

Chairperson Denhof called the meeting to order at 7:00 p.m. Other members present: Dale Fedewa, , Charles Lane and Norm VanDyke. Duane Anderson and Paul Herremans were absent. Planner Julie Lovelace was also present as well as attorney Cliff Bloom.

Agenda Approval-

Motion by Fedewa to approve the agenda. Second-Lane, motion carries.

Public Comment-

Communication from Wright Township; intent to review Master Plan.

Approval of Minutes-

Motion by Lane to adopt the minutes of April 26, 2022 as presented. Second-Goodno, motion carries.

New Business-

Public Hearing-

Public Hearing 1-23585-16th Avenue (Brown)-Special Land Use Pond

Planner Lovelace reviewed the pond in question. The side setback has not been met, the survey shows that portions of the ponds slope exceeds the 1:3 ratio. Fedewa asked if the need of a special use permit was in place in 2015. Planner Lovelace stated that the realtor and the title company had inquired about the property prior to the sale in 2021. Crystal Morgan, counsel for Katherine Weeks and Tim Hesse spoke regarding the situation.

Motion to open the public hearing at 7:42pm by Fedewa, second by Lane motion carries. The Browns were not in attendance. **Motion** to close public hearing 7:44 pm by VanDyke, second by Goodno, motion carries. Attorney Bloom reviewed the options to the Commission. **Motion** by VanDyke to approve the SLU incorporating Planner Lovelace's memo contingent upon ZBA approval of a variance for slope and setback, with the provision that the current fence and gate remain: Second by Fedewa. Roll call vote: Anderson, absent: Denhof, yes; Fedewa, yes; Goodno, yes; Herremans, absent; Lane, yes; VanDyke, yes. Motion carries.

Motion by Lane to waive the ZBA application fee should the owner wish to apply. second by Goodno. Motion carries.

Public Hearing 2-70-01-03-200-015 (Scheidel)-Special Land Use Pond

Planner Lovelace reviewed the pond in question. This parcel has no address because no residence is on property. It was created in violation of the ordinance, a stop work order was issued, but work continued. It does meet the set-backs. The survey shows that it does not meet the slope ratio of 1:3. Mr. Scheidel 13251 Peach ridge Ave, Kent City stated that he dug the pond a year after the Browns dug their pond. The Browns pond leached water and he could not plant corn. **Motion** to open public hearing at 7:46 pm by Goodno, second by VanDyke, motion carries.

Ben Barkow, 23150-16th Ave, Conklin: The pond is nice, situated in a field, he has no problem with the pond. Bob Scheidel, 23774-16th Avenue, Casnovia: Likes the pond, has

CHESTER TOWNSHIP PLANNING COMMISSION MINUTES

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attracted deer and ducks. Rob Haack, 20858-24th Ave, Conklin: Asked about the violation and slope. Also wondered if the concern is for safety or liability. Julie Stevens, 19660 Main St. Conklin: Asked for clarification. Pastor Sandra Nikkel 19630 Cherry St. Conklin. Asked what is the purpose of the slope? Greg Slater 2500 Crockery Shores Casnovia: Asked if the fence would mitigate the safety issue. **Motion** by Fedewa to close the public hearing at 7:54. **Motion** by Goodno to approve the Special Land Use request as meeting the standards in the Planner's report with the exception of slope and contingent upon ZBA approval to remedy slopes and maintain the fence around property. Second by VanDyke. Roll call vote: Anderson, absent; Denhof, yes; Fedewa, yes; Goodno, yes, Herreman, absent; Lane, yes; VanDyke, yes. Motion carries.

Non-conforming Lots, Uses Structures & Buildings-discussion

Attorney Bloom read his correspondence to the Planning Commission dated May 19, 2022. Chairman Denhof opened the floor to public comment. A resident has concern about the process, would like to automatically rebuild without going to Zoning Board of Appeals for review. A resident counted 49 homes on lots on Crockery Lake of 50' width or less. A resident does not care what happens in other townships. They want less trips to the township, not more. Are offended by the idea of having to talk to big brother. A resident asked if the township is open to making exceptions in certain circumstances. A resident asked if her house burnt down could it be rebuilt? A resident stated that other townships allow to rebuild in same footprint. A resident has concerns that her house is too far from fire station and would burn beyond 60% before the Fire Dept. could respond. A resident asked if township knows how many nonconforming structures exist. Do other residents know of this ordinance? A resident has concerns about insurance. A resident doesn't think the assessed value of the house is a good measure for destruction by 60%. A resident said newer houses can be nonconforming. Mr. Denhof stated that the intent is to make less hardship on anyone, but need principles of good zoning. Goodno stated that the Planning Commission has not changed the 60% standard. This ordinance has been this way for many years. He then explained how the process of amending an ordinance works. A resident stated that when the attorney recommended changing to 50% it was brought to attention of residents. 60% was already on books. A resident said that wisdom is needed to make good decisions. Prayer for God to give wisdom. Denhof said that Planning Commission would look at consider this further.

Master Plan Charters 1 & 2- Planning Commission to review draft.

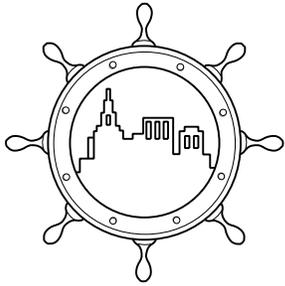
Old Business-None

Planning Commission Discussion-None

Adjournment- Motion by Lane to adjourn at 9:04 p.m.

Helen Dietrich
Chester Township Clerk

(Any document referenced in these minutes is on file in the Clerk's office.)



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MEMORANDUM

To: Chester Township Planning Commission
From: Julie Lovelace
Date: March 14, 2022
Re: Brown Pond – 23585 16th Ave

Attached is a Special Use Permit application from Lisa Brown (property is under new ownership) for a pond that has already been established on the above parcel. In reviewing previous documentation, the Applicant inquired about digging a pond in 2015 and was told that no permit was needed. The Township adopted a pond ordinance February 2, 2016 and Ms. Brown did not begin construction of the pond in 2017, believing she did not need approval.

Since the Applicant was contacted in 2017, the Township has been awaiting all necessary application documentation including review of the pond by the Department of Environment, Great Lakes, and Energy (EGLE). EGLE’s review was stalled by COVID. EGLE submitted a letter dated June 29, 2021 stating a permit is not required.

General Findings and Observations

This parcel is zoned Agricultural (A). A survey from Westshore Engineering shows the pond is 2,728 cubic yards. A site plan submitted by the Applicant shows the pond to be 23 feet to the side (north) lot line and 103 feet to the center of 16th Ave (70 feet from right-of-way). Ottawa County GIS measurement confirms those measurements are close. Attached are photos showing the pond has been fenced in.

Zoning Ordinance Provisions – staff comments in bold

Pursuant to Section 1901 – Procedure for All Special Uses of the Chester Township Zoning Ordinance (CTZO), the Planning Commission shall review the application and determine if the request meets the intent and purpose of Section 1901, particularly subsection D, and meets the standards of 340 – Ponds and Artificial Bodies of Water. For your convenience, below is a copy of the applicable sections. Staff comments are in bold:

Section 1901 – Procedure for All Special Uses

- A. The applicant shall submit to the Planning Commission, through the Township Clerk, an application, together with an application fee as set forth in the Schedule of Fees, for a regularly or specially scheduled meeting. This fee is in addition to any other fee that may be required. The application shall include a required site plan and written evidence and drawings showing that all the requirements for the applicable special use are met.

Prior to making a decision on a Special Use request, the Planning Commission shall hold a public hearing. Notification of the hearing shall be in accordance with Section 1502 herein.

- B. Reasonable conditions may be required with the approval of a special land use by the Planning Commission.

The conditions may include, but are not limited to, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- 1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - 2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - 3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- C. The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions that are changed.
- D. In addition to other applicable requirements, before approving a special land use request, the Planning Commission must find that all of the following standards are met:
- 1. The proposed use will be compatible with adjacent land uses within one thousand (1000) feet.
There appear to be multiple ponds in the vicinity, particularly within 1,000 feet to the south. This standard may be met.
 - 2. The proposed use will be consistent with the public health, safety or general welfare of the Township.
Given that the pond is enclosed, we find that this pond may be consistent with the public health, safety, and general welfare of the Township. Pending public comment and Planning Commission discussion, this standard may be met.
 - 3. The special land use shall not change the essential character of the surrounding area or the neighborhood.
Given the extensive wetlands in the area, and multiple ponds nearby, the pond does not appear to change the essential character of the surrounding area. This standard may be met.
 - 4. The proposed use shall not place demands on public services, roads and facilities in excess of their current capacities.
We do not find that this pond would place demands on public services. This standard may be met.

- 5. The proposed use shall be consistent with and promote the intent and purpose of the Township Zoning Ordinance and Master Plan.

While the Zoning Ordinance requires review and approval *prior* to the construction of a pond, the pond itself may be consistent with and promote the intent and purpose of the Zoning Ordinance and Master Plan. This standard may be met.

- 6. The proposed special land use will not establish a precedent for developments or uses which could adversely affect the long-term goals of the Township Zoning Ordinance and Master Plan.

We find the pond may not establish a precedent for land uses that adversely affect Township goals. This standard may be met.

- 7. The proposed use shall be compatible with environmental features, such as lakes, streams, flood plains, agricultural areas and natural areas.

EGLE has determined that this pond does not require their review. As such, this pond may be compatible with environmental features. This standard may be met.

- E. SPECIAL USE DECISIONS. The decision on a Special Use shall be incorporated in a written statement of findings and conclusions relative to the use authorized by the Special Use which specifies the basis for the decision and any conditions imposed. All conditions, limitations, and requirements upon which any such permit is granted shall be specified in detail by the Planning Commission in its decision and kept on file with the Township

Section 340-Ponds and Artificial Bodies of Water

No pond or artificial body of water, excluding ponds for koi, goldfish or any other decorative landscape pond containing an impermeable liner or Swimming Pools as defined by this Ordinance, shall be dug, created or expanded unless approved by the Planning Commission as a Special Use, subject to the following:

- A. The pond shall be installed for recreation, pleasure, or agricultural uses only. The creation of any ponds for the purpose and result of peat, earth, gravel, clay, top soil, stone or other soils or material extraction shall be regulated under the Chester Township Mineral Mining Licensing Ordinance.

The Applicant states the pond is used to “give life to wildlife and water our garden.”

- B. A pond may be located in any zoning district and may be considered as a principal or accessory use.

The pond is accessory to a residential use.

- C. At a minimum, a pond shall comply with all the yard requirements for the zoning district in which it is located, except that any pond used as a farm manure lagoon shall not be located less than three hundred (300) feet from any lot lines or road right-of-way lines. The Planning Commission may increase the minimum setbacks for ponds when in its discretion such is determined to be necessary to minimize potential public health and safety concerns or nuisance conflicts with adjoining properties.

The required setbacks in the Agricultural district are:

Front: 50 feet

Side: 40 feet

The pond meets front setback requirements, but does not meet the 40-foot side setback requirement. By Ottawa County GIS, it appears to be approximately 25 feet to the side lot line at its closes point. This standard has not been met.

- D. The slopes of the banks or sides of the pond shall be constructed so that for each one (1) foot of rise there shall be a minimum of three (3) feet of run. This minimum slope angle must be maintained and extended into the pond water to a depth of five (5) feet.

Westshore confirms the slopes are reasonably close to 1:3 for most of the pond. A couple of areas may be 1:1. This standard may be met.

- E. Ponds shall contain a minimum depth of twelve (12) feet.

The deepest part of the pond is 15 feet deep. This standard is met.

- F. No pond shall exceed 5,000 cubic yards in area.

The pond is 2,728 cubic yards. This standard is met.

- G. If the Planning Commission determines in the course of its approval of a pond that the protection of the general public requires that the pond be enclosed, the Planning Commission shall require that the pond be enclosed by a wall, fence, or other type of enclosure. The wall, fence, or other enclosure shall:

- 1. Be not less than four (4) feet above the grade line;
 - 2. Be designed so that a child cannot pass through, or under, or climb over the fence, wall, or other enclosure except through a gate or doorway. All gates or doors leading to a pond, except a door in any building forming part of the enclosure, shall be kept closed and locked when the pond is not in actual use or when the proprietor is absent or away. The gates and doors shall be fitted with a positive latching device which automatically latches when the gate or door is closed.

The pond is fenced with a six-foot fence and gated. See attached photos.

Planning Commission Considerations

As the Planning Commission deliberates regarding this application, we believe the following warrant your review and consideration. They are listed in no particular order.

- Whether the pond conforms to the standards of Section 1901.D above
- The side setback of approximately 25 feet instead of the required 40 feet per Section 340.C.

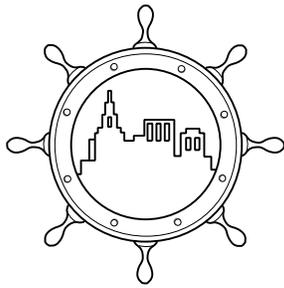
This application has been scheduled for a public hearing at your _____, 2022 meeting. If you have any questions, please let us know.

JL

Planner

Attachments

Cc: Gary Meerman, Supervisor



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MEMORANDUM

To: Chester Township Planning Commission
From: Julie Lovelace
Date: May 9, 2022
Re: Scheidel Pond – Parcel #70-01-03-200-015

Attached is a Special Use Permit application from James Scheidel for a pond that has already been established on the above referenced parcel. In reviewing previous documentation, the Applicant was aware that creation of a pond requires a Special Use Permit and was given the appropriate application in June 2019. However, the pond was created without Township review and approval.

Since that time, the Township has been awaiting review of the pond by the Department of Environment, Great Lakes, and Energy (EGLE). EGLE’s review was stalled by COVID. It has been determined that a permit was not required from EGLE for this pond. The Township then required the Applicant to provide a site plan in accordance with the Chester Township Zoning Ordinance (CTZO) Section 340.H. The site plan was received April 29, 2022.

General Findings and Observations

This parcel is zoned Agricultural (A). In an E-mail to the previous Planner, Mr. Scheidel stated the pond is approximately 50 feet x 60 feet. GIS measurement shows the pond at more approximately 9 feet’ x 118 feet. While the survey does not give setbacks from lot lines, GIS measurement shows the pond is approximately 157 feet from the front and 46 feet from the side lot line. The surveyor confirmed the size of the pond at 1,576.63 cubic yards and a maximum depth of 12 feet.

An aerial view of the pond is shown below. The subject parcel is outlined in blue:



Zoning Ordinance Provisions

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Section 1901 – Procedure for All Special Uses

- A. The applicant shall submit to the Planning Commission, through the Township Clerk, an application, together with an application fee as set forth in the Schedule of Fees, for a regularly or specially scheduled meeting. This fee is in addition to any other fee that may be required. The application shall include a required site plan and written evidence and drawings showing that all the requirements for the applicable special use are met.

Prior to making a decision on a Special Use request, the Planning Commission shall hold a public hearing. Notification of the hearing shall be in accordance with Section 1502 herein.

- B. Reasonable conditions may be required with the approval of a special land use by the Planning Commission. The conditions may include, but are not limited to, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

Conditions imposed shall meet all of the following requirements:

4. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 5. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 6. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- C. The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions that are changed.
- D. In addition to other applicable requirements, before approving a special land use request, the Planning Commission must find that all of the following standards are met:

2. The proposed use will be compatible with adjacent land uses within one thousand (1000) feet.

All surrounding parcels are also zoned Agricultural. There appear to be multiple ponds in the vicinity, particularly within 1,000 feet to the south. Therefore, this appears to be compatible with adjacent land uses. If the Planning Commission (PC) agrees, this standard may be met.

2. The proposed use will be consistent with the public health, safety or general welfare of the Township.

The distance from the street, the size of the parcel, and the fact that this pond is enclosed and gated are factors contributing to the use being consistent with the public health, safety, and general welfare of the Township. However, as discussed further below, the slopes of the pond do not appear to meet Township standards for safety. After public comment, and PC discussion, this standard may not be met.

3. The special land use shall not change the essential character of the surrounding area or the neighborhood.

Given the extensive wetlands in the area, and multiple ponds nearby, the pond does not appear to change the essential character of the surrounding area. If the PC agrees, this standard may be met.

4. The proposed use shall not place demands on public services, roads and facilities in excess of their current capacities.

We do not find that this pond would place demands public services. If the PC agrees, this standard may be met.

5. The proposed use shall be consistent with and promote the intent and purpose of the Township Zoning Ordinance and Master Plan.

While the CTZO requires review and approval prior to the construction of a pond, the pond itself (use) may be consistent with the intent and purpose of the Zoning Ordinance and Master Plan. Pending public comment and PC review, this standard may be met.

6. The proposed special land use will not establish a precedent for developments or uses which could adversely affect the long-term goals of the Township Zoning Ordinance and Master Plan.

We find the use (pond) may not establish a precedent for adverse effects. Pending public comment, and PC discussion, this standard may be met.

- 7. The proposed use shall be compatible with environmental features, such as lakes, streams, flood plains, agricultural areas and natural areas.

EGLE has determined that this pond does not require their review. As such, this pond may be compatible with environmental features. If the PC agrees, this standard may be met.

- E. SPECIAL USE DECISIONS. The decision on a Special Use shall be incorporated in a written statement of findings and conclusions relative to the use authorized by the Special Use which specifies the basis for the decision and any conditions imposed. All conditions, limitations, and requirements upon which any such permit is granted shall be specified in detail by the Planning Commission in its decision and kept on file with the Township

Section 340-Ponds and Artificial Bodies of Water

No pond or artificial body of water, excluding ponds for koi, goldfish or any other decorative landscape pond containing an impermeable liner or Swimming Pools as defined by this Ordinance, shall be dug, created or expanded unless approved by the Planning Commission as a Special Use, subject to the following:

- A. The pond shall be installed for recreation, pleasure, or agricultural uses only. The creation of any ponds for the purpose and result of peat, earth, gravel, clay, top soil, stone or other soils or material extraction shall be regulated under the Chester Township Mineral Mining Licensing Ordinance.

The Applicant stated the pond is to be used for agricultural drainage. As such, this standard appears to be met.

- B. A pond may be located in any zoning district and may be considered as a principal or accessory use.

The pond appears to be accessory to farming. As such, this standard appears to be met.

- C. At a minimum, a pond shall comply with all the yard requirements for the zoning district in which it is located, except that any pond used as a farm manure lagoon shall not be located less than three hundred (300) feet from any lot lines or road right-of-way lines. The Planning Commission may increase the minimum setbacks for ponds when in its discretion such is determined to be necessary to minimize potential public health and safety concerns or nuisance conflicts with adjoining properties.

The required setbacks in the Agricultural district are:

Front: 50 feet

Side: 40 feet

The pond meets the minimum setback requirements for this district. As such, this standard appears to be met.

- D. The slopes of the banks or sides of the pond shall be constructed so that for each one (1) foot of rise there shall be a minimum of three (3) feet of run. This minimum slope angle must be maintained and extended into the pond water to a depth of five (5) feet.

Attached is the survey performed by Westshore Engineering and Surveying. Slopes are delineated on page

2. *The five-foot depth is delineated by a maroon/brown marker line. All areas colored blue or green are less than or equal to the 1:3 slope. The areas colored red exceed the 1:3 slope. There are multiple areas at a depth less than 5 feet that exceed the maximum slope. As such, this standard is not met.*

- E. Ponds shall contain a minimum depth of twelve (12) feet.

The survey shows a maximum depth of 12 feet. As such, this standard appears to be met.

- F. No pond shall exceed 5,000 cubic yards in area.

The surveyor confirmed the pond is 1,576.63 cubic yards in area. As such, this standard appears to be met.

- G. If the Planning Commission determines in the course of its approval of a pond that the protection of the general public requires that the pond be enclosed, the Planning Commission shall require that the pond be enclosed by a wall, fence, or other type of enclosure. The wall, fence, or other enclosure shall:

- 1. Be not less than four (4) feet above the grade line;
- 2. Be designed so that a child cannot pass through, or under, or climb over the fence, wall, or other enclosure except through a gate or doorway. All gates or doors leading to a pond, except a door in any building forming part of the enclosure, shall be kept closed and locked when the pond is not in actual use or when the proprietor is absent or away. The gates and doors shall be fitted with a positive latching device which automatically latches when the gate or door is closed.

On September 20, 2021 Staff visited the site and took pictures. At that time, the gate was left open and appeared to have been in the open position for some time, given the vegetation growing on it. Should the PC decide to approve the pond, we recommend that keeping the gate closed at all times be a condition of approval.

Planning Commission Considerations

As the Planning Commission deliberates regarding this application, we believe the following warrant your review and consideration. They are listed in no particular order:

- Whether the pond conforms to the standards of Sections 1901.D and 340 above
- Whether the slopes of the pond shall be corrected to meet the 1:3 requirement to a depth of 5 feet.

This application has been scheduled for a public hearing at your May 23, 2022 meeting. If you have any questions, please let us know.

JL
Planner

Attachments

Cc: Gary Meerman, Supervisor

