

June 9, 2016

The Portage Township Planning Commission June 9, 2016 meeting was called to order by chairperson Melanie Watkins at 7:00 PM. Present were Melanie, Ted Soldan, Dean Latandresse, John Ligon, Dave Rulison, and Peggy Anderson. Guests John Ollila, Bill Bingham, Todd Royce and Bruce Petersen were also present (see attached.)

Watkins turned the meeting over to co-zoning administrators (ZAs) Bill Bingham and John Ollila, who had two issues to discuss with the commission. The first issue involved some suggestions to the zoning ordinance to make things clearer. These suggestions are based on experiences John and Bill have had doing their ZA work (see attachment entitled TO PORTAGE TOWNSHIP PLANNING COMMISSION 06/0702016.)

Bill and John went through their handout, and a great deal of discussion ensued. In the end, Chair Watkins agreed to make some draft modifications to the ordinance that fixed the problems Bill and John brought to our attention, and to the zoning application. The commission will then vote on these changes at the next meeting at which there is a quorum.

Bill and John then talked about a building permit denial for Mr. Dave Strong (see attachment entitled DAVE STRONG PROPERTY, BROEMER ROAD 6/9/16.) Mr. Strong indicated he would be filing an appeal with the Zoning Board of Appeals (ZBA.) The ZAs asked for guidance from the commission regarding the process of granting this appeal. The ordinance says that an appeal to the ZBA will be granted if the requester meets all of 5 criteria. It was the opinion of John that Mr. Strong did not meet one of the 5 criteria, and that the request for appeal be denied. Bill felt the appeal should be able to go through. After much discussion, township supervisor Bruce Peterson was directed to contact Mr. Strong and inform him of the 5 criteria (pp 83-84 of the zoning manual) he needs to defend in order to be granted a hearing by the ZBA. The ZBA will make the determination as to whether the criteria have been met and therefore a meeting with the ZBA will be granted.

Next the commission met with Todd Royce, representative of Houghton Motor Sports. Mr. Royce dialed Sarah Wolfenberg, co-owner of Houghton Motor Sports (HMS,) on his cell phone, placed it on speaker, and put it on the table so Sarah could participate in the meeting. Royce presented the commission with detailed plans of the plans for demolition and construction of the new HMS complex. Unfortunately, the plans were so small that most members of the commission had difficulty reading them. Royce and Wolfenberg answered the commissioner's questions until we felt we understood the project sufficiently.

Latendresse moved that pending all relevant permits and regulations, the planning commission declares the use of this property conforms with the current zoning manual. The motion was supported by Rulison, and passed unanimously.

The next regularly scheduled meeting of the commission will be July 6 at 7:00 at the township offices.

A motion was made to adjourn at 8:27 pm by Soldan, seconded by Latandresse, and passed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ted Soldan".

Ted Soldan, Secretary

Planning Commission

1. TEO SOLOAN
2. Peggy Lee Anderson
3. Bruce Fletcher
4. Michael Watkins Motorsports
5. Dave Rubiner
6. John Ligon
7. Dean Latendresse

Guests,

John Olla
Bill Bingham
Todd Royce

DAVE STRONG PROPERTY, BROEMER ROAD 6/9/16

Mr. Strong wants to build a new 30'x40' garage on a lot that is only 50' wide, requesting a variance to build only 10' from the lot line, though a 20' setback is required in Rural Residential. We denied his request for the following reasons:

P.78 Existing Non-conforming Uses Section 9.1

"1. A non-conforming use may continue in existence provided that it is neither enlarged or extended so as to occupy additional land area." We denied Mr. Strong's request because his intention is to construct a much larger garage. Basically, putting a new, larger structure on the lot voids his historic non-conforming status and makes him subject to the terms of the new 2015 Zoning Ordinance.

In addition, P.5 Accessory Buildings Section 2.5 states in item 1. that the garage is "Not permitted because there is not a permitted principal building." Furthermore, the county building inspector agrees with Bill and I that a dwelling cannot ever be built on the lot because there is not room for septic, drain field, and code setbacks for these.

Two solutions are possible. Mr. Strong can build a garage that is the same size as the one that is being removed. Or, he can merge the tiny lot with his large, adjacent lot and observe the required 20' setback from the neighboring property. He DOES NOT want to do either of these and has appealed our denial.

Here is where Bill and I disagree. Pp. 83-84 Variances Section 11.3, states that "A dimensional variance may be granted ... only in cases where the applicant demonstrates ... all of the following." Item 2. in the section requires "That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created)." Bill thinks everyone is entitled to an appeal; whereas, I don't think Mr. Strong is so entitled and to proceed must adopt one of the two options we have presented him with.

We do, however, absolutely agree that a non-conforming garage cannot be permitted on a site w/o a permitted principal building. The Planning Commission spent many hours developing language to prevent illegal buildings from simply cropping up everywhere. We'd appreciate your support and any insight on how we might proceed differently.

TO PORTAGE TOWNSHIP PLANNING COMMISSION 06/07/2016

As co-zoning administrators Bill Bingham and I have encountered a couple more issues which we think merit your attention:

The new Mixed Use District (MU) allows all uses permitted in the B-1, B-2, and M-1 districts, and B-1, B-2, and M-1 all include a lengthy list of those permitted uses. On p.45 in the MU section on Special Uses, item A incorporates businesses which may have been overlooked by including "Any other retail business, service, or industrial establishment which is determined by the Board of Appeals to be of the same general character as the above permitted uses."

In the M-1 section on Special Uses, item A includes "Any other industrial uses of a similar nature to the above permitted uses, when authorized by the Planning Commission through the Special Use and Site Plan Review process..."

In the B-2 section on Special Uses, item A includes "Any other retail business or service establishment which is determined by the Zoning Board of Appeals to be of the same general character as the above permitted uses."

Finally, in the B-1 section on Special Uses, item A includes "Other similar retail business or service establishments which are not listed in this section."

I trust the inconsistency is apparent. MU and B-2 state the Zoning Board of Appeals decides if a novel business is of the same character as existing businesses. M-1 indicates the Planning Commission fulfills this role, and B-1 apparently means any businesses not listed in B-1 are hereby automatically included, though no one will actually decide???? Was it intentional that two of these special use statements say Board of Appeals, one says Planning Commission, and one says or implies that the process will simply occur, perhaps by divine intervention.

In addition, we'd like a few minutes of your time for
3 other points:
1. Site Review Plan observation
2. Zoning Application Town changes
3. Update on a potential precedent setting appeal

John Oeffe

Planning Commission

11/24/15

1. TED SOLDAN
2. Peggy Lee Anderson
3. Bernie Carr
4. Deon Falendise
5. Bruce Peterson
6. Phillip Arthur
7. Jim Slay
8. Diane Rulser

Guests

1. Bruce Peterson
2. Linda Lyon