

**ROSS TOWNSHIP
PLANNING COMMISSION
MINUTES
July 23, 2008**

The regularly scheduled meeting of the Ross Township Planning Commission meeting on **July 23, 2008** was called to order by **Chairman Lauderdale** at approximately 7:00 P.M. at the Ross Township Hall

ROLL CALL OF MEMBERS

Those present were: Jim Lauderdale
 Russell Fry
 Sandra Kiger
 Garry Lane
 Diana Langshaw
 Jeff Price

Absent was: Robb Blain

Also present were: Craig Rolfe, Township Attorney
 Bruce Dean, AGS

APPROVAL OF AGENDA

On motion by Lane seconded by Fry the agenda was unanimously approved.

APPROVAL OF MINUTES for June 25, 2008

On motion by Langshaw seconded by Lane the minutes of **06/25/2008** were unanimously approved with the following changes:

1. Page 6, paragraph 7, sentence 1: change “member” to “members”
2. Page 6, paragraph 9, sentence 3: delete “have”

Roy Kemppainen (260 East Gull Lake Drive) was acknowledged, and Chairman Lauderdale confirmed that his letter dated 07/07/2008 regarding minutes had been distributed to the commissioners with the agenda packets.

Lauderdale affirmed that the agenda includes a public hearing on a proposed amendment of Section 7.13(B)(6) of the Zoning Ordinance. The intent of the public hearing this evening is to take public comment on the change proposed, and not on other general or specific topics related to docks in Ross Township.

PUBLIC COMMENT on non-agenda items –

Stan Kerman 254 East Gull Lake Drive suggested that a representative of the MDEQ should be at this meeting.

PUBLIC HEARING – Text Amendment: Marinas/Docks - Section 7.13(B)(6)

Chairman Lauderdale opened the public hearing with an overview of the current ordinance language, the proposed modification, and an assessment of the effects of the proposed change. (Document distributed and displayed on the overhead projection screen).

Rolfe summarized the state statute as to regulation of docks and its interaction with the Ross Township Zoning Ordinance. He stated that the proposed change would have no affect on any requirement of the Michigan Department of Environmental Quality (MDEQ), and that no action by the Township can affect the requirement of state law. The objective of the Township Board in requesting consideration of the language change is to eliminate the possibility that local tax dollars will be used to enforce the state law. The proposed change was initiated by the Township Board, and is not related to a specific location or condition within the Township.

Rolfe stated that the Planning Commission will not be considering any comments as to specific dock situations or locations, rather will be considering the comments of the public regarding the proposed action of deleting the requirement for a state permit as a condition for granting Township approval for private, non-seasonal, permanent dock placement. Comments from the public, with rational for a particular position on this action, is of value to the Planning Commission. The Planning Commission’s role is to receive and consider public comment, and make a recommendation for action by the Township Board.

Public Questions

Ann Couture, 1451 Shoal – stated that she is present representing Brian Winne and The Gull Lake Quality Organization (GLQO). She asked: Have the other Townships adjoining the lake expressed a position and are the requirements of other Townships known?

Lauderdale stated that he recently met with Brenda Moore (LSL), who also works for the GLQO, and has some information on the comparative requirements of the four Townships adjacent to Gull Lake. Additional information will be obtained, but this information does not have a bearing on the language change being considered.

Ann Kemppainen asked: When does Section 7.13(B) (1) require a “building permit”.

Dean stated that there are actually no building code requirements for construction of a dock. The language referred to is applied as requiring a “zoning approval”, rather than a “building permit”.

Rolfe reviewed the applicable requirements for granting zoning approval for docks (Section 7.13(B)).

Jeff Donovan, 264 East Gull Lake Drive, asked: Based upon the proposed change, could the Township approve a permit before the MDEQ approves the dock?

Rolfe confirmed that an application demonstrating compliance with the requirements of the zoning ordinance would be approved, independent of the State permitting, if the ordinance is modified as proposed.

Ann Couture – asked: Why are the MDEQ standards related to docks treated differently than Health Department, Road Commission or Soil Erosion permits associated with residential construction.

Rolfe stated that decisions have to be made as to how to best use the Township resources for enforcement purposes. The regulation of docks is not given similar priority to that of the other categories noted.

Roy Kemppainen – asked: How would the proposed change affect Section 7.9 (*Conflict With Other Laws*)? If the MDEQ has a four-foot width requirement, wouldn't that be a conflict?

There was discussion of the fact that the present ordinance requirements do not regulate the width of a dock, and do not have an affect on the applicability of MDEQ requirements. There was additional discussion of the applicable administrative rules versus published policy guidelines contained in MDEQ application literature.

Ann Couture – asked: What expenses have been incurred to enforce this section of the ordinance.

Rolfe stated that neither he, nor the Planning Commission would have that information.

Ann Kemppainen - asked: Why is a marina required to have an MDEQ permit, but a dock no longer would?

Rolfe stated that a marina is generally commercial in nature and has a greater impact on the water and the land than residential use of a dock.

Commission questions

Price asked about the four-foot width and dock length and size, as related to length or size in the vicinity. Price asked Mr. Kemppainen for the material from MDEQ that he had quoted earlier.

Fry stated that he had personally just gone through the process and the MDEQ recently approved greater than 4-foot width. He also asked to see the information that Kemppainen had referred to from the MDEQ.

Rolfe stated that the administrative rules do not contain a maximum width, and the document provided by Kemppainen represents an administrative policy as a revision of the administrative rule. It appears that a 4-foot “typical” width has been inserted for guidance rather than as a strict requirement.

Public comments

Cliff Bloom, from the law firm, Law Weathers & Richardson, was present representing the Kemppainens. He presented a letter dated 7-17-2008 that had been sent to Supervisor Bither and the Planning Commission members, and reviewed its contents.

Jeff Donovan stated that the Planning Commission should consider that the change might result in a loss of control regarding dock construction, and that he believes that in the absence of standards, community beaches will be overrun and structures will impede access to the water.

Ann Couture stated on behalf of the GLQO, that the MDEQ looks at the implications of construction materials and techniques, and that that expertise is important. The GLQO does not support the change to the ordinance.

Rolfe summarized Rule 6 of the State Administrative Rules applicable to non-seasonal docks, including: length/size not greater than similar structures in the vicinity, use of clean materials for construction, and location adjacent to owner’s upland property. He noted that the issuance of a permit by the MDEQ is not evidence of compliance, just that a permit has been obtained. The state is the issuing agency for these permits, and has in some instances, where permits were required but not obtained, declined to enforce the requirements. This was a surprise to the Township Board. He stated that there is no legal right or wrong to the proposed language change, it is a policy determination.

Commission Comments

Lane stated that MDEQ rules are simply not within the Township’s jurisdiction, and that he supports the proposed change.

Price stated that if there are requirements in the MDEQ rules and process that make sense, he believes the Township should adopt those requirements.

Fry stated that after going through the process himself, the requirement for a MDEQ permit was known, neighbors advised him, and his contractor was aware of the applicable requirements. The regulations are published and available. He also stated the language of the dock section applies to all lakes in the Township (Sherman, Stoney, etc.) and that following the last meeting, he was in favor of leaving the language in the ordinance.

Langshaw stated she is interested in more information as to the requirements of the other Townships around Gull Lake.

The eighteen-page document titled Analysis of Water Quality Planning and Zoning Techniques: Ross Township, Richland Township, Prairieville Township, Barry

Township, dated 11/01/2007, was referenced, with discussion of consideration of requirements of the other Townships in future revisions to dock language.

On motion by Langshaw, seconded by Fry, and unanimously approved, the public hearing was closed.

NEW BUSINESS – Action on Public Hearing

Lauderdale stated that the Planning Commission must now act to accept or reject the proposed changes, in the form of a recommendation to the Township Board. He read the text from the public notice.

Rolfe stated that there are three courses of action: no action, recommendation of approval, or recommendation of denial.

There was discussion of the implication of the change for marinas, and the potential to modify the ordinance to add requirements in the future.

Rolfe confirmed that the proposed changes would have no effect on marinas.

Langshaw stated that the proposed language change should be adopted, and that other changes could be considered later.

Fry suggested that no action be taken on the proposed language, pending collection of additional information, which may support other changes.

Following discussion of the scope and types of other changes that may be appropriate, Price stated that he would like to have a complete review of the section, rather than the proposed change. Information from the MDEQ could be incorporated into the ordinance based on an evaluation of the Administrative Rules and guidelines used by the MDEQ.

Price moved that no decision be made on the question of modification of Section 7.13(B)(6), pending consideration of all language contained in Section 7.13(B). Fry seconded the motion.

There was discussion of the motion, including that the general regulation of the lakes is not within the Township's jurisdiction, and that the adoption of the proposed change does not preclude consideration of other issues, which could be incorporated at a later date.

Price stated his concern that there will be no enforcement of MDEQ requirements.

Lauderdale stated that the change would not materially affect the ability of the Township to regulate docks. The MDEQ may or may not perform its role. The proposed position is defensible, and the language can be adjusted to meet needs regarding such things as required materials.

Lauderdale requested a roll-call vote on the motion:

Lane: Nay; Price: Yea; Lauderdale: Nay; Langshaw: Nay; Kiger: Nay; Fry: Yea.

The motion failed on a vote of 4 Nays and 2 Yeas.

Lane moved to recommend approval of the proposed modification of Section 7.13(B)(6), the modified section to read as follows:

All marinas are required to obtain an approved permit from the State pursuant to 1994 Public Act 451, as amended, and any other applicable state laws or regulations.

Kiger supported the motion.

Lauderdale requested a roll-call vote on the motion:

Lane: Yea; Price: Nay; Lauderdale: Yea; Langshaw: Yea; Kiger: Yea; Fry: Nay.

The motion was approved on a vote of 4 Yeas and 2 Nays.

OLD BUSINESS

Adjust Master Plan & Zoning Ordinance

Lauderdale reported that at his meeting with Brenda Moore on 07/15/2008, the 11/1/2007 document was reviewed. The document has been provided to the members, with his meeting notes. Ms. Moore is working to obtain consistency among the four townships adjoining Gull Lake. This is a work in progress to be addressed further upon return of Rebecca Harvey.

Wind as a Source of “Green Energy”

Resource material has been provided in the agenda packets. Harvey will provide additional at future meetings.

M-89 Landscaping for Commercial Zone

Lauderdale indicated this issue is awaiting additional information from Jon Scott.

Hotel/Motel Bed & Breakfast

Lauderdale referred to memo from Dean dated July 16, 2008, which will be considered at future meetings.

Commissioner Topics

Texas Township outdoor woodstove has been provided with agenda packets. The above issues will continue on future agendas as “Old Business” and can be prioritized at future meetings.

Lane reiterated his interest in bike path around the lake. He is accumulating information on grants for such projects.

Fry asked about the M-89 Landscaping and what issues prompted this topic.

Lauderdale stated that Jon Scott, a former PC member and current Township Board member, has suggested that minimum standards for landscaping along the major roads be considered and developed prior to concentrated development in these areas.

REPORTS

ZBA – There will be a meeting on 08-06-08.

Township Board - No report.

Workshops - No report.

COMMISSIONER COMMENTS

Lane stated that the revision of ordinance and master plan are ongoing, and there will be more. Some will be based on issues and some will be based on focused consideration through surveys, or other public input.

Lauderdale summarized that the most recent consideration of the Master Plan indicated no changes or update necessary, but that the recent revisions to the ordinance will require reconciliation with the Master Plan.

ADJOURNMENT

On motion by Lane, seconded by Fry, and unanimously approved, the meeting was adjourned.

Respectfully submitted,

Bruce Dean, AGS