

**ROSS TOWNSHIP  
PLANNING COMMISSION  
MINUTES  
April 26, 2021**

CALL TO ORDER/PLEDGE

Chairperson Lauderdale called the regular meeting of the Ross Township Planning Commission to order at 6:00 p.m. at the Ross Township Hall.

ROLL CALL

Present: Chairperson Lauderdale  
Michael Bekes  
Mark Markillie  
Steve Maslen  
Michael Moore  
Pam Sager (by electronic remote access)  
Sherri Snyder

Absent: None

Also Present: Bert Gale, AGS – Township Zoning Administrator  
Rebecca Harvey – Township Planning Consultant (by electronic remote access)  
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 **March 22, 2021** regular Planning Commission meeting minutes. Moore moved to approve the minutes as presented. Bekes seconded the motion. The motion carried unanimously.

NEW BUSINESS

1. Public Hearing – SLU/SPR for Residential Accessory Building (Jackson/Grieve)  
The next matter to come before the Planning Commission was consideration of the request by Ben Jackson and Scott Grieve Trustees for special land use

permit/site plan review for the proposed construction of an accessory building that will exceed the maximum rear yard lot coverage allowed. The subject property is located at 7974 Foxboro Lane and is within the R-R District.

Chairperson Lauderdale opened the public hearing.

Gale provided an overview of the request, explaining the applicant's proposal to construct a 32 ft x 48 ft accessory building on the subject 4-acre parcel. He noted that the accessory building is proposed to be located behind the existing house, as required, but that the location of the house has created a relatively small rear yard. This has resulted in the proposed accessory building providing a rear yard coverage of 8.7%, exceeding the 5% allowed by Article 15.

Ben Jackson was present on behalf of the application and provided additional detail on the existing conditions of the subject property.

Mr. and Mrs. Armanini, neighboring property owners, expressed concern regarding the visual impact of the accessory building given the building size; the architectural fit in the neighborhood; and the impact of the related clearing/tree removal on their view of the land as trees and shrubs.

Jackson noted an understanding of the concern expressed and offered to work with the neighbors regarding site clearing and the retention of vegetative buffers. He also cited the April 7, 2021 approval received from the Foxboro architectural control committee for the construction of the barn.

The Armanini's inquired who comprised the architectural control committee. Mike Bowman, developer of Foxboro, stated that he and his wife comprise the committee and that they reviewed the plans for the barn and provided approval for the barn construction in an email to the applicant dated April 7, 2021.

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. – Residential Accessory Buildings/Structures. The following was noted:

- the proposed accessory building fails to comply with lot coverage requirements and is allowable as a special land use;
- the proposed accessory building is located in excess of 5 ft from all lot lines;
- the 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, noting the clarification provided by the

applicant regarding the north arrow/scale and existing conditions (setbacks/height/dimensions of existing building, dimension of existing driveway, and r.o.w. width of abutting roadway).

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., with the exception of the rear yard lot coverage requirement; the proposed building will not result in an overall lot coverage in excess of the maximum allowed; the accessory building/property can be served adequately by utilities/services; the applicant has offered to work with the neighbor to address visual impact concerns; and, the proposed accessory building will be compatible in size, height and character with the principal dwelling on the site and with 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 applicant's offer to work with neighboring property owners on minimizing visual impacts and the buffering elements (existing on-site vegetation) of the proposal.

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

Markillie 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. – Residential Accessory Buildings/Structures, Section 19.3 – Special Land Use Criteria, and Section 21.6 – Site Plan Review Criteria. Moore seconded the motion. The motion carried unanimously.

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

The next matter to come before the Planning Commission was consideration of the request by Steve and Jodi Sikma for special land use permit/site plan review for the proposed construction of an accessory building in the front yard. The subject property is located at 13910 East C Avenue and is within the R-R District.

Chairperson Lauderdale opened the public hearing.

Gale provided an overview of the request, explaining the applicant's proposal to construct a 40 ft x 60 ft accessory building in front of the residence on the subject 10-acre site. He noted that the residence is currently under construction on the property and is located 195 ft from East C Avenue. The accessory building, though proposed to be set back 73 ft from East C Avenue, will be situated between the residence and the roadway (in the front yard). Gale referenced

Section 18.4 C. which requires that an accessory building be located ‘only in the rear and/or side yard’.

Steve Sikma was present on behalf of the application. He stated that the slope of the property and the presence of a power line extending through the middle of the site guided the location of the house. He further noted that a drain field occupies much of the rear yard, limiting the area available to locate the accessory building behind the house.

Sikma reiterated that the proposed accessory building will be provided a 73 ft setback, greater than the required 50 ft, and will have a tree line between the accessory building and C Avenue. He added that the building has been designed to match the house on the site.

Sikma referenced the hand drawn diagram dated September 29, 2020 provided in the meeting material which showed the proposed ‘future barn’ in the front yard, noting that he was not advised by the builder that the proposed location was not allowed.

Chairperson Lauderdale raised that Section 18.4 clearly states that an accessory building can only be located in a rear and/or side yard. He questioned how the Planning Commission could consider the proposed front yard location.

Attorney Thall referenced Section 18.4 D. wherein it states that a residential accessory building that ‘does not comply with applicable location . . . requirements is allowable as a special land use.’ He reminded that the review criteria applicable to a variance request do not apply, but rather the impact-based special land use criteria set forth in Section 19.3 apply.

No 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. – Residential Accessory Buildings/Structures. The following was noted:

- the proposed accessory building fails to comply with the location requirement and is allowable as a special land use;
- the proposed accessory building is located in excess of 5 ft from all lot lines;
- the 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.

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., with the exception of the front yard location requirement; the subject property is 10 acres in area and the proposed building location exceeds applicable setback requirements; the proposed building location will not require disturbance to the grade of the site nor involve the removal of trees along the property lines; the accessory building/property can be served adequately by utilities/services and the existing driveway; and, the proposed accessory building will be compatible in size, height and character with the proposed principal dwelling on the site.

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.

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

Chairperson Lauderdale expressed concern regarding the front yard location, noting that a similar request on a neighboring property was recently denied. He further offered concerns that the proposal may result in adverse impacts on adjacent properties.

Bekes inquired as to the details of the similar request referenced that was denied. In further consideration, Chairperson Lauderdale clarified that the request he was remembering was in fact a request for variance approval that was considered by the ZBA. Attorney Thall affirmed that the criteria applied by the ZBA in a variance request are based on findings of unique circumstances and practical difficulty, whereas the special land use criteria are impact-based criteria that focus on findings of compatibility and impact mitigation.

Snyder stated that she is concerned that the Planning Commission was not given any information regarding construction or architectural details for the proposed accessory building and that this concern has been communicated to AGS on previous occasions.

Moore 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. – Residential Accessory Buildings/Structures, Section 19.3 – Special Land Use Criteria, and Section 21.6 – Site Plan Review Criteria. Maslen seconded the motion. The motion carried 4 to 3, with Chair Lauderdale, Bekes and Sager dissenting.

### 3. Public Hearing – Conditional Rezoning for Allendale Park, LLC

The next matter to come before the Planning Commission was consideration of the request by Allendale Park LLC for conditional rezoning of an approximately 0.64-acre parcel from the R-2 District to the C-1 District. The subject property is located at 156/160 East Gull Lake Drive.

Chairperson Lauderdale opened the public hearing.

Attorney Thall provided an overview of the difference between a traditional rezoning request and a conditional rezoning request, noting that in a conditional rezoning request an applicant offers development conditions with an intent to limit any negative impact of the requested rezoning. He explained that a conditional rezoning essentially allows a community to authorize a requested rezoning under specific use or design guarantees offered by an applicant. This then binds development of the subject property to those conditions.

Jack Gesmundo of AVB was present on behalf of the application. He distributed a location map, parcel boundary map, and photos of the subject property to Planning Commission members, and reviewed the following background information:

- the subject property is currently occupied by two rental homes and seven docks with boat slips that are rented out;
- AVB does not currently have an ownership interest in the property (or any connection to the owner) but has recently done work in the nearby Gull Harbor development and feels their approach to residential development would be a good fit for the subject property;
- time was spent with Township staff/consultants to understand applicable zoning ordinance requirements and development options for the property;
- four land use options were then developed and presented in a neighborhood meeting to obtain feedback from surrounding property owners, at which time the residential-only development option received the most support;
- the residential-only development option (three single-family homes) was then fully designed per the zoning ordinance and Township staff review;
- a detailed letter outlining the design elements of the proposal and the site plan were then sent to the surrounding neighbors in preparation for the Planning Commission meeting. He noted that he had received several written letters of support for the proposal from neighboring property owners.

Gesmundo then referenced the written offer of conditions dated March 11, 2021; site plan (Concept E); and related architectural rendering provided to the Planning Commission in the meeting material. He explained the request to rezone the subject property from the R-2 District to the C-1 District, with the offer to limit use of the property to three single-family dwellings on three condominium building sites, with each home to be provided a dock.

He highlighted the proposed conditional design features, such as a single driveway, paved driveway/parking, open space along the water frontage, landscaping along the street frontage, increased side setbacks and buried utility lines, explaining that these design features are not required nor can be mandated in the current R-2 zoning.

Gesmundo noted that the proposal will also serve to remove two deteriorating homes with setback encroachments; reduce the existing two driveways on the property to the proposed single driveway; and eliminate the seven docks and current dock slip rental operation.

In response to questions, he informed that a nationally-recognized architect had been retained to design the three houses reflected on the rendering and that existing sight lines were used to guide both the building architecture and the building placement on the property.

Harvey explained that the Planning Commission should be guided by the same principles/criteria that apply to a traditional rezoning request, with consideration of how the offered conditions mitigate concerns that may be associated with the requested C-1 District. She reviewed the Summary of Findings set forth in the Staff Report.

Chairperson Lauderdale then introduced correspondence received from Jim Marolt and from Jean Hanson noting opposition to the requested rezoning and correspondence received from Kevin and Betty Miller in support of the requested rezoning.

Peter Taft, a nearby neighbor, noted his general support of the proposal, but expressed the following reservations:

- the current use of the land is not lawfully nonconforming; it is an illegal use that has been a violation for the last 20 years;
- past actions on the property give rise to concerns about any future proposal;
- would like to see any approval conditioned upon immediate removal of the dock rental operation.

Dave Scott, an adjacent neighbor, stated his opposition to the request, noting that rezoning the property to the C-1 District will open up the property to weekly

rentals. He also noted that he believes the existing R-2 District allows for the proposed three single-family dwellings and that there is no need to open up the area to commercial zoning to accommodate the proposal.

Mike Sullivan stated that the proposal would certainly be better than the existing land use on the property, but that he feels the request would result in 'spot zoning', which is not supported by the Master Plan. He also recommended that a more detailed site plan of the proposal be required.

Valli McDougal stated that she supports the use proposal but questions why the property could not stay in the R-2 District and the applicant simply be granted variances. She stated that she too would like to see any approval to rezone conditioned upon the removal of the marina this summer.

Pat Lennon, attorney for the applicant, stated that he thinks all agree that nobody likes the existing use of the property and that the proposed use is desirable. He commented that the offer of conditions and the related site plan effectively address all issues that have been raised, and also have the added benefit of:

- restricting the use of the property to single-family residential, which is not a limitation in the R-2 District;
- subjecting the rezoning to revocation if there is a violation of the approval; and
- removing the current property owner's claim that the dock slip rental operation is a lawful nonconformity.

Lennon also reminded that if conditionally-rezoned, the Ordinance requires that a conditional rezoning agreement be prepared and recorded so that the conditions of the rezoning are on title. Further, the proposal would remain subject to site plan review where additional design detail is provided and reviewed.

In response to questions, Township Attorney Thall affirmed the requirement to prepare/record a conditional rezoning agreement and that a violation of a conditional rezoning agreement is grounds for revocation.

Attorney Thall then clarified that the proposed conditional rezoning would not constitute a 'spot zone' because it is both supported by the Master Plan and, in proposing to limit the use to single-family residential, is not proposing a use that is inconsistent with the residential zoning/land use in the area.

Regarding concerns expressed about the potential for short term rental activity if rezoned, Attorney Thall noted that currently the Township does not allow the use of a single-family dwelling for short term rental. Accordingly, the proposed conditional rezoning would not serve to allow short term rental units on the property.



Chairperson Lauderdale requested explanation of the effect the requested rezoning would have on the status of the existing use of the property. Attorney Thall confirmed that the proposed conditional rezoning of the property would essentially remove, by consent, any lawful nonconforming status of the current use of the property.

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 25.3 – Conditional Rezoning. It was determined that the application and offer of conditions meet the standards applicable to a conditional rezoning, noting specifically that the applicant has voluntarily offered in writing conditions related to the rezoning request, and that the offer of conditions does not ‘purport to authorize a use not permitted in the requested C-1 District’. In consideration of Section 10.6 – C-1 District Site Development Standards, it was further concluded that the March 11, 2021 offer of conditions and related site plan demonstrate that the basic design elements of the proposed development are consistent with the design objectives/standards of the C-1 District.

In review of the Summary of Findings, the following conclusions were noted:

1. The Ross Township Master Plan classifies the subject site as Commercial; the requested rezoning is supported by the Plan.
2. C-1 zoning is present opposite and south of the subject site; the requested rezoning is compatible with zoning in the surrounding area.
3. The C-1 District allows small-scale mixed-use development, specifically single-, two- and three-family dwellings and convenience and specialty commercial land use; the C-1 District is designed to be compatible with residential zoning/land use.
4. The proposed conditional rezoning offers to limit use of the subject property to ‘single-family dwellings’; as such, the proposed conditional rezoning is compatible with the residential zoning/land use in the area.
5. The proposed conditional rezoning offers a development scenario that is consistent with the design elements of the requested C-1 District, such as:
  - Common access (single driveway)
  - On-site/shared parking arrangement
  - Building orientation/architectural features
  - Waterfront greenbelt (buffer)
  - Streetscape/site landscaping
  - Underground utilities

6. The proposed conditional rezoning offers a development scenario with design elements that 1) cannot be required in the existing R-2 District, and 2) are not achievable when sold/developed as separate sites.
7. The proposed conditional rezoning will result in an improvement of existing conditions, namely:
  - Removal of existing deteriorating buildings (homes)
  - Replacement of seven docks used for rental w/ three private docks
  - Concrete surface for access/parking
  - Elimination of two nonconforming setbacks (encroachments)

Bekes questioned the applicant when the existing docks are planned to be removed if the rezoning was to be approved. Attorney Thall stated that the conditional rezoning application is a separate matter from enforcement related to the existing use of the property. He explained that the Township cannot tie the rezoning of the property to any current zoning violation concerning the property.

Sager asked if there is a minimum number of homeowners required to establish a site condominium homeowner's association. Attorney Thall advised that the proposed three-unit (building site) development qualifies as a site condominium development that will be executed through a master deed, and may include the establishment of a homeowner's association.

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

Chairperson Lauderdale then moved to recommend approval of the request to conditionally rezone the subject property from the R-2 District to the C-1 District as proposed in the March 11, 2021 Offer of Conditions and related Site Plan/Architecture Rendering. The recommendation to approve is based upon the review findings of Section 25.3 – Conditional Rezoning and the Summary of Findings noted above. Bekes seconded the motion. The motion carried 6 to 1, with Sager dissenting.

## UNFINISHED BUSINESS

### 1. 2020-2021 Planning Commission Annual Report

Chairperson Lauderdale stated that the Annual Report had been reviewed at the March meeting. He noted that the revised Report provided in the meeting material reflects all requested revisions and is ready for acceptance.

Bekes then moved to accept the 2020-2021 Planning Commission Annual Report, as revised. Snyder seconded the motion. The motion carried unanimously.

## 2. Master Plan Update

Harvey reported that she has finished incorporating the requested edits and updated Existing Land Use data/map into the final draft of the Plan. She noted the Plan is ready for submission to the Township Board (and Planning Commission).

### REPORT FROM TOWNSHIP BOARD

Bekes reported that the Township Board has expressed interest in holding a joint meeting of the Township Board and Planning Commission this year. The Planning Commission noted support for the requested meeting.

### REPORT FROM ZONING BOARD OF APPEALS

Chairperson Lauderdale reported that the ZBA did not meet in April, 2021.

### 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 8:25 p.m.

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