

**ROSS TOWNSHIP
PLANNING COMMISSION
MINUTES
February 22, 2021**

CALL TO ORDER/PLEDGE

Chairperson Lauderdale called the regular meeting of the Ross Township Planning Commission to order at 6:00 p.m. The Planning Commission meeting was conducted through electronic remote access.

ROLL CALL

Present: Chairperson Lauderdale
Michael Bekes
Mark Markillie
Steve Maslin
Michael Moore
Pam Sager
Sherri Snyder

Absent: None

Also Present: Bert Gale, AGS – Township Zoning Administrator
Kelly Largent, AGS – Township Zoning Administrator
Rebecca Harvey – Township Planning Consultant
Rob Thall – Township Attorney

APPROVAL OF AGENDA

The agenda was approved as presented.

APPROVAL OF PRIOR MEETING MINUTES

The Commission proceeded with consideration of the **January 25, 2021** regular Planning Commission meeting minutes. Snyder moved to approve the minutes as presented. Moore seconded the motion. The motion carried unanimously.

NEW BUSINESS

1. Public Hearing – SLU/SPR for Expansion of a Nonconforming Building (Sleight)

The next matter to come before the Planning Commission was consideration of the request by Travis Sleight for special land use permit/site plan review for the proposed alteration of a nonconforming building. The subject property is located at 12175 S. Sherman Lake Drive and is within the R-1 District.

Chairperson Lauderdale opened the public hearing.

Largent provided an overview of the request, explaining the proposal to replace a flat roof on an existing detached accessory building with a pitched roof. She stated that the accessory building is located within the 25 ft required rear (streetside) setback (10 ft setback exists) and 10 ft required side setback (<5 ft setback exists), and has an existing eave height that exceeds the 10 ft maximum height allowed (12 ft eave height exists), noting that the accessory building exists as a lawful nonconforming building due to setback/building height.

Largent advised that the proposed construction (replacement of the flat roof with a pitched roof) will represent an expansion of a nonconforming building but will not serve to increase the building footprint nor the setback/building height nonconformities. In response to a question, she confirmed that the pitched roof will increase the overall building height from 12 ft to 16 ft, in compliance with the maximum overall building height standard of 18 ft.

Leah Sleight was present on behalf of the application. She stated that the roof replacement is required due to tree and water damage. Referencing the application documents provided, she noted that the proposed pitched roof will not alter the situation of the accessory building on the property and will be comparable in design and height with the accessory buildings on neighboring properties. She added that the nonconforming status of the accessory building was present when the property was purchased and is not a self-created situation.

No public comment was offered on the matter and the public comment portion of the public hearing was closed.

In consideration of the Special Land Use Criteria set forth in Section 19.3, the Commission concluded the following: the proposed pitched roof will alter the nonconforming building but will not increase the setback or height nonconformities; the proposed roof replacement will not require any disturbance to the grade of the site or removal of trees; no change to the existing on-site utilities are proposed; the proposed roof replacement will not cause traffic congestion or alter existing access/parking arrangement on the site; the proposed pitched roof is compatible in design and height with the character of the dwelling, as well other accessory buildings in the area; the footprint and location of the accessory building, as well as the nonconforming elements of the accessory building, will remain unchanged; and, there were no concerns offered by surrounding property owners.

It was noted that the site plan presented was acceptable (per Section 21.4) and that the proposal meets the Site Plan Review Criteria set forth in Section 21.6.B.

It was reiterated that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Bekes moved to grant Special Land Use Permit/Site Plan Approval for the proposed expansion of a nonconforming building such to allow the replacement of an existing flat roof with a new pitched roof, based upon the review findings of Section 19.3 – Special Land Use Criteria and Section 21.6 – Site Plan Review Criteria, noting that the site plan presented is acceptable, with the information required by Section 21.4 B., C. and I. waived per Section 21.4 T. Snyder seconded the motion. The motion carried unanimously.

2. 2021-2022 Planning Commission Budget

Chairperson Lauderdale referenced and provided an overview of the PC Budget Request for FY 2020-2021; the draft PC Budget Request for FY 2021-2022; and, the PC Expenditure Reports for 2017-2018, 2018-2019, 2019-2020, and 2020-2021, highlighting the changes suggested in the 2021-2022 Budget Request. He requested confirmation from AGS, Harvey, and Attorney Thall that the proposed budgets for the professional service line items were adequate. It was noted that the proposed budgets were satisfactory.

The Commission then conducted a line-item review and concluded the amounts for each line item in the 2021-2022 budget were acceptable.

Bekes moved to accept the draft PC Budget Request for FY 2021-2022 as presented. Sager seconded the motion. The motion carried unanimously.

3. Sketch Plan Review – Gull Ridge Apartments

The next matter to come before the Planning Commission was consideration of the request by Matthew Callander for sketch plan review of a proposed multi-family development. The subject 23.7-acre site is located on the north side of M-89, opposite the Ross Township Hall, and is within the R-3 District.

Chairperson Lauderdale referenced Section 21.3 – Sketch Plan Review and explained that the sketch plan review process is optional and is ‘designed to allow discussion between the developer and the Planning Commission as to site, building and general requirements, to allow the developer to become acquainted with proper procedure, and to investigate the feasibility of the project prior to extensive engineering plans being prepared for the final site plan review procedure.’

Matthew Callendar was present on behalf of the application. He explained that he has met with Township staff/consultants in the development of the sketch plan and desires to provide the Planning Commission with a ‘high overview’ of the proposed development and obtain feedback on the design elements presented prior to a March site plan review.

Referencing the Sketch Plan and aerial photos, the following elements of the proposed development were highlighted:

- Designed to bring new multi-family housing to the area
- Intended to complement growth in the nearby urban core
- Project site is 23.7 acres in area and is zoned R-3
- Low density development is proposed (Phase 1 – 48 units)
- A residential community with pedestrian connection to the Gull Lake commercial bay area is envisioned
- Site design includes on-site communal spaces for residents
- 3-story buildings are proposed to maximize views of Gull Lake
- Units will be for long-term rental; not for vacation or short-term rental

In response to Planning Commission questions, Callendar clarified that site access is proposed to be off M-89, generally located opposite the Ross Township Hall driveway. He stated that they have been working with MDOT and Consumers Energy in securing such access, adding that they do not intend or desire to propose any D Avenue access to the site.

Callendar further noted that pedestrian access from the development to the commercial bay area would be beneficial to the area and that he is currently looking at working with the Township to use the Township-owned property adjacent to the east for such a connection.

Markillie noted that the C-1 Bay Commercial District present to the north and east of the property sets forth good design standards that may be helpful in further guiding the design of the project.

No further questions were raised or comments made by the Planning Commission. Callendar thanked the Commission for the opportunity to highlight the project and for the feedback provided.

4. Planning Commission Annual Report

Chairperson Lauderdale was requested to prepare the draft Planning Commission 2020 Annual Report for review in March.

UNFINISHED BUSINESS

1. Master Plan Update

Chairperson Lauderdale requested that Bekes proceed with guiding the Commission through the final review of the updated Plan as a continuation of his guidance provided previously.

Bekes stated that the review of the updated Master Plan and Future Land Use Map was completed in September, 2020, and that the revised draft of the Plan which incorporated all requested revisions and missing data was provided to the Commission in December, 2020. The final review of the revised updated Plan was placed on the January agenda but was rescheduled to February due to agenda limitations.

He requested final feedback on the revised updated Plan. The following comments were provided:

Chairperson Lauderdale

- Section 2 – page 3 – change ‘target population’ to ‘estimated population’
- Section 6 – page 6 – add reference to 2019 Warrior Award
- Section 6 – page 17 – correct a.-g. lettering
- Section 8 – page 4 – make headings consistent

Snyder

- Fix spelling of Stoney/Stony Lake throughout Plan

Markillie

- No changes

Moore

- No changes

Sager

- Remove ‘Gove’ logo from footers
- Section 6 – page 4 – move text from behind photo
- Section 8 – page 5 – should it be ~~‘review’ instead of ‘rewrite’~~ **‘review or rewrite’** Plan

Maslin

- No changes

Chairperson Lauderdale then moved to accept the revised updated 2020 Master Plan, with the incorporation of the final changes, for submission to the Township Board with a Request for Approval to Distribute. Snyder seconded the motion. The motion carried unanimously.

Harvey was requested to update the document with the comments provided, as well as with the Existing Land Use data being obtained from Kalamazoo County, and to then issue the final draft Plan to both the Planning Commission and Township Board. It was agreed that the track changes should continue to be reflected in the draft document to assist in the Township Board's review.

2. Section 18.6 – Fences

Chairperson Lauderdale stated that in January, 2021, the ZBA rendered the following interpretation on the question regarding whether a vegetative barrier falls within the scope/intent of the 'term 'fence':

The Zoning Ordinance definition of 'fence' [*Fence: a barrier constructed of either wood, metal, stone, brick or masonry materials that may act as an enclosure of an area of land, property boundary identification or visual screen, which surface may be of either solid or open construction.*] includes vegetative barriers where they are established to serve as a screen or enclosure given that they constitute a barrier of wood material and act as 'an enclosure of an area of land, property boundary identification or visual screen'.

He reminded that at the January Planning Commission meeting, Attorney Thall explained that the interpretation by the ZBA is the official ruling on the matter and the direction provided is currently in effect. He had further noted that the Planning Commission is free to 'agree' with the interpretation and do nothing . . . or they can 'agree' with the reasoning of the interpretation but opt to pursue an amendment to the Zoning Ordinance to better clarify or establish a new approach to the use of vegetative barriers.

Chairperson Lauderdale explained that the decision of the Planning Commission in January was to 'commit to moving forward on this issue at the February meeting' and to 'first determine if the ZBA's interpretation is acceptable; and then, if necessary, begin study, and possible amendment to the Zoning Ordinance, regarding the use/regulation of vegetative barriers ('living fences') in the Township'.

He added that the Planning Commission had also received public comment on the subject in January in order to get feedback prior to making a decision on the best way to proceed. Since the January meeting, the Planning Commission has received 28 letters on the subject, with 27 expressing support of the ZBA's interpretation and 1 in opposition.

Gale requested the Commission, in their discussion, consider what may be 'unintended consequences' of the interpretation by the ZBA. He noted that the

application of the ‘fence’ standards to vegetative barriers on non-waterfront property may be problematic.

Maslin suggested that the Ordinance could be improved to better address or regulate vegetative barriers.

Chairperson Lauderdale stated that he feels that the protection of viewsheds and sight lines is a key objective in the Master Plan and should guide the decision on this question.

Bekes expressed concern that the Planning Commission view this issue on a holistic basis and not intercede with a major Ordinance amendment on behalf of the current problem being experienced between a few neighbors.

Markillie stated that he agrees with the interpretation of the ZBA, further noting that the ZBA has not received any requests for relief from this standard to date. He suggested that if it becomes a frequent issue with the ZBA, the Planning Commission could then choose to revisit the question.

Sager noted that application of the standard as interpreted by the ZBA does not work well on all properties. She feared such application would cause future problems. Sager suggested consideration of a vegetative barrier standard that is more specific to waterfront properties. She also questioned if viewshed objectives were necessarily supported by law.

Moore stated that he does not agree with the interpretation of the ZBA and is concerned that the application of the fence standards to vegetative barriers is going to result in unwanted ramifications.

Snyder opined that the viewshed objectives are key and to leave viewsheds unprotected removes a crucial standard in the Township.

Bekes then moved that the Planning Commission ‘agree’ with the ZBA’s interpretation and make no amendment to the standard(s) at this time. Markillie seconded the motion. The motion carried 4-3, with Maslin, Moore, and Sager dissenting.

PUBLIC COMMENT

Attorney Pat Lennon stated that he is disappointed with the Planning Commission’s decision. He noted that the Township has a problem regarding this issue and this is an opportunity to fix it. He questioned how the Township was going to be able to enforce the standard as interpreted, predicting that things are ‘going to get messy’. Lennon stated that he respects the work of the Township’s ZBA but feels they were pressured on this issue and saw things that are not there.

Robert Baker expressed support for the interpretation of the ZBA, noting that it is crucial in protecting the enjoyment of the lake.

Stephanie Walbridge stated that she supports the interpretation of the ZBA, adding that trees do not always serve to create a barrier, but they can be established/planted to do just that. She inquired about the permit secured for the vegetative barrier established along her property line. Attorney Thall responded that the question is more appropriately directed to the Township Zoning Administrator.

REPORT FROM TOWNSHIP BOARD

Bekes thanked the Planning Commission for their timely work on the budget request. He also requested that the Planning Commission's approved January meeting minutes be forwarded to the Township Board and ZBA to provide effective communication on the Commission's decision on vegetative barriers.

REPORT FROM ZONING BOARD OF APPEALS

Chairperson Lauderdale reported that the ZBA met on February 10, 2021 and considered variance requests from applicable setback, lot coverage, and building height requirements for an accessory building with a guest house. The variances were granted after findings of justification per Section 23.8.

MEMBERS, CONSULTANTS, ADVISORS

Largent advised that an administrative site plan review of a proposed lot combination in Crane's Pond is in progress.

ADJOURN

There being no further business to come before the Commission, the meeting was adjourned at 7:53 p.m.

Respectfully Submitted,
Rebecca Harvey, AICP, PCP
Township Planning Consultant