

**RUTLAND CHARTER TOWNSHIP ZONING BOARD OF APPEALS
MEETING MINUTES – AUGUST 17, 2017**

Meeting called to order at 7:30 p.m. by Vice Chair Gene Hall. Pledge of allegiance to the flag.

Members Present: Larry Haywood, Gene Hall, Robin Hawthorne, Eric Miller

Members Absent: Nicole Haight

Others Present: Lois Frantz, Charles Rambin, Tom Gibbons, Larry and Lynn Hyatt, Jack Longstreet, Mary Meyer, Forrest Meyer, John Dermody, Jack Fox, Teresa Rambin, Randy Frantz, Tom Wolford, Sandra Rose, Connie Nasato, Louie Nasato, David Case, Jim James, Glenda Acker, Craig Rolfe, Les Raymond, Jim Carr, Larry Watson, Judy Milan

Agenda: Motion by Hawthorne, second by Haywood to approve the agenda as presented. Motion carried.

Minutes: Motion by Haywood, second by Hall to approve the minutes of August 29, 2016 as printed. Motion carried.

Public Comment: none

Zoning Administrator Comments: reserved until the public hearing

Old Business: none

NEW BUSINESS – PUBLIC HEARING

Application to Appeal a Zoning Ordinance Determination: Township Attorney Craig Rolfe notes the applicant, Randy Frantz of 2875 Loehrs Landing Dr., was issued a zoning ordinance violation in April for the storing of boats on his property. This public hearing is an appeal of the Zoning Administrator's determination that boat storage is not a permissible use in the Medium Density Residential District. Mr. Rolfe notes that the 30 day statute of limitation for an appeal had expired before the appeal was filed, but that due to subsequent communications between Mr. Frantz and the Zoning Administrator regarding the violation notice the Township has waived that timeline.

Mr. Rolfe states the application is not a request for a land use variance, but rather an appeal of the Zoning Administrator's determination of a land use violation.

Chair Hall reads the legal notification (attached) and states that those wishing to comment will be given a reasonable amount of time to address the Board. Hall also reads Mr. Carr's staff report dated August 7, 2017 (attached).

Public Comment: Mr. Frantz thanks the Board for the opportunity to address this issue noting the Zoning Ordinance does not specifically state there is no parking of boats allowed. He said this was confirmed by the township enforcement officer, Rocky Adams. Mr. Frantz states he is not receiving financial compensation for the use of his empty lot and feels the use is typical for an empty lot on a lake. It keeps boats off small lots and frees driveways and he does this as a "good neighbor policy". Lastly Mr. Frantz confirms that the use should be allowed under the guidelines of "common good and general welfare of the community".

Mary Meyer notes that the lake community helps each other.

David Case brought receipts showing that Mr. Frantz is not being paid for his service and finds storage of his boat very helpful.

Jack Fox has owns two boats and there is not room on his property to safely store them away from trees and snowplowing activity. He does not pay for the benefit of storing his boats on Mr. Frantz' lot.

Louie Nasato notes that there are other places on the lake where boats are stored and not owned by the property owner. Declined to file a complaint.

Sandra Rose supports the use of Mr. Frantz' lot.

Teresa Rambin states Mr. Frantz provides a service to lake residents.

Tom Gibbons notes that the empty lot is immaculate and states he has no room on his property to store his boats.

Roy O'Breiter appreciates the use of Mr. Frantz' property.

Lois Frantz states the stored boats can be re-arranged so as to not block others view of the lake channel and notes they are stored from mid-October until early May.

Tom Wolford is opposed to boats being parked next to his lot and feels they should be at a storage facility. He also states he has seen money change hands and feels the boat yard affects his property value.

(Mr. Wolford says he submitted a letter; and Mr. Hall states that all letters are a matter of record.)

Zoning Administrator Carr accepts the premise that Mr. Frantz is storing these boats as a "good neighbor policy", and notes he can apply to the Planning Commission for an amendment of the Zoning Ordinance to provide for boat storage as an allowable use in the MDR District. Mr. Carr emphasizes he is only acting on a complaint and there is no malice intended toward Mr. Frantz.

Jack Fox states he is puzzled and asks if a person cannot have stuff on their property unless they personally own it.

Mr. Frantz states that money has changed hands but not for boat storage which does not cause any harm to neighbors. He feels he is providing an essential service to lake residents and the ordinance does not specifically prohibit the use.

Miller asks Mr. Carr what the maximum number of stored boats should be and Carr responds his job is to determine if the use is permitted, not the number of boats. Mr. Carr states he tries to be "loose" with the ordinance but this storage is not a permitted use as the ordinance is written.

Haywood asks if this appeal means the ordinance is not clear and if so, it may be necessary to amend the ordinance. Discussion of what counts as an "essential service". It was noted that areas around lakes such as Podunk Lake are not the only areas of the township zoned Medium Density Residential.

Motion by Hall, second by Hawthorne to close the Public Hearing. Motion carried.

Attorney Rolfe appreciates the civility of the audience. He states that zoning restricts what people can do with their property, and provides a general orientation to how the Zoning Ordinance works, and especially the central concept of "permissive" zoning whereby land uses are allowed in a given district by specific designation in the zoning text for that district, and if not so designated are not allowed. Mr. Rolfe also notes that the Zoning Board of Appeals is not a legislative body, to ensure that the Board understands their issue is whether the current ordinance allows boat storage. He states this matter is a land use – not landowner – issue and the Board should examine the designated uses of Section 220, Chapter 6 which he proceeds to read. He focuses on Item 6(h) – Accessory Uses – and reads the definition, which states to qualify as an accessory use the use must be of a nature customarily (i.e. commonly) incidental and subordinate to the primary use. He stated there was no evidence in the record indicating a boat storage yard is something that occurs commonly in the township, incidental to a single family dwelling.

Hall also commends the audience on their civility. Board members deliberate, and by consensus all indicate they do not see boat storage such as is taking place on the subject property designated in the zoning text as a permissible land use in the MDR District, either as a permitted use or a special land use.

Motion by Haywood, second by Hall to affirm the Zoning Administrator's determination. Motion carried unanimously.

Public Comment: Dave Case states he owns 10 acres that is zoned Country Residential and asks if he would be allowed to store boats.

Meeting adjourned at 8:41 p.m.

Respectfully submitted, Judy Milan, Recording Secretary