

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
December 20, 2016
6:30 P.M.

DRAFT-APPROVED COPY

CALL TO ORDER:

Chair Pfost called to order the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Township Hall at the Park Township Office.

ATTENDANCE:

Present: Jeff Pfost, Eric DeBoer, Linda Dykert, Dennis Eade, David Kleinjans, Denise Nestel

Absent: Tom Vanderkolk

Staff: Ed de Vries, Zoning Administrator, Dan Martin, Legal Counsel, Janis Johnson, Staff Planner

Chair Pfost introduced David Kleinjans, new appointee to the Planning Commission.

APPROVAL OF AGENDA:

Motion by Eade, supported by Kleinjans, to approve the agenda.

Voice Vote: Ayes 6, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Motion by Nestel, supported by Eade, to approve the Regular Meeting Minutes of November 22, 2016 as presented.

Voice Vote: Ayes 6, Nays 0. Motion carried.

NEW BUSINESS:

A. D&K Investments – Timberline North Subdivision

1. **Public Hearing for Subdivision Variance Request**
2. **Preliminary Plat (continued from November 22, 2016)**

Jack Barr of Nederveld, spoke for D&K Investments regarding the subdivision variance requests.

He addressed the variance request for the end of the stub streets. There are two stub streets in the development that this variance applies to. It was his opinion that the Ottawa County Road Commission's requirements supersede the Township ordinance with regard to the variances. The Road Commission enacted this requirement after the Township Ordinance had been adopted. The measurement is 10X66' for the reserve strip at the end of the street, which is more stringent than the Township requirement of a one foot strip.

The second variance request concerned the depth to width ratio for a lot. The Township ordinance requires lot ratio of 3:1. He said the deepest lot has 3.5:1 on a lot in which the rear portion consists of a storm water detention area.

The third request has to do with the maximum 1000' block length; the length of the most westerly road is an additional 176'. He reviewed the block length requirements from other neighboring townships, some allowing over 1000'. The Road Commission has no requirements. He handed out the result of this review.

He also wished to clarify a statement from last month regarding the connection to Division Avenue. He noted the Road Commission had indicated a connection north of this project, but would not object to a connection onto Division Avenue from this project. The developer doesn't have plans to make the road connection.

Public Hearing

Chair Pfof opened the public hearing at 6:39 P.M.

Alma VanOudheusden asked for clarification on the 144th Street access. She is opposed to it. She lives at the corner and traffic is a problem from the south - you can't see where you are going at that corner.

Bruce Taylor said he was not sure about the meaning of this meeting from the letter he received from the Township. This is also in regard to the issues about 144th Street. He was interested in the values of the lots.

Pfof closed the public hearing at 6:42 P.M.

Pfof asked Legal Counsel Martin to give the legal explanation and requirement of what the Planning Commission is considering with regard to the variance requests by the developer.

Martin explained there are certain provisions in the Park Township ordinances regarding subdivisions. The length of a street is one issue, and another is the lot depth to width ratio. There are certain conditions in the subdivision ordinance that are not met as presented by the developer, but we are authorized to grant variances, just as with the zoning ordinances. If there are legitimate reasons why the ordinance shouldn't be applied then grant the variance. There are three variance requests in this proposal: 1) the length of the block - Section 18-87 requires the maximum is 1000' for the length. The proposal is 1176'. There are other plats in Park Township that have been approved where the length exceeded the requirement; 2) the width to depth ratio – the ordinance states a 3:1 ratio, the Land Division Act for subdivisions has a 4:1 ratio. The developer has two lots that are 3.5:1. He recalled these two lots will have a drainage area; and 3) the reserve strip at the end of the two stub streets – the Township ordinance requires a one foot strip at the end of the stub street and the Road Commission Requirement is ten feet. There are certain standards in the ordinance so the Planning Commission will have to determine if it wants to grant these variance requests.

Pfost reminded the Planning Commission of the four standards for each of the variances listed in Planner Johnson's memo of December 12, 2016. It's a regular shape parcel of land that's been divided with a drainage area located in the southwest corner. Does the shape of the land, the radius of the road curve, and the drain area affect the block length and lot width. These need to be considered.

Martin confirmed these characteristics are the rationale for granting the variances.

DeBoer asked about a T- intersection. What constitutes the change?

Martin cited the wording regarding block language. Without seeing a drawing, if there were a road that goes to the west, with the water feature, it becomes a separate block.

David Kleinjans asked if the road starts at the intersection.

Barr said the termination at the connection of another road is what is important. In his interpretation, block length is from road intersection to road intersection.

Pfost asked Johnson if configuration of the parcel warrants block length so long as regular traffic is regulated.

Johnson said the reason it is that long is the size of the parcel which was acquired by the applicant and added to the first proposed area.

Nestel asked if it is within the Planning Commission's discretion to make an exception.

Martin said the Planning Commission can consider that there are special circumstances. It is the judgment of the Planning Commission whether strictly applying block size would be impractical or unreasonable.

DeBoer recalled the Planning Commission asked the developer about extending to Jamesway.

Barr said the developer added 5 acres to solve the problem of a narrow right-of-way for a cul de sac, and to make the connection of two stub streets.

Pfost said this brought the terminated cul-de-sac to join Jamesway and eventually connect to 144th.

DeBoer asked if this can be considered a special circumstance.

Nestel said the Planning Commission had discussed each of these and they were possible. Has anything changed?

Johnson said one was possible but the other two requests were still in question.

Dykert asked if there was a difference in the definition of an intersection.

Martin said the ordinance doesn't define the meaning of an intersection. He reiterated that the Planning Commission should consider whether certain circumstances or conditions of strict application would be impractical or unreasonable.

de Vries read the definition of a block for clarification to the Planning Commission.

DeBoer asked if the road were straight would it make a difference.

Johnson said her rationale is if traffic can get in and get out it is acceptable.

Pfost said we don't have to adhere strictly to the 1000' requirement for block length. We have some latitude. The alternatives become less desirable from a traffic flow standpoint.

Kleinjans said two streets were already there. It's natural to hook up the two roads of Stanwood and Jamesway. In his opinion, there is no other way to do it.

With regard to variance #2 for the lot depth to width ratio, Johnson noted lot #32 is at issue.

Pfost said this lot is affected by the detention pond and the curve of the road.

Johnson questioned if this variance should be granted since she sees no special conditions.

Martin clarified the Township Board receives the recommendation from the Planning Commission and then makes the decision to grant the variance.

Nestel understood the Planning Commission had reached consensus on this.

Martin said Johnson doesn't see any special conditions as Planner. It's a special condition affecting the property. The standard is whether it is impractical or unreasonable.

de Vries said it's important to cite the standards when making a recommendation to the Township Board.

Johnson said any motion has to state there is a finding for the four standards.

Kleinjans said the storm water detention area has to be considered. There must be an easement to it and someone has to be responsible for maintaining it. This can present a potential problem.

Barr said the Water Resource Commission requirement is they will have control of the easement and maintain it.

Kleinjans asked if it will be a written agreement.

Barr said there is a 10 page document detailing these conditions which is signed by the developer and the Water Resource Commission.

Kleinjans asked if that lot could be considered an out-lot.

Johnson said it's not clear and we need to clarify that.

Dykert asked if there is a possibility of running Jamesway to 144th.

Johnson said it is the County's desire to run Jamesway to 144th at some point.

Barr said the reason they planned it that way is because a 12 acre piece remains for possible future development. Adding a third stubbed street would limit what the developer can do with the remaining property.

Martin recommended the Planning Commission address all four standards for each variance.

Pfost asked for a general consensus on handling the variance requests.

It was agreed to act on each separately.

Pfost reviewed the four standards which apply to each of the three variance requests:

1. ***That there are such special circumstances or conditions affecting the property to question such that strict application of the provisions or requirements of this article would clearly be impracticable or unreasonable.***
2. ***The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subdivision is situated.***
3. ***That the variance will not violate the provisions of the Land Division Act.***
4. ***That the variance will not have the effect of nullifying the interest and purpose of this article and the Master Plan.***

Variance #1:

DeBoer moved, supported by Dykert, to recommend to the Township Board approval of the variance for block length.

1. ***That there are such special circumstances or conditions affecting the property to question such that strict application of the provisions or requirements of this article would clearly be impracticable or unreasonable.***

The road needs this length to link two existing road ends and provide an additional path for vehicular access to the subdivision.

2. ***The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subdivision is situated.***

It would be beneficial and not detrimental for traffic flow.

3. ***That the variance will not violate the provisions of the Land Division Act.***

It does not violate the provisions of the Land Division Act.

4. ***That the variance will not have the effect of nullifying the interest and purpose of this article and the Master Plan.***

Does not nullify the interest or purpose of this article and the Master Plan.

Voice Vote:

Ayes 6, Nays 0. Motion carried

Dykert left the meeting at 7:30 P.M.

Variance #2:

The Planning Commission discussed whether the special circumstances render it impractical.

Kleinjans questioned if changing the curve of the road, or if lot #32 could be considered an out-lot?

Johnson reviewed the language regarding lot width as it relates to width and for the special circumstance of an out-lot.

Barr said it could be an open space or common area. When it goes to the State, it has to have a parcel number assigned. It has to have access/easement to a public road. The lot could be called a park.

Martin explained the Township ordinance says an out-lot is a lot and it has to have frontage.

de Vries noted that a lot must have 85' for frontage.

Kleinjans asked for the ratio for lot #32.

Barr said it's at 3.5:1.

Johnson suggested there may be another option for the applicant.

Kleinjans understood the special circumstances with regard to the shape of the lot.

Pfost said we deferred to the Water Resource Commission at the last meeting.

Barr said there are no woods that needed to be cleared in this area so it is a good area for the detention system.

Kleinjans asked if the water goes to the wetlands when it leaves the detention pond.

Barr said the water goes east then south to the neighboring creek.

Eade moved, supported by DeBoer, to recommend to the Township Board approval of the variance to allow the depth to width ratio for the designated lots.

1. ***That there are such special circumstances or conditions affecting the property to question such that strict application of the provisions or requirements of this article would clearly be impracticable or unreasonable.***

The location of this lot on the curve, the required detention pond at the rear of this lot, and no option for creating an out-lot without road frontage are special circumstances or conditions.

2. ***The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subdivision is situated.***

Not detrimental.

3. ***That the variance will not violate the provisions of the Land Division Act.***

Due to special circumstances, and affecting one lot would not violate the Land Division Act.

4. ***That the variance will not have the effect of nullifying the interest and purpose of this article and the Master Plan.***

Does not nullify the interest and purpose of this article and the Master Plan.

Voice Vote:

Ayes 5, Nays 0.

Variance #3:

The Planning Commission saw no conflict with the Master Plan and expressed general consensus for supporting the variance.

A special circumstance exists in this case whereby the Ottawa County Road Commission requires a reserve strip at the ends of stub streets in order to ensure continuation of the road system in the future. The Ottawa County Road Commission is entrusted with this purpose and retains control of the street system by virtue of the required 10'X66' reserve strip.

DeBoer moved, supported by Eade, to recommend to the Township Board approval of this variance.

1. ***That there are such special circumstances or conditions affecting the property to question such that strict application of the provisions or requirements of this article would clearly be impracticable or unreasonable.***

The Road Commission requirement is more stringent, and the roads are under the control of the Road Commission.

2. ***The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subdivision is situated.***

Not detrimental and beneficial for future expansion.

3. ***That the variance will not violate the provisions of the Land Division Act.***

Does not violate the provisions of the Land Division Act.

4. ***That the variance will not have the effect of nullifying the interest and purpose of this article and the Master Plan.***

It preserves the interest and purpose of this article and the Master Plan in providing for future expansion.

Voice Vote:

Ayes 5, Nays 0. Motion carried.

Johnson noted that the lots to the north are zoned R-4 medium density. This should be included in the plan notes. She also pointed out that the limits of clearing have been shown in various locations along the outside boundary of the plat. Additional limits may be considered along the rear of lot 30.

Barr explained that in order to get the grade cut down where the detention basin is located they had to clear the lot. There are contours that go right up to the lot; that's why the lot was omitted from the tree clearing limits.

Pfost asked Martin if the name "Timberline" is exclusive. Does the Planning Commission rule on the use of the Timberline name by this developer?

Martin confirmed that Park Township's subdivision rules do not infringe on names for developments.

Kleinjans referred to the wording from the Land Division Act that Planner Johnson referenced in her staff memo: "The governing body...may...reject plats submitted with subdivision names so closely approximating previously recorded plats that such use might easily lead to misunderstanding or confusion...". He observed that this development name is unnecessarily close to the other development's name that is currently in place.

Nestel concurred that public comment indicated the residents were concerned about it.

Barr said the assessor can distinguish the difference among the Timberline Estates, Timberline West, and the proposed Timberline North.

de Vries clarified that Timberline Estates and Timberline West had the same developer but are different plats.

Martin said the Township Board hasn't included this in the ordinance. The Planning Commission has the authority to do so under State law, but it does not seem to be a priority to the Township because it is not part of the ordinance.

Pfost asked the Planning Commission for an opinion on this issue.

Johnson said recommending the approval of the preliminary plat is at issue here. The name could be a separate recommendation to the Township Board.

Pfost wanted it on the record that the Planning Commission considered the matter.

DeBoer suggested including consideration of the change of name as part of the motion to approve the preliminary plat.

Johnson and Martin concurred a separate motion was recommended to approve the preliminary plat.

DeBoer moved, supported by Nestel, to recommend to the Township Board approval of the preliminary plat for Timberline North with the following considerations: 1) change plan notes to reflect the lots to the north are zoned R-4, 2) approve the three variances requested by the

developer, and 3) consider the Planning Commission's concern about the name of the development as Timberline North.

Voice Vote:

Ayes 5, Nays 0. Motion carried.

B. Eldean's Marina – Site Plan Review

de Vries introduced the Eldean application.

As reviewed in de Vries' staff memo of December 14, 2016, Eldean's Marina submitted a request to modify the site plan for the building which formerly housed the Piper Restaurant. The project has been before the Planning Commission and the Zoning Board of Appeals to convert the building into a multi-use containing three condominium units and possible meeting space and smaller restaurant area. The site plan previously reviewed in October and November of 2015 reflected a 200 square foot exterior deck on the west side of the building, an open stairway to an existing deck on the north, and an enclosed stairway entry area facing the street on the south. The enclosed entry on the south required and received a variance from the Zoning Board of appeals on December 28, 2015 to allow the reduced front yard setback from a major street.

In February of this year Eldean's obtained a building permit for the first condo unit. The site plan submitted with that permit reflected a minor change to the site plan for the north open stairway, which was moved toward the side of the building, and the size of the west deck increased to 311 square feet from the approved 200 square feet. As setbacks were not impacted and the change seemed minor, the permit was issued.

During the construction of the first condominium, staff did have a discussion with the contractor regarding the north deck. Due to the condition of the existing deck, and desire to afford a larger covered area on the ground, the discussion centered on enlarging this deck as well. It was determined there would not be an impact on setbacks. A miscommunication on the need for a revised plan resulted in no revised plan being submitted for the increased deck size. The deck has subsequently been constructed without the knowledge of staff.

A building permit application for the 2nd condominium was submitted this past November. The application showed the west deck increasing to 500 square feet, and the existing deck on the north side enlarged. At this point the staff informed Eldean's that they would have to get approval for the modified site plan.

de Vries noted the site plan from last year was approved by the Planning Commission. The additions to the deck areas do not impact setback requirements, or bring the existing structure closer to the neighboring structure to the east. He visited the site and nothing about the structure created any concern.

Wade Eldean addressed his application for modification of the site plan. He noted the construction issues that occurred as they got into the project. He explained the desire for a covered eating space and the builder went ahead and made the change. To get more outdoor space the deck the deck enlargement was necessary. The builder discussed this with de Vries and it was decided there were no serious issues.

Kleinjans noted, to avoid future miscommunication, citizens should follow the rules and regulations. It places the Township in a difficult situation to propose tearing down what has already been done in this case.

Martin said the courts say that failure to comply with the ordinance doesn't preclude the Township from requesting compliance with the ordinance. The court looks at the balance of the cost and the equity in tearing it down. In this situation there is no need for a variance for just a site plan approval. The applicant thought he had approval. The Township could go to court, but the court will look at the equitable *estoppel* in this situation and probably allow it.

Kleinjans asked on whom is the burden?

Martin replied the Township is the authority. If it should go to the court, it will consider an equitable balance of all the factors.

Eade moved, supported by DeBoer, to approve the modification of the site plan.

Voice Vote:

Ayes 5, Nays 0. Motion carried.

Dykert returned to the meeting at 8:25 P.M.

C. Bouwkamp Builders – Public Hearing for Private Road Application

DeBoer recused himself from the discussion. His cousin owns a lot adjacent to this proposed development.

Johnson introduced the application. The applicant is seeking a Special Use Permit to construct a private road which would serve four single family lots. The parcel containing the proposed private road consists of 10.086 acres and is located on the north side of James Street about 300 feet east of North Lakeshore Drive. The four parcels would be connected to public water with private on-site septic systems. The parcel is vacant, tree-covered, and relatively flat with approximately 435 feet of frontage on James Street. The minimum lot size is two acres with 100 feet of lot width.

The applicant provided a site plan dated November 29, 2016 prepared by Nederveld, along with a proposed maintenance and operation agreement. Upon receipt of the Staff Planner's memo suggesting certain revisions, Nederveld submitted a second revised site plan on December 19, 2016.

Greg Raad of Nederveld described the reason for the request for a special use permit. The client will be building homes in this area. There is a buffer to the neighboring lot. The homes will be 2 ½ acres and take up 5% of the property. It will be an island cul-de-sac, increasing the radius to accommodate trees.

Ottawa County Road Commission approval is conditional on a commercial drive entrance. The County Health Department approved the site using public water. There will be private septic systems.

The changes that the Township Staff Planner requested are listed as #5, #6, #7, and #9 on Planner Johnson's memo. He reviewed the requested changes that the builder has made to comply with Johnson's requests.

Nestel asked about the septic system.

Raad said there is no public sewer in the area.

Martin noted if the Health Department approves the septic the Township has no redress.

Kleinjans asked about the water table with regard to storm water and runoff.

Raad said the Drain Commissioner reviewed the situation for these issues.

Kleinjans asked about the depths for the basements.

Raad said the Drain Commission has requirements regarding water table elevations.

Pfost asked about the road and any restrictions for access for fire trucks. Is the turnaround and road radius a problem in the cul-de-sac?

Raad said there will be 25' with a shoulder and the cul-de-sac allows maneuverability. Also, the radius has been increased.

Johnson said that could be a condition subject to approval of the use. Martin confirmed this.

Raad said he could add to the plan the location of the water main. The water line along James Street is in the public right-of-way. They are extending water services along the western property line where there is a utility easement. Electric will be trenched along this line.

Regarding the private road agreement, Kleinjans asked about road easements and maintenance. He asked about the provision in Section 9 regarding this agreement that it could be cancelled.

Martin noted this provision means it can't be amended, cancelled or modified without agreement by all four homeowners. Under the Township Private Road Agreement, the Township isn't required to maintain the road, but has the option to do so if the homeowners do not. An administrative fee can be assessed by the Township. The agreement must be recorded with the Township.

Johnson said this can be a condition of approval.

Martin said special use approval can have conditions. You can include a condition regarding the road maintenance. If it isn't maintained and the Township has to make any repairs, the Township can charge property owners with an assessment of 10% of the total cost.

Martin advised approval on condition. The ordinance says Park Township has the authority but not the obligation regarding the road maintenance. He cited Sec. 38-5127 (d) regarding the Township assessment if the private road isn't maintained. The Planning Commission can conditionally approve it

Public Hearing

Pfost opened the public hearing at 8:56 P.M.

No comment.

Pfost closed the public hearing at 8:57 P.M.

Kleinjans asked if there is any development to the north.

Raad said the property to the north is privately owned. Other properties to the north would not require any connecting streets from this private road. There is about 1000' of frontage along Lakeshore Drive for the north properties.

Pfost concluded the likelihood of access to the north is highly unlikely. He noted the motion has to include the Special Land Use Standards listed on page 3 of Planner Johnson's memo.

Martin reiterated the Planning Commission can impose reasonable conditions upon approval. If the condition is not met we will need to schedule another public hearing.

Raad said he would be willing to provide a separate drawing of the road.

Kleinjans asked about the bike path that is shown on the drawing.

Johnson mentioned sidewalks.

Raad agreed to discuss these additional details with staff and submit a new drawing.

Pfost asked for agreement on a conditional approval.

Pfost asked if the Planning Commission were to have a January meeting should this request be on the work session agenda or should it be on the regular meeting agenda. Johnson preferred it be on the regular meeting agenda.

The Planning Commission concurred with postponement of approval until the next regularly scheduled meeting.

Nestel moved, supported by Eade, to postpone consideration of the private road until the next meeting.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

DeBoer returned to the meeting at 9:10 P.M.

Other Business:

de Vries said the Planning Commission has received preliminary plat applications for Timberline West #5 and #6. This will require a public hearing.

Pfost said we need a work session for ordinance issues. He suggested three possible dates for the Planning Commission to consider: January 10, February 14, and March 14, 2017. All work sessions would be from 4-6 P.M. The March meeting may be unnecessary.

Pfost suggested first consideration should be given to the PUD ordinance, the ordinance amendment for special use, and the Master Plan, followed in order of priority a review of other ordinance amendments.

PUBLIC COMMENT

Chair Pfost opened Public Comment at 9:25 P.M

No comment.

Pfost closed Public Comment at 9:26 P.M.

ADJOURNMENT

DeBoer moved, supported by Nestel, to adjourn the meeting at 9:26 P.M.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
December 26, 2016

Approved: January 10, 2017