

**ROSS TOWNSHIP
PLANNING COMMISSION
MEETING MINUTES
June 26, 2023**

CALL TO ORDER/PLEDGE

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

ROLL CALL

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

Absent: None

Also Present: Bert Gale, AGS – Township Zoning Administrator
 Nick Keck, AGS - Township Zoning Administrator
 Rob Thall – Township Attorney

APPROVAL OF AGENDA

Amendments to agenda:

Chairman Moore stated the review at 12504 E D Avenue is not a public hearing and asked the agenda to be updated to reflect that.

Bekes made a motion to approve the agenda as amended by Moore and Stage supported. The motion was unanimously approved.

APPROVAL OF PRIOR MEETING MINUTES

The Commission proceeded with consideration of the **May 22, 2023**, regular Planning Commission meeting minutes. Bekes moved to approve the minutes as presented. Sager seconded the motion. The motion carried unanimously.

NEW BUSINESS

The next matter to come before the Planning Commission was consideration of the request by Kim and Jeff Tolles for special land use permit/site plan review to construct a 24' x 32' accessory building on

parcel 39-04-17-203-206 with a placement five feet less than the minimum 40-foot front yard setback. The subject property is located at 8944 East Gull Lake Drive.

Bert Gale provided an overview of the application. The proposal is to construct a new accessory building on the parcel with dimensions of 24'x32'. The applicant had received a building permit for the building and had an issue with the placement of the building. When the site was being excavated, the applicant was too close to the leach field, and they are now looking to move the building forward to avoid it. This will make the building encroach into the required front yard and setback resulting in the requirement for a special land use to move forward. The project is in the R-1 Low-Density Residential District.

Chairperson Moore opened the public hearing.

Kim Tolles was present to represent the SLU/SPR request. In addition to the information shared from Gale, Kim shared they own five lots, the angle of the building will angle to match the home angle, she shared the neighbors are OK with the project (Bekes noted there was no written support and no neighbors were present to collaborate this remark), they would like to use the building for storage only, it will not contain an guest house, will not have running water and no commercial activity will commence. Electrical service will be provided and the items for storage include a boat, snowmobiles, toolboxes, etc.

Bekes noted there was no written correspondence presented. No further public comment was offered on the matter and the public comment portion of the public hearing was closed.

The Commission proceeded with their review and agreed all requirements in Section 18.4 D had been met. The Commission continued their review of Section 21.4 and all requirements had been met except for the front yard setback. Markille inquired about the 40 front yard setback minimum established by AGS as the home was set back 53 feet. Gale admitted the setback should be a minimum 53 feet and not 40 feet, which established the requested 35-foot setback for the project is actually 18 feet in front of the minimum setback, not five feet as presented to the PC in the documentation from AGS. Markille opined the 35 feet was too close to the road and consideration of building design and/or location should be reviewed to move the front yard setback farther from the road. Bekes opined the owner owned five lots, the placement did not obstruct views of neighbors, did not present a distraction to drivers and the lot contained an inherent obstacle, the leach field location. Bekes shared he did feel relocating the leach field was a solution.

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.

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

- A) The proposal 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.
- B) The proposal will be compatible with the natural environment.
- C) The proposed accessory building will only be served by electricity.
- D) Regarding compatibility with adjacent uses, it was recognized the proposal provides more than adequate separation and buffering as the owner currently owns five contiguous lots, the building is proposed for residential accessory use only and no concerns were expressed by neighboring property owners.

- E) The project was deemed consistent with the public health, safety, and general welfare of the community.
- F) The project was deemed consistent with and promotes the intent and purpose of the Zoning Ordinance.

Bekes moved to grant the front yard setback of 35 feet for the placement of the 24'x36' accessory building for the application of Kim and Jeff Tolles at 8944 East Gull Lake Dr allowing electrical service only with the following condition: No commercial activity will commence in the building. The approval is granted based upon the review findings of Section 18.4D – Residential Accessory Buildings/Structures, Section 19.3 – Special Land Use Criteria, Section 21.6 – Site Plan Review Criteria and all material supplied by the applicant to the Planning Commission at the June 26, 2023 meeting. Stage seconded the motion. The motion was carried with a 6-1 vote.

The next matter to come before the Planning Commission was consideration of the request by Kendall Lundstrum to construct a new accessory structure on parcel 04-19-210-020 with a placement that encroaches the front yard setback of 50 feet minimum. The subject property is located at 11843 E D Ave, Richland MI 49083

Bert Gale provided an overview of the application. The proposal is to construct a new accessory structure on the parcel. Proposed is to remove and replace old, dilapidated stairs down the grade to Gull Creek to make it safe to traverse the property down to the applicant's dock. The front yard setback for the requested project would be zero feet due to it going all the way to the existing dock against the minimum required front yard setback of 50 feet and the west side setback would be 14 feet against the required side yard setback of 20 feet. The project is in the R-1 Low-Density Residential District. Gale also shared the applicant started work on the project and stopped the work and filed for a Special Land Use when asked to stop work.

Chairperson Moore opened the public hearing.

Public comments included:

Kendall Lundstrum was present to represent the project. In addition to the overview from Gale, Mr. Lundstrum stated sections of the stairs were in very poor condition, some were drooping and he wanted to construct the stairway with safety in mind.

Marianne Caron, a neighbor, shared the dock portion that was already built was increased in size, described the new deck extended into the waterway two additional feet from the old deck, logs from trees felled from the property were still in the water and the home is being flipped. Thall stated AGS was responsible for the issue investigation on the dock expansion and that was not germane to what the Planning Commission was reviewing on this proposal.

Jessica Sweet, a neighbor, shared her concern is the need to protect property lines with no further encroachments. She wants all rules and regulations followed. Snyder confirmed all inspections take rules and regulations into consideration and are performed by AGS.

Bekes noted there was no written correspondence presented. No further public comment was offered on the matter and the public comment portion of the public hearing was closed.

The Commission proceeded with their review and agreed all requirements in Section 18.4 D had been met. The Commission continued their review of Section 21.4 and all requirements had been met except for the front yard setback request of zero feet. The Commission confirmed the issue regarding the size of the replacement dock being larger than the dock replaced would be investigated as an enforcement issue and that action will not have an impact on the decision.

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. Bekes asked about potential erosion issues with the construction and Gale opined there will be no issue as the construction into the hill would be posts only.

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

- A) The proposal meets all of the requirements specified in this Ordinance for the Special Land Use requested, as well as all other Township, County, State and Federal requirements.
- B) The proposal will be compatible with the natural environment as erosion would be not at issue.
- C) The proposed stairway will not need public utilities, facilities and/or services.
- D) Regarding compatibility with adjacent uses, it was recognized the proposal is a replacement stairway and provides adequate separation and buffering.
- E) The project was deemed consistent with the public health, safety, and general welfare of the community.
- F) The project was deemed consistent with and promotes the intent and purpose of the Zoning Ordinance.

Bekes moved to grant the front yard setback of 0 feet and west side yard setback of 14 feet for the placement of the stair construction for the application of Kendall Lundstrum at 11843 E D Ave, Richland, MI 49083 with the following condition: It is understood this approval does not impact any findings of investigation of prior construction and/or remediation enforcement actions. The approval is granted based upon the review findings of Section 18.4D – Residential Accessory Buildings/Structures, Section 19.3 – Special Land Use Criteria, Section 21.6 – Site Plan Review Criteria and all material supplied to the Planning Commission at the June 26, 2023 meeting. Markille seconded the motion. The motion carried unanimously.

The next matter to come before the Planning Commission was consideration of the request by Jennifer Jeffrey to construct a 20' x 16' bandstand/stage area covered with a roof on parcel 04-20-255-022. The subject property is located at 12504 ~~GE~~ D Ave, Richland MI 49083. This presentation/review was not a Public Hearing. Bert Gale provided an overview of the application describing the proposal is to construct a 20' x -16' deck with a roof overhand on the parcel with the intent to house live entertainment as bandstand/stage. The project is in the C-1 Bay Commercial District.

Jennifer Jeffrey was present to represent the project. Jennifer shared the structure is not intended for big loud bands, they always respect the noise ordinance, the activity of live music remains the same as in the past only now the entertainers will have some protection in the event of weather problems, they plan to follow their current schedule of music being done by 9 pm with break down following with the area being closed by 10 pm.

Snyder asked about the future and impact of permitted use. Thall stated any new owners will have to comply with all ordinances. Bekes confirmed the activities that will commence with the new deck are

the same activities that are happening today except on a patio, there will be no new lighting, the capacity will remain the same and bathroom facilities will not need to be addressed due to capacity staying the same.

The Commission reviewed the application to Section 21.4 – Site Plan Review, specifically discussing the following attributes:

- C) The location and height of all existing and proposed structures on and within 100 feet of the subject property was not given but deemed acceptable as the only buildings are a commercial gas station and the owner’s current business.
- D) The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, loading and unloading areas, recreation areas, and parking spaces, including the method(s) of calculating the number of off-street parking spaces required pursuant to Section 18.1 of the Ordinance were not given but deemed acceptable as no changes to these attributes are proposed and the business capacity is not expected to change.
- I) The size and location of existing and proposed utilities, including proposed connections to public sewer or water supply systems, if available were not given. The Commission accepted AGS’s recommendation to waive this requirement.
- L) Natural and engineered drainage by location type was not given. The Commission accepted AGS’s recommendation to waive this requirement.
- O: Elevations and floor plans for all buildings and the location of all buildings on the property were not given was deemed acceptable.
- R: The proposed number of shifts to be worked and the maximum number of employees on each shift was not given and deemed not necessary.
- S: No additional information was required by the Township Planning Commission.
- U: Soil characteristics of the site at least to the detail provided by the US Soil Conservation Service was not given. The Commission accepted AGS’s recommendation to waive this requirement.
- X: Drainage management plan with design calculations showing drainage courses and proper management to direct runoff of impervious surfaces and roof drains were not given and was deemed acceptable as zero topography changes were identified with the plan.

Bekes moved to grant the approval for the construction of the 20’ x 16’ deck with roof for the application of Jennifer Jeffrey at property address 12504 E G D Ave, Richland, MI 49083 with the following condition: The operating schedule always follows the then current noise ordinance in the future. The approval is granted based upon the review findings of Section 21.6 – Site Plan Review Criteria, all material supplied to the Planning Commission at the June 26, 2023 meeting, taking into consideration the review of specifically 21.4 C, D, I, L, O, R, S, U and X and the information garnered from the applicant during the meeting. Snyder seconded the motion. The motion carried unanimously.

The next matter to come before the Planning Commission was consideration of the request by Camille Riley to replace an existing dock/platform on parcel 3904-20-130-030. The subject property is located at 288 E. Gull Lake Drive, Augusta, MI 49083.

Bert Gale provided an overview of the application. The proposal is to resurface an existing boardwalk area and rebuild retaining walls that the applicant says have become unsafe over the last 20 years. This

property location is in the Low-Density Residential District (R-1). This is a continuation from the May 2023 Planning Commission meeting when the decision was delayed due to the Planning Commission request for a property survey to ensure the neighbors know exactly the property lines. The request is for a side yard clearance of zero feet against a minimum of five feet per the ordinance and a proposed front yard setback of zero feet against a front yard setback of 50 feet per the ordinance.

Chairperson Moore reopened the public hearing.

Scott Sikkenga of Honigman Law, Attorney for Camille Riley shared erosion is a problem, the best plan is the zero-foot setback for the retaining wall part down by the lake, the solution benefits erosion, there will be no viewshed issue, safety will be improved and stated the work needs to be done.

Rachel Biafore, the architect for Camille Riley presented both the retaining wall design plan and the survey results to the Commission.

Dr. Steve Hyde spoke of three requirements for Planning Commission consideration including: 1) the current platform that is part of the dock be removed; 2) no structure is allowed within five feet of the property line and a tiered retaining wall be constructed in like manner to the prior retaining wall system; and 3) safety needs to be considered as a four and a half foot drop at the property line is not safe as children play in the area.

Scott Sikkenga shared the current dock is a legal nonconforming use structure.

Bekes shared written correspondence was submitted and he confirmed PC Members received them prior to the meeting. The correspondence is outlined as:

- 1) Correspondence from Ron Schultzie, address 284 East Gull Lake Dr., who opined the PC handled the matter very well in the May meeting, approved of the survey request and asked if the PC can work with the information shared and get in a position to let the applicant restart the work so the property can be improved. Allowing them to begin rebuilding the landscaping post haste would be greatly appreciated.
- 2) Correspondence from Dr. Steve Hyde, address 290 East Gull Lake Dr., who opined objection of structures built within five feet of the property line, concern about a hazard of a severe drop suggesting tiered retaining walls with two foot maximum heights, making it mandatory that the dock come into compliance with Ross TWP Bylaws and be at least 10 feet from the property line, a low trust level the resident may adjust plans at a later date and to emphasize the platform to the north of the dock will be removed as a condition of any approval.

Discussion on the subject proposal continued with exchanges between Scott, Rachel, Dr. Hyde and the Planning Commission. Bekes inquired if a tiered retaining wall were constructed as in the past, would the side yard setback of five feet minimum still be encroached upon as the tiered walls would still be considered a structure. Rachel addressed the four-and-a-half-foot drop stating the most it could be in one area would be 42 inches as the drop would be diminished as stairs rise or as the retaining wall lowers as the design is to move the height of the wall with the contour of the land. The deck platform work was discussed as a repair only, and not a replacement, and it was confirmed there will be no change to the location now as the dock relocation was removed from the project plan. The dock platform is considered out of compliance as it is less than 10 feet from the property line and it is assumed it was built after 1986, the year when it would have been grandfathered. Bert Gale agreed to investigate that issue and stated the dock of the neighbor also looks within 10 feet of the property line.

He will add that to his investigation as well. Thall then stated the dock is not within the purview of the Planning Commission decision on this proposal but will remain an infraction investigation by AGS. All parties agreed the new boards on top of the existing boardwalk are not a concern. Bekes opined it is important the new surface decking on the boardwalk is not any larger than the decking that will be replaced. It was also established, confirmed by Rachel, that the land survey resulted in more land on that side of the lot for Camille Riley and the retaining walls can now be built with the five-foot setback met. Bekes confirmed the PC understanding the five-foot setback was now not an issue.

With no further public comment, the public comment portion of the review was closed.

The Commission proceeded with their review and agreed all requirements in Section 18.4 D had been met. The Commission continued their review of Section 21.4 and all requirements had been met with the exception of the front yard setback.

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.

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

- A) The proposal meets all of the requirements specified in this Ordinance for the Special Land Use requested, as well as all other Township, County, State and Federal requirements.
- B) The proposal will be compatible with the natural environment as erosion is expected to be in better control with the retaining wall structure with the natural contour of the land.
- C) Utilities are not an issue with this project.
- D) Regarding compatibility with adjacent uses, it was recognized the proposal provides side yard setbacks that are within standard and the front yard setback of zero feet to access the dock is acceptable.
- E) The project is deemed consistent with the public health, safety, and general welfare of the community.
- F) The project is deemed consistent with and promotes the intent and purpose of the Zoning Ordinance.

Bekes moved to grant the approval of the special land use for Camille Riley to replace retaining walls and resurface the boardwalk area at 288 E. Gull Lake with the following conditions:

- 1) The approval does not provide relief of any enforcement action of AGS's investigation into prior construction issues.
- 2) The boardwalk repair when completed is no larger in size than the existing boardwalk
- 3) No structure of retaining walls will be within five feet of the property line.
- 4) A new plan from Rachel is presented to Bert Gale before work can begin on the retaining wall structures. (Pre-work for the balance of the project can begin immediately though)

The approval is granted based upon the review findings of Section 19.3 – Special Land Use Criteria and approval took into considerations of Section 18.4 D, Section 21.6 – Site Plan Review Criteria and all material supplied by the applicant to the Planning Commission at the June 26, 2023 meeting. Maslin seconded the motion. The motion carried unanimously.

Bekes made a motion to extend the meeting another 30 minutes as the meeting was running late and there was still business to be conducted. Sager seconded the motion and the motion passed unanimously.

Chairman Moore then opened the public hearing for changes to 21.6 D - Development Agreement

The Commission members recognized no one was sitting in the public area. As each member was fully informed about the changes the public hearing portion of the meeting was closed.

Bekes moved to recommend Attorney Thall to package the changes and send the updated ordinance to the Board for adoption. Maslin seconded the motion and the motion passed unanimously.

REPORT FROM TOWNSHIP BOARD

Bekes reported since the last PC meeting, three board meetings occurred. The 5/23/2023 board meeting was a closed session and there was nothing to report. The 5/31/2023 board meeting update included the approval of the new Police Chief contract, little movement on the port-a-potties at South Bay, approval of giving the Supervisor autonomy on how to pay a grant writer, a path to retain Rebecca Harvey as our planner was developed and a closed session was approved. After the closed session came back to the open meeting status a motion was approved by a 6-0 vote to waive the attorney/client privilege for the closed session and the material would be made public and available on the Ross Township website. Another motion was approved by a 6-0 vote asking Clerk Alex Harris to resign to protect the Township from further harm. Bekes then shared he was absent from the June 20th Board meeting, so he had no report for the Planning Commission.

REPORT FROM ZONING BOARD OF APPEALS

Bekes reported the ZBA met on June 7th and agreed to a variance to allow a deck to be built over an existing patio at 16 LaBelle Terrace and agreed to a variance to allow a 16-foot eave height on a pole barn at 9460 N. 43rd Street.

PUBLIC COMMENT

No further public comment was offered.

MEMBERS, CONSULTANTS, ADVISORS

Bert Gale asked Attorney Thall for a copy of the new Development Agreement ordinance that will go to the Board.

ADJOURNMENT

There being no further business to come before the Commission, Bekes motioned to adjourn and Stage seconded. The motion passed unanimously, and the meeting adjourned at 8:32 p.m.

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