

**ROSS TOWNSHIP
PLANNING COMMISSION
MEETING MINUTES
July 22, 2024**

CALL TO ORDER/PLEDGE

Chairperson Sager called the regular meeting of the Ross Township Planning Commission to order at 6 p.m. at the Ross Township Hall. All rose to recite the Pledge of Allegiance.

ROLL CALL

Present: Chairperson Pamela Sager
Michael Bekes
Mark Markillie
Sherri Snyder
Jeff Price
Michael Moore

Absent: Steve Maslen

Also Present: Bert Gale, AGS – Township Zoning Administrator
Nick Keck, AGS - Township Zoning Administrator
Catherine P. Kaufman – Township Attorney – attending in place of Robert
Thall

APPROVAL OF AGENDA

Bekes motioned to approve the agenda as written and Price supported. The motion was unanimously approved.

Chairperson Sager gave the floor to Board Liaison to the Planning Commission Bekes to make an announcement. Bekes stated Planner Rebecca Harvey will no longer be supporting either the Planning Commission or the ZBA per a board decision made at the July 16th board meeting beginning after the June 22, 2024 Planning Commission Meeting. Harvey elected to not attend the June 22nd meeting when informed of the decision.

APPROVAL OF PRIOR MEETING MINUTES

The Commission proceeded with consideration of the June 24, 2024 regular Planning Commission meeting minutes. Price motioned to approve the minutes as presented and Snyder supported. The motion was unanimously approved.

NEW BUSINESS

The next matter to come before the Planning Commission was consideration of the request by Patrick and Mary Weitekamp for approval to construct an addition and remodel of an existing nonconforming building at 361 S. Gull Lake Dr., (Property #3904-20-118-240). The property is located in the Low-Density Residential District (R-1).

Chairperson Sager opened the public hearing at 6:10 PM.

Bert Gale began his overview of the application by stating prior to coming to the Planning Commission, setback variance requests were approved by the Ross Township Zoning Board of Appeals. He conducted his review under Section 21.4 for the expansion of a nonconforming building per Section 22.3(B). The submitted request for Special Land Use (SLU) was due to 22.3(B) that states a nonconforming building/structure shall not be altered by expansion, extension or enlargement unless a special land use permit is granted pursuant to Article 19.

The applicant gave an overview of their application by telling the property originally existed as a duplex when built by family members in the early 1900's. The duplex was built with a common wall that included a fireplace and one side of this common wall was two feet encroached on the property line split. They purchased their half of the duplex in 2015 and the purchaser of the other half of the duplex tore down their half of the duplex and constructed a single-family home on the lot. The two owners went to court to determine property line issues and once established by court order, they went to the ZBA for variance requests in regard to setbacks for a remodel project. The ZBA approved two of the variance requests and denied a third. The applicant then went back to their architect to revise plans and they are now in front of the Planning Commission for approval of the expansion for the nonconforming building.

Bekes engaged Gale to ensure the new plan would not conflict with the Zoning Board of Appeals ruling on side yard setback. Gale confirmed the plan was compliant with the ZBA's rulings.

Public Comment included:

Bekes noted there was no written correspondence presented regarding the project. However, one letter, written in 2018, was submitted by a prior neighbor (Mark and Mic) that purported Patrick and Mary Weitekamps to be "great neighbors." No further public comment was offered on the matter and Chairperson Sager closed public comment.

The Commission reviewed the attributes of Section 21.4 - Site Plan Review information submitted by the applicant and all requirements had been met except for:

C – The location and height of all existing and proposed structures on and within 100 feet of the subject properties were not submitted. The Commission found this not to be an issue as Gale confirmed the proposed project height would be all within the maximum ordinance standard.

I – The sewer and electrical utilities were not indicated on the plan. The Commission found this not to be an issue as the applicant stated the home was already hooked up to the Gull Lake Sewer system and the electrical service was already in the home.

N – The existing topographic elevations at two-foot contour intervals and direction of surface drainage and drainage way flows were not submitted with the application. The Commission found this not to be an issue as Gale provided a topographical map from the Kalamazoo County GFS Mapping site and the applicant provided documentation and pictures of how the storm water runoff is directed, with Gale's concurrence with the data.

U – Soil characteristics of the site at least to the detail provided by the U.S. Soil Conservation Service was not provided. The Commission found this not to be an issue as the home has been on the lot since the early 1900's and erosion is not evident.

The Commission then proceeded to review the Site Plan Review Criteria set forth in Section 21.6 B – Criteria for Site Plan Review with the following findings:

1. The proposed use will not have a harmful effect on the surrounding neighborhood development.
2. The relationship between the road and service drives, driveways and parking areas ensuring the safety and convenience of pedestrian and vehicular traffic was deemed adequate.
3. Adverse effects resulting from the location of the building will be minimized to the occupants of adjacent buildings.
4. The roads, easements and utilities have been established to protect the general health, safety and welfare of the citizens of the Township.
5. The features of the landscape will be adequately retained.
6. The features of the landscape will preserve the general appearance of the neighborhood and will help control the erosion and discharge of storm water. The curbed road and all storm water runoff being controlled to maintain current direction was deemed adequate.
7. The plan will not result in any additional runoff of surface waters onto adjoining property.

The Commission agreed the site plan presented was acceptable per review criteria set forth in Section 21.6 B.

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

- 1 The proposed project meets all the requirements specified in this Ordinance for the Special Land Use requested, as well as all other Township, County, State and Federal requirements and legal agreements.
- 2 The proposed project will be compatible with the natural environment.
- 3 The proposed project can be served adequately by essential on-site and public utilities, facilities, and services.
- 4 The proposed project will be compatible with adjacent uses.
- 5 The proposed project was deemed consistent with the public health, safety, and general welfare of the community.

- 6 The proposed project was deemed consistent with and promotes the intent and purpose of the Zoning Ordinance.

With no further questions, Markillie moved to approve site plan and special land use permit for the expansion of the nonconforming building project at 361 S Gull Lake Dr., per the request of Patrick and Mary Weitekamp with the condition the building remains in compliance with all other State, Federal, County, and local ordinances. The approval is based upon the review findings of Section 21.4 - Site Plan Review of submitted information, review findings of 21.6 (B) - Criterial for Site Plan Review, review findings of Section 19.3 - Criteria for Decision and all material supplied by the applicant to the Planning Commission at the July 22, 2024 Planning Commission meeting.

Snyder supported and the motion was unanimously approved.

The next matter to come before the Planning Commission was consideration of the request by Steve and Gina Schau to construct an addition to an existing nonconforming building at 1382 Burlington, Property #3904-17-201-040. The property is located in the Low-Density Residential District (R-1).

Chairperson Sager opened the public hearing at 6:40 PM.

Bert Gale provided an overview of the application. The proposal is to construct an addition to the home that is an existing structure. The setback variance request was approved by the Ross Township Zoning Board of Appeals. Bert's review was conducted under Section 21.4 for the expansion of a nonconforming building per Section 22.3(B) as the side yard property setback, measured at four feet eight inches, is less than the minimum of five feet per ordinance resulting in building being nonconforming.

The applicants stated the current structure is a modular home and the addition is to allow more accessibility due to physical limitations of one of the occupants who needs to be able to move around a single floor. The addition of a bedroom and bathroom on the first floor would greatly help this individual.

There were no people present who gave public comments. Chairperson Sager noted there were three written letters in support of approval by neighbors residing at 1386 Burlington, 1374 Burlington and 1376 Burlington. In addition, Dr. John Bradtke wrote to confirm the disability of the applicant regarding the need for the addition at ground floor level. No written correspondence stating objection was received. As no further public comment was offered on the matter, Chairperson Sager closed public comment.

The Commission reviewed the attributes of Section 21.4 Site Plan Review information submitted and all requirements had been met except for:

C – The location and height of all existing and proposed structures on and within 100 feet of the subject properties were not submitted. The Commission found this not to be an issue as Gale confirmed the proposed project height would be under the maximum allowed by ordinance and viewshed impairment of neighbors would not be compromised.

U – Soil characteristics of the site at least to the detail provided by the U.S. Soil Conservation Service was not provided. The Commission found this not to be an issue as the home has been on the lot for many years, the addition will be in the rear yard between the current structure and the road where erosion is not evident.

Gale noticed an error on the documentation submitted to the Commission and pointed out the application did not satisfy letter N. The Commission discussion on N included:

N – The existing topographic elevations at two-foot contour intervals and direction of surface drainage and drainage way flows were not submitted with the application. The Commission found this not to be an issue as Gale provided a topographical map from the Kalamazoo County GFS Mapping site and the area of the proposed project was fairly flat.

The Commission then proceeded to review the Site Plan Review Criteria set forth in Section 21.6 B – Criteria for Site Plan Review with the following findings:

- 1 The proposed use will not have a harmful effect on the surrounding neighborhood development.
- 2 The relationship between the road and service drives, driveways and parking areas ensuring the safety and convenience of pedestrian and vehicular traffic was deemed adequate. Gale asked Bekes to give an overview of the ZBA's findings on the 15-foot rear yard setback request. Bekes shared a parking space needs 20 feet for perpendicular parking so the requirement will be for parallel parking on the roadside in that space. In addition, the garage across the street from the structure belongs to the applicants minimizing the parking risks that may have been inherent with the project if that did not exist.
- 3 The adverse effects resulting from the location of the building are minimized to the occupants of adjacent buildings.
- 4 The roads, easements and utilities have been established to protect the general health, safety and welfare of the citizens of the Township.
- 5 The features of the landscape will be adequately retained.
- 6 The features of the landscape will preserve the general appearance of the neighborhood and will help control the erosion and discharge of storm water.
- 7 The plan will not result in any additional runoff of surface waters onto adjoining property.

The Commission agreed the site plan presented was acceptable per review criteria set forth in Section 21.6 B.

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

- 1 The proposed project meets all the requirements specified in this Ordinance for the Special Land Use requested, as well as all other Township, County, State and Federal requirements and legal agreements. Consideration of the Fair Housing Act was given as the need for first floor accommodation for a handicapped person was evident.
- 2 The proposed project will be compatible with the natural environment.

- 3 The proposed project will be served adequately by essential on-site and public utilities, facilities, and services.
- 4 The proposed project will be compatible with adjacent uses.
- 5 The proposed project was deemed consistent with the public health, safety, and general welfare of the community.
- 6 The proposed project was deemed consistent with and promotes the intent and purpose of the Zoning Ordinance.

With no further questions, Markillie moved to approve the site plan and special land use for the expansion of the nonconforming building with the addition at 1382 Burlington per the request of Steve and Gina Schau with no conditions. The approval is based upon the review findings of Section 21.4 - Site Plan Review of submitted information, review findings of 21.6 (B) - Criterial for Site Plan Review, review findings of Section 19.3 - Criteria for Decision, and all material supplied by the applicant to the Planning Commission at the July 22, 2024 Planning Commission meeting.

Snyder supported and the motion was unanimously approved.

OLD BUSINESS

Research Status Report: Markillie and Price reviewed the results of their work to study the prior three years of Planning Commission (PC) Special Land Use (SLU) reviews. The effort was borne from the prior meeting as the PC members continued discussion on potential ordinance changes that could reduce the number of SLU reviews that need to come to the PC in the future.

Attorney Kaufman stated some municipalities change restrictions to allow certain situations to be decided more administratively, versus by PCs. Bekes shared an overview of the prior several meetings where both Zoning Board of Appeal members and PC members have all shared a desire to ease restrictions whereby residents would not need to make applications to both the ZBA and PC for the same project.

Attorney Kaufman suggested the PC look at other communities' ordinances where lakes are present, and she described their content potentially includes language describing 'along same property lines' may not need variances. Chairperson Sager committed to attempt to get such language for PC review.

Another thought raised was to put standards into ordinances that could delegate decisions to a Zoning Administrator. Attorney Kaufman suggested the Ross Township Ordinances are somewhat clunky and there are opportunities for changes and upgrades for improvements. She stated as a PC, we can go in any direction with changes with Price opining new rules should not be too vague nor too restrictive. Bekes reiterated the PC's ability to offer the board changes on ordinances, reiterating the process where a public hearing on the proposed changes must occur and the board needing to approve the changes before a new ordinance can be enacted.

Markillie and Price committed to keep tracking the SLU's that come before the PC. A benefit of continued tracking is when changes are initiated, the tracking would give a sense if the changes were beneficial to both the Township and the applicants.

The next matter to come before the PC was a discussion on the Solar Ordinance. Bekes shared direction from the board regarding the solar ordinance the board agreed to at their July 16th meeting. The board put the highest priority to the PC to amend the solar ordinance to the extent that special meetings are authorized if necessary. The due date for the ordinance changes to the board is the September 17th board meeting. The ordinance changes are targeted to go into effect before the law PA 233 of 2023 goes into effect on November 29, 2024. The schedule is tight as the PC must agree on changes, a public hearing must be held, and the board needs time to assess the changes before enactment.

Attorney Kaufman gave a broad overview of the need to address the Ross Township Solar Ordinance and stated the following:

1. PA 233 of 2023 will go in effect on November 29, 2024. In addition, PA 234 was signed alongside PA 233 and will take effect February 13, 2024. PA 233 amends Michigan Zoning Enabling Act to subject all zoning ordinances to the provisions of PA 233.
2. PA 233 makes significant changes to the permitting process for utility-scale renewable energy facilities including solar, wind and battery storage. It also allows developers to apply directly to the Michigan Public Service Commission to construct utility-scale renewable energy facilities, bypassing local control.
3. Key provisions for solar include setbacks, maximum heights, noise, fencing and lighting.
4. Key provisions for battery storage facilities include setbacks, noise, fire safety and lighting.
5. The Township could engage in the creation of a Compatible Renewable Energy Ordinance (CREO) but the downside to this is the provisions will need to match the provisions of PA 233.
6. An alternative is for the Township to engage in what is called a 'Workable Ordinance' which is run entirely through the Township.
 - a. Workable Ordinances (WO) can have provisions that deviate from the needs of a CREO.
 - b. As energy projects mature, it is noticed that developers would much rather work directly with local governments on their projects, avoiding the need to go to the state.
 - c. If developers go directly to the state for permitting, the developer will need to pay the local government \$75,000 to help them cover the costs of defending their position on the project during the state review cycle.
 - d. If the WO is acceptable to the developer, several benefits to both parties may occur including:
 - i. Faster timelines for the developer as approvals are estimated to be at least a year if the state is involved.
 - ii. No need to give the local authority \$75,000 up front by the developers.
 - iii. The WO may have some additional restrictions than what are stated in PA 233 which should benefit local authorities and residents.
 - iv. If the developer determines their best interest is to go through the state on a project, the approval process would include a review the provisions of the WO by the state in their decision to accept or deny if such an ordinance is in force.
 - e. Items identified as a beginning inventory of provisions for consideration for a WO include noise, heights, setbacks, fire safety, lighting, acreage maximum for the Township, decommission expectations, landscaping, screening and potentially an overlay district development. Attorney Kaufman opined there are other attributes that can also be

considered, and that Attorney Thall is working on a draft WO that could be ready for review within three weeks.

The Commission understood the priority of creating a WO on solar and battery storage and agreed to an expedited timeline. Chairperson Sager will determine when Attorney Thall may have an example WO in hand and will determine if a PC Special Meeting is in order once she obtains that information. Gale reported there are no applications that he is aware of for the August 26th PC Meeting indicating the August PC Meeting could allow work on the WO for most of the meeting. Bekes stated the September PC meeting is after the September board meeting leaving the PC a nine-week period and only one regularly scheduled PC Meeting to get the WO created, hold a public hearing and prepare the ordinance for the board by their September meeting.

REPORT FROM TOWNSHIP BOARD

Bekes reported the viewshed ordinance revision submitted from the Planning Commission to the board at their July 16th meeting was accepted by a vote of 7-0.

REPORT FROM ZONING BOARD OF APPEALS

Bekes reported the ZBA met on July 3rd and considered two applications. The ZBA agreed to a variance to allow an addition to an existing home on a lot abutting Stoney Lake at a 250 front yard setback and agreed to a variance to allow an addition to an existing home with a 14-foot rear yard setback and 38.25% lot coverage.

PUBLIC COMMENT

No further public comment was offered.

MEMBERS, CONSULTANTS, ADVISORS

Chairperson Sager shared she will not be attending the August 26th PC Meeting and Vice Chair Snyder will chair the meeting.

ADJOURNMENT

There being no further business to come before the Commission, Chairperson Sager motioned to adjourn and Moore seconded. The motion passed unanimously, and the meeting adjourned at 8:10 PM.

Respectfully Submitted,
Michael Bekes
Board Liaison to the Planning Commission
Acting Recording Secretary