

**Ontwa Township Planning Commission
Cass County, MI**

**“DRAFT”
MINUTES**

February 7, 2018
7:00 PM
49112

Ontwa Township Hall
26225 US 12, Edwardsburg, MI

Members present: Chris Marbach-Chair, Shane Szalai-Vice Chair, Sandra Seanor- Secretary, Mike Mroczek, Bob Thompson, Dawn Bolock, and Bill Mahaney

Members Absent: Richard Gates and Don Delong

Recording secretary: Brigid Forlenza

Chairman Marbach called the meeting to order at 7:00 PM.

1. Pledge of Allegiance

2. Reading and Approval of past minutes from November 1, 2017.

Motion made by Dawn Bolock and seconded by Sandra Seanor to accept minutes as presented. All in favor – Motion carried.

3. Land Divisions – none

4. New Business

- a) Election of Officers – Sandra Seanor nominated Chris Marbach-Chairman. Dawn Bolock nominated Shane Szalai – Vice Chairman. Dawn Bolock nominated Sandra Seanor – Secretary. The vote was unanimous – Motion carried.
- b) Christianson Industries Site Plan – Zoning Administrator, Leroy Krempec, noted that the application meets all the requirements of the Planning Commission. Water run-off is directed to a pond owned by applicant. Owner Susan Klemm stated that this is a growing business and they employ 46 people. Motion made by Dawn Bolock and seconded by Bill Mahaney to approve site plan. All were in favor. Motion carried.
- c) Annual Planning Commission Report – Chairman Marbach presented Annual Report of the Ontwa Township Planning Commission. Motion to move report on to the Board of Trustees made by Sandra Seanor and seconded by Mike Mroczek. All were in favor. Motion carried.
- d) Home Business Permit Review – Member Seanor queried Zoning Administrator, Leroy Krempec, regarding issues with two permittees from previous year. Mr. Krempec stated that they had complied. Motion made by Sandra Seanor to approve

home business permit list and seconded by Bob Thompson. All in favor. Motion carried.

- e) Tiny Houses – Discussion held regarding tiny houses between board members and Zoning Administrator, Leroy Krempec. Chairman Marbach suggested reconvening the Ad Hoc committee for ordinance review. The Committee can review tiny houses and bring it back to the Planning Commission.

5. Old Business

- a) Gun Ordinance – Chairman Marbach stated that gun ordinance at state level. HB4616 has not been signed yet. This is not under our jurisdiction. We must monitor progress and status of the gun bills.

6. Committee Reports

- a) Chairman Marbach appointed a Zoning Ordinance Committee to convene and discuss Zoning Ordinance issues and recommendation to include the following members: Chris Marbach, Sandra Seanor, Jeff Brown, Dawn Bolock and Leroy Krempec.

7. Public Comments - None

7. Announcements

- a.) Letter from Milton Township as they are restarting their Master Plan Review and will forward it to Ontwa Township Planning Commission for review when it is completed.

9. Adjournment

Hearing no additional announcement or comments, Chairman Marbach adjourned the meeting at 7:45 PM

Respectfully submitted,

Brigid Forlenza
Recording Secretary

**Ontwa Township Planning Commission
Cass County, MI**

**“DRAFT”
MINUTES**

May 2, 2018
7:00 PM
49112

Ontwa Township Hall
26225 US 12, Edwardsburg, MI

Members present: Chris Marbach-Chair, Sandra Seanor- Secretary, Bob Thompson, Dawn Bolock, Richard Gates, Don DeLong and Bill Mahaney

Members Absent: Mike Mroczek and Shane Szalai

Recording secretary: Brigid Forlenza

Chairman Marbach called the meeting to order at 7:00 PM.

1. Pledge of Allegiance

2. Reading and Approval of past minutes from February 7, 2018.

Motion made by Bob Thompson to approve minutes as presented and supported by Richard Gates. All in favor – Motion carried.

3. Land Division:

Barbara Lane 68443 M 62 – Land Split Request. Chair Marbach excused himself as he had completed and provided the land survey. Sandra Seanor – chaired. Acting Chair Seanor requested family representative Kay Lane to speak. Ms. Lane related due to medical issues they need to split and sell home.

Zoning Administrator Leroy Krempec addressed the board stating that it is his opinion based on review of all pertinent documents available that the split meets requirements and setbacks.

Acting Chair Seanor request public comment – none was heard.

Acting Chair Seanor requested question/discussion of board.

Member Dawn Bolock inspected property and observed no issues with the split.

Bob Thompson made a motion to approve the split supported by Don DeLong. All in favor – Motion Carried.

Chair Marbach – returned.

4. New Business - None

5. Old Business - None

6. Committee Reports

a. Bike and Pedestrian committee Update: Committee Members – Mike Mroczek, Sandra Seanor and Bob Thompson.

b. Update Presented by Sandra Seanor –

1. Phase I Edwardsburg Sports Complex Connector Path to Claire Street
 - Joe Bellina, CCRC to clear right of way soon
 - Concrete Plans to be submitted
 - Estimated letting date _____
 - CCRC will assist in Construction Engineering
 - Planning Construction Spring of 2019
 - i. Reason: to not conflict with US12 road construction traffic management
2. Phase II TAP funds 2018/2019/2020
 - Anticipated Construction 2020-2021
3. Congestion Mitigation Air Quality Funds are no longer available to Cass County SS-explains
4. Currently the Committee is using a maps program to create a bike and pedestrian map that – created an existing inventory of what exists.
 - Wide shoulder roadways (M62/SR23) US 12
 - Low traffic volume roads
 - Connections to major traffic generators
 - Currently funded Phase I and Phase II projects
 - Once developed the map can be used on the Ontwa Township website
5. Southwestern Michigan is developing a non-motorized 7 county mapping project
6. Bike Ped will continue to work to develop the inventory and once complete will develop a public process for comment and input.

b. Zoning Committee Update – Committee Members – Dawn Bolock, PC Chairman Chris Marbach, ZBA Chairman Jeff Brown, PC/ZBA member Sandra Seanor, and Zoning Administrator Leroy Krempec.

1. Planning Zoning Ordinance Committee will meet week of May 14th to discuss and review definitions to current zoning ordinances.
 - Definition for single family dwelling
 - Changes to forms by Zoning Administrator
 - Definitions needing clarification

7. Public Comments

Ontwa Supervisor Marchetti spoke and related Michigan Department of Transportation will discuss upcoming US 12 project – June 11th at 6:00 PM prior to Board of Trustees meeting at Township Hall.

7. Announcements – None

9. Adjournment

Hearing no additional announcement or comments, Chairman Marbach adjourned the meeting at 7:17 PM

Respectfully submitted,

Brigid Forlenza
Recording Secretary

**Ontwa Township Planning Commission
Cass County, MI
MINUTES**

August 1, 2018
7:00 PM

Ontwa Township Hall
26225 US 12,
Edwardsburg, MI 49112

Members present: Chris Marbach-Chair, Sandra Seanor- Secretary, Bob Thompson, Dawn Bolock, Don DeLong, Mike Mroczek and Shane Szalai – Vice Chair

Members Absent: Richard Gates & Bill Mahaney

Recording secretary: Brigid Forlenza

Chairman Marbach called the meeting to order at 7:00 PM.

1. Pledge of Allegiance

2. Reading and Approval of past minutes from May 2, 2018.

Motion made by Sandra Seanor to approve minutes as presented and supported by Don DeLong. All in favor – motion carried.

**3. New Business – Ronald Glick – 22232 Redfield Rd, Edwardsburg MI 49112
Tax ID # 14-090-013-038-30**

Applicant Ronald Glick requests that changes be made to the accessory building square foot requirements, in Section 3.21 in the “AR” district only. Further requests are made for language changes for Section 3.21 (d), (g), (h), (i3 & i4).

Chair Marbach recited rules regarding a public hearing.

Zoning Administrator Leroy Krempec related the applicant is requesting to adjust Zoning Ordinances for accessory building size on “AR” properties.

PUBLIC COMMENTS:

Applicant Ronald Glick – 22232 Redfield Road, Edwardsburg MI 49112.
Mr. Glick offered up his position as to why in his opinion the ordinance should be changed. (see attached file). Mr. Glick hopes commission will accept his proposal for current and future property owners.

Chair Marbach requested motion to close public portion of this hearing. Bob Thompson made a motion to close public portion of this hearing supported by Sandra Seanor. All in favor – motion carried.

Chair Marbach informed commission members that they were now in deliberations to look at this proposal.

Bob Thompson related if we approve this proposal the Township would still be at the low end as a percentage of covered property. Mr. Thompson further stated there is room for adjustment. The changes would be made for the Township not the individual and this is reasonable.

Sandra Seanor related a change of current ordinance to a percentage of acreage.

Example: 1 acre 1,000 square feet
 2 acres 2,000 square feet
 3 acres 3,000 square feet
 4 acres 4,000 square feet

Don DeLong related at 5 plus acres it changes.

Zoning Administrator Krempec related there are issues with AG-Residential. We need to separate AG-Residential to Rural Residential and Agricultural. We need to review the ordinances that cover AG-Res classifications.

Chair Marbach stated the committee needs to look at Zoning Administrator Krempec recommendations.

Zoning Administrator Krempec furthered the Ad-Hoc committee needs to review Mr. Glicks proposal.

Chair Marbach related we need to decide what to do with this application.

Sandra Seanor agreed with the recommendation of Zoning Administrator Krempec to send the proposals to the Ad-Hoc committee that is currently convened.

Chair Marbach: If the Commission is in favor of that approach then our recommendation tonight is to pause this hearing and set this for another date. Chair Marbach further related all changes should go together will all items being reviewed by Ad-Hoc Committee. The target date being October 2018.

Sandra Seanor explained the zoning ordinance working group is reviewing other changes as well.

Chair Marbach requests a motion to pause public hearing.

Dawn Bolock made a motion to pause hearing until the Ad-Hoc committee reviews the recommendations, supported by Don DeLong. No more discussion. All in favor – motion carried.

4. Committee Reports:

Sandra Seanor reported on updates to the Bike & Pedestrian walkway project. C.C.R.C. submitted funding. CMAQ Funds are set aside: \$148,000.

Ontwa Township Board of Trustees met July 26, 2018, approved and signed the resolution needed for MNTRF that grand funding will provide \$40,000. Edwardsburg Sports Complex committed to \$10,000. Construction is set to commence in the spring of 2019.

5. Adjournment:

Hearing no additional announcements or comments Chairman Marbach adjourned the meeting at 7:34 P.M.

Respectfully Submitted,

Brigid Forlenza
Recording Secretary

PLANNING COMMISSION

**Township of Ontwa – County of Cass
Post Office Box 209
Edwardsburg, MI. 49112**

This Notice Dated: July 2, 2018

LEGAL NOTICE OF PUBLIC HEARING

Notice is hereby given that a meeting of the Ontwa Township Planning Commission of Cass County, Edwardsburg, Michigan is being called for:

7:00 P.M. August 1, 2018

For the purpose of holding a PUBLIC HEARING for the below named petitioner at the Ontwa Township Hall, 26225 U.S. 12 E., Edwardsburg, Mi. Neighboring property owners and other interested parties desiring to present their views on these matters will be given the opportunity to be heard at the above-mentioned time and place or may submit written comment prior to the meeting date. The applicant(s) for appeal(s) must be present and/or represented at said PUBLIC HEARING and have available, plans, details, and other pertinent information regarding their application(s).

OWNER OF RECORD:

Ronald Glick
22232 Redfield Road
Edwardsburg, MI. 49112

PROPERTY INVOLVED:

TAX ID. NO: 14-090-013-038-30

Applicant(s) request(s):

Mr. Glick is requesting that changes be made to the accessory building square foot requirements, in Section 3.21, in the "AR" District only. Also, requests are made for language changes for Section 3.21 (d), (g), (h), (i-3 & i-4).

If more information is needed, contact the Zoning Administrator, Ontwa Township.

LeRoy R. Krempec

LeRoy R. Krempec

Ontwa Township Zoning Administrator

CC: Tina VanBelle – Clerk
Members – Ontwa Planning Commission
Residents within 300 ft.

ONTWA

TOWNSHIP

www.Ontwatwp.org

Township of Ontwa * County of Cass * State of Michigan

26225 U.S. 12 * P.O. Box 209 * Edwardsburg, MI. 49112 * Fax: (269) 663-0072 * Phone: (269) 663-2347

PETITION for ZONING ORDINANCE AMENDMENT

[Including Both Text Amendments and Zoning Maps/Rezoning Amendments]

Important Notice to Applicant: Complete this application in full and submit it to the Zoning Administrator. If additional space is needed, number and attach additional sheets. Approval of this petition, by the Township Board is required before approval can be granted for a Zoning Permit a use, or the excavation of a building or structure prior to the issuance of a Zoning Compliance Permit is a violation of the Zoning Ordinance. References to "Section" and "Article" refer to the Zoning Ordinance. They are provided to assist the applicant. The references highlight parts of the Ordinance that may be applicable but do not necessarily identify all parts that apply. There is an application fee of \$25.00 plus an additional fee of \$575.00 for two (2) required meetings, (Planning Commission and the Board of Trustee Meeting) to conduct the Public Hearing. If any additional meetings are required, there is an additional fee of \$285.00 for each additional meeting. Please make check payable to Ontwa Township.

Please print or type information.

This petition is for a (check one): ☐ ZONING MAP AMENDMENT/REZONING ☒ TEXTAMENDMENT

SECTION 1: ZONING MAP AMMENDMENT / REZONING

(This section is to be completed only if petitioning to change the zoning classification of property)

APPLICATION #: See Section #2.

APPLICANT(S): _____

ADDRESS-CITY-STATE-CODE: _____

PHONE NUMBER(S): _____

LANDOWNER IF DIFFERENT THAN APPLICANT: _____

APPLICANT'S INTEREST IN PROPERTY: ☐ OWNER ☐ LESSEE ☐ BUY OPTION

PROPERTY INFORMSTION:

- Street Address: _____
- Property Tax ID: _____
- Are there any Deed restrictions? ☐ Yes: ☐ No: Acreage: _____
- Existing Zoning District: _____ Present Use: _____
- Proposed Zoning District Change: _____

Supporting Documents: The following must accompany this application form. Each supporting document must include the name and address of the applicant.

A. Legal Description: A legal description of the property.

- B. Scaled Map: A scaled map of the property, correlated with the legal description and clearly showing the property's location.
- C. Proof of Property Ownership/Interest/Other Party Information: Proof of ownership of the property such as a warranty deed, land contract or other evidence of interest in the property, and the names, addresses, phone numbers of all other persons or entities having legal and equitable interest in the property. Include written authorization by the landowner for a person to act on behalf of the landowner (if applicable).
- D. Deed Restrictions: Copy of any deed restrictions on the property.
- E. Narrative Support: The applicant is encouraged to attach a signed letter describing why a change in the zoning classification of the property is desired (why the present zoning classification is not adequate) and how the petition compared to the evaluation criteria of Section 3.33.

SECTION 2: TEXT AMENDMENT

(This section is to be completed only if petitioning to change the text amendment)

APPLICANT(S): Ron Glick

ADDRESS: 22232 Redfield St, Edwardsburg, MI 49112

TELEPHONE NUMBERS: Home: 269.699.5377; Work: 269.445.2495 ext. 132; Cell: 269.449.4950

Section # of Ordinance to be amended: 3.21 Accessory Buildings and Structures

Attach a signed letter describing why the existing text/section, of the Ordinance, is not adequate and the proposed new text.

SECTION 3: AFFIDAVIT

This Section to be completed by all petitioners

I (we) the undersigned affirm that the forgoing answers, statements, and information, and any attachments are in all respects true and correct to the best of my knowledge and belief.

Ron Glick

5/21/18

Applicant(s) Signature Date:

Property Owner(s) Signature(s) Date:
(if different than applicant)

Zoning Administrator Communications

When application is complete and all requested documents acquired, contact the Township's Zoning Administrator, by calling the Ontwa Township Hall at 269.663.2347. Administrator hours are Monday, Tuesday 9:00 a.m. to 3:00 p.m. and Saturday 9:00 a.m. to Noon.

Tax Parcel ID: 14-090-13-038-00

Fees Paid: Date: 6-27-18

Amount: 590.⁰⁰

Check #: 2958

Cash: _____

Action Taken: Date: Scheduled for 8/1/18

By: _____

Decision: _____

To: Ontwa Township Planning Commission

From: Ron Glick

Address: 22232 Redfield St.
Edwardsburg, MI 49112

Date: May 21, 2018

Subject: Zoning Ordinance, Sec. 3.21, Accessory Building & Structures, Change Request

Focus: AR Zoning (only)

My request to the Commission is to consider recommending to the Zoning Board that the ordinance for accessory buildings for R/AR properties be split in regards to accessory buildings & structures for such properties. My primary request is to keep the maximum accessory building size for "LR" and "R" zoned properties as is and, add that AR zoned properties accessory building & structures maximum size is to be 1,000 sq. ft. per acre of parcel.

Current Wording:

- (d) Detached garages and other accessory buildings shall not be erected in any required front or side yard. Pump houses may be erected under the provisions of Section 8.2(d) (Article VIII, Section 2(c)). In all zoning districts, accessory buildings over one hundred forty four (144) square feet shall be at least ten (10) feet from any dwelling and at least ten (10) feet from any other building on the lot.

Proposed Wording:

- (d) Detached garages and other accessory buildings shall not be erected in any required front or side yard. Pump houses may be erected under the provisions of Section 8.2(d) (Article VIII, Section 2(c)). In all zoning districts, accessory buildings over one hundred forty four (144) square feet shall be at least ten (10) feet from any dwelling and at least ten (10) feet from any other building on the lot.

Pre-existing sheds, detached garages, accessory buildings and structures built before the main residence was constructed, regardless of location (front, side, back yards), are allowed (grandfathered).

Current Wording:

- (g) A lot or parcel shall contain no more than one (1) garden shed one hundred twenty (120) square feet or less and one (1) larger detached garage or accessory building.

Proposed Wording:

- (g) A lot or parcel shall contain no more than one (1) garden shed one hundred twenty (120) square feet or less and one (1) larger detached garage or accessory building.

A pre-existing garden shed up to four hundred square feet built before the main residence was constructed is allowed (grandfathered).

Current Wording:

(h) HEIGHT

...In "AR" the side walls shall not exceed (12) feet from the bottom plate to eave. Roof pitch may match that of the principle building, however building height shall not exceed (18) feet in height.

Proposed Wording:

(h) HEIGHT

...In "AR" the side walls shall not exceed (14) feet from the bottom plate to eave. Roof pitch may match that of the principle building, however building height shall not exceed (21) feet in height.

Current Wording:

(i) SIZE - Determined by area of lot, except those used for farming:

In "L-R", "R-1A", "R-1" and "AR", the total ground coverage of an accessory building shall not exceed the following:

1. If the area of the lot is less than one (1) acre, the accessory building shall not exceed seven hundred sixty-eight (768) square feet. Example: 24 ft x 32 ft.
2. If the area of the lot is at least one (1) acre but less than two-and-one-half (2-1/2) acres, the accessory building shall not exceed a total of eight hundred sixty-four (864) square feet. Example: 24 ft x 36 ft.
3. If the area of the parcel is two-and-one-half acres (2-1/2) acres or more (except AR), the accessory building shall not exceed one thousand two hundred (1,200) square feet. Example: 30 ft x 40 ft.
4. In "AR" district only, if the area of the parcel is between two-and-one-half acres and five (5) acres and not used for farming, the accessory building shall not exceed one thousand nine hundred twenty (1,920) square feet. Example: 32 ft x 60 ft.

In "AR" districts only, if the area of the parcel is greater than five (5) + acres and not used for farming, the accessory building shall not exceed two thousand four hundred (2,400) square feet. Example: 40 ft x 60 ft.

Proposed Wording:

(i) SIZE - Determined by area of lot, except those used for farming:

In "L-R", "R-1A", "R-1" and "AR", the total ground coverage of an accessory building shall not exceed the following:

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3. If the area of the parcel is two-and-one-half acres (2-1/2) acres or more (except AR), the accessory building shall not exceed one thousand two hundred (1,200) square feet. Example: 30 ft x 40 ft.
4. In "AR" district only, if the area of the parcel is between two-and-one-half acres and five (5) acres and not used for farming, the accessory building shall not exceed one thousand nine hundred twenty (1,920) square feet. Example: 32 ft x 60 ft.
- ~~In "AR" districts only, if the area of the parcel is greater than five (5) + acres and not used for farming, the accessory building shall not exceed two thousand four hundred (2,400) square feet. Example: 40 ft x 60 ft.~~

In "AR" district only, the accessory building may be up to one thousand (1,000) square feet (maximum) per acre of the parcel.

"AR" Parcel Size (Acres)	Accessory Building Size - Sq. Ft. (Maximum)
1	1,000
2	2,000
3	3,000
4+	4,000

Example: 2.25 acres x 1,000 sq. ft. (max) = 2,250 sq. ft. accessory building size (max.)

Using my 2.24 acre property as example, which is among the smallest of "AR" zoned parcels in Ontwa township according to the Township Zoning Map (see Figure 8):

2.24 acres x 1,000 sq. ft./acre maximum accessory building size = 2,240 sq. ft. maximum accessory building size.

This accessory building would occupy 2.3% of the property. A very small percentage. See Table 1 for other examples.

Table 1 Accessory Building Size as % of Parcel Size

"AR" Parcel Size (Acres)	Parcel Size (Sq. Ft.)	Accessory Building Size - Sq. Ft. (Maximum)	% Coverage of Parcel
1	43,560	1,000	2.29
2	87,120	2,000	2.29
3	130,680	3,000	2.29
4+	174,240	4,000	2.29

In some "R-1" zoning regulations, the rule of thumb for total parcel coverage is 35%. Using my 2.24 parcel as example, the parcel coverage would be less than 7% with the addition of a 2,240 sq. ft. accessory building. See Table 2.

Table 2 Parcel coverage as % of sample parcel size of 2.24 acres.

Item	Sq. Ft. Coverage	Parcel Size (Sq. Ft.)	% of Parcel
Residence	1,920	97,686	1.96
Driveway	2,240	97,686	2.29
Garden Shed	352	97,686	0.36
Proposed Accessory Building	2,240	97,686	2.29
Total	6,752	97,686	6.9

I reviewed several Township Ordinances in Cass and Berrien Counties and a few counties farther north. I found that most of them have a much more accommodating accessory building ordinance than Ontwa Township. See Table 3.

Table 3 Other Michigan Townships Accessory Building Sizes for 2.24 Acres

Township	Accessory Building Sq. Ft. Maximum for 2.24 Acres	
Calvin	30% of rear yard	
LaGrange	864	
Marcellus	30% of rear yard	
Mason	Dwelling sq. ft.	
Milton	30% rear yard	
Ontwa	864	
Penn	30% of rear yard	
Porter	1,200 (multiple 1,500 max)	
Silver Creek	2,400	
Volinia	BC – 10%, LC – 15%	
Vandalia	1 ½ x dwelling	
Ada	1,200	
Alaiedon	1,600	
Sodus	Unlimited	
Baroda	2,000	
New Buffalo	2,000	
Buchanan	30% of rear yard	
Coloma	1,200	
Niles	1,700	
Oronoko	30% of rear yard	
Saint Joseph Charter	40% of rear yard	
Lake Charter	1,700	

In closing, I hope that the Commission will agree with my concern that the current zoning ordinance for AR zoned accessory buildings is too harsh. And, that my request that the commission evaluate my proposal for AR zoned accessory buildings maximum size of 1,000 sq. ft./acre be approved and recommended to the Zoning Board for implementation.

Ron Glick

Ron Glick

5/21/18

Date

ADDENDUM

Petition for Zoning Ordinance Amendment

A/R (only) Accessory Building Size Increase

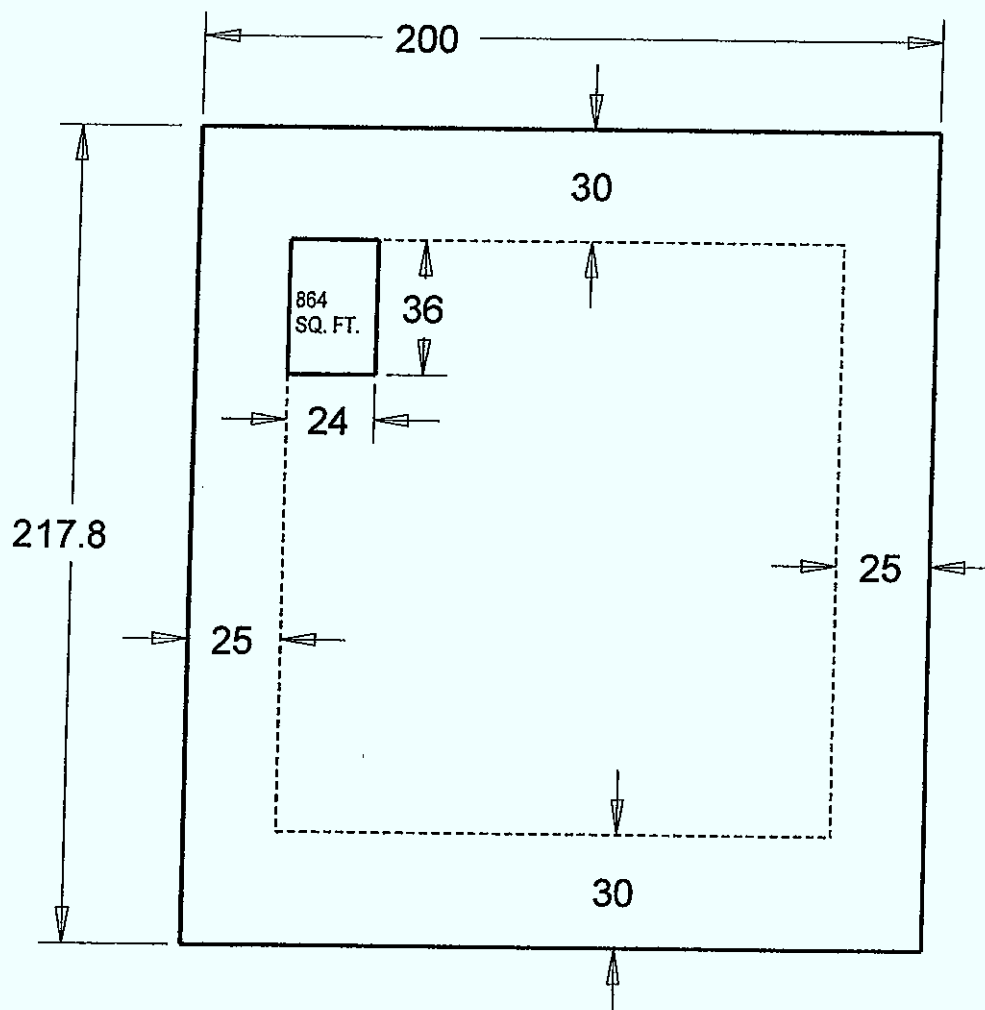
Ron Glick

May 21, 2018

- Figure 1:** Scale drawing example that shows parcel coverage percentage (%) of accessory building on one acre per current R/AR ordinance.
- Figure 2:** Scale drawing example that shows the parcel coverage percentage (%) of accessory building on one acre per proposed AR ordinance amendment.
- Figure 3:** Scale drawing example that shows parcel coverage percentage (%) of accessory building for the 2.243 acre Glick parcel per current R/AR ordinance.
- Figure 4:** Scale drawing example that shows parcel coverage percentage (%) of accessory building for the 2.243 acre Glick parcel per proposed AR ordinance amendment.
- Figure 5:** Scale drawing example that shows total parcel coverage percentage (%) for the 2.243 acre Glick parcel per current R/AR ordinance.
- Figure 6:** Scale drawing example that shows total parcel coverage percentage (%) for the 2.243 acre Glick parcel per proposed AR ordinance amendment.
- Figure 7:** Scale drawing example that shows total parcel coverage percentage (%) using one acre and the Glick residence, driveway, garden shed and 1,000 sq. ft. accessory building per proposed AR ordinance amendment.

Figure 1

CURRENT ACCESSORY BUILDING ORDINANCE FOR R/AR
--1 ACRE - 43,560 SQ. FT.
--864 SQ. FT. ACCESSORY BUILDING MAXIMUM SIZE
--2% PARCEL COVERAGE



ALL DIMENSIONS IN FEET

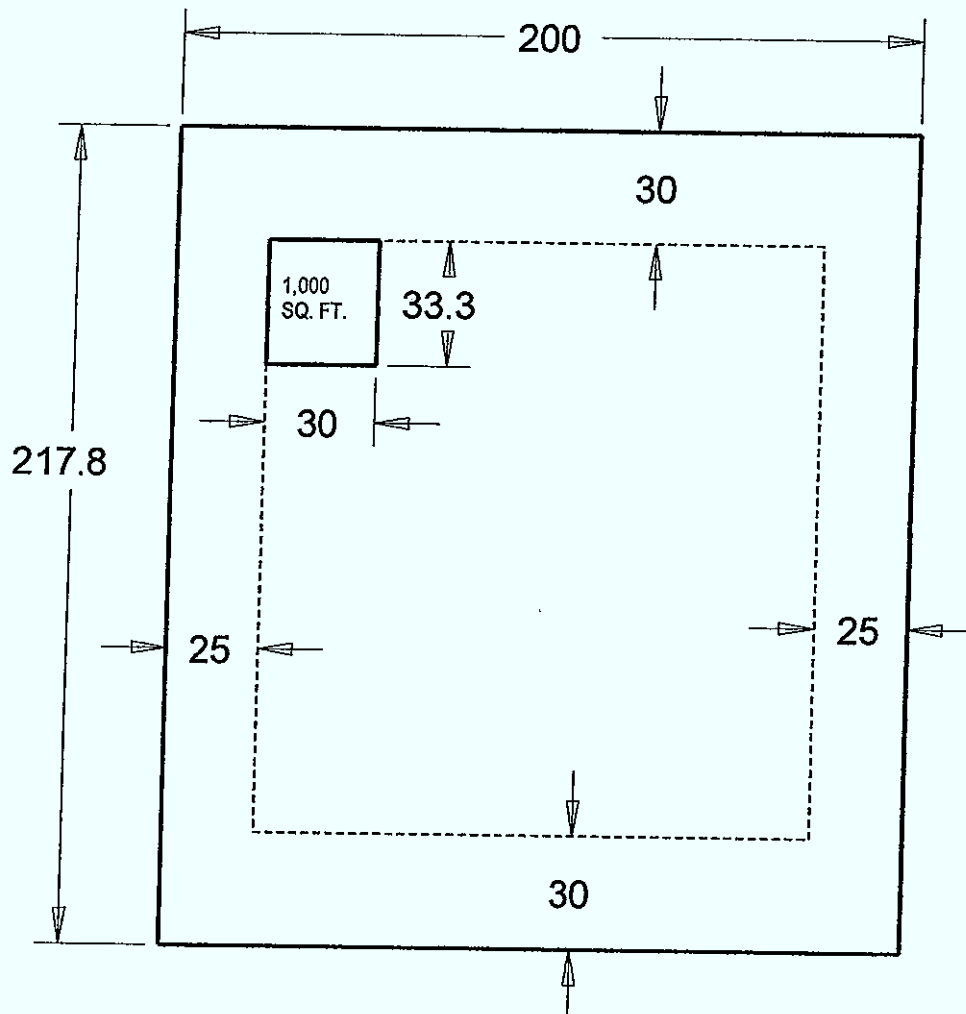
Figure 2

PROPOSED ACCESSORY BUILDING ORDINANCE FOR AR

--1 ACRE - 43,560 SQ. FT.

--1000 SQ. FT./ACRE ACCESSORY BUILDING MAXIMUM SIZE

--2.3% PARCEL COVERAGE



ALL DIMENSIONS IN FEET

Figure 3

CURRENT ACCESSORY BUILDING ORDINANCE FOR R/AR

EXAMPLE:

--2.243 ACRES - 97,686 SQ. FT.

--864 SQ. FT. ACCESSORY BUILDING MAXIMUM SIZE

--.88% OF PARCEL

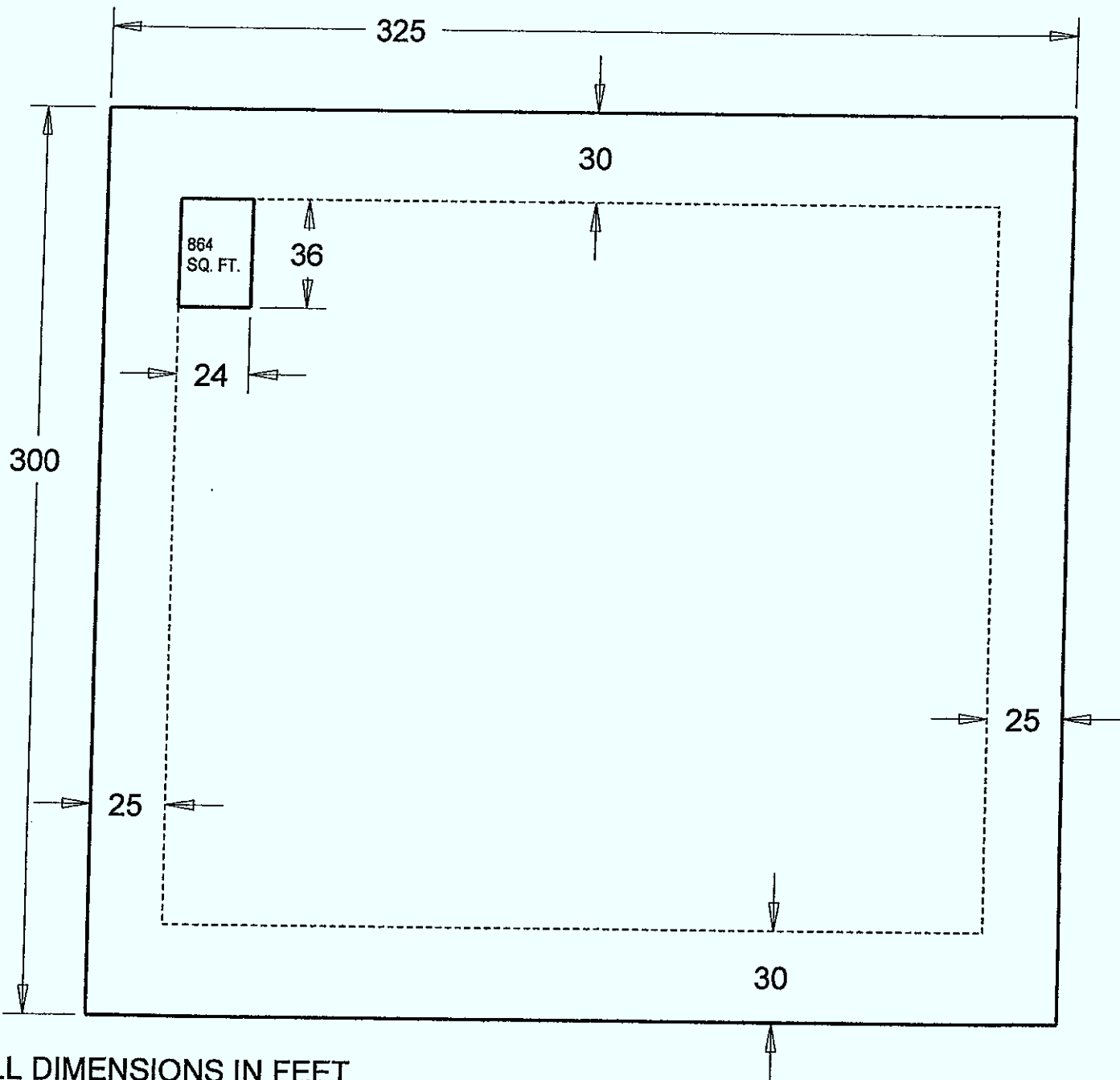


Figure 4

PROPOSED ACCESSORY BUILDING ORDINANCE FOR AR ONLY

EXAMPLE:

--2.243 ACRES - 97,686 SQ. FT.

--1,000 SQ. FT./ACRE ACCESSORY BUILDING MAXIMUM SIZE

--2,240 SQ. FT. ACCESSORY BUILDING SIZE

--2.3% OF PARCEL

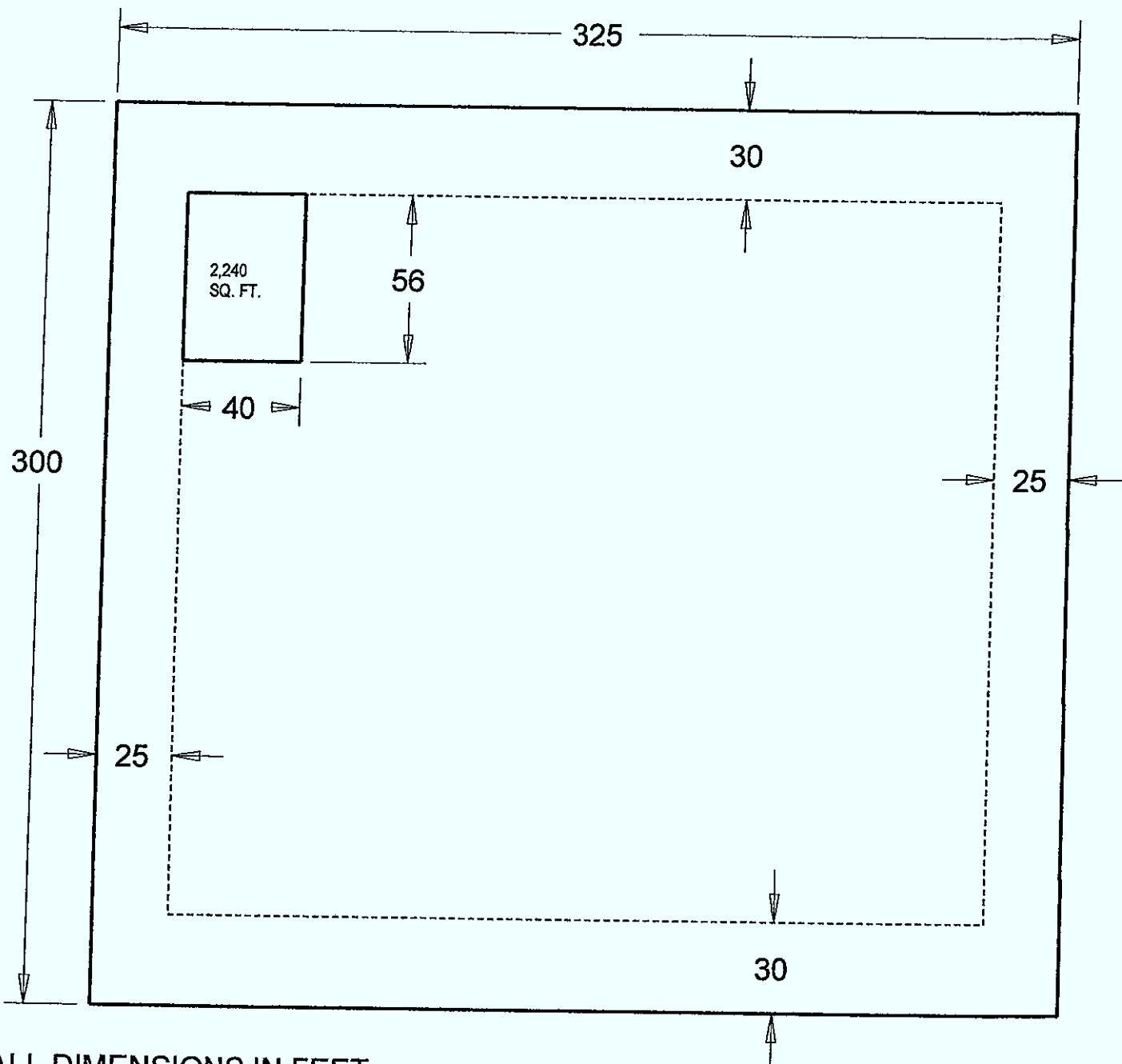


Figure 5

CURRENT ACCESSORY BUILDING ORDINANCE FOR R/AR

EXAMPLE:

- 2.243 ACRES - 97,686 SQ. FT.
- 864 SQ. FT. ACCESSORY BUILDING MAXIMUM SIZE
- 5,376 SQ. FT. TOTAL PARCEL COVERAGE
- 5.5% TOTAL PARCEL COVERAGE

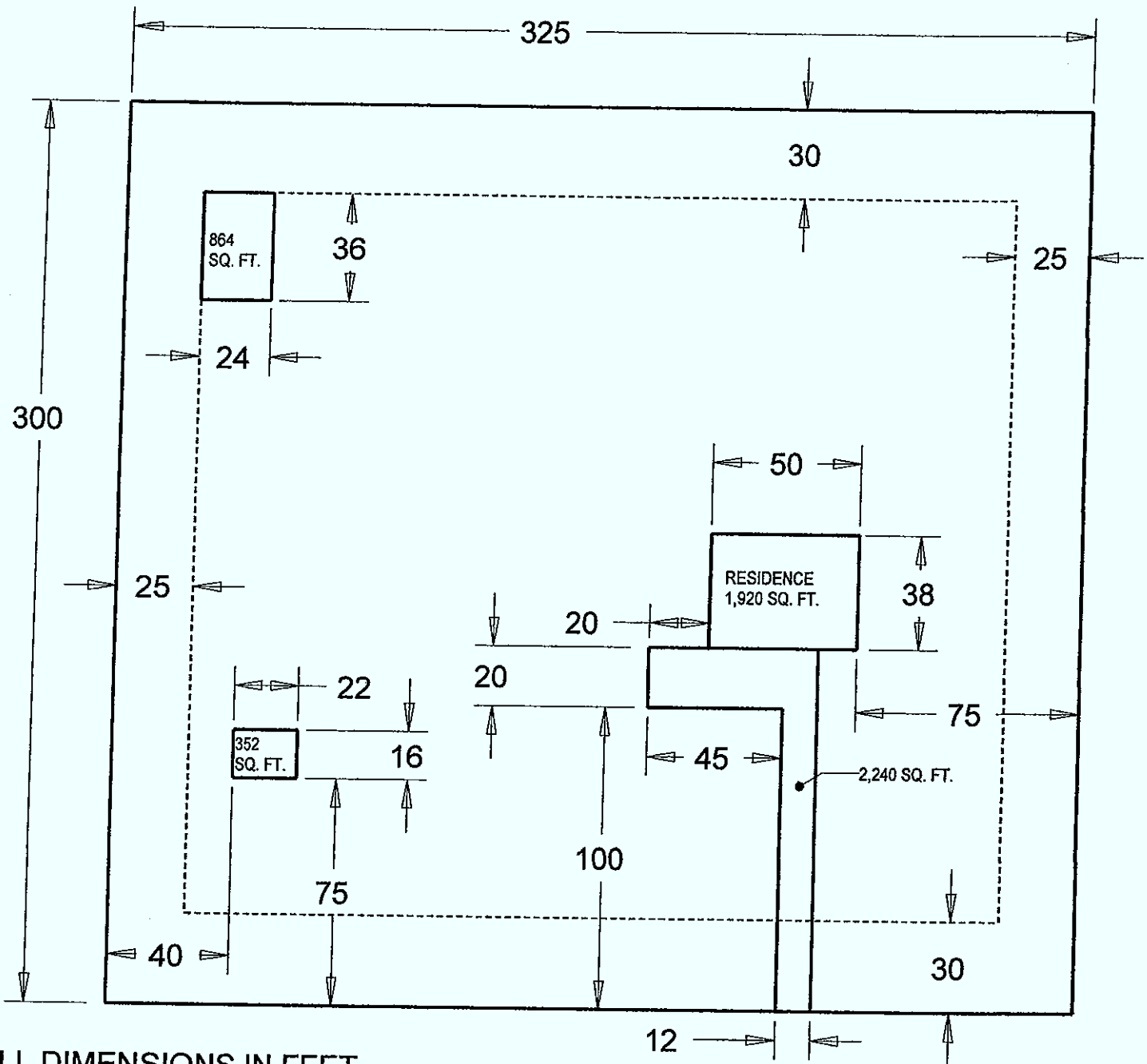
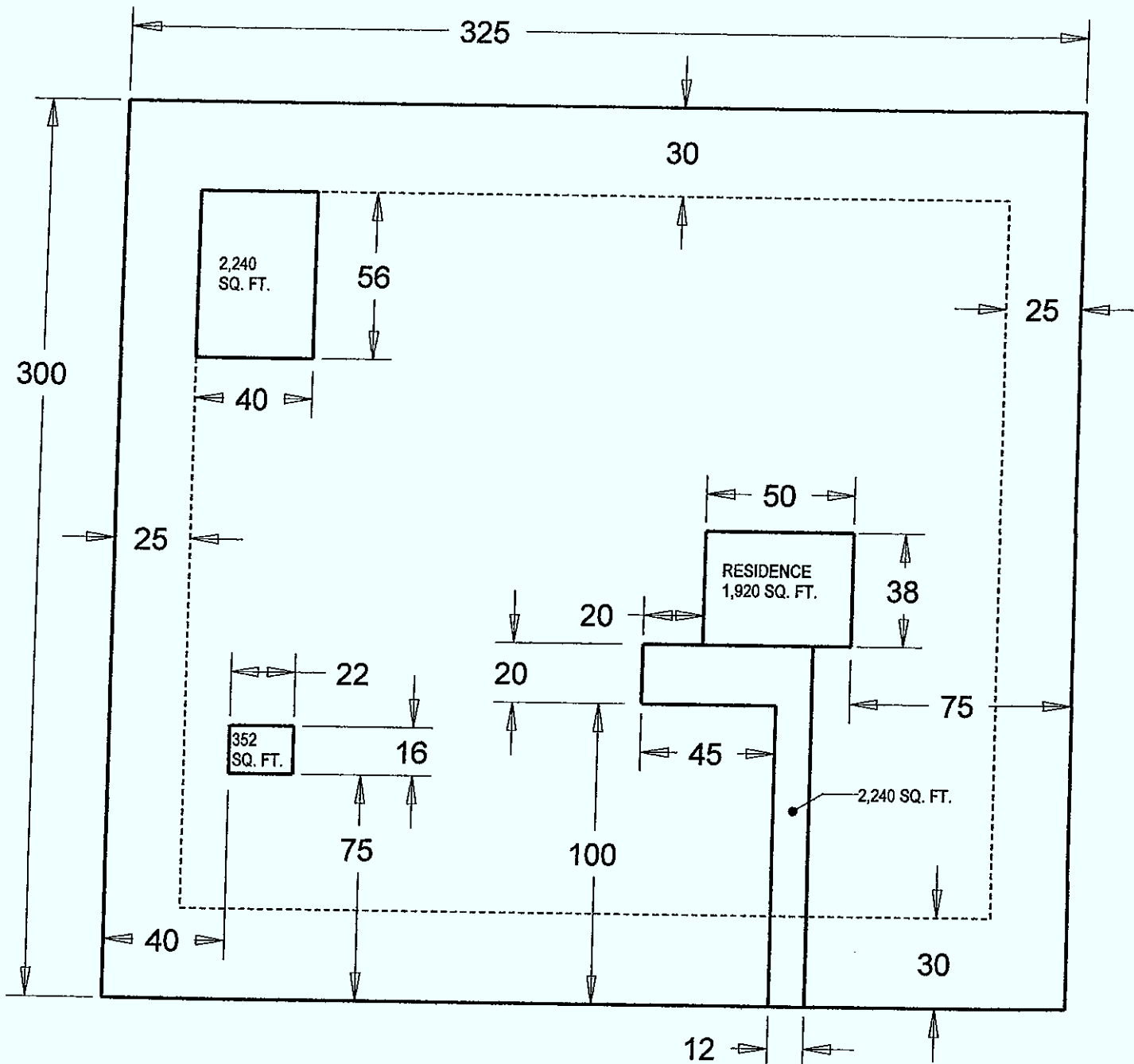


Figure 6

PROPOSED ACCESSORY BUILDING ORDINANCE FOR AR ONLY EXAMPLE:

- 2.243 ACRES - 97,686 SQ. FT.
- 1,000 SQ. FT./ACRE ACCESSORY BUILDING MAXIMUM SIZE
- 6,752 SQ. FT. TOTAL PARCEL COVERAGE
- 6.9% TOTAL PARCEL COVERAGE



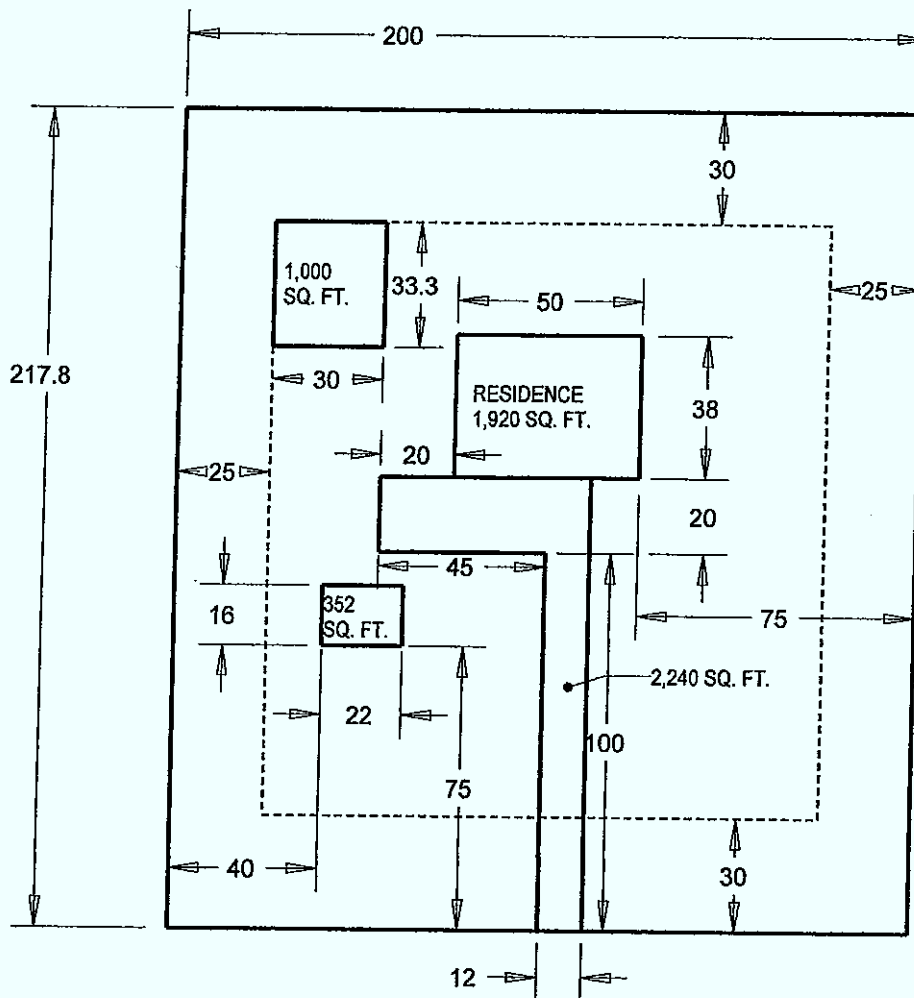
ALL DIMENSIONS IN FEET

Figure 7

PROPOSED ACCESSORY BUILDING ORDINANCE FOR A/R

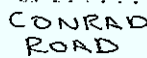
EXAMPLE:

- 1 ACRE - 43,560 SQ. FT.
- 1,000 SQ. FT. ACCESSORY BUILDING MAXIMUM SIZE
- 5,512 SQ. FT. TOTAL PARCEL COVERAGE
- 12.6% TOTAL PARCEL COVERAGE



ALL DIMENSIONS IN FEET

FILE CURVE



**ZONING MAP
ONTWA TOWNSHIP
CASS COUNTY, MICHIGAN
ADOPTED DECEMBER, 1996
REVISED: 7/01, 4/03, 10/04, 7/07**



222-Red 4
LOWNDR

**Ontwa Township Planning Commission
Cass County, MI
DRAFT MINUTES**

October 3, 2018
7:00 PM

Ontwa Township Hall
26225 US 12,
Edwardsburg, MI 49112

Members present: Chris Marbach-Chair, Bob Thompson, Dawn Bolock, Don DeLong, Mike Mroczek and Shane Szalai – Vice Chair, and Bill Mahaney

Members Absent: Richard Gates & Sandra Seanor

Recording secretary: Brigid Forlenza

Chairman Marbach called the meeting to order at 7:00 PM.

1. Pledge of Allegiance

2. Reading and Approval of past minutes from August 1, 2018.

Motion made by Dawn Bolock to approve minutes as presented and supported by Bill Mahaney. All in favor – motion carried.

3. Land Divisions:

Ladd and Barb Howe, 70200 Elkhart Road, Edwardsburg, MI 49112

Parcel No. 14-090-016-013-02. Chair Marbach recused himself for a conflict of interest. He was the surveyor for this application. Chair Marbach removed himself to another room. Vice Chair Szalai asked Mr. Howe to speak regarding the split. Applicant Howe related they are requesting to split 2.25 acres to enable daughter to build a home on the north side of the property.

Zoning Administrator Leroy Krempec related the split meets all zoning requirements.

Motion made by Bob Thompson to approve land split supported by Don DeLong. All in favor – motion carried. The Howe family thanked the Board. Chair Marbach returned to the meeting.

4. New Business –

**a. Red Barn Site Plan – Edwardsburg Party Store LLC, 24040 U.S. 12, Edwardsburg
Tax ID # 14-090-010-005-01**

Zoning Administrator, LeRoy Krempec, related the site plan was not previously submitted. The plan remains the same -- it is a 30' x 30' addition for storage. There is sufficient room on rear of property. Survey and site plan are complete. The sight visibility to U.S. 12 is good. Water goes to cistern, which has been efficient during rains. He has no objection to this.

The owner Mr. Singh addressed board stating the new space will be a supply room.

Member Bill Mahaney related on the survey it is evident that a part of the building near the front is on an easement. He wants the board and all to be aware of this.

Motion was made by Bob Thompson to approve the site plan supported by Don DeLong.

All in favor – motion carried.

b. Pre-Site Condominium discussion Dockside Landings – Eagle Lake Road

Chair Marbach opened by asking the board if anyone has a conflict of interest. If there is a conflict, then the Planning Commission will need to vote on each person with a potential conflict regarding this issue. Chair Marbach asked, “does anyone believe they have a conflict?” Hearing none, Chair Marbach continued sharing a conversation he had with member Mroczek regarding the process of obtaining site condominium approval. Chair Marbach related Board Member Mroczek’s conversation regarding the process is too hard for developers creating roadblocks, and the approval should not take so long. Chair Marbach feels that if Board Member Mroczek disagrees with the process, he might be favorable to the applicant.

Board Member Mroczek responded with the following: He did call Chair Marbach regarding and responding to an email that was sent to him. The process is too difficult and needs fixed. He further stated that no ex parte communications should be part of the By-Laws. He wants transparency to the public. The Planning Commission is an advisory group to ensure the applicant meets all requirements before it is presented to the Board of Trustees. He requests referenced email in the record (Attachment 1).

Chair Marbach referred the issue to planning – is he conflicted/biased or not. Chair Marbach requested motion.

Board Member Dawn Bolock related the Snows had contacted her numerous times and she avoided speaking to them.

Zoning Administrator Leroy Krempec and member Mroczek agreed the process needs amended. This has not been reviewed since 1996.

Zoning Administrator Krempec related he had a meeting in June with Mr. & Mrs. Snow and Supervisor Marchetti.

The process began by looking at the wrong part of ordinance. Then the plan changed from sub-division to site condominium. The system is wrong; we need to look at it. The Master Plan and ordinances need to go together. Research takes a long time. He initially said this would be heard in September or October and here we are. He apologizes to all. Mr. Krempec has no dog in the fight with the west side of road. He apologizes for all delays. He vows this one will be done right. He sees no reason why anyone should be recused from this process.

Again Chair Marbach asks for motion and second to decide what to do with this issue.

Board Member DeLong stated this application should be review relative to the Master Plan, Park Plan and the future goals of this community. We look at these plans to see if it will be a good fit and is this good for the community - their project and our mission. Feels Board member Mroczek has feelings for this and asks that Mr. Mroczek recuse himself. His personal opinion.

Motion made by Shane Szalai for Mike Mroczek to recuse himself supported by Bill Mahaney.

Chair Marbach asks for discussion.

Member Bolock feels no one should be recused including those not present.

Bob Thompson requested from Mike Mroczek what got us to this point. What is the background? Mike Mroczek responded that he knows Snow from another board they were on together. That LLC and board no longer exist. He related he got an email and read it, concluding there are issues with the process. He believes the process is more difficult than it appears. Mr. Mroczek believes he can be objective regarding this development.

Chair Marbach related the staff is not to blame for this. 4.1 Site Condominium is a public document that they had an opportunity to read. The developer and his representatives should have been aware of the requirements for a Site Condominium. The original submission did not comply.

Don DeLong asked about email for transparency so he could know what is going on. He did not have any other documents except what he picked up at township. If there are other documents, he would like to see them. A copy was given to board members (Attachment 1).

Chair Marbach offered to table discussion until everyone has read the email – the email is a chronological list of events that have occurred.

Bill Mahaney wants all to step back a little. He thinks there can be a simpler way to do all of this.

Bob Thompson is convinced also that we can make this better for public.

Chair Marbach says there is a motion on floor that we need to take action on.

Secretary reads motion, Shane Szalai makes a motion that Mike Mroczek be recused supported by Bill Mahaney. Bob Thompson called for the question.

Roll call vote:

Dawn Bolock – yeah

Bob Thompson – nay

Don DeLong – yeah

Bill Mahaney – yeah

Shane Szalai – yeah

Chris Marbach – yeah

Motion passes – Chair Marbach asks Mike Mroczek to step out to the audience.

Chair Marbach explained the purpose of this meeting is to inform the Planning Commission of a proprietor's intent to initiate a site condominium. Pre-site condominium discussions are intended for information purposes only and do not constitute binding commitments on the part of the township. Neither do they imply tentative approval of any subsequent preliminary site condominium. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property. We will not be voting on anything. At the conclusion of presentation questions can be asked.

Mr. Snow began his presentation by relating he is disturbed by the recusal of Mr. Mroczek. Mr. Snow asked why other members were absent.

Chair Marbach responded Sandra Seanor is showing houses and Richard Gates is in Las Vegas.

Mr. Snow requests his email (Attachment 1) and his document regarding Sandra Seanor (Attachment 2) be part of the public record. Mr. Snow has concerns regarding Sandra Seanor and for the record requests to have her recused (Sandra Seanor was absent, no action taken). Mr. Snow related he is not being difficult. He and his partners took on project to develop property that is vacant and under utilized. The project complies with the Master Plan. It is Lake Residential and will have single family homes that meet all zoning requirements.

Mr. Snow met with DEQ on August 7, 2018, regarding wetland delineation on property. They are trying to make this development viable. They have acquired seven of eight permits. Mr. Snow requested that if there are challenges with plan, he would like to know it sooner than later. The plan has a lot of green space and although lake residential can be high density they are making

it low density. It will have seasonal docks and piers and fieldstone will be utilized to stop mitigate erosion.

He continued that Brady Road is the only true public access to the lake and ease of access is difficult. The group had offered to remove trees in the Brady Road access site and received a permit from Cass County Road Commission. The permit was issued and then they were told to stand down. The cost would have been born by their group. They are talking with Cass County Road Commission about the Eagle Lake Right of Way.

They do not plan to build the homes. Minimum standards will be set for the homes being 1800 square feet for a single level home and 2400 square feet for a two-story home. The home will be coastal or cottage style. Soil boring have been done and homes will require helical piers. Mr Snow also indicated his intention to remove the current boat launch.

Mr. Snow closed explaining he had tried to reach out to people to explain what was happening, and he will be the point person on this project.

Ken Jones, Jr. P.S. continued the presentation. He related that it is a more complicated project than average. He presented via monitor and screen the plans as they exist now. They have responded to issues and will continue on to the next step. They are responding to the Williams and Works report and will answer all queries. He addressed wetlands and is working with MDNR to reclaim one-third acre. The private road location will be reviewed by the Cass County Road Commission. The pre-site discussion is to explain what project will be. Mr. Jones agrees this meets land-use ordinances. The land use, Lake Residential is the current zoning.

The project is nearing all requirements. An aerial map has been distributed and house density meets the zoning requirements. Boats on the channels will be parallel like a boardwalk. Water overlay district information is on plans. Gravity sewers and well water will be utilized.

Chair Marbach comments regarding wetland delineations and permit.

Mr. Jones related they have verbal approval of wetland delineation and do not have the permit as of yet. The site is in flood zone – Chair Marbach, FEMA does not like filling in a flood plain as they are regrading and reshaping. Mr. Jones responds it is typically dealt with locally. He will reach out to confirm but it will be difficult.

Chair Marbach continued that sites will need flood insurance. Further, they will need confirmation from Cass County Road Commission regarding resolution to the issues on Eagle Lake Road. The Road Commission needs to be on board with the plan.

Mr. Snow says plan has street lights, sidewalks, shared drive, and the plan is within the technical requirements. They will ask to put sidewalks on one side of the road if all of the interior roads comply with the private road requirements.

Member Dawn Bolock stated that documents Exhibit A need tax identification numbers on the property descriptions. Description does not match what she received from county.

Member Bill Mahaney stated that plans need consistent project name.

Chair Marbach requested storm water and drainage calculations. Where is the water going to go?

Mr. Ken Jones – the increased run off will be contained onsite by road side swales and swales between the home sites.

Chair Marbach has comments on the Master Deed and By-Laws that need flushed out. He will summarize and submit to developers and the Planning Commission.

Member Don DeLong addressed the issue of acreage not adding up. Acreage summary per home. Does acreage include roads, drives and common area?

Mr. Jones says it includes all. They will look at this.

Don Delong continued to thank group for saving the pond, thanks for lights and sidewalks. He finds this all acceptable.

Chair Marbach (for clarification) from his point of view they technically have access to Eagle Lake Road but not physical access. He is in favor of private road to service lots. Option A Alternate B. Chair Marbach the issues with docks and the boat launch are between the developer and the Cass County Road Commission. We also need to check the Anti-Funnel/Anti-Keyholing section of our ordinance.

Mr. Snow related that the property has riparian rights unlike the properties north of the pier. They do not need a permit to put in piers. They are in active discussion with the Road Commission. Mr. Snow thanked all.

Member Bob Thompson addressed the commission. He related as he listened to the presentation it became obvious to him that it would be improper for him to wear the two hats that he wears in this setting. Further, as he listened to the presentation and the number of times the Road Commission was mentioned his perception became reality, and he cannot in good conscience proceed to make decisions in this project. He has great experience with site condominium work and projects. His initial thought was he could provide good input for all. He is recusing himself from anything relevant with this project.

5. Old Business - None

6. Committee Reports: - None

7. Public Comments - None

8. Announcements - None

9. Adjournment:

Hearing no additional announcements or comments Chairman Marbach adjourned the meeting at 9:10 P.M.

Respectfully Submitted,

Brigid Forlenza
Recording Secretary

Follow-Up to Stop Order Issued on September 14, 2018

2 messages

dsnow2854@aol.com <dsnow2854@aol.com>

Mon, Sep 17, 2018 at 6:47 PM

To: ontwatownshipsupervisor@gmail.com, coachlroy@comcast.net, kaufman@michigantownshiplaw.com,
chris@marbach.us, mikemroczek@hotmail.com**MEMORANDUM**

To: Ontwa Township Supervisor, Zoning, and Plan Commission Members

CC: Catherine Kaufman, Ken Jones Jr

From: Dale Snow - Four Lakes Development, LLC

Subject: Dockside Landings – *(single family lake residential development on the former “dock property”)*

Date: September 17, 2018

This memo is being provided as a follow-up pursuant to the Stop Work Order issued on 9/14/2018, which we understand was issued per the request and authorization provided by of Mr. Jerry Marchette, Ontwa Township Supervisor. As a result of said order, I had a phone conversation with Mr. Marchetti who then authorized me to call the Township Attorney, Catherine Kaufman. Catherine and I connected at approximately 2:10 PM EST Friday 9/14/2018.

The outcome of the call was that Catherine agreed that given a more complete view of the facts, that the Stop Order was issued in error and that she would immediately call both Mr. Marchetti and Mr. Leroy Krempec, the Township Zoning Administrator, to advise them that the order be immediately rescinded. I also committed to provide a narrative of related events thus far, which is the primary purpose of this memo. As such, a copy of this memo is being sent to all members of the Plan Commission (PC), Mr. Marchetti, Mr. Krempec, and of course Ms. Kaufman.

It has become clear over the last 90 days that our attempt to have direct, open, and timely communication with a broader audience beyond the Township Supervisor and the Zoning Administrator has been somehow, in our opinion, compromised. This has caused confusion amongst our development team, including our Professional and Legal Consultants, as well as between us and other local authorities, and most importantly, within the Eagle Lake Community. As a member of this community for over 40 years, this is greatly concerning. In addition, this apparent sharing of misinformation has resulted in project delays and has increased our development related expenses. It is with that in mind that we want to share details relative to our permitting efforts, plus our work efforts and communication challenges, all with the intent that we can hopefully “clear the air” and have direct, open, and timely communication by all moving forward.

For those not aware, our project is being proposed as a single-family residential development, pursuant to the current zoning of the property, which was established in 2009 with the full support of the Township Board and PC, as well as the general public according to meeting minutes and other recorded documents. It aligns with the Township’s Master Plan and complies with current zoning ordinances. Multiple project geometric configurations have been considered by our team and the current proposed layout, as demonstrated in our preliminary plan, is the result of that effort. We believe the site will be an attractive and responsible development that can fully support twelve (12) home sites

As a starting point, the confusion and misinformation we speak to is well demonstrated by the four (4) errors we identified within the “background” section of the Williams and Works Review (attached) which was issued to us at the township on Friday, September 14, 2018. It should be noted that the review in question is dated September 10th, 2018. What immediately follows is a summary with the language from said memorandum highlighted in *Italics* and with our response immediately thereafter:

1. *"The subject property is located...on the east side of Eagle Lake Road"* – the subject property is bounded "on the west by Eagle Lake." (see attached recorded deed for the record legal description of the property)
2. *"...a significant amount of ostensibly unauthorized work has been occurring on the site"* - all permitting and the associated work effort is outlined below.
3. *"...the proposed development consists of 13 lots..."* – we are unsure what preliminary plan was provided to Williams and Works to review, but the project as submitted to the township contains twelve (12) home sites. A side but important note is that these are not "lots" and since the term has pertinent legal definitions and consequences, this too should be corrected moving forward.
4. *"...the proposed development consists of...two private streets..."* - related to #3 above, we are unsure of what plan was provided, but the project as proposed and submitted to the township includes only one Private roadway.

- Four Lakes Development, LLC purchased the subject property from the Eagle Lake Dock, LLC on **April 27, 2018**. The Eagle Lake Dock, LLC involved over 50 families with residences on the lake. In addition, ELIA (Eagle Lake Improvement Association) was a member that includes 200+ lake residents. Cathy and I were members of that LLC and that sale required a super majority vote and all votes cast were in favor to sell the property to Four Lakes Development. Note, Cathy and I recused ourselves from that process.
- Our official "early coordination" with township officials began when Cathy and I met with Mr. Marchetti and Brigid Forlenza on **Thursday June 14, 2018**. Our purpose was to introduce ourselves, to share our two preliminary site plans with the Township Supervisor, to answer any initial questions or concerns, to hear any suggestions and to request a meeting with the zoning administrator and the planning commission. Mr. Marchetti was pleasantly surprised by our progress and enthusiastic about having an additional responsible development in the township. He understood why we had two site plans ...i.e. one was "if" we could fill in the pond, the alternative was a draft of a site if we could not (more details about the pond below). He said he would talk with the zoning administrator about getting a meeting on the schedule quickly and that he would get back us "**shortly**".
- On **Friday June 15, 2018**, Mr. Marchetti called and said we were scheduled to have a meeting on Monday June 18th at 10:00 AM with he and the zoning administrator. I asked if the planning committee would be in attendance, he said the zoning administrator did not want to include them and that it was his call. I asked if the Chair for the Planning Committee, Chris Marbach, could at least be invited? Again, he said no, but "would acknowledge for the record the request".
- On **Monday June 18th at 10:00 AM**, Cathy and I along with two members (Ken Jones Jr. and Mike Currier) from our engineering firm, JPR, met with Mr. Marchetti and Mr. Krempec at the township hall. We reviewed the two site plans. There was agreement with the intent of the preliminary site plan, that a site condominium was the preferred approach, that it was a responsible development that fit with the master plan for the area ...i.e. Lake Residential with single family dwellings. We asked about next steps? The zoning administrator indicated that we would meet next with the Planning Committee. While we were aware of the 30-day requirement, we did ask if we could get on the agenda for the July meeting which was scheduled for July 11th. The zoning administrator told us that unfortunately there was a **full agenda already scheduled for that date**, otherwise he would consider it, but at the very least, he would get us on the agenda for August. We asked that "if" an opening was to occur on the July agenda, would he consider adding us, he said yes. I acknowledged our newness to the process, so asked "what else" do we need in preparation for the meeting, the zoning administrator indicated nothing, the preliminary site plans were sufficient ...as it was a "preliminary hearing". Everyone shared their contact information and agreed to proactively communicate whenever there were questions or concerns. *A side comment shared by Leroy at this meeting was that he was very familiar with the prior development efforts by another private party back in the mid-2000's and unlike that project, the current proposal does fit into the master plan and therefore should be a fairly straightforward process.*
- Our Soil and Erosion Permit was issued on **Friday June 22, 2018** (attached). You will note that we broke our work into two phases. Phase 1 included and still includes the preliminary site clean-up and the mentioned soil

spreading and storage. Phase 2 will not begin until actual construction of the proposed development begins. The separation was done for several reasons:

1. In approximately 2009, the MDEQ had provided a prior developer a permit to fill in the pond. In order to determine what our final preliminary plan should be, we had to find out whether or not the permit could be updated or re-issued.
2. In order to determine whether the MDEQ would grant us the same permit we needed to complete a current wetland delineation report. We engaged Stu Kogge, with GEI, as our wetland and permitting resource. It's important to note that Stu is a recognized expert not only in the state of Michigan, but the country as well. Plus, he has had extensive experience with the site itself. We were able to schedule site visits in early August to complete the effort.
3. That said, Phase 1 provided us with the opportunity to begin clearing the land as it had been unattended for some time. In addition, we had access to soil via a nearby MDOT project that allowed us to bring in and begin spreading and storing for eventual use on the site which is acknowledged in the permit.
4. It is also important to recognize that while the previous developer had a permit and did start filling in the pond, he did not finish and there are two significant piles of demolished concrete on the property. In addition, there are a couple of remaining concrete slabs / foundations that need to be removed.
5. From a logistical perspective, if we could get the permit to fill in the pond reaffirmed by the MDEQ, then we would look to utilize the remaining concrete piles, plus the concrete slab foundations in the filling of the pond.
6. Our soil and erosion control permit remains in place and active to date, and we continue to comply with the monitoring and reporting requirements of the same and will continue to do so throughout the entire project.

- We have had multiple meetings and correspondence with the CCHR as part of our early coordination process.

A meeting held on **June 25th, 2018**, at the project site, is summarized below:

- It was agreed that an additional driveway permit would be required and that was issued on that same day (attached).
- We also discussed two additional permits:
 1. We asked if the CCRC had any plans to remove the two dead trees located on our property but in the ROW on the strip of land between Eagle Lake Road and the water's edge. He said no. We filed for that permit and it was issued on Wednesday July 11th, 2018 (attached).
 2. As part of our effort to assuage any concerns that local officials or members of the community may have with our eventual removal of the old, hazardous boat ramp located on our property, we also talked about the public boat ramp located at Brady Road, which is owned and managed by the CCRC. Specifically, we talked about public concerns regarding ease of access ...i.e. the ramp has 4 to 5 trees that for some residents makes access difficult. We asked that given those concerns, if they had any plans to remove these trees, here again he said no. We offered assistance, in the interest of being a good community citizen, if we could remove the trees at our expense. He was agreeable and we filed for a permit which was also issued on Wednesday July 11th, 2018 (attached). As a side note, the estimate for removal of the trees was in excess \$5,000 and while the permit was issued on July 11th, we did receive an email from Steve Lucas to stand down on Friday July 13th. It should also be noted that a **current member** of the planning committee, has mistakenly told multiple residents around the lake that this permit was "denied". Cathy and I, have tried on multiple occasions to reach out to this committee member to provide them directly with the most accurate and complete information on the proposed project and to date, have not been given the opportunity to do so.

- On **Wednesday July 11th, 2018**, the following events occurred:

- Our vendor, Mike Kachur with Kachur Tree Service, while working on our property had received a voicemail, from LeRoy Krempec issuing a verbal cease and desist order. After talking with me, Mike Kachur agreed to call LeRoy as the call was placed to him. The call back occurred around the 2:00 PM

timeframe. The essence of the call was that Leroy shared we we're disturbing the soil and needed a permit from the township to address that. Mike informed him that we were not building and putting in foundations, however we were removing tree stumps and that our soil and erosion permit included this activity and was **posted on the site**. Krempec acknowledged the error indicating that he wasn't aware that we had said permit in place and rescinded the order.

- At 6:00 PM there was a Police Board Meeting which I wanted to attend as there have been significant public safety and welfare issues, traffic and parking issues, and liability concerns associated with the ROW along Eagle Lake Road. In addition, there was a Planning Meeting scheduled for 7:00 PM that I was curious about, although I was not expecting to be on the because the zoning administrator had previously indicated to our team that the agenda for this meeting was full. Nonetheless, I saw attending this meeting as a great way for me to get more familiar with the people and the process. When arriving for the 6:00 PM meeting, I was surprised to see that the 7:00 PM Planning Meeting had been cancelled ...i.e. no agenda! Near the conclusion of the Police Board Meeting, I shared that I had some questions that while not pertinent to the Police Board Meeting, they were pertinent to the cancelled Planning Meeting and would he (Mr. Marchetti), allow me to ask them. He agreed to allow my questions, and an overview follows:

- I stated "I'm sure you will recall our meeting on June 18th, when six of us met in this same hall. I'm sure you'll also recall me asking Mr. Krempec if we could be on the July 11th Planning Committee agenda to which Mr. Krempec said no, indicating it was a full agenda. You may also recall that he indicated a willingness to consider us if the agenda freed up." I further shared that I never was contacted and asked if he was aware to which he responded he dah only found out earlier that day that the meeting was cancelled. He acknowledged my frustration and said he would talk with Mr. Krempec by tomorrow and get back with me.
- I then asked, what is the process for issuing a cease and desist order? What approvals are required? Essentially Mr. Marchetti acknowledged that he was not immediately aware of a formal process and that no, he was not asked or informed of the cease and desist order verbally issued early that day by Mr. Krempec and that yes, he should have been informed and stated again that he would talk with Mr. Krempec.

- Our MDEQ permit to repair our seawall and remove our pier on Eagle Lake was issued **on July 12th, 2018** (attached).

- On **Thursday morning, July 12th**, I did stop by the township hall and was able to speak with Mr. Marchetti. He again acknowledged my concerns and indicates that he has talked with Mr. Krempec and states that he wants to clear the air and asks if I will come back on **Friday July 13th** to meet with him, to which I agreed.

- On **Friday July 13th**, I stopped by the township several times early before finally being able to speak with Mr. Krempec which is around 11:30 AM. We agree that the ultimate objective should be to have direct, open and timely communication moving forward. I shared all my concerns as outlined above, he acknowledged that his communication could have been better and apologized. I ask why he has never contacted me directly and he says he wrote my contact information down on the site plan and it was stolen. Though I know others in the township hall have my contact information, he takes my information again and agrees to call me first with any questions or concerns. During this meeting, I verbally share with him the details of all the permits we have received to-date. He asks if I would provide him a copy of the Soil and Erosion Permit as that is the most pertinent one at this time, which I agree to do. As we're wrapping up, Mr. Krempec says "Oh, I need you to complete this packet". He then provided me with 15-page long questionnaire that requires technical input from my Project Engineer. I remind him again of our **June 18th** conversation when I asked "is there anything else" that's required and he said NO. He apologizes and says he missed it. I tell him I have been reviewing the ordinances to ramp up my knowledge and state that I have not seen this form and ask if it is available online, he informs me that it is not online. He says it is something only recently developed by he and Sandi Seanor, a member of the Ontwa Township Planning Committee, but that it is **now required** as a part of the submittal. I didn't ask this then, but the question I have now is: **When was this form officially approved for use?** I express concern now about the 30-day rule and whether or not, we will be able to make the August 1st meeting agenda? He says if I can get a response to him in

the next couple of days he will get it done or call a special meeting. He then goes on to say that "he is an at will employee, that he works at the pleasure and direction of others and this surprise is beyond his control and therefore not his fault". At considerable expense, I then engage our Project Engineer to get the work done over the weekend so we can have an early week deliverable.

- On **Monday July 16th, 2018**, I drop a copy of the Soil and Erosion Permit off at the township front desk.
- On **Tuesday July 17th, 2018**, Mr. Krempec sends an inquiry to my wife, which strikes me as odd given that we have established that I am the primary representative of the development team. She forwards the email to me to answer, I email Mr. Krempec at 8:34 AM to let him know that this is a "Site Condominium" approach not a PUD and that our engineering firm, JPR will be dropping off completed documents that same morning. At 12:09 PM he emails me back and says the 30-day rule will apply and that the August meeting is not doable.
- On **Monday July 23rd**, Larry Poynter with the MDEQ's Kalamazoo office, sent us an email indicating that he did make an unannounced visit to our property on Thursday July 19th due to a complaint he had heard in the area. In his email, he expressed some concern with an area that appeared rutted by heavy equipment and asked that we not place fill there until the wetland delineation review was completed. We did acknowledge receipt and comply with his request.
- On **July 27th, 2018**, I followed with Mr. Krempec to verify that he now had everything needed (see July 17th above) and asked if a revised date for us to meet with the planning committee had been established?
- On **July 28th, 2018**, Mr. Krempec did respond via email and said he had received the "correct information" from Mr. Jones (JPR) and that he will do his best to finish the exam. He goes on to say that "let's get something straight. I don't give a damn about Eagle Lake".
- On **Monday July 30th, 2018**, I stop at the township hall to meet with the township supervisor to discuss the July 28th email and express my concerns regarding Mr. Krempec's professional behavior and apparent lack of respect for the Eagle Lake community.
- On **Wednesday August 1st, 2018**, Stu Kogge and a member of his team complete the wetland delineation effort. In addition, Larry Poynter was present and was able to spend a fair amount of time with Stu and his associate as they completed their work.
- A ROW permit was issued on **August 3rd, 2018** to allow us to move heavy equipment across Eagle Lake Rd in support of our Pier and Seawall Permitting efforts.
- On **August 7th, 2018**, we did receive an email from Larry Poynter concurring with our findings from the recent delineation and was further granted permission that when we are ready, that we could begin spreading soil in the upland area (assuming that we relocate the silt fence accordingly). That said, we know that we will need to secure another MDEQ permit as there are areas that we would like to reclaim. Guidance suggests that we should be able reclaim up to 1/3 of an acre. Ideally we would like to have the input and preliminary approval of the Planning Committee before filing for that permit, given the expense associated with doing the same.
- On **Wednesday August 22nd, 2018**, I visited the township and was able to meet with Mr. Marchetti. My purpose was twofold. The first was to inform him that we would be moving forward with the removal of the pier on **August 25th** pursuant to the several related permits issued to us. The second was to acknowledge the efforts by the township to mitigate some of the public challenges within the ROW on Eagle Lake Road ...i.e. the "no alcohol" ordinance and the pending "no grilling" ordinance. That said, I shared that while these were great first steps, there really is a need for more actions to be considered. I then share with him a high-level draft of additional items that could also be detrimental to public health, welfare and safety with respect to the use of the right of

way. Examples included the erecting of tents, canopies and other like devices, the bringing in of picnic tables and/or other like tables and chairs, the carrying or use of guns, the need for dogs to be on a leash and for their owners to pick-up after them, as well as themselves. I then inform him that while the ROW does provide the public an easement of right of way, it was done specifically for highway purposes. As the above discussion was coming to a close, Mr. Krempec entered the office and Mr. Marchetti shared our conversation and stated that they should take up the above request with the board. At this point, Mr. Krempec informs us that a review needs to be conducted by Williams & Works. He said this was not his request, that it was made by Chris Marbach, the Planning Committee Chair. I asked if this was a stated requirement within the Site Condominium Ordinance? He said yes, that he missed it, that he tried to talk Marbach out of it, but it's not his decision ...i.e. not his fault. *Note: This is now the second instance of a major technical requirement missed by the zoning manager.* Given that this information is being provided so close to another 30-day window, he does acknowledge that the September meeting will most likely get moved. I call Mr. Marbach later that same morning and he too acknowledges that September is no longer doable, the meeting will get pushed to October.

- On **September 7th, 2018**, I receive by mail a memo dated September 4th, 2018 from Mr. Krempec (attached) including for the most part, comments and instructions related to the subject property's geotechnical properties and what we should do about them on the Project's Site Plan. I am concerned about the request in general, it's appropriateness to the process, the timing of the memo, and the somewhat vague language therein. I reach out to Chris Marbach via email that same day for further clarification and elaboration. Mr. Marbach responds back via email that he was not aware of said request and suggests that the pending *Williams and Works Review may supersede the Krempec memo. Our Project Team would agree with that assessment.*
- On **Friday September 14th, 2018** in the AM, I send Mr. Marbach a memo to see if he can provide a status as to receipt of the Williams and Works Review, he replies that Mr. Krempec has received it and that he had instructed him to distribute it our team. I stopped into the township office around 8:15 AM and Mr. Marchetti was behind closed doors, but steps out when he sees me and asks how he can help. I said I was informed that the Williams & Works Review was done so stopped by to pick it up. He acknowledged that they have it, but that they weren't ready to share as Mr. Krempec had questions that they now wanted to review with the township attorney and that they had a call scheduled shortly. I expressed concern as this was to be an independent review, so why the involvement now with the attorney? He said he could not talk about that now, but to stop by later and they should have something available to me. I stopped by around 9:30 and Mr. Marchetti and Mr. Krempec were on the call with the attorney. Mr. Marchetti stepped out and asked me to come back closer to noon. I left the office and got a call from my Project Engineer at approximately 11:20 saying he had received a call from the township attorney with a stop order for work being done at the property, he asked if I knew anything about it. I told him no and that I would head to the township immediately and call him back.

My wife, Cathy and I went to the township arriving at 11:30, Mr. Marchetti was gone, but Mr. Krempec was there. I asked what's going on as this was to be an independent review, why was the township attorney involved? why the stop order? He said he was confused too, that Mr. Marchetti was the one who had questions and wanted to get the attorney involved. Mr. Krempec indicates that this whole process had gotten more complicated than it needs to be and shared again that he is an "at will" employee and that he can only do what he's told to do ...i.e. "it's not my not fault". He then shared that he needed to tell us something else, that the township would be asking that we set up an escrow account starting with \$2,500 to help defray township expenses associated with our project, though he could not provide details beyond that. He gave us a paper copy of the Williams & Works Review and said he would also send an electronic copy. He stated that he did not have a written copy of the stop order nor the escrow request. We left the office and attempted to call Mr. Marchetti at 12:07 and left him a voice mail. I tried to call him from my home and again left a voice mail. Mr. Marchetti did later call me back, we discussed my concerns ...i.e. that we had all our permits, that we were not moving soil into designated wetland areas, that there were 12 sites not 13 and that there was only one private road not two, he asked that I call their attorney Catherine Kaufman. Catherine and I connected around 2:10 and we talked for approximately 35 minutes. After reviewing the permitting process, our work efforts, the communication challenges, Catherine, as mentioned previously, indicated that she would call both Mr. Marchetti and Mr. Krempec to withdraw the stop order. I then talked with our Project Engineer, to provide them an update and shared that I would be drafting an email (this document) to the township to acknowledge receipt of the review, outline the inaccurate statements made in the

background of the narrative, to provide an overview of both our permitting process and work efforts, our communication challenges and also that they (JPR) would be addressing the technical issues identified.

Please understand that our Project Team is doing the best we can to be diligent, to act in a respectful manner with all authorities involved and if we have made errors, we have attempted to address them appropriately. Equally important we have at every turn attempted to communicate our plans in a timely manner, but as shared, feel we have been thwarted in those attempts by the withholding of pertinent information by or with other local authorities, which appears to have been purposeful in an attempt to delay the process and/or derail the project. This memo will in fact be the first opportunity we have had to communicate with all appropriate township officials. Our Project Team feels that if (1) the requirements to complete the 15-page questionnaire, (2) the requirement for an official review by the Township's Planning Consultant, and (3) an official "Pre-Site" discussion had taken place back at our initial request in June, much, if not all of the apparent confusion that has existed since, could have been avoided. We are not pleased with manner in which we have been informed and communicated with by Township officials to date, and are cautiously optimistic that this will improve in the weeks and months ahead, as we continue to work together toward our common goals.








As most of you know, Cathy, I and her family, have between us, been associated with the lake since 1972. Her parents owned and started the Dock Restaurant until it was sold in 1998. It was a destination that still brings back many fond memories ...i.e. whether a dinner by boat or by car, family reunions, weddings, Christmas and other holiday parties, etc. by those on the lake as well as in surrounding communities. That said, lately the property has been an area of concern and that is why Cathy and I have decided along with the help of two close friends and business partners to purchase the property. We hope to bring back to this property a beautiful development that can support up to 12 sites and create many new fond memories moving forward for the families of Eagle Lake and surrounding communities.

My intent was to email this to all members of the planning committee, but I was able to only include those that I have emails for, so I am **formally requesting** that the township officials send this document to those not included here.

As mentioned, our engineering firm, JPR will in a separate document, address the "technical" issues identified in the Williams Works Review. Here again, we have never been allowed to have an audience with the planning committee yet this feels like we have "skipped stepped" that preliminary meeting as these requests take us fairly far down the path to a final document at considerable expense ...and without the benefit of any preliminary site plan approval. That said, we will address all issues and expect to distribute all documents by Monday September 24th, 2018, if not earlier. While I am hopeful that we can proceed with the scheduled October 3rd Planning Meeting, I will look to the township's guidance to confirm.

Thank you ...Dale Snow

20 attachments

-  **Wms & Works Pg 1 of 5.pdf**
19K
-  **Wms & Works Pg 2 of 5.pdf**
17K
-  **Wms & Works Pg 3 of 5.pdf**
18K
-  **Wms & Works Pg 4 of 5.pdf**
19K
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19K
-  **2018-05-01 recorded deed.pdf**
192K
-  **2018106 permit 4 Lakes.pdf**

3122K

 **Soil Permit #1.pdf**
14K

 **Soil Permit #2.pdf**
14K

 **6_25_18 Driveway Permit.pdf**
109K

 **8_3_18 ROW Permit for Pier & Seawall 2 of 2.pdf**
101K

 **8_3_18 ROW Permit for Pier & Seawall 1 of 2.pdf**
212K


 **Brady Rd & Eagle Lk Rd Tree Permits.pdf**
162K


 **Placard.pdf**
85K

 **Minor Permit.pdf**
82K

 **DOCK PROPERTY-FIG 2 Seawall.pdf**
162K

 **DOCK PROPERTY-FIG 3 Seawall.pdf**
161K

 **DEQ Pier and Seawall Authorization.pdf**
85K

 **14SnowEagLkprmtPlns70918LDP.pdf**
2987K

 **ROW Permit for Pier.pdf**
18K

dsnow2854@aol.com <dsnow2854@aol.com>

Tue, Sep 18, 2018 at 3:26 PM

To: shanepaulszalai@gmail.com, r.gates@icloud.com, wpmahaney@gmail.com, don.delong@att.net,

Sseanor1952@aol.com, dbolock@aol.com, ontwadeputy@gmail.com, mikemroczek@hotmail.com

Cc: ontwatownshipsupervisor@gmail.com, chris@marbach.us, kaufman@michigantownshiplaw.com, coachlroy@comcast.net

Let me apologize in advance for the delay in sending this email to this group, but as you read the memo below, the intent was to share this communication with all planning committee members. And while I had Mike Mroczek's from our prior work together with the Eagle Lake Dock, LCC, I did not have yours, but was able to locate them now on the website.

I believe the memorandum is fairly straightforward with a key point being to inform. Certainly if you have questions or suggestions, please do not hesitate to reach back out to me.

Thanks ...Dale Snow

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








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-  **ROW Permit for Pier.pdf**
18K

From: Guerin, Eric J. <ejguerin@varnumlaw.com>

To: kaufman <kaufman@michigantownshiplaw.com>

Subject: Ontwa Township; Four Lakes Development, LLC

Date: Thu, Sep 27, 2018 3:45 pm

Attachments: S. Seanor.pdf (104K)

Catherine,

Thank you for taking the time to speak with me yesterday. I represent Four Lakes Development, LLC ("Four Lakes") in connection with property it seeks to develop on Eagle Lake Road in Ontwa Township. After a number of delays, I believe that Four Lakes' preliminary site plan will be considered at the October 3, 2018 meeting of the Ontwa Township Planning Commission.

As I mentioned during our call, we have grave concerns regarding a long and continuing course of conduct by Ontwa Township Planning Commissioner Sandra Seanor to delay and prevent approval of the proposed development. You requested that I provide facts which form the basis of our concerns. The attached is a non-exhaustive list which details the basis for our request that Ms. Seanor recuse herself and not participate in either deliberations or voting on preliminary site plan approval, or other matters related to this project which may come before the Planning Commission.

Please understand that it is not my client's intent to embarrass or impugn Ms. Seanor. Quite the contrary. I contacted you so the Township would have the opportunity to explore and deal with this issue prior to a public hearing.

Please do not hesitate to contact me if you have questions, or would like to discuss this matter further. Thank you.

Eric

Eric J. Guerin

Partner

Direct: (269) 553-3506

Cell: (269) 330-2797

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Subject: Sandra Seanor

Ms. Seanor serves on three boards that we are aware of:

- a. Cass County Road Commissioner
- b. Ontwa Township Planning Committee
- c. Ontwa Township Zoning Board of Appeals

Ms. Seanor is a resident on Eagle Lake Road and lives approximately ¼ mile north of the Property owned by Four Lakes (the "Subject Property"). The public's use of the waterfront on Eagle Lake north of the weir is influenced by the Michigan Supreme Court's decision in the *Wendt* case. There is little doubt that Ms. Seanor is aware of the *Wendt* case, as the CCRC has referenced both the *Wendt* case and the *Rothfon* case in discussions with Four Lakes concerning the Subject Property. As evidenced by her comments and actions described below, it would certainly appear that Ms. Seanor is biased and attempting to influence others in the lake community to oppose the proposed development of the Subject property. Presumably, that bias and opposition is motivated by Ms. Seanor's desire to discourage public use of property adjacent to her home, which she perceives as a threat to her property value and also the peaceful use and enjoyment of her home.

Between canvassing the neighborhood and talking with her colleagues in the Township, Ms. Seanor routinely shares her opposition to the proposed development of the Subject Property. The following are examples of statement made by Ms. Seanor that have been shared with the principals of Four Lakes in the last 30 to 90 days, each of which can be corroborated by multiple people if required:

- "Over my dead body will those people that use the Dock property be allowed to come down in front of our homes."
- "If you are hearing that the pier will be taken out, that is staying in as we won't approve or allow that to happen."
- If you are hearing that they (Four Lakes) were issued a permit to remove the trees at the Brady Road Boat Launch, that was denied. In fact, Four Lakes was issued a permit and was willing pick up the expense (\$5,000+) to improve the accessibility of that site. Why would Ms. Seanor say that no permit was issued? In addition, as a Road Commissioner, why would Ms. Seanor not want to take advantage of private funds to improve usability of the only true public boat launch on Eagle Lake?

In addition to the foregoing, the principals of Four Lakes have learned that Ms. Seanor took a video of the Subject Property, and delivered it to the Cass County Conservation District in an apparent attempt to suggest that it provided information sufficient to shut down the proposed development of the Subject Property.

Ms. Seanor frequently takes pictures/videos of the Subject Property, including but not limited to work being performed there. It is common that, shortly after she has taken said pictures/videos, Four Lakes receives a call from the Zoning Administrator, Leroy Krempec, issuing a cease and desist order ... always without cause. Examples include the following:

- On July 11th, 2018, Mr. Krempec called Four Lakes' tree vendor and advised it to cease and desist for no permit. In fact, the proper permit was in place and posted.
- In a memo from Mr. Krempec, dated September 4th, received by Four Lakes on September 7th, Four Lakes received a blight notice for demolished concrete that was placed on the Subject Property approximately 10 years ago by a prior developer. Why now?
- On September 14th, Four Lakes received a Stop Order for allegedly moving soil into a wetland area.

Note: All Stop Orders were subsequently rescinded.

With the multiple challenges Four Lakes has encountered in attempting to move this project forward through the approval process, it has become clear that Mr. Krempec has been taking direction from Ms. Seanor, who has ostensibly chosen to use her positions of authority to lean on Mr. Krempec to undermine the proposed development. In addition to the examples above, the two most recent examples are:

- On September 17, 2018 Four Lakes sent a memo to the Township with the request that it be shared with all members of the Planning Commission. Four Lakes subsequently learned that Mr. Krempec had chosen to share it only with Ms. Seanor.
- It appears that Ms. Seanor prepared a 15 page questionnaire for Four Lakes to complete as a precondition of obtaining site plan review. Four Lakes believes that Ms. Seanor drafted that questionnaire solely for use with development of the Subject Property, without authorization or consideration of whether the Ordinances governing preliminary site plan review require that the Questionnaire be completed. Last week there were numerous emails circulated among and between Catherine Kaufman (Township attorney), Dale Snow (a principal of Four Lakes), Jerry Marchetti (Township Supervisor), LeRoy Krempec (Zoning Administrator), and Chris Marbach (Planning Committee Chairman), regarding the origin of that Questionnaire. Dale Snow went to the Township offices and asked the woman at the desk if she was aware of the Questionnaire. She replied that she had just received a call from Chris Marbach asking the same question. She then stated that she didn't know, but would ask Mr. Krempec when he came in. Mr. Snow remained at the office until Mr. Krempec arrived, was talking with him, and was interrupted by the clerk at the front desk saying that she had just received a call from Ms. Seanor, who indicated that this was the form to use.

The principals of Four Lakes have also recently learned that Ms. Seanor has stated that she was going to request that Richard Gates recuse himself because he had made a public comment on Facebook. In contrast to Ms. Seanor's aggressive and ongoing campaign against, and interference with the proposed development, Mr. Gates simply commented "good luck on your project."

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Ontwa Township Planning Commission

Cass County, MI

DRAFT Minutes

November 7, 2018
6:00PM

Ontwa Township Hall
26225 US 12
Edwardsburg, MI 49112

Members Present: Chris Marbach-Chair, Dawn Bolock, Sandra Seanor, Mike Mroczek, Shane Szalai, Bob Thompson, Bill Mahaney

Members Absent: Don Delong, Richard Gates

Minutes recorded by: Andy Moore, AICP

Chairman Marbach called the meeting to order at 6:00PM.

1. Pledge of Allegiance

2. Public comments for items not on the agenda: none

3. Proposed text amendments to the zoning ordinance. Ontwa Township Planner Andy Moore of Williams & Works provided commissioners with an overview of the proposed text amendments, reviewing each section of the amendment with commissioners. Sections of the amendment included changes to definitions for clarity, amendment to section 3.01 related to the "effect of zoning," amendments to section 3.15 related to "sewage disposal and water supply," section 3.21 related to "accessory buildings and structures," section 3.23 related to "truck parking recreational vehicle storage," section 3.25A related to garage and yard sales, a new section 3.36 related to "parks, boat launches, and boat washing facilities," and section 20.02(a) related to zoning permits.

Sandra Seanor asked about the process to draft the amendment and discussed the origin for several of the amendments. Mike Mroczek also asked about the process to amend the Ordinance, and Chairman Marbach explained the remainder of the process. Seanor asked if the proposed changes related to accessory buildings would eliminate the need for some variances. Krempec said that by allowing larger and taller buildings, it was likely that fewer variances would be needed.

Zoning Administrator Krempec asked commissioners about language related to semi-truck parking. He also requested that the proposed amendment to section 3.21(C) be edited to allow the Zoning Administrator to refer a matter to the Planning Commission.

Mroczek was concerned about the dimensions for accessory buildings. He stated that if buildings are allowed to be larger, but not taller, then the roof pitch would be too flat and there could be snow load issues. Concern was also expressed related to storage of RVs; buildings need to be tall enough to allow for RV's to fit inside. A lengthy discussion ensued and commissioners agreed to come back to this item after the public hearing.

Shane Sazalai was concerned about the section 7 of the amendment related to sewer hookups. He felt that requiring someone to hook up to sewer if any part of the parcel was with 300 feet of a sewer lines was unnecessarily burdensome, particularly for owners of large parcels.

Chair Marbach opened the public hearing at 7:00 PM

Dan Stutsman, 24483 May Street. Noted that the Right to Farm Act preempts the township zoning ordinance, and thought this should be addressed in the proposed amendment to section 3.01 of the zoning ordinance. He also noted that many boat wash facilities are not permanent installations, and in those instances, heated water is not feasible. Seanor indicated that she preferred heated water facilities so fewer chemicals are used to clean boats.

Roseanne Marchetti 68222 Christiana Drive. She noted that references to the Cass County Health Department needed to be changed to the "Van Buren Cass District Health Department." She also had a few grammatical/stylistic suggestions. She thanked the Planning Commission for their work, and suggested that the Commission review their bylaws for their next project.

Jerry Marchetti, 68222 Christiana Drive. Asked if boat washing facilities and restrooms would work on the proposed DNR site.

Gary Owens, Edwardsburg. Asked if boat washing facilities would be required on all boat launches locations. Marbach responded that it would apply only to new ones. Seanor explained the purpose of requiring boat washing facilities. Owens asked if the commission can prove that boat wash stations work? Has there been a measureable (e.g. 40 percent) reduction in invasive species? Is this an effective use of taxpayer dollars? He said that regulations and enforcement of this needs to be a smart investment. Sandra Seanor provided him with articles addressing the usefulness of the boat washing facilities and the results of other Township use and success.

Margie Allen 68820 South Shore Drive informed commissioners of the "Clean Boats and Clean Waters" initiative by the State of Michigan DNR, DEQ, MSU, and other partners. She said that prevention of invasive aquatic weeds is more effective than

treatment only. She stated that the Eagle Lake Improvement Association approves of the proposed amendment related to boat launches and boat wash facilities.

Chairman Marbach closed the hearing at 7:25 PM.

Commissioners discussed and reviewed proposed changes to the ordinance. The following changes were made: Section 6; add exception to address preemptions like the right to farm act; section 7, change "subject parcel" to "principal building" in the second paragraph; section 8, item (d) allow for the zoning administrator to refer an application to the planning commission; section 8, subsection (i), set maximum height at 14' sidewall and 22' total building height in all districts; section 11, subsection (d)(2) - add the word "permanent" before "boat washing station." Also, change reference from Cass County Health Department to "Van Buren Cass District Health Department throughout the document, and use consistent capitalization for "local, state and federal" throughout the document.

Motion by Seanor to recommend approval of the proposed zoning amendment to the Township Board, subject to the edits previously discussed. Motion was supported by Bolock, and passed unanimously.

4. **Comments.** Krempec urged Planning Commission members to pick up agenda packets as soon as possible to ensure they have adequate time to review meeting materials before the meeting.
5. **Adjournment.** Hearing no further announcement or comments, Chairman Marbach adjourned the meeting at 7:50 PM.

Ontwa Township Planning Commission
Cass County, MI
DRAFT Minutes

December 5, 2018
7:00 PM

Ontwa Township Hall
26225 US 12
Edwardsburg, MI 49112

Members Present: Dawn Bolock, Bill Mahaney, Don DeLong, Bob Thompson, Chris Marbach, Sandi Seanor, Mike Mroczek, Shane Szalai (arrived at 7:18), Dick Gates

Staff Present: Leroy Krempec, Zoning Administrator; Andy Moore, Township Planner; Catherine Kaufman, Township Attorney

Minutes recorded by: Andy Moore, AICP

Chairman Marbach called the meeting to order at 7:00PM.

1. **Pledge of Allegiance**
2. **Public comments** for items not on the agenda: none
3. **Minutes from 10/3/18.** Motion by Bill Mahaney, supported by Don DeLong, to approve minutes with addition of allowing sidewalks on only one side of the private road. Commissioners generally agreed with this and that it needed to be shown in the minutes. Attachments were missing to the minutes; these need to be included. Motion was approved unanimously.

Minutes from 10/22/18 Planning Commission training session. Motion by Bolock, supported by DeLong approve these minutes as presented. Motion was approved unanimously.

Minutes from November 7, 2018 meeting. Mahaney noted that the minutes show Mahaney was present, when he was in fact absent. Motion by Mroczek, supported by Mahaney, to approve the minutes with that amendment. Motion was approved unanimously.

4. **Dockside Landings discussion.** At this point, Sandi Seanor, Mike Mroczek, and Bob Thompson recused themselves from the meeting due to potential conflicts of interest.

Marbach reviewed the procedures and clarified that if the proposed site condominium plan meets the ordinance it must be approved. If not, it is denied with reasons, or it can be approved with conditions.

Kenneth Jones Jr from JPR presented an overview of the site condo, which had been updated from his previous submittal that was reviewed in October. He also brought and

distributed a written response to the Township Planner's review memo and smaller copies of the site plan. Jones reviewed his written response with the Commission. He stated that the Cass County Road Commission has provided some feedback related to geometry and have approved it. Jones noted that non-access or "negative" easements will be in place everywhere there is not a driveway along all of Eagle Lake Road.

Base flood elevation contours were added to the site plan. Most of the site is in the 100-year floodplain. Proposed contours, prelim grading, and drainage information was also added to the site plan. The roadway width was increased as required, and the cul-de-sac diameter was increased to 50' as required by the ordinance. He noted that a 3-4' retaining wall will be needed on the site for the road. Says homes on units 9, 10, and 12 may or may not need a retaining wall on site, but it depends on the size, design, and location of the home. This will be addressed in final condo docs and final plan.

Jones noted that unit 11 is not deep enough and are requesting a variance for that, and stated that all other geometric requirements for units are met or exceeded. He indicated that depending on interpretation, unit 10 may need a variance, too but this will need to be verified.

Regarding floodplain and stormwater issues that the Township Planner mentioned in his report, Jones stated that they have talked to MDEQ. Jones is requesting preliminary approval from the Commission and Township Board so they can develop final engineering plans for MDEQ review. He stated that it could take a few months to get it done, and it would probably be 30 days until they would submit that. Dale Snow (owner) said they need to submit final plans, and they can't do that without Planning Commission approval.

Regarding soils and foundations, Jones noted that typical foundations and basements are totally out of the question. Homes will be on piers, but also stated that they can't design anything until plans are more finalized. They are aware of the issue and have done some preliminary work but nothing can be finalized at this point.

Marbach pointed out that all final approvals are required in step 2 Township Board review per the Site Condominium Ordinance.

Keyholing/funneling – Jones stated that they the property owners would have riparian rights to the water's edge of Eagle Lake. Part of the upland is "highway by use" under Eagle Lake Road. Jones stated that both uses will have to coexist. Jones stated with a high degree of confidence that that will be no problem, as long as it doesn't interfere with the ability of the road commission to operate the highway. He stated that the property has riparian access to Eagle Lake but is encumbered by Eagle Lake Road right of way.

Don DeLong asked if there will be parking or what is the use along Eagle Lake Road? Jones replied that no parking is proposed, and it is probably not possible. No other improvements are proposed as a part of the project.

Marbach asked about the seawall along Eagle Lake? Ken said it is to be determined.

Dale Snow (developer) noted that they have a permit to remove the pier and repair the seawall. He wants to do right by the Township and doesn't want it to become a legal issue.

Marbach asked how unit owners get to the docks? Jones noted that there will be sidewalks along the Eagle Lake Road right of way and then they will have to cross the road. Jones added that everyone else does it elsewhere along Eagle Lake Road so think it will be okay.

Jones also commented regarding to work in the past year and stated that permits were sought. Required inspections took place. Regarding the mounds of dirt piled on the property, Jones stated that a project partner had extra soil and wanted to store it on site.

Jones also addressed the engineering review performed by the Township Engineer: Jones said there is a parallel gravity sewer just north of the existing sewer to minimize cuts into eagle lake road, and it provided better slopes required for gravity sewers. Sewer would be dedicated to the township. Township would need access to manage and maintain the sewers, and this will be added to the condo documents.

Regarding wetland mitigation, Jones stated if they can keep impacts to a 1/3 acre or less, no mitigation is required by DEQ. They have a wetland specialist on the project team. They quantified the wetland impacts on the site. They will need to seek formal MDEQ documentation for being below the project threshold. He noted that they won't have final action on this until later once it is finalized by the DEQ. Their wetland specialist is ready to submit once they get preliminary approval from the township. Jones didn't think a sidewalk was required along the lake side of Eagle Lake Road (Moore concurred), but would seek a variance if its determined to be required. Sidewalks will be level with the road, and no curbs are proposed.

Jones concluded by stating that they feel that they are close to complete compliance with the site condo ordinance. Jones also stated that the preliminary plan is in compliance, in general, with Township Ordinances.

Public Comments: Tom Beres lives on Park Shore Drive on Eagle Lake. He had a question about access for lots 9 and 10.

Zoning Administrator LeRoy Krempec was concerned about riparian/public rights language that was missing from the more recent deeds. He asked why is the "...also to the rights of the public..." language missing when it has been in every other deed? When can the owners solidify the master deed and condominium docs? A discussion ensued between Krempec, Attorney Kaufman and the applicant regarding interaction with the road commission, how the riparian rights language and the rights of the public got dropped off a recent deed conveyance through a covenant deed, and the Township's anti-funneling provisions within the Zoning Ordinance.

Moore reviewed his report to the Planning Commission and listed four concerns: fill in the 100-year floodplain and a possible required compensating cut, soil/geologic

suitability of the soils for the intended use, variances for sidewalk and unit 11, and the anti-funneling issue needs to be determined.

DeLong indicated that he is concerned about possible raising of flood levels due to fill on the site, Jones responded that they are working with DEQ to determine if a compensating cut is needed.

Jones believes their plan satisfies the spirit of the anti-funneling ordinance, and that the most restrictive interpretation entitles them to 8 frontages on Eagle Lake. It's reasonable and consistent with other properties in the area, and it won't look any different. He also noted that the project will leave the site in much better condition it was found

Mahaney asked about houses on pilings. What do they do? Ken explains as shown on the site plan, houses will need to be placed on helical piers. The Zoning Administrator expressed his concern that this be detailed in advertisements to potential buyers in flyers and public information. Consultant Jones noted that he believed this would be done.

Commissioners discussed the retaining wall on the southeast part of the property, between units 10-12 and the hill. DeLong asked what if they ran the wall all the way down behind every house? Jones stated that a properly built wall have no effect on erosion. He stated that that for unit 12, a retaining wall is probably not needed but is shown to be conservative. At its tallest anywhere on the site the wall would be about 5' tall. The bottom will need to go beneath the frost line, and that will probably interlocking blocks and a cast in place concrete foundation. Jones stated that during construction will need to be monitored very closely.

Dawn Bolock had several riparian questions and was concerned that the legal description don't match. County tax maps show the eagle lake part as being right of way. A lengthy discussion about missing language on the deed. She noted that she had called a local title company and asked what the typical number of years a title search was made for. She stated that she was told 40 years is typical. She questioned why the developers title insurance policy was noted as reviewed for only the previous 24 months. She asked that this be corrected in the Master Deed.

Krempec had some concerns about buildability of the site. He thought there should be a soil boring sample from each building site. He thinks buyers need to know what they are getting into with regard to helical piers, and he went further by asking that marketing and public information state what might be needed in order to build. Krempec recommended that the developer complete and wants boring sample and engineering report to inform the Planning Commission what it will take to make the sites buildable.

DeLong asked where the applicant was with the road commission? Jones stated that the Road Commission is okay with geometry. Comingling with highway by use and riparian rights have not been determined yet. He thinks there is very little doubt that they will allow the piers on the lake. Don asked how it would be handled if it's deemed to be public and people are hanging out on Eagle Lake Road? Jones responded with how is it

monitored now? DeLong said that it's not really addressed, except for police issues like alcohol.

Dale Snow said they want to work with everyone and satisfy all the stakeholders, and that he wants to disclose everything. Owners will have to know that they do not have exclusive access.

Another discussion over funneling language and if they can meet the ordinance. Can they use the channels on Christiana lake and count that toward the requirement for 3.32c?

Marbach felt that the anti-funneling ordinance applies only to non-riparian owners. Attorney Kaufman suggested that since the developers are riparian owners and this is a limited common element then this might not apply anyway. She noted that more review might be needed, and that the Zoning Administrator may need to limit the number of boats. Kaufman also noted that the Planning Commission can ask either the Zoning Administrator or the ZBA to interpret it.

Marbach reviewed issues related to MDEQ, retaining wall, missing language in deed. He felt that anti-funneling language was written for non-riparian owners trying to access the lake and doesn't apply. Geotechnical issues can be addressed now or as a condition of approval, that is up to the Planning Commission, and the variance for depth of lots and sidewalks. The Planning Commission should address those.

Attorney Kaufman suggested that the developer update the ALTA survey to reflect the accurate description of the property and add the "subject to" language that is missing. They can table if they want to, or make a recommendation. They should defer to road commission on what the public can do on the property.

Gates felt that if they gave approval tonight, are there enough stops after the fact to keep a bad project from going forward.

DeLong asked Moore and Kaufman if they have concerns. Kaufman responded with no, Moore indicated that he is just seeing the revised site plan for the first time, but what is the Planning Commission comfortable with? Many of Moore's concerns would be addressed by conditions.

Marbach felt that the applicant has addressed most conditions. His biggest concerns are all the other permits he has to get, and those must be obtained before Step 2 Township Board approval. For this step, they have enough. He is in favor of the variances for lots 11 and 10, and the sidewalk. Marbach noted that he thinks that the project would be an improvement over what is there now. He is not too concerned about the retaining wall.

Mahaney agreed with Marbach. He is okay with variances. Mahaney expressed his support and an "advocacy for the public" but still wants clarification on public access to Eagle Lake and wants more info from road commission.

Township Supervisor Jerry Marchetti said he was concerned about unresolved issues. He wants to be sure they are comfortable with everything before they make a decision and have all their issues resolved.

The Planning Commission discussed if there should be limits on the number of boats. They conclude that there should not be limits, since no one else has any limits. Dock length 40' as specified on the site plan. Commissioners agreed that the legislative intent of the anti-funneling language was that it does not apply. There were questions regarding if permits are needed for step 2 approval. Some questions were asked but not resolved regarding soil borings, and how to address it these items with future buyers. The commissioners thought that the bylaws and marketing materials should communicate that helical piers will likely be needed for houses. They also agreed that there was a need for Deed clarification and language for public access to Eagle Lake from the road commission.

Motion by Gates, supported by DeLong, to recommend approval to the township board with the following conditions:

- 1. The applicant shall work with the Road Commission and provide information satisfactory to the Township regarding how the two uses (the road and the docks on Eagle Lake) will coexist and define the scope of each use and any limitations thereon.**
- 2. Variances for sidewalks and lot depths on lots 10 and 11 should be granted.**
- 3. Provide updated information regarding the legal description of the parcels showing the schedule B exception regarding public access, and that information must be added to the ALTA survey.**

Motion carried unanimously.

At this point Sandra Seanor, Mike Mroczek, and Bob Thompson rejoined the meeting

Public comment. One audience member asked the Commission if they were going to be reviewing their rules and bylaws. Chris answered that it was going to be addressed in upcoming meetings.

Committee Reports. None

Adjournment. Hearing no further announcement or comments, Chairman Marbach adjourned the meeting at 9:55 PM.