

GRATTAN TOWNSHIP PLANNING COMMISSION
Regular meeting of October 7, 2009

1. Call to Order/Roll Call

Chairperson Alan Rumbaugh called the regular meeting of the Grattan Township Planning Commission to order at the Grattan Township Hall at 12050 Old Belding Road at 7:00 p.m. Members present: A. Berry, J. Proos, S. Miller, L. Sostecke, S. Christians D. Heffron and A. Rumbaugh. Members absent: none. Township Supervisor Frank Force, Township Treasurer Sabrina Freeman and Township Zoning Administrator Gregg Converse also attended the meeting.

2. Pledge of Allegiance

A. Rumbaugh led the Pledge of Allegiance.

3. Approval of Agenda

A. Rumbaugh added a discussion regarding Scalley Lake Campground as item 8 on the agenda.

S. Christians moved and J. Proos seconded to approve the amended agenda. All ayes. The motion carried.

4. Approval of Minutes

L. Sostecke moved and D. Heffron seconded to approve the amended minutes. All ayes. The motion carried.

5. Public Comments

There were no public comments.

6. Pre-preliminary Meeting- Dave Powers- 7-Mile Road-Rezoning A1 to A2 for a Land Split

Dave Powers, owner of an approximately 65 acre parcel at Scalley Lake Avenue and 7-Mile Road, asked the Planning Commission for an opinion on rezoning part or all of the property from Ag1 to Ag2. He said he is considering selling the property and would like to know what his options are. The property is landlocked and has lake frontage on Scalley Lake. He provided copies of a proposed land division for 2 parcels (30 acres and 35 acres) each with lake frontage. He said an adjacent property owner has expressed interest in buying 15 acres.

Draft: 10/12/09

Approved: 01/6/10

D. Heffron said larger parcels such as this one are selling more now and suggested the applicant contact an appraiser. He noted the property is 100% prime soils and given the Township's Master Plan he was totally opposed to splitting the parcel. A. Rumbaugh said the applicant could consider applying to the County Purchase of Development Rights (PDR) program. D. Heffron said the PDR program pays about \$4000/acre. The land then cannot be developed. The owner can lease the land for farming. D. Heffron said there may be one house connected to a farming operation on the property.

Township Attorney J. Brown said the property appears to meet some A2 requirements. A. Rumbaugh said it would be a stretch to rezone this parcel. Commissioners did not understand why the proposed land split showed the parcel extending into the lake. There was a discussion about required lake frontage and accessing the property. L. Sostecke agreed it would not be suitable to rezone the property A2. She said the Township was paying the attorney for advice on this matter and the applicant should be talking to the Township's Zoning Administrator. J. Brown agreed.

7. Public Hearing-Jim & Charlene Mac Donald-4245 Bedaki-SLU on a Non-Conforming Structure on a Side Yard

Mrs. Mac Donald reviewed the proposed additions. She said the distance between the existing eave of her house and the neighbor's house is 6'. S. Miller asked if that measurement included any proposed construction. Mrs. Mac Donald said it did not. She said they were not requested to purchase any permits in 1992. Township Zoning Administrator Gregg Converse said the Township issued a building permit to the Mac Donald's in July of 1990. He said he was not sure why, but there was no zoning review for this permit. The Township issued another building permit in April 1996. This permit was issued after construction had already begun. A building permit was issued in March 1992 and the applicant's applied for a building permit in July 2009 for this proposed addition after construction had begun. He said the matter is before the Planning Commission because the construction is within the side yard setback. Mrs. Mac Donald proposed not enclosing the proposed deck. She provided pictures of the construction. She said in 2003 said no railing of OR deck was suggested for the slider window. A. Rumbaugh said the design was their choice. Mrs. Mac Donald said a sliding door could not be put in at that time. S. Miller asked if construction was already started. Mrs. Mac Donald said it was. S. Miller asked if further construction has taken place since the Township required a special land use permit. Mrs. Mac Donald said they have done other work, but nothing on this project.

L. Sostecke moved and S. Miller seconded to open the public hearing. All ayes. The motion carried.

Draft: 10/12/09

Approved: 01/6/10

A. Berry read a letter from Joel Roudabush, Don Anderson, Bob Johnson and Phillip Vanderberg which stated they had no issues with the proposed construction. A. Rumbaugh read a letter from Brenda Roudabush which stated she had no issues with the construction project. A. Rumbaugh read a letter from Roger Herman. He said he realized how close the houses are and would leave the decision up to the Planning Commission.

Joyce Oberlin, 4303 Bedaki, said she was opposed to allowing the proposed addition. Shirley Cook, 4265 Bedaki, asked if the slider windows are thermal or safety glass. She was concerned about safety. Mrs. Mac Donald said they are thermal windows. Shirley Cook asked why this window was missed when the building was inspected by the Township during construction.

A. Rumbaugh said the Planning Commission is dealing with the close proximity to the neighbor's house, but the main concern is encroachment into the side yard setback. He said the applicant has lived with the window for many years and did not think this was a valid reason to further encroach into the side yard setback. J. Oberlin said when the house was built in 1984 a variance was given to be closer than 10'

L. Sostecke moved and S. Miller seconded to close the public hearing. All ayes. The motion carried.

L. Sostecke said there are other ways to fix this problem. She said she feels for the applicants, but if they had come in before any work was started she would have voted to deny that application.

A. Berry said this is a self imposed hardship and agreed there are other ways to fix the problem without FURTHER encroaching into the side yard setback.

S. Christians said Section 4.04 (non-conforming lots) says the total side yard setback must be 15' with one side at least 5'. J. Brown said this is a non-conforming building and therefore section 4.03a applies to this request. Zoning Administrator Gregg Converse said this is a conforming lot. S. Christians said he did not have a problem with the deck if it was not enclosed.

J. Proos said he visited the site and does not understand how the applicants were allowed to put in the slider window. He said the window ~~was~~ WASN'T needed.

S. Miller asked what a slider window is. Mrs. Mac Donald said their window goes from the ceiling to 1' from the floor. A sliding door has its own latch and seal to the floor. S. Miller agreed this hardship was self imposed. She was also concerned about fire safety where the 2 houses are so close together. S. Christians said the houses would not be any closer together. S. Miller said the Mac Donald's house would be 5' from their lot line.

Draft: 10/12/09

Approved: 01/6/10

D. Heffron said although he appreciates the applicant's concern for safety with the window, he was concerned about fire safety with the 2 houses so close together. He said the applicants can fix the window. He was surprised the applicants received occupancy with that window.

Mrs. Mac Donald asked if the Planning Commission would consider an 18" deck with a railing. Commissioners said that would still encroach on the 10' side yard setback. Gregg Converse said he thought code requires a 3' landing.

J. Brown said if the Planning Commission approves this special land use permit for non conformity the applicants must then get approval for a variance for building within the 10' setback from the ZBA. He said the applicants must meet all four standards in section 4.03a. S. Miller read that section out loud.

1. There is no practical possibility of obtaining more land so as to more fully accommodate the enlargement of the nonconforming dwelling.
Commissioners agreed the applicants met this standard.
2. The proposed enlargement could not reasonably be located on the lot in such a way that further nonconformity could be avoided.
Commissioners agreed the applicants met this standard.
3. The proposed enlargement of the nonconforming dwelling would not adversely affect adjacent properties or the character of the neighborhood.
Commissioners agreed the applicants did not meet this standard
4. The nonconforming structure that is proposed to be enlarged or altered is used for a conforming use, and the portion thereof that is to be enlarged or altered would be used for a conforming use as well.
Commissioners were not in agreement as to whether the applicants met this standard.

L. Sostecke said the applicants could redo the window and make it safe without a deck. A. Rumbaugh said he was sorry construction had already started on this.

L. Sostecke moved and S. Christians seconded to approve the special land use permit for alteration and enlargement of nonconforming dwelling with a 36" deck and no enclosure. Roll call vote: Ayes: S. Christians. Nays: S. Miller, J. Proos, D. Heffron, A. Berry, L. Sostecke and A. Rumbaugh. The motion was denied.

Gregg Converse asked that it be clearly stated what must be ~~must be~~ removed from the construction at this site. J. Brown said the Planning Commission acted on the special land use request and any violation would be dealt with by the Township Enforcement Officer.

There was further discussion about the request to enclose under the existing dining room for storage. J. Brown said any physical construction within the 10' side yard setback would be further encroaching. The applicants asked if they

could put an egress window in the basement wall so they could use that area as a bedroom. J. Brown said if only a window is installed within the existing wall that would be allowed.

8. Discussion- Scalley Lake Campground

Mr. Don Hackenburg, previous owner of Scalley Lake Campground, said he was interested in purchasing the campground. He said 2 or 3 years ago the existing house burned down and wanted to make sure he could build a new house there before continuing with the purchase of the campground. Zoning Administrator Gregg Converse said a 1994 special land use is in effect for the campground. Mr. Hackenburg said he would like to build a house using the footprint of the previous house. A. Berry read the 1994 special land use out loud. D. Heffron said the special land use applied to the campground and this would be a permanent dwelling. He said it seemed logical to have a permanent dwelling there.

Commission members discussed the proposal and agreed the proposal seemed like it should be okay. They said the applicant may have to amend the existing special land use.

9. Review of Regulatory Ordinances-Especially Dock Ordinance

S. Christians asked for an opinion on approval of the amended dock ordinance. He said proposed amendments to the dock ordinance were approved by the Township Board, but not reviewed by the Planning Commission. Township Attorney Jim Brown said the Planning Commission only reviews changes to zoning ordinances, not regulatory ordinances. The dock ordinance is a regulatory ordinance. He said the zoning ordinance may have some regulations the dock ordinance does not have, but residents must obey both ordinances.

10. Review of Zoning Enabling Act and Planning Enabling Act

Township Attorney Jim Brown explained the need for Township approval of the new State Zoning Enabling and Planning Enabling Acts. A. Rumbaugh asked if there was a timeline for those approvals. J. Brown said the Township Board acts on approval of the Planning Commission Ordinance and the Planning Commission acts on the Zoning ordinance. Zoning Ordinance approval is past due and will require a public hearing. He also said Planning Commission bylaws and rules procedures need to be adopted. F. Force said Planning Commission bylaws and rules procedures were approved in April 2009.

Commissioners discussed the proposed ordinance to amend the zoning ordinance. There was discussion about the requirement for applicants to receive both Planning Commission and Zoning Board of Appeals (ZBA) approval.

Draft: 10/12/09

Approved: 01/6/10

Commission members asked J. Brown to rewrite the proposed ordinance so applicants are not required to obtain ZBA approval.

J. Brown asked Commissioners if the ZBA should have jurisdiction over any special land uses or planned unit developments. He said in his opinion the ZBA should not have any jurisdiction over planned unit developments. L. Sostecke asked if that was common in other Townships. J. Brown said it was. L. Sostecke said she would defer judgment on the matter to J. Brown.

J. Brown agreed to amend the proposed ordinances and indicate any mandatory sections of the ordinance.

11. **Discussion**

It was noted that the Township is aware of only one excavator in violation of the new ordinance. D. Heffron said there is more than one excavator in violation. He said excavators are having a difficult time due to the economy.

Commissioners discussed the Kuiper resolution and agreed the resolution should state that *the garage must be attached to the house when added*. There was also discussion about whether the egress window in the basement will encroach into the setback.

J. Proos asked if the Mac Donald slider window will be addressed by the Township.

12. **Adjournment**

There being no further business, S. Miller moved and D. Heffron seconded to close the meeting at 9:45p.m. The next regular meeting will be held on November 4, 2009.

Respectfully submitted,

Diane Timmons
Recording Secretary, GTPC

Al Berry, Secretary, GTPC