

**ROSS TOWNSHIP  
PLANNING COMMISSION  
MINUTES  
July 27, 2020**

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 due to Executive Order.

ROLL CALL

Present: Chairperson Lauderdale  
Michael Bekes  
Mark Markillie  
Michael Moore  
Pam Sager  
Mike Sulka

Absent: Sherri Snyder

Also Present: Kelly Largent, AGS – Township Zoning Administrator  
Bert Gale, 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 **June 22, 2020** regular Planning Commission meeting minutes. Bekes moved to approve the minutes as presented. Sager seconded the motion. The motion carried unanimously.

NEW BUSINESS

1. Public Hearing – SLU/SPR for Residential Accessory Building (Weiant)

The next matter to come before the Planning Commission was consideration of the request by William Weiant for special land use permit/site plan review for the proposed expansion of a nonconforming structure. The subject property is located at 1396 East C Avenue and is within the R-1 District.

Chairperson Lauderdale opened the public hearing.

Largent provided an overview of the request, noting the following:

- The applicant is proposing the construction of a new roof on an existing 24 ft x 24 ft garage located on the subject property.
- The existing garage is a lawful nonconforming building due to its location forward of the principal building on the site.
- A new pitched roof is proposed to replace the existing flat roof that has been leaking for a long period of time and can no longer be repaired.
- The proposed roof will not result in an increase in any nonconformity.
- The existing garage will continue to comply with applicable setback, building height, and lot coverage requirements.
- Pursuant to Section 22.3., the proposed alteration/expansion of a nonconforming building is allowable as a special land use.

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 existing garage meets the standards applicable to an accessory building, with the exception of its location forward of the principal building; the proposed new roof will increase the overall height of the garage but will not increase any nonconformity; the proposed new roof will not require any disturbance to the grade of the site or removal of trees; no change to the existing utility connections are proposed; the proposed new roof will not cause traffic congestion or modify existing access/parking arrangements; the proposed pitched roof will be compatible in height and character with the principal dwelling on the site and other residential accessory buildings in the area; and, the size and location of the garage and the conditions of the subject property will remain unchanged.

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 at the meeting.

Sulka then moved to grant Special Land Use Permit/Site Plan Approval for the proposed expansion of a nonconforming building such to allow the replacement of the 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. and C waived per Section 21.4 T. Bekes seconded the motion. The motion carried unanimously.

## 2. Public Hearing – SLU/SPR for Residential Accessory Building (Brown/Gardner)

The next matter to come before the Planning Commission was consideration of the request by Dale Brown and Lisa Gardner for special land use permit/site plan review for the proposed construction of a residential accessory building on an otherwise vacant lot and for location of the residential accessory building forward of the proposed principal dwelling. The subject property is located at 7780 North 46<sup>th</sup> Street and is within the R-R District.

Chairperson Lauderdale opened the public hearing.

Largent provided an overview of the request, noting the following:

- The subject property consists of Parcels 2, 3 and 4 referenced on the Land Division Map in the application material. The three parcels have recently been combined into a single parcel.
- The applicant is proposing the construction of a 36 ft x 56 ft residential accessory building on the property to use for storage during the construction of the proposed principal dwelling.
- The accessory building is proposed to be located forward of the future location of the principal dwelling.
- The principal dwelling and accessory building will be centrally-located on the combined parcel, which generally equates to being situated on the original Parcel 3.
- The proposed accessory building will comply with applicable setback, building height, and lot coverage requirements.
- Pursuant to Section 18.4 D. and 18.4 E., the proposed accessory building is allowable as a special land use.

Lisa Gardner was present on behalf of the application. She explained that the proposed locations of the home and accessory building were based largely on grade. She noted that the home will be a walk-out structure with a deck, while the accessory building has been situated on a flat portion of the property. Gardner added that the proposed accessory building location is 150 ft from the abutting road, well-separated from surrounding homes, and buffered by existing trees.

Gardner then stated that a stream runs along the east side of the property and the northern part of the property (Parcel 4) is nearly all wetlands, further limiting the available building locations on the property. She added that they have removed

quite a bit of debris from the stream and surrounding wetlands and are desirous of keeping buildings out of these areas.

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

The Commission proceeded with a review of the application pursuant to Section 18.4 D. and E. – Residential Accessory Buildings/Structures. The following was noted:

- the proposed accessory building fails to comply with locational requirements (vacant lot/side or rear yard) and is allowable as a special land use;
- the proposed accessory building is located in excess of 5 ft from all lot lines;
- the proposed accessory building is proposed for accessory residential use;
- a variance is not requested/required for the proposed accessory building; and,
- adequate application material has been presented to allow for site plan review pursuant to Article 21.
- per inspection of the property, there are limited options on the site for the accessory building location due to wetlands, property grade, and the identified best location for the home.

In consideration of the Special Land Use Criteria set forth in Section 19.3, the Commission concluded the following: the proposal meets the standards of Section 18.4 D. and E., with the exception of the location requirements; the proposed building location will not require disturbance to the grade of the site, encroach upon on-site wetlands, nor involve the significant removal of trees; the accessory building/property can be served adequately by utilities/services; the site access is existing and extends off the lesser of the abutting roadways; and, the proposed accessory building will be compatible in size, height and character with the proposed principal dwelling on the site and other residential properties in the area.

It was noted that the site plan presented was acceptable (per Section 18.4 D.4.) and that the proposal meets the Site Plan Review Criteria set forth in Section 21.6.B., with specific reference to the proposal to retain existing vegetation; the effort to protect the on-site wetlands and stream; and, the excessive setbacks and buffering elements of the proposal.

Gale questioned the applicant's ability to comply with the six-month deadline applicable to the special land use permit (Section 19.5 B.). It was agreed that the deadline should be extended to October 31, 2021 in consideration of the construction season.

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

Sulka then moved to grant Special Land Use Permit/Site Plan Approval for the proposed accessory building on the subject property based upon the review findings of Section 18.4 D. and E. – Residential Accessory Buildings/Structures, Section 19.3 – Special Land Use Criteria, and Section 21.6 – Site Plan Review Criteria, conditioned upon an extension of the six-month deadline established by Section 19.5 B. to October 31, 2021. Bekes seconded the motion. The motion carried unanimously.

### 3. Public Hearing – Rezoning Request (McKay)

The next matter to come before the Planning Commission was consideration of the request by JB McKay to rezone an approximately 0.64-acre parcel located at 156/160 East Gull Lake Drive from the R-2 District to the C-1 District.

Chairperson Lauderdale opened the public hearing.

Largent stated that the rezoning is requested to bring the current use of the property into compliance with the Zoning Ordinance. She noted that the zoning map indicates the subject site and properties to the north to be within the R-2 District; properties adjacent to the south and opposite the subject site are within the C-1 District. Largent further noted that the Future Land Use Map classifies the subject property as ‘Commercial’.

Chairperson Lauderdale gave a brief overview of the history of the development/adoption of the C-1 District, with specific reference to the public engagement elements of the process.

In response to questions, Harvey clarified that at the time the C-1 District was developed, the Master Plan and Future Land Use Map had already classified the area as ‘Commercial’. She explained that the C-1 District was in fact developed to implement, and with specific reference to, the commercial land use policies in the Plan.

Attorney Nelson Karre was present on behalf of the rezoning application. He stated that the requested rezoning is consistent with the commercial policies and the Future Land Use Map set forth in the Master Plan. He noted that the requested C-1 District exists on many of the properties in the area.

McKay reiterated the comments made by Attorney Karre, clarifying that the property is currently zoned R-2, not R-1, as noted in some correspondence received from area property owners.

Chairperson Lauderdale acknowledged receipt of nine (9) letters from area property owners, all noting objection to the requested rezoning. It was confirmed that all Planning Commission members had received/read the referenced correspondence. It was noted that many of the letters referenced the subject property as being zoned R-1 . . and should instead refer to the existing zoning as R-2.

James Marolt, nearby resident, stated his objection to the requested rezoning, noting the following concerns: a decrease in the value of surrounding residential property; the establishment of an undesirable precedent in a residential area; the requested C-1 District is intended for the bay area further south where commercial uses already exist; the subject property is being used for slip rental in violation of the zoning ordinance; the illegal use of the property is creating serious negative impacts on the nearby residential lots, causing safety concerns, and interfering with the view of the lake; and, the existing use violation should be eliminated instead of made legal through a zoning change.

Davis Scott, adjacent property owner, stated that the illegal marina use of the property has expanded over the last 10 years and continues to negatively impact the neighborhood. He noted that the requested rezoning will constitute a 'spot zone' and only serve to make the illegal use legitimate.

Peter Taft, nearby resident, detailed the impacts of the illegal marina operation on the surrounding neighbors, citing trespassing, public urination, and litter. He questioned why this violation has never been addressed by the Township and why the Township would support an expansion of the use.

Doug Callendar, Gull Lake resident, opined that the requested rezoning would result in a 'spot zone' and would serve no public purpose nor provide any public benefit. He stated that the rezoning of the subject property would not be consistent with the Plan's description of 'bay commercial', noting that establishing an isolated pocket of commercial zoning/use in an otherwise residential area would be contrary to the ideas in the Plan. Callendar stressed that the rezoning would set a bad pattern of leap-frog development and allow random commercial expansion. He stated that the timing was not right for the requested rezoning.

Several area residents (Danhoff, Harris, Blackport) expressed support for the comments made.

Jack Gesmundo, Gull Lake resident, stated that he is involved in the redevelopment of the Gull Harbor property and is of the understanding that the boat slips on the subject property are 'grandfathered'. He opined that the requested rezoning appears to be consistent with the Master Plan and current use of the property, noting that the rezoning would allow for needed redevelopment of the site that would be an enhancement to the bay area. Gesmundo suggested that

the property may be too small for many of the uses allowed in the C-1 District, but that the C-1 District would offer good options for a nice site.

Larry Carter, Gull Lake resident, stated that he currently resides next to a commercial property that is characteristic of dangerous boat traffic and inadequate parking facilities. He advised that commercial use on the lake, especially a marina, is not in the interest of lake residents or lake occupants and suggests the Plan needs to be revisited.

Mike Sullivan stated he is the developer of Gull Harbor Point and that conditions in the south bay area have greatly improved. **He then yielded his remaining time to Doug Callendar.**

Doug Callendar stated that the current use of the property is not a lawful nonconforming use in that a marina has never been an allowed use in the R-2 District. He noted that the use is illegal . . . but the ordinances/rules have never been enforced by the Township or the MDNR. The existing and surrounding residential use in the area does not support the requested C-1 zoning, regardless of what the Plan indicates.

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

Attorney Thall suggested that the Planning Commission consider postponement of the request until the August meeting to allow staff the opportunity to prepare a review of the request pursuant to applicable zoning ordinance amendment criteria. Planning Commission members agreed, noting questions with respect to the argument of 'spot zoning' and the applicability of Master Plan policies. Sager requested that the review also address the current use violation on the site.

Sulka moved to postpone consideration of the request to rezone the subject property from R-2 to C-1 to the August Planning Commission meeting. Bekes seconded the motion. The motion carried unanimously.

Chairperson Lauderdale noted that it was 8:05 p.m. and requested Planning Commission approval to move forward with the agenda. It was agreed to extend the meeting in order to dispose of the remaining public hearing item.

#### 4. Public Hearing – Zoning Ordinance Amendment

##### Section 1.3 - Scope

Chairperson Lauderdale opened the public hearing. He noted that Attorney Thall had been requested to prepare the proposed amendment that acknowledges that

the RTFA/GAAMPS supersede any Zoning Ordinance provision applicable to commercial agriculture activities. He further noted that the text has received extensive review and discussion at previous meetings. Sager suggested that the proposed text include the statement, 'as amended'. Attorney Thall concurred.

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

Sager moved to recommend approval of the proposed amendment to Section 1.3, as revised. Bekes seconded the motion. The motion carried unanimously.

#### UNFINISHED BUSINESS

Chairperson Lauderdale noted that all Unfinished Business would be postponed until the August Planning Commission meeting.

#### REPORT FROM TOWNSHIP BOARD

The report from the Township Board was postponed to the August Planning Commission meeting.

#### REPORT FROM ZONING BOARD OF APPEALS

The report from the Zoning Board of Appeals was postponed to the August Planning Commission meeting.

#### PUBLIC COMMENT

No public comment was offered.

#### MEMBERS, CONSULTANTS, ADVISORS

No member or advisor comments were offered.

#### ADJOURN

There being no further business to come before the Commission, the meeting was adjourned at 8.12 p.m.



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