

ROBINSON TOWNSHIP PLANNING COMMISSION
February 28, 2023

The regular meeting of the Robinson Township Planning Commission was called to order at 7:00 PM at the Robinson Township Hall.

Present

Shawn Martinie
Bill Maschewske
Travis Vugteveen
Michelle Gillespie
Lydia Brown
Steve Young

Absent

Anne Goede

Also present were Supervisor Frank Johnson, Township Attorney Ron Bultje, Zoning Administrator Linda Lovelace, Philip Johnson of Resource Planning and Design representing the new Clark Farm Earth Change application, Mark Sloothaak, owner of the Clark Farm Earth Change Site, Nate and Kurt Koella of Lakeshore Environmental representing the Clark Farm Earth Change Site, five members of the public representing the VanderZwaag Rezoning Request, and Christine Sloothaak. The attendance sheet is attached.

Approval of Agenda

A motion was made by Michelle Gillespie and seconded by Travis Vugteveen to approve the meeting agenda as written. The motion carried unanimously with one member absent.

Adopting of Previous Minutes

A motion was made by Lydia Brown and seconded by Michelle Gillespie to approve as written the minutes of the January 24, 2023 Planning Commission meeting.

The motion carried unanimously with one member absent.

Non-Commission member Inquiries and Questions -- None

Reports and Communications

While not in attendance at the last Township Board meeting, Travis Vugteveen reported that the text amendments forwarded by the Planning Commission were not considered since the full membership of the Board was not present.

Announcements – None

New Business

An introduction was given by Chairperson Martinie to the public hearing scheduled for the VanderZwaag rezoning request for parcel no. 70-08-11-200-035. The public hearing notice was read by Secretary Maschewske. Chairperson Martinie reviewed the rules of procedure for the conduct of the public hearing and the public hearing was declared open at 7:08 PM.

Chairperson Martinie inquired if any member of the public was here for the public hearing other than the applicant and family and there were none.

Chairperson Martinie asked the applicant to give a presentation of the rezoning request.

The applicant, Jodi VanderZwaag, stated that she was requesting to rezone the subject parcel from A-1 to RR Zoning to enable splitting the property to create a parcel to build another residence.

Matt Dahlman (son-in-law of the applicant) – Stated they planned to leave 5 acres in front and split about a 5 acre parcel behind that. They plan to put a private road down the public right-of-way of 108th Ave. that extends south of Johnson St.

Lot splits were discussed with the applicant and family and it appeared that at least one parcel would be created and possibly more.

Chairperson Martinie – Inquired the length of the private road to be created.

Matt Dahlman – They were told by the Road Commission that that they could build a private road down the right-of-way of 108th Ave. south of Johnson St. and all they needed to do was to put down some gravel and use it.

Bill Maschewske and Zoning Administrator Julie Lovelace – Both had discussions with John DeTorres of the Ottawa County Road Commission and were told that the County in these cases typically lets residents construct a driveway but would not object to a private road. However, Mr. DeTorres noted that the applicants would need to sign an agreement with the County that the private road would be open to the public since it was on a public right-of-way it would also be available to adjacent landowners. Additionally, if the County were to extend 108th Avenue as a public road in the future, no one would be compensated for the cost of the private road in existence.

Supervisor Frank Johnson – Stated the County has no problem with the applicant building a private road on the public right-of-way.

Chairperson Martinie – Inquired of the applicants if they were familiar with the private road requirements of the Township.

Matt Dahlman – Yes.

It was noted by Zoning Administrator Lovelace that the parcel is 495 ft. wide and 1980 ft. in length. She also noted that each 5 acre parcel would be about 490 ft. in length.

Matt Dahlman – Stated they would be willing to sign an agreement to not create more than 3 parcels if that is a problem.

Travis Vugteveen and Township Attorney Bultje – Stated there was no need for deed restrictions.

Chairperson Martinie called for additional questions from the public or the Planning Commission and there were none.

Bill Maschewske – Noted there are no dimensioned map of the parcel and no map of easements or a statement saying there are none in the application.

A motion was made by Travis Vugteveen and seconded by Lydia Brown to close the public hearing.

The motion carried unanimously with one member absent.

At this time, the Planning Commission reviewed the seven criteria for a rezoning request. Responses to the questions are in italics.

1. What is the character of the surrounding property? Will the requested rezoning result in spot zoning?

The surrounding property is agricultural and residential. The requested rezoning will not result in spot zoning.

2. What is the suitability of the property in question for various purposes? Can it be used as it is zoned? Does it have to be rezoned in order to be reasonably used?

The property is suitable for both agriculture and rural residential uses. The property can and is currently used as it is zoned. Rezoning would open up an alternative additional use.

3. What will be the effect on surrounding property values?

Property values will either increase or be unaffected.

4. What will be the effect on the market value of the property in question?

The property value will probably increase.

5. What is the general trend of future building and population growth?

Both building and population are increasing.

6. How would the welfare of the Township residents be affected if the rezoning is approved or if it is denied?

No adverse effects are expected whether the property is rezoned or not.

7. What does the Master Plan indicate the land should be zoned?

The Master Land Use Plan shows the property split zoned Rural Residential and Agriculture.

A motion was made by Michelle Gillespie and seconded by Shawn Martinie to recommend approval to the Township Board of the requested Zoning Map Amendment for Parcel no 70-08-11-200-035 from A-1 Agriculture to RR Rural Residential based upon the rezoning criteria above.

A roll call vote was taken.

Michelle Gillespie – Yes

Lydia Brown – Yes

Bill Maschewske – Yes

Shawn Martinie – Yes

Steve Young – Yes

Travis Vugteveen – Yes

The motion carried unanimously with one member absent.

The next topic of New Business was the review and approval of the Annual Report and Budget for the Planning Commission. Chairperson Martinie noted two corrections to be made. First is to remove bold from the text following “Special Meetings”. The second is to change the text under “Public Hearings” from blue to black.

There were no other comments regarding the Annual Report and Budget.

A motion was made by Steve Young and seconded by Travis Vugteveen to approve the 2022 – 2023 Annual Report and 2023 -2024 Budget for the Planning Commission with the above noted corrections.

The motion carried unanimously with one member absent.

The requested report to the Township Board regarding Buildings on Parcels without Dwellings in all Zoning Districts was reviewed next.

Chairperson Martinie called for questions and comments and there were none.

A motion was made by Travis Vugteveen and seconded by Michelle Gillespie to approve the requested report regarding accessory buildings on parcels without residences in all zoning districts.

The motion carried unanimously with one member absent.

The approved copy of the Report is included without attachments.

Old Business

At 7:58 PM., Michelle Gillespie recused herself from the meeting and joined the public in preparation for the discussion of the S and M Gravel Clark Farm Earth Change application.

As scheduled, the new Clark Farm Earth Change application was discussed. Chairperson Martinie noted that we have already reviewed the application, noted issues, and the applicant has responded with an updated application.

The issues noted in the January 24, 2023 Planning Commission minutes were reviewed in the updated application.

1. Chairperson Martinie inquired of the Township Attorney if he was satisfied the application was a new application for the Clark Farm Site. Township Attorney Bultje responded “Yes”.
2. The hours of operation need to be a condition in the approval process.
3. The 1979 Environmental Impact Statement does not need to be resubmitted since it is part of the record.
4. Article IV, Section 2, (c)(5) – It is now stated that the processing plant will be centralized and not move and that the 108th Ave. ingress/egress will be closed.
5. Article IV, Section 2, (c)(8) – The closure of the 108th Ave. access was addressed.
6. Article IV, Section 2, (d)(3) – The duration of the project was stated as approximately 28 years.
7. It was noted that the numbering system of the application form does not follow the numbering of the Earth Change Ordinance. This will be investigated.

The Steve Young Hydrogeological Review was discussed next. (See the January 24, 2023 Planning Commission minutes for a copy of this document.)

Kurt Koella of Lakeshore Environmental responded to the Hydrogeological Review.

1. Core Samples – Lakeshore Environmental has consulted on many sand and gravel mining operations and their experience indicates that the stem auger produces the best sample.
2. Hydraulic Conductivity Calculations – In general, EGLE dictates what they want to see. The experience of Lakeshore Environmental is that the stem auger works best for gravel sites. The calculations are very conservative. Lakeshore Environmental has done at least 50 lakes and have never had a problem. They also used the MME Gravel Mining Site as a basis for predictions. They feel the issue is addressed.

Steve Young – Noted that a response to his Hydrogeological Review was necessary by the applicants. The applicants are standing behind their analysis.

This concluded the review of the Steve Young Review document.

Bill Maschewske – Questioned the effect of the proposed excavation and lake on the Allen Drain. Based on the elevations, it would appear that the Allen Drain would empty into the proposed lake, leaving it dry downstream.

Kurt Koella – Noted that currently, the incoming Allen Drain empties onto the Clark Farm property and the drain is basically dry downstream for a distance. West of the powerline on the West side of the Clark Farm, the Allen Drain is a robust stream and continues on to Little Robinson Bayou. He continued to state that after the lake is created, the Allen Drain will be at least 300 ft. from the lake and outside of the area of influence of the lake. Mr. Koella assured that the Allen Drain will not be negatively impacted by the excavation or the creation of the lake.

Chairperson Martinie called for additional questions from both the public and the Planning Commission and there were none.

A motion was made by Lydia Brown and seconded by Shawn Martinie to schedule a public hearing for the new Clark Farm Site Class B Earth Change Application as amended for March 28, 2023.

The motion carried unanimously with one member absent.

Discussions regarding the Clark Farm Earth Change application being concluded, Michelle Gillespie rejoined the Planning Commission.

Pay Bills

A motion was made by Michelle Gillespie and seconded by Lydia Brown to pay salaries for the February 28, 2023 Planning Commission meeting (six members present, one absent).

The motion carried unanimously with one member absent.

Any and All Other Business

Bill Maschewske – Inquired if an earth change occurred at the East end of North Cedar St. where the lots owned by the Ottawa County Road Commission were sold?

Zoning Administrator Lovelace – State she talked to the owners and they stated they only moved the cul-de-sac. The subject properties are also noted to be for sale.

Bill Maschewske – Referencing the VanderZwaag Rezoning earlier in the meeting, noted that the reason the subject parcel was Master Planned split zoned was because the Township Board back in 1978 wanted the buildable frontage along roads to be planned for residential similar to the concept in the 1949 Zoning Ordinance. This concept did not take advantage of roads as a growth boundary but was necessary to get the Master Land Use Plan adopted at the time. This perhaps should be reviewed as part of the Master Land Use Plan update.

Adjournment

A motion was made by Travis Vugteveen and seconded by Shawn Martinie to adjourn the Planning Commission meeting at 8:45 PM.

The motion carried unanimously with one member absent.

Respectfully submitted,

Bill Maschewske, Secretary
Robinson Township Planning Commission

Attachments: Sign In Sheet for Planning Commission February 28, 2023 meeting.

Requested Report to the Township Board regarding Accessory Buildings without Dwellings in All Zoning Districts.(without attachments)



SIGNATURE

M. J.

Christine Loothack

Gregory

[Signature]

John C. Wall

He



To: Robinson Township Board

From: Robinson Township Planning Commission

Date: February 28, 2023

Re: Requested Report on August 23, 2022 Directive to Review Buildings on Parcels without Residences in All Zoning Districts.

Introduction

At the August 23, 2022 joint meeting of the Robinson Township Board and the Robinson Township Planning Commission, a list of topics prepared by the Planning Commission was reviewed and discussed with the Township Board to prioritize and give input to the Planning Commission. As a result of this meeting, the only specific directive given by the Township Board was to review “Buildings without residences in all zoning districts”. The Planning Commission acted on this directive at the September 27, 2022 meeting. The minutes of this Planning Commission meeting summarized the investigation and were to serve as the report to the Township Board on this matter. At the January 24, 2023 Planning Commission meeting, Supervisor Johnson requested a separate report on this investigation, including more detail.

Current Zoning Ordinance Status

Section 4.2, BUILDINGS, ACCESSORY of the General Provisions of the Zoning Ordinance states that *“An accessory building is a structure on the same premises with the principal building or structure, occupied or devoted to an accessory use.”* This means that in residential zoning districts, the Zoning Ordinance requires (with the exceptions noted below) a principal dwelling before an accessory (non-dwelling) building can be constructed.

There are exceptions for AG barns in the A-1 Zoning District, and also in the Rural Residential Zoning District, permitting *“Agricultural buildings on parcels of five (5) acres or more – all necessary buildings and their uses when the same are necessary and incidental to the pursuit of farming and agriculture”*.

To accommodate residential property owners intending to build homes on vacant land, the Township has an application with escrow process that permits an accessory building to be constructed in a Residential Zoning District prior to a residence, however, the residence must follow within a specific time or the accessory building must be removed. The purpose of this is to allow the property owner a place to store tools, equipment, and materials while the residence is being constructed.

Planning Commission Action

The Planning Commission, on September 27, 2022, reviewed this subject as part of an in-process existing review of Section 4.2 “Buildings, Accessory” regarding permitted maximum building sizes.

At the start of the discussion, Township Attorney Ron Bultje noted that by definition, unless there is a principal use on a parcel, there cannot be an accessory use. “Accessory Use” is defined in the Zoning Ordinance in Section 3.4 as *“A use of a nature customarily incidental and subordinate to the principal use of the lot or parcel of land in question”*. Similarly, Section 3.3 of the Zoning Ordinance defines “Accessory Building or Structure” as *“A subordinate building or structure, the main use of which is customarily incidental and subordinate to the principal building or structure on the lot or parcel of land in question.”* No Planning Commission consensus was stated at this time in the meeting.

Later in the meeting, the topic was re-introduced and discussed further. Attorney Bultje stated that he was currently the lead attorney for 25 municipalities and none of them allow accessory buildings without a principal dwelling in Residential Zones. Normally, to investigate a request of this nature, the Planning Commission requests zoning ordinances from other townships for review to determine how other municipalities regulate the same issue and then, following discussion and deliberation, decide what to recommend to the Township Board. In this case, Township Attorney Bultje presented compelling information that it is simply not allowed. Attorney Bultje again reinforced that there cannot be an accessory use without a principal use and that in Residential Zoning Districts, the principal use is a dwelling or residence. Secondly, a non-dwelling building on a vacant parcel without a dwelling is in effect a warehouse, which is a commercial or industrial use not permitted in residential zoning districts.

Conclusion

The Planning Commission came to a consensus to not revise Sections 3.3 and/or 4.2 of the Zoning Ordinance to permit buildings without residences in all zoning districts, based on the following factors:

1. There cannot be an accessory use without a principal use, and in Residential Zoning Districts, the principal use is a dwelling or residence.
2. A non-dwelling building on a vacant parcel without a dwelling is in effect a warehouse, which is a use not permitted in residential zoning districts.
3. Township Attorney Bultje’s statement that he was currently the lead attorney for 25 municipalities and none of them allow accessory buildings without a principal dwelling in Residential Zoning districts.

Shawn Martinie, Chairperson

Robinson Township Planning Commission

Attachments:

August 23, 2022 Planning Commission Minutes

September 27, 2022 Planning Commission Minutes

January 24, 2023 Planning Commission Minutes