affect the entire geographical area covered by the WJPC
 - Additional special use authorizations
 - Amendments that change zoning classification (re-zonings) that are not applicable to entire geographical area of WJPC, but only one or two parcels.

- Concerns?
 - Do not want proposed amendment effective in your township?
 - Lack of perceived authority to approve zoning changes outside of township boundaries—extra-territorial zoning?
 - What other issues do the participating municipalities experience with respect to zoning amendments?

Background Considerations for Zoning Amendments

- Under the Joint Municipal Planning Act (2003 PA 226; MCL 125.131 et seq.):
 - The participating municipalities, with the joint planning commission acting as the zoning commission, *may each adopt a joint zoning ordinance that affects the jurisdictional area of the joint planning commission* and provides for the joint administration of the joint zoning ordinance, including, but not limited to, a joint zoning board of appeals. MCL 125.137(4)
- Under the Michigan Zoning Enabling Act (2006 PA 110; MCL 125.3101 et seq.)
 - Except as otherwise provided under this act, *the regulations shall be uniform* for each class of land or buildings, dwellings, and structures within a district. MCL 125.3201(2)

Background Considerations for Zoning Amendments

- Early understanding of the nature of the proposed amendment is key. Legislative bodies should not be ‘surprised’ when an amendment arrives on its agenda for consideration. Rather, WJPC member from that municipality needs to keep his or her township board informed of what is being proposed.
- Make comments/concerns/questions known to the WJPC at or before the scheduled public hearing on a zoning amendment so they may be considered by the WJPC before it takes action to recommend, or not, the proposed zoning amendment.

Options

1. Amend JZO to eliminate unanimous approval for zoning amendments.
 - Simple or super majority?
 - Cram-down issue: Majority approves zoning amendment that affects only one or two of the dissenting townships?
2. Retain unanimous approval for zoning amendment but If zoning amendment does not affect a township (e.g., a rezoning of a single parcel), require dissenting municipality(ies) to hold public hearing and make written findings of fact and conclusions/reasons supporting its dissent. (e.g., similar to process for leaving the WJPC). In other words, prohibit arbitrary and capricious denials of zoning amendments that do not affect land in the dissenting township.

Options

3. Repeal JZO and let each township adopt its own. Role of the WJPC would need to be negotiated/determined prior to the effective date or repeal. Possible scenarios include:
 - WJPC could still act as planning commission to some or all of the townships, depending on their wishes, but all administrative zoning functions would transfer back to the individual townships, including issuance of permits. WJPC acts as planning commission for purposes of Master Plan, and other plan updates.
 - Alternatively, townships could assume responsibility for all holding public hearings on zoning amendments, handling publications, etc., if they wished. WJPC is then dissolved and each township establishes its own.
 - Alternatively, townships could contract with WJPC to provide Zoning Administrator and other staff support.
 - Under any scenario, townships would become responsible for its own ZBAs, which may only be handled “jointly” if part of a joint zoning ordinance.

Options

4. Do nothing.

- Seek input from affected townships at or before public hearing.
- Taylor zoning amendments to affect the least number of townships (e.g., allowing certain special uses only in Townships A, B and C, but not in D, E or F) where not prohibited by uniformity requirement of MZEA
- Alternatively, create new zoning districts, as necessary, to preserve desired characteristics that may be changed under proposed amendment.

Recommendations

Option No. 1:

Amend JZO to prohibit arbitrary and capricious denials of zoning amendments (as opposed to requiring less than unanimous approval) by requiring dissenting township(s) to hold public hearing and make findings of fact/conclusions to support the non-approval.

- By far the simplest solution to implement
- Preserves the spirit and intent of the original agreement to form a joint planning commission and have a joint zoning ordinance
- Most cost-effective solution compared to disbanding WJPC or allowing some townships to leave the WJPC
- If not successful, other options may be implemented at later date.

Mika Meyers^{PLC}

Questions?
