

ROBINSON TOWNSHIP PLANNING COMMISSION
September 24, 2019

The special meeting of the Robinson Township Planning Commission was called to order at 7:30 PM at the Robinson Township Hall.

Present	Absent
Shawn Martinie Travis Vugteveen Bill Maschewske Steve Young George Schippers Lydia Brown Rich Sibley	None

Also present were Zoning Administrator Brian Werschem, Township Attorney Ron Bultje, and seventeen members of the public. The attendance sheet is not attached since it contained no names.

A motion was made by George Schippers and seconded by Rich Sibley to approve the agenda as written.
The motion carried unanimously.

A motion was made by Travis Vugteveen and seconded by George Schippers to approve the August 27, 2019 Planning Commission minutes as written.
The motion carried unanimously.

Non-Commission Member Inquiries – None

Reports and Communications

Travis Vugteveen reported the following from the Township Board.

1. Two Fire Department purchases were approved.
2. An agreement was approved for Ottawa County Sheriff services for Robinson Township.
3. A snow removal contract was approved for 2019 – 2020.
4. A truck route sign was approved for Johnson St.
5. Lakeshore Environmental was approved to perform sampling around the Township Hall and Fire Station.
6. The purchase of a generator was approved in response to a State grant that was received for that purpose.

Announcements – None

Old Business

The issue of the Evergreen Site Condominium project remained tabled from the previous meeting since no new information has been received.

New Business

Applications were received from six applicants for seven parcels near Osner Drive and Johnson St. for a Zoning Map Amendment to rezone all parcels from R-1 Residential to RR Rural Residential. The applications include parcel nos. 70-08-06-300-042, 70-08-06-400-001, 70-08-06-300-041, 70-08-06-300-039, 70-08-06-300-038, 70-08-06-300-040, and 70-08-06-300-037. An introduction was given by Chairperson Martinie and the public hearing notice was read by Secretary Maschewske. The public hearing was then declared open by Chairperson Martinie and the rules of procedure were reviewed.

A presentation was made by Greg Borta as representative for the six applicants. Mr. Borta owns 13 acres and stated the smallest parcel in the group of seven parcels is 10 acres. He and the other applicants wish to be able to construct accessory buildings larger than the 1200 sq. ft. total per parcel allowed by the R-1 Zoning District.

Denise Fett – Reinforced the request that they wish to be able to construct accessory buildings in excess of 1200 square feet in area.

Zoning Administrator Werschem – Noted that all parcels except 70-08-06-400-001 have deed restrictions that place several restrictions on the parcels, including not being able to be further split or subdivided.

Greg Borta – Also stated that because of deed restrictions, the parcels cannot be split or be used to raise farm animals.

The hearing was opened to questions from the Planning Commission.

Bill Maschewske – Requested to see a copy of the deed restrictions.

John Wood – Provided a copy of the deed restrictions.

Bill Maschewske – Inquired if a variance would be a better way to resolve this issue.

Township Attorney Bultje – Stated that rezoning would be a better solution.

Chairperson Martinie – How long do deed restrictions run?

Township Attorney Bultje – The restrictions run with the property and last until someone violates the restrictions and without enforcement. For example, if someone subdivides a parcel and no one challenges the action, the deed restrictions could become meaningless. The restrictions are not enforceable by the Township.

Lydia Brown – How long have the parcels been zoned R-1?

Zoning Administrator Werschem – The parcels were zoned R-1 before Albee's Cove was developed. He noted the subject group of parcels has RR Zoning on two sides.

Bill Maschewske – Requested to see a copy of the Master Land Use Plan.

After examining the Master Land Use Plan, it was determined the subject area was Master Planned for Residential (R-1 Zoning District by definition).

Chairperson Martine – Noted that some of the parcel numbers were incorrect.

It was determined the parcel numbers in the public hearing notice were correct, however, some of the parcel numbers in the rezoning applications submitted were incorrect.

At this time, there were no more questions from the Planning Commission and the public hearing was opened to opponents of the requested rezoning.

John Wood – Stated there are 38 R-1 Zoned parcels surrounding the subject properties and reviewed the deed restrictions in detail. He is concerned about violations of the deed restrictions. Mr. Wood reviewed the permitted uses in the RR Zoning District that were not limited by the deed restrictions. He also noted that parcel no. 70-08-06-400-001 was pre-existing and does not have the deed restrictions of the other parcels. Approving all the rezoning requests would include one parcel not deed restricted on uses.

Chairperson Martinie – Reviewed permitted uses in the R-1 Zoning District for parcels in excess of 5 acres.

Bill Maschewske – Noted reasons why a variance would be better option than a rezoning.

Township Attorney Bultje – Suggested the option of Contract Zoning to RR and explained how it could work.

Jason Zuidema – Stated he is a resident and Board President of Albee's Cove. He stated that several residents in Albee's Cove got variances for larger accessory buildings. He felt this would be acceptable. He also inquired if setbacks changed between R-1 and RR Zoning. He supports the idea of using a variance.

Greg Borta – He would like to make the rules for accessory buildings in R-1 similar to RR. He does not want to return for a variance every time he wishes to increase accessory building area.

Denise Fett – Is concerned about having to return for additional variances for every increase in accessory building square footage.

Township Attorney Ron Bultje – Reviewed the variance criteria and discussed two criteria that may be an issue in trying to grant a variance. He further discussed the attributes of Contract Zoning.

Susan Borta – Would the applicants have to make new applications for Contract Zoning?

Township Attorney Bultje – No, the public hearing has already been held, but a signed letter from the applicants requesting Contract Zoning would be necessary.

John Wood – Stated the deed restrictions will probably not last forever. He agrees Contract Zoning could work. He is still concerned about additional uses in RR such as Agricultural Labor Camps that would not be allowed in R-1 Zoning.

Zoning Administrator Werschem – Agricultural Labor Camps seem to be the big issue. Could provisions be added to the deed restrictions stating no Agricultural Labor Camps and no poultry facilities?

Bill Osner – Stated that it was at his request many years ago that the subject properties were zoned R-1.

Roger Vander Wood – How many accessory buildings are allowed in RR Zoning?

Chairperson Martinie – The accessory building definition is the same in RR as it is in R-1. The only difference is how many total square feet of buildings are allowed.

Township Attorney Bultje – Noted a variance could be done, however, several factors could be a problem. There is not as much flexibility under a variance, however, it may be the best option unless the applicants are willing to ask for Contract Zoning.

Dave Schmoekel – What is being considered?

Township Attorney Bultje – To proceed with Contract Zoning, the applicants must request RR Contract Rezoning with all uses in R-1 except for the accessory building sizes of RR Zoning.

Greg Fett – Noted that RR and R-1 Zoning must interface somewhere.

Zoning Administrator Werschem – Stated he deals constantly with the owners of larger parcels on North Cedar that are zoned R-1 that want larger accessory buildings.

John Wood – Stated that parcel no. 70-08-06-400-001 does not have the deed restriction. He is in agreement with Contract Zoning to RR restricted to the construction of accessory buildings and keeping all permitted uses of R-1 Zoning.

There were no more comments from the Planning Commission or the public.

A motion was made by Travis Vugteveen and seconded by Steve Young to close the public hearing.

The motion carried unanimously.

A motion was made by Rich Sibley and seconded by Travis Vugteveen to table the rezoning requests for the seven parcels pending additional input from the applicants.

The motion carried unanimously.

Township Attorney Bultje – Stated that Contract Rezoning must be requested in writing by the applicants.

Denise Fett – Would there be another application fee?

Township Attorney Bultje – No.

At 9:10 PM., the Tejchma Class A Earth Change application to construct a pond was considered.

At this time, Rich Sibley excused himself from the Planning Commission and joined the public since he is in the notification area for this project.

An introduction was given by Chairperson Martinie to the public hearing for the Tejchma Class A Earth Change request. The public hearing notice was read by Secretary Maschewske. The public hearing was declared open by Chairperson Martinie and followed by a review of the rules of procedure.

The applicant, Paul Tejchma, made a presentation of his project. He stated that he has owned the property since 1974. In 2013, the parcel was covered with water. He will continue to grow blueberries on the ground that is not disturbed by the Earth Change.

Bill Maschewske – I believe the Drain Commission added a drain for your property. Did it help?

Paul Tejchma – No, it did not. Eric Sutton next door pumps his blueberry field to remove water.

Chairperson Martinie – Will the proposed pond be used as a detention pond?

Paul Tejchma – Not specifically, but you can bet if we get another high water year such as 2013, Eric Sutton will pump the proposed pond to the Bethke drain to lower the water table.

Bill Maschewske – What do you plan to do with the fill area?

Paul Tejchma – I may build another house and split the parcel.

Steve Young – Is there any chance the subject site is a wetland?

Paul Tejchma – The site does not meet the criteria for a wetland.

Zoning Administrator Werschem – The site is not identified on the Wetlands Map.

Todd Deal – Owns the property to the North of Mr. Tejchma. Inquired if Mr. Tejchma gets approved for a pond, could he submit an application for a pond also?

Chairperson Martinie – Yes. He also noted that the topographic map should include areas within 300 ft. of the subject property unlike the plan of Mr. Tejchma.

Todd Deal – Is a fence required around the pond?

Chairperson Martinie – No.

Steve Young – Is your ground sand?

Paul Tejchma – Yes.

There were no more comments from the public or the Planning Commission.

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

The motion carried unanimously with one member excused and the public hearing was closed.

At this time, the criteria for a Class A Earth Change found in Article V, Section 3 of the Earth Change Ordinance were reviewed. The Planning Commission responses are in italics and follow each listed factor.

1. The zoning of the proposed site.
The zoning is Rural Residential.
2. Its proposed reclamation in a manner consistent with the Robinson Township Land Use Plan.
Compliant.
3. The character of the person in respect to the person's honesty, integrity, and financial responsibility.
Acceptable.
4. The person's ability to comply with this Ordinance and the probable terms and conditions of a permit, if issued.
The Planning Commission has no concerns.
5. The size, nature, and character of the proposed Earth change activity.
The activity is compliant with a Class A Earth Change.
6. The scope and duration of the proposed Earth Change activity.
The start is intended to be delayed until May 2020.
7. The proximity and effect of the proposed Earth Change activity with respect to adjoining properties and the surrounding neighborhood.
The location is acceptable.

8. The relative need or necessity of the proposed Earth Change activity in relation to other possible uses of the property.
The applicant noted the site is very wet and the pond may be used for Agricultural irrigation.
9. The impact of the proposed Earth Change activity on the environment.
The pond may be beneficial for reducing residential flooding in the area.
10. All pertinent things concerning the health, safety and general welfare, and the preservation of natural and environmental resources and the prevention of nuisances and hazards.
The pond may reduce residential flooding in the area, especially if pumped when flooded.
11. Shall exercise a reasonable and sound discretion in the premises.
Acceptable.

Paul Deal – What is the erosion control plan for the stockpile?

Chairperson Martinie – It will be stabilized.

Bill Maschewske – 1. What is the “limit of disturbance” on Sheet 2 of the Plan? Earth Change cannot occur within 50 ft. of the property line. 2. The hours of operation seem quite long.

Paul Tejchma – Stated he will not remove soil within 50 ft. of the property line.

The Planning Commission found the 7:00 AM to 7:00 PM hours of operation acceptable.

A motion was made by George Schippers and seconded by Steve Young to recommend to the Township Board approval of the Tejchma Class A Earth Change application for Parcel No. 70-08-18-200-039 based upon meeting the criteria in Article V, Section 3 of the Earth Change Ordinance as noted in these minutes and with the following conditions.

1. Compliance with the application.
2. Compliance with all Federal, State, County, and Township Ordinances including Soil Erosion and Sedimentation requirements.
3. Compliance with the verbal representations set forth in these minutes.
4. The Plan is to be revised to keep the area of disturbance at least 50 feet from the property line.

A roll call vote was taken.

Lydia Brown – Yes

George Schippers – Yes

Bill Maschewske – Yes

Shawn Martinie – Yes

Steve Young – Yes

Travis Vugteveen – Yes

The motion carried unanimously with one member recused.

At this time, Rich Sibley rejoined the Planning Commission.

A motion was made by George Schippers and seconded by Travis Vugteveen to pay salaries for the month of September 2019 (one meeting, all present).

The motion carried unanimously.

The Zoning Administrator reported that there have been serious issues with violations in the E-1 Zoning District through building encroachment. There may be special use requests forthcoming.

A motion was made by Travis Vugteveen and seconded by George Schippers to adjourn the Planning Commission at 9:55 PM.

The motion carried unanimously.

Respectfully submitted,

Bill Maschewske, Secretary
Robinson Township Planning Commission