

**ROSS TOWNSHIP
PLANNING COMMISSION
January 24, 2022**

CALL TO ORDER:

Chairman 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: Chairman Lauderdale
Mark Markillie
Steve Maslen
Michael Moore
Pam Sager
Sherry Snyder

Absent: Mike Bekes

Also present: Bert Gale, AGS – Township Zoning Administrator
Robert E. Thall – Township Attorney
Approximately 25 interested persons

APPROVAL OF AGENDA: A motion was made by Commissioner Moore and seconded by Commissioner Maslen to approve the agenda. Upon a vote the motion carried unanimously.

APPROVAL OF MINUTES FROM NOVEMBER 22, 2021: A motion was made by Commissioner Moore and seconded by Commissioner Markillie to approve the proposed November 22, 2021 meeting minutes with a revision to the second to the last paragraph on page 4 replacing the word Board with Planning Commission. Upon a vote the motion carried unanimously.

NEW BUSINESS:

1. **SPECIAL LAND USE PUBLIC HEARING AND SITE PLAN REVIEW FOR 1975 IDLEWILD**

Chairman Lauderdale introduced the application of James L. Clark, Trustee, requesting approval to construct a guest house attached to the existing garage on the south lot of 1975 Idlewild Drive within Ross Township, in accordance with the special land use provisions in Section 18.4.A.(5).b of the Ross Township Zoning Ordinance. He indicated that the proposed use is only permitted as a special land use under the Zoning Ordinance and further that the applicant is requesting approval of a site plan for the proposed construction. He further noted that the subject property is located in the R-1 Zoning District.

Chairman Lauderdale opened the public hearing.

Mr. Gale explained that under the Zoning Ordinance the proposed guest house requires a special land use even though it meets all zoning lot restrictions. With regard to inquiry from Commissioner Markillie, Mr. Gale indicated that the lot coverage is in compliance with the Zoning Ordinance based upon the sliding scale.

Chairman Lauderdale indicated that the Township had received no communications regarding this matter.

Lynn Haddon with Glas Associates appeared on behalf of the applicant. In response to inquiry Ms. Haddon indicated that the guest house would not be used for rental purposes. In response to further inquiry from Chairman Lauderdale, Ms. Haddon indicated that they're trying not to take down any trees if possible. Charlie Glas on behalf of the applicant indicated that there is a steep grade in the back that will be used to control water and that they will cut the hill back.

Chairman Lauderdale opened the matter for public comment. There was no public comment. Chairman Lauderdale then closed the public hearing.

The Planning Commission then reviewed 18.4.A.(5).b which contains the special land use criteria specifically related to a guest house. In reviewing each of the criteria, the Board determined that each of the criteria was met.

Chairman Lauderdale then reviewed with the Planning Commission the general standards for special land use contained in Section 19.4 of the Zoning Ordinance. There was consensus from the Planning Commission that the requested guest house met the six criteria in the Zoning Ordinance determining that: the guest house will meet all legal requirements; it will be compatible with the natural environment; it will be adequately served by utilities, facilities and services; it will be compatible with adjacent uses of land; it is consistent with the public health, safety and general welfare of the community and is consistent with and promotes the intent and purpose of the Zoning Ordinance.

Chairman Lauderdale then led the Planning Commission through review of the site plan criteria contained in Section 21.6 of the Zoning Ordinance. There was consensus from the Planning Commission that the requested guest house met the six criteria in the Zoning Ordinance indicating that: the hillside will provide natural screening; it creates no issues as to pedestrian and vehicular traffic; there is no adverse effect on surrounding properties; existing service utilities will be used; the steep hill will be modified to manage water flow; the natural features will be maintained to the greatest extent possible; the design will not result in any additional run off of surface waters onto adjoining property.

A motion was made by Commissioner Markillie, seconded by Commissioner Moore to approve the requested special exception use and site plan for the guest house at 1975 Idlewild consistent with the information provided to the Planning Commission, the applicant's representations and application, and consistent with the Planning Commission's review of the special land use and site plan criteria. Upon a vote the motion carried unanimously.

2. **SPECIAL LAND USE PUBLIC HEARING AND SITE PLAN REVIEW FOR A SOLAR ARRAY IN THE FRONT YARD AT 5957 N. 37TH STREET**

Chairman Lauderdale introduced the application of Garry R. Muma and Suzanne Sackett for approval to construct a ground mounted solar array in the front yard at 5957 N. 37th Street within Ross Township, in accordance with special land use provisions in Section 18.4.D of the Ross Township Zoning Ordinance. He indicated that the proposed construction would be located in the front yard, therefore, it is only permitted as a special land use under the Zoning Ordinance. He further indicated that the applicant is also requesting approval of a site plan for the proposed construction and that the subject property is located in the R-1 Zoning District. He then opened the public hearing.

Mr. Gale indicated that the solar array is accessory to the residential structure and is located in the front yard. He indicated that the accessory structure is not allowed in the front yard except by special land use approval. Mr. Gale indicated that the building permit for the solar array was issued in error and that upon discovery of this error he suspended the permit.

The applicant, Garry Muma addressed the Planning Commission and indicated that he thought he was going through the right process and was issued a permit that turned out to be inadvertent. He indicated that the solar array is approximately 116 feet off the road. Greg Sarhatt with Powerhome Solar appeared on behalf of the applicant and indicated that the solar panels could not go on the roof and could not go in the backyard because of the lack of sunlight. In response to inquiry from Chairman Lauderdale, Mr. Sarhatt indicated that the solar panels are situated where they would get the best solar gain and that they put it off the road as far as possible. In response to inquiry from Commissioner Sager, Mr. Sarhatt indicated that a different spot on the property would require more solar panels. In response to inquiry from Commissioner Markillie, Mr. Muma indicated that the roof is not facing the right direction for solar use and even if they covered the whole roof, it would not produce enough solar. Chairman Lauderdale noted two letters received in opposition to the special land use request. Commissioner Maslen inquired of Mr. Gale as to the error in allowing the structure to be constructed without a special land use. Mr. Gale explained how the mistake happened and in response to further inquiry indicated that the permit was issued October 25, 2021. In response to inquiry from Commissioner Snyder, Mr. Gale indicated that he suspended the permit because they can't have an accessory structure in the front yard without a special land use.

Chairman Lauderdale circulated the opposition letters to the Planning Commissioners for their review. Chairman Lauderdale opened the matter for public comment and there was no public comment. Chairman Lauderdale then closed the hearing.

Attorney Thall advised that in reviewing the criteria for approval, the Planning Commission should not take into consideration that the solar panels currently exist. The Planning Commission should review the matter instead by reviewing the criteria to determine whether the use should be granted in the first place.

Chairman Lauderdale noted that 18.4.C prohibits accessory structures in the front yard without special land use approval. Chairman Lauderdale then lead the Planning Commission through a review of Section 18.4.D regarding the special land use request to locate the solar panels in the front yard. In taking the Planning Commission through the four criteria in 18.4.D the Planning Commission was in consensus that: the solar panels were set back much further than the minimum setbacks from all lot lines and what appears to be approximately 116 feet from the road; the solar panels will be used for electricity generation to the home with any excess energy sold back to Consumers; the solar panels are not eligible for any variance relief; and the site plan information was appropriate.

Chairman Lauderdale then led the Planning Commission through the six general criteria for a decision on a special land use contained in Section 19.3 of the Zoning Ordinance. With regard to the first criteria there was Planning Commission consensus that the solar array will be compliant with all laws. With regard to the second criteria Commissioner Markillie indicated that the solar panels are located in the front yard view shed. Chairman Lauderdale indicated that the Zoning Ordinance allows for solar panels and the applicant has indicated that this location in the front yard is the only area that they can put in the solar array. Commissioner Maslen indicated that the direct neighbor is objecting to the solar array in the front yard. Planning Commissioners engaged in discussion regarding the matter. Commissioner Moore indicated that the Township has allowed many special land uses in the front yard. There was discussion engaged between Planning Commissioners whether the ordinance promoted solar or just allowed solar. In moving on to the third criteria Chairman Lauderdale indicated that the use is served by public utility and is located in an area where they can get sunshine and use the light. With regard to the fourth criteria that the solar panels be located, designed, constructed, operated and maintained so as to be compatible with the adjacent uses of land, the Planning Commissioners discussed that this criterion would need to be further addressed by conditions to lessen the impact on adjacent properties. It was further noted that there are other properties with structures in the front yard. With regard to the fifth criteria, it was indicated that the use was consistent with the public health, safety and general welfare of the community. With regard to the sixth criteria it was discussed that the use is consistent with and promotes the intent and purposes of the Zoning Ordinance but that conditions could be used to protect neighboring properties. In regards to conditions that could be placed upon the requested special land use, Chairman Lauderdale noted that the Planning Commission may impose landscaping conditions. Mr. Sarhatt indicated that they could use ornamental grasses and trees to soften the appearance of the solar array and blend it in more with the property.

It was indicated that AGS would implement any conditions by the Planning Commission. In response to further inquiry from Commissioner Markillie, Mr. Gale indicated that the existing array is all that is being requested. In response to inquiry from Commissioner Sager, Mr. Sarhatt indicated that the panels are fixed. Chairman Lauderdale noted that if there were any proposed expansion then it would have to come back to the Planning Commission.

Chairman Lauderdale then reviewed with the Planning Commission the site plan review criteria contained in Section 21.6 of the Zoning Ordinance. With regard to the seven criteria it was discussed and noted that: the applicant would be required to provide landscaping to screen the adverse effect on neighboring properties; there would be no impact on pedestrian vehicular

traffic; the adverse impacts again would have to be reduced by landscaping to soften the view of the array; that the utilities would consist of one line to the house from the array; no natural features are adjusted by the array; the array is located where it gets the most sunshine without cutting down trees; the array will not cause water run off onto adjoining properties.

Chairman Lauderdale moved to approve the request to grant special land use approval for the solar array located in the front yard at 5957 N. 37th Street consistent with the information provided to the Planning Commission, the applicant's representations and application, and review of the special land use and site plan under Sections 18.4.D, 19.3 and 21.6; all conditioned on the requirement that the applicant provide screening landscaping to soften the view of the solar array from the neighboring properties. Commissioner Moore seconded the motion and upon a vote the motion carried unanimously.

3. **ROSS TOWNSHIP UPDATED MASTER PLAN PUBLIC HEARING.**

Chairman Lauderdale introduced the public hearing on the proposed update to the Master Plan by reviewing the public hearing notice in this regard. Chairman Lauderdale then opened the public hearing.

William Orr indicated that he wanted to see a copy of the proposed Master Plan as he did not have computer access. Chairman Lauderdale provided to Mr. Orr a copy of the proposed Master Plan for his review at the meeting.

A resident indicated that the information could not be found on the website. Others indicated however that the Land Use Plan was in fact posted to the website and that Mary Carol had the updated version.

Tom Kohl of 12432 East D Avenue indicated that in reviewing the changes on the plan he noted that all new commercial activity will be in the Commercial District around the lake. He further indicated that little change has been made in that area over the years. He indicated his opinion that there is not enough land to develop a commercial zone in the bay area. His opinion was that the Township needed to develop a new commercial area. He noted that the bay area parking is already a problem and that maybe the resolution would be to have another area designated to be a village business district.

Peggy Satler of 3816 Heights Drive indicated that one of the considerations was to not overcrowd the lake and to keep natural features. She expressed great concern over how people coming from the approved apartments would get to the lake. She inquired about rules concerning cutting down trees and the retention of natural woodlands. She further had direct questions regarding the site plan for the approved apartments. Chairman Lauderdale noted that the apartment plans did address the tree buffers.

There were no further comments on the Master Plan. Chairman Lauderdale read the letter from Kalamazoo County regarding the review of the plan and noted that the Future Land Use Plan is in fact a part of the Master Plan. Chairman Lauderdale then closed the public hearing.

4. **Planning Commission budget 2022-2023**

Planning Commissioners reached consensus to duplicate last year's budget.

PUBLIC COMMENT:

Chairman Lauderdale then went through the remaining items on the agenda bringing the Commission to public comment. During public comment Mr. Orr of 12098 East G Avenue had questions regarding construction of homes at G and 38th Street to which Mr. Gale responded. There was no further public comment.

With no comments from Commissioners a motion was made by Commissioner Moore, seconded by Commissioner Snyder to adjourn the meeting. Upon a vote, the motion was carried unanimously at 7:35 p.m.

Respectfully Submitted,

Robert E. Thall, Bauckham, Sparks, Thall, Seeber
& Kaufman, PC
Township Attorney