

**ROSS TOWNSHIP  
PLANNING COMMISSION  
MINUTES  
May 22, 2023**

May 22, '24  
Final  
Minutes

CALL TO ORDER/PLEDGE

Chairperson Moore 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 Moore  
Michael Bekes  
Mark Markillie  
Steve Maslen  
Pam Sager  
Sherri Snyder  
Mary Stage

Absent: None

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

APPROVAL OF AGENDA

Chairperson Moore requested the addition of the following item under Unfinished Business: Development Agreements—review amended text. The agenda was approved as amended.

APPROVAL OF PRIOR MEETING MINUTES

The Commission proceeded with consideration of the **April 24, 2023** regular Planning Commission meeting minutes. Chairperson 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 Structures (Biafore)

The next matter to come before the Planning Commission was consideration of the request by Rachel Biafore (R&A Landscaping), representing Camille Riley, for special land use permit/site plan review to replace retaining walls; resurface the boardwalk area; and, remove/replace a dock/platform. The subject property is located at 288 E. Gull Lake Drive and is within the R-1 District.

Chairperson Moore opened the public hearing.

Gale provided an overview of the application, noting that the accessory structures (retaining walls, boardwalk and dock/platform) proposed for improvement/replacement are located within the front yard and do not comply with applicable waterfront and side setback requirements. Pursuant to Section 18.4 D., the proposed accessory structure improvement/replacement is allowed only as a special land use.

Snyder questioned if an EGLE permit is required for the proposed work. Gale stated he could not confirm.

Bekes expressed concern regarding apparent discrepancies in the application plot plan regarding existing/proposed setbacks. He further inquired regarding the height of the retaining wall; whether a survey of the property has been conducted; and, apparent erosion occurring on the site related to tree removal.

Rachel Biafore was present on behalf of the application. She advised that the retaining wall will be 4 ft in height and is designed primarily for erosion control. She explained that the tree removed was rotting and was causing damage to the existing retaining wall. Biafore stated that removal of the tree and replacement of the retaining wall and the associated grading will greatly help with the erosion on the site. She noted that a survey of the property is scheduled to be completed next week.

Dr. Steve Hyde, adjacent property owner, stated that the grading of the site was done without any proposed plan or the requisite permits, causing the work to be stopped by AGS. He added that he believes the applicant was aware of the permit requirements and that the plot plan submitted does not accurately reflect property lines.

Hyde stated that the erosion currently occurring on the site is largely related to the removal of the tree and the bulldozer work that has been done in the subject area. He noted that a retaining wall is not necessary and that he opposes same; instead, appropriate grading and lawn is all that is needed to stabilize the area.

Tracy Buck, bay area property owner, agreed w/ Hyde's statements. She stated that the proposed 0 ft setback is unreasonable and that a retaining wall along the lake is not needed or desirable. Buck added that she feels the work proposed for

the boardwalk is not just replacing boards but will be a total rebuild . . . which will require additional seawall.

Mary Carol Wilkins, neighboring property owner, opined that the boardwalk should be required to align with existing boardwalk extensions. She added that she believes a permit from EGLE is required for the proposed work.

David Scott, neighboring property owner, stated the dock is encroaching and should also be addressed.

Seth Barr, Bosch Architects, also present on behalf of the application, stated that the requisite EGLE permits will be obtained for the project. He then explained that the seawall is necessary to establish a reasonable grade on the site. He further confirmed that the proposed boardwalk improvements consist only of replacing damaged boards.

Biafore offered a relocation of the existing dock (at the same length as currently exists) to a centered location on the site to bring the dock into compliance with side setback requirements. It was noted this would be similar to the dock arrangement on the adjacent property.

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

Bekes questioned how the project would be 'fixed' if it was determined from the survey scheduled to be completed next week that there is encroachment on the adjacent property by work already done.

Township Attorney Thall noted concern that a property line location is in dispute and that there is no survey available to address the question. He stated that it is crucial for the Planning Commission to be able to confirm that all proposed work can be conducted on site as proposed. Planning Commission members agreed.

Chairperson Moore moved to postpone the matter to the June meeting to allow for the completion of the survey and the development of a plot plan that accurately reflects existing conditions and the proposed improvements. Snyder seconded the motion. The motion carried unanimously.

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

The next matter to come before the Planning Commission was consideration of the request by Jean Hanson and Thomas Cole for special land use permit/site plan review to construct a 768 sq ft residential accessory building on an otherwise vacant parcel. The subject property is located at 7120 N. 38th Street and is within the R-R District.

Chairperson Moore opened the public hearing.

Gale provided an overview of the application, noting that the proposed accessory building meets all applicable setback, height and lot coverage requirements but is proposed to be located on an otherwise vacant parcel. Pursuant to Section 18.4 E., the proposed accessory building is allowed only as a special land use.

Gale noted that the subject property is a challenging site given the presence of ponds and wetlands and that the applicant has spent significant time in identifying the buildable portions of the site. He noted that the plot plan illustrates that the accessory building is proposed to have a 294 ft front setback, leaving adequate area to locate the 'future home' forward of the accessory building.

Jean Hanson and Tom Cole were present on behalf of the application. Cole noted that the proposed accessory building is intended for the storage of tools/equipment needed to maintain the property. He confirmed that only electric would service the building and that use of the building for commercial purposes or as a dwelling is not proposed.

Elise Snyder, neighboring property owner, expressed support for the proposal, noting that the property is well-maintained by the applicant.

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

- the accessory building is proposed to be located in excess of 5 ft from all lot lines;
- the accessory building is proposed for personal storage; further, the applicant has confirmed that the accessory building will not be used as a 'dwelling' or for commercial activities;
- 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 that the one item of information missing from the plot plan was adequately provided by the applicant in the presentation;
- the accessory building is provided a 294 ft front setback, leaving sufficient area for the proposed 'future home' to be located forward of the accessory building, consistent with the intent of the location requirement.

In consideration of the Special Land Use Criteria set forth in Section 19.3, the Commission concluded the following:

- a. The proposal meets the standards of Section 18.4 E.
- b. Regarding impact on the natural environment, the subject site is large and is not a waterfront lot; the proposed building location far exceeds all setback requirements; no new driveway is proposed; and, limited grading and removal of vegetation is proposed.
- c. The proposed accessory building will only be served by electric;
- d. Regarding compatibility with adjacent uses, it was recognized that the proposal provides more than adequate separation and buffering from adjacent properties/dwellings and the abutting roadway; the building is proposed for residential accessory use; and, no concerns were expressed by neighboring property owners;
- e. Regarding consistency with public safety and general welfare, it was recognized that the proposed building location far exceeds minimum setback requirements and that the existing driveway arrangement will remain unchanged.

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.

Bekes moved to grant Special Land Use Permit/Site Plan Approval for the proposed construction of a 768 sq ft accessory building to be located on an otherwise vacant parcel. Approval is granted based upon the review findings of Section 18.4 E. – Residential Accessory Buildings/Structures, Section 19.3 – Special Land Use Criteria, and Section 21.6 – Site Plan Review Criteria, and conditioned upon use of the accessory building for storage of tools/equipment needed to maintain the property. Stage seconded the motion. The motion carried unanimously

### 3. Public Hearing – Conditional Rezoning (Water’s Edge Day Spa)

The next matter to come before the Planning Commission was consideration of the request by Rebecca and Brandon Byron for conditional rezoning of approximately 4.8 acres from the R-R District to the C-2 District for the establishment of a ‘day spa’ with specific conditions limiting development of the parcel. The subject property is located on the south side of M-89, just west of 37<sup>th</sup> Street, and is within the R-R District.

Chairperson Moore opened the public hearing.

Kris Nelson, Schley Nelson Architects, Jeff Swenarton, Attorney, and Rebecca and Brandon Byron were present on behalf of the application.

Nelson and Swenarton provided detailed overviews of the proposal, highlighting the following:

- A description of the property and specific building limitations (frontage on M-89; Consumers Energy easement; powerlines, etc.);
- The applicant's current spa facility in Richland;
- Master Plan elements that support the rezoning/use proposal;
- A review of the specific offer of conditions (3.28.23 Application Letter), noting the proposal will 'be residential in scale and occupy a maximum of 5% of the site (building, parking, walkways) . . with enhanced landscaping and the retention of the existing vegetation on the site as buffers.'

Nelson added that some tree clearing has occurred on the property, done by the adjacent property owner, and that the applicant desires to use this area for the building location. He noted that the cleared area is close to the abutting highway but will result in less overall disturbance to the site.

He further proposed clarification of 2 of the conditions set forth in the 3.28.23 'Application Letter':

- a. The proposal to 'limit development to a maximum of 5% of lot coverage of the site' includes building, parking, and walkways . . but does not include the driveway.
- h. Placement of the proposed building within the cleared area closer to M-89 would allow for compliance with the C-2 District front setback requirement but would not allow an entire 'positioning of the structure within residential setbacks', as originally offered.

Harvey explained the distinction of a 'conditional rezoning' approach, referencing the staff report and summarizing the applicable procedural elements. She noted how the proposed conditions seek to allow commercial use of the property consistent with the intensity and design standards of the existing R-R District.

Mike Rathman, a patron of the applicant's current facility, stated that the applicant operates a professional, clean and well-maintained business and is a contributor to the community. He expressed support of the requested rezoning, noting the applicant's proposal would be an asset to the Township.

Connie Lavender noted support of the proposal if the property can be designed to retain its rural character.

Rebecca Byron stated that she desires 'sanctuary' surroundings for the spa and has been looking for the appropriate site for a long time, noting that commercial property is often cleared and lacking character. She reviewed her plans to preserve and supplement the natural integrity of the site.

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

Planning Commission discussion ensued, with specific reference to the 2-acre minimum standard of the C-2 District and applicable M-89 setback requirements.

In consideration of the Conditional Rezoning provisions of Section 25.3 and the applicant's voluntary written offer of conditions (3.28.23 Application Letter), the Commission concluded the following:

- The Ross Township Future Land Use Map classifies the subject property as Agricultural/Residential-Rural; however, the Future Land Use Plan recognizes that: 'Limited commercial development will also be provided through small neighborhood commercial centers designed to provide convenient services to surrounding residential areas. An overlay zoning approach will be used to establish standards of design and ensure compatibility with nearby residential properties.'
- The C-2 Overlay District 'accommodates the limited establishment of small neighborhood commercial centers within the Township designed to provide services in a manner convenient to surrounding residential areas'; the requested C-2 District is designed to be compatible with residential zoning/land use.
- The subject property is largely surrounded by R-R zoning; the requested conditional rezoning proposes use/design of the property that will exceed applicable R-R and C-2 District design standards, suggesting compatibility with area zoning/land use.
- The proposed 'conditional rezoning' offers to limit use of the subject property to a 'day spa', to be designed at a 'residential scale' and in compliance with the most restrictive standards of the R-R and C-2 Districts; the requested conditional rezoning will serve to protect the character of the property to an extent greater than exists as currently zoned.
- The proposed 'conditional rezoning' offers a development scenario with design elements that cannot be required in the existing R-R District.

Bekes moved to recommend approval of the proposed conditional rezoning of 2 acres of the subject property from the R-R District to the C-2 District based on the written offer of conditions dated 3.28.23, as modified by the applicant in the presentation (conditions a. and h.), and the review findings of Section 25.3. The boundaries of the C-2 District shall encompass the applicant's proposed development area but shall not exceed 2 acres in area, as required by Section 11.5 A – Site Development Standards (C-2 District). Markillie seconded the motion. The motion carried unanimously.

#### 4. Planning Consultant Changes

Chairperson Moore expressed his dissatisfaction with the process that was employed regarding the position of 'planning consultant' with the Township and his disappointment with the outcome of that process.

Planning Commission members individually expressed agreement with the Chairperson's statement, noting their thanks to Harvey for her many years of service to the Township. It was noted by several that they hope the process that was employed to consider other consultant proposals can be executed in such a way as to incentivize Harvey to reconsider remaining as the consultant for the Township.

### UNFINISHED BUSINESS

#### 1. Development Agreements

Attorney Thrall provided an overview of draft revisions to the originally proposed Section 21.6 D. prepared pursuant to the Planning Commission's discussion of same in April.

[At 8:12 p.m., the Planning Commission agreed to extend the meeting to allow for completion of the meeting agenda.]

Planning Commission review ensued, wherein the following was noted:

- Bekes: The draft text does not reference that the review comments provided by the 'committee' are given to the applicant for response, if desired, prior to Planning Commission consideration. Thall: That procedural step can still occur as Subsection B. is drafted.
- Harvey: replace 'will identify important elements . . .' to 'is intended to identify important elements . . .'
- Gale: How will the envisioned review process affect application deadlines? As written, it appears to require a 90-day deadline.
- Commission: The 60-day committee review period is too long; modify to a 30-day review period . . . which will also serve to reduce the application deadline.

The Planning Commission accepted the draft text as modified and scheduled same for public hearing at the regular June Planning Commission meeting, noting that additional modifications may be considered at the public hearing.



## REPORT FROM TOWNSHIP BOARD

Bekes provided a detailed overview of the issues considered and actions taken by the Township Board in May. He specifically noted that the Township Board is seeking a modification to the recommended text amendment related to 'viewshed' and that Attorney Thall and Harvey are requested to work together to develop the modified text.

## REPORT FROM ZONING BOARD OF APPEALS

Bekes reported that the ZBA did not meet in May but is scheduled to meet in June to consider three applications.

## PUBLIC COMMENT

No public comment was offered.

## MEMBERS, CONSULTANTS, ADVISORS

Moore thanked Bekes for the support given to the work of the Planning Commission at the last Township Board meeting. He stated that he feels the Township Board does not give credit to the Planning Commission for the work that is done.

He also reminded that the Planning Commission will be without a planning consultant after this meeting and he questioned who will be responsible for preparing the minutes of future meetings.

## ADJOURN

There being no further business to come before the Commission, the meeting was adjourned at 8:27 p.m.

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