

Town of Perry
Minutes of Land Use Committee Meeting
Wednesday, August 2, 2023
Perry Town Hall, 10084 County A

1. Call to Order. Chairman Dean Vogel called the meeting to order at 8:02 PM. Committee members Gary Baumgartner, Ken Hefty, Bird Cupps, Phoebe Blackman and Deputy Clerk Stephanie Zwettler were present. Also in attendance: Jim Donlin, Pat Heim, Ryan and Lori Oehlhof, Pat Downing, and Nina Moyer via teleconference.
2. Minutes of Previous Meeting – July 5, 2023. Gary Baumgartner moved and Phoebe Blackman seconded a motion to approve the minutes of the Land Use Committee meeting held on July 5, 2023, as presented. Motion carried.
3. Jim Donlin, 1375 State Rd 78 – accessory building. Ken Hefty moved and Phoebe Blackman seconded the motion to discuss the application. Motion carried.

Committee members discussed observations from the site view. The applicant cites that the proposed accessory building is to replace the existing portable shed. Chairman Dean Vogel noted that the driveway to the site is already in place. Members agreed that the proposed building site is on Fair soil and meets the requirements of the Land Use Plan. The Committee had no concerns with the application. Bird Cupps moved and Phoebe Blackman seconded the motion to recommend approval of the accessory building permit application as submitted. Motion carried. Ken Hefty abstained, family member.

4. Pat Heim, 1511 Sutter Rd – ground-mounted PV solar array. Ken Hefty moved and Gary Baumgartner seconded a motion to discuss the application. Motion carried.

The Land Use Committee reviewed a letter from adjoining neighbor John Wiggins objecting to the solar array due to inadequate soils.

Nina Moyer inquired about solar panel expansion for a personal project; Bird Cupps offered clarification.

The Committee discussed observations from the site view. Committee members reviewed the small portion of the proposed solar array that is proposed on Choice soil. The applicant is willing to move the structure approximately 20 feet to the east to avoid Choice soil to meet the soil criteria requirement. Chairman Dean Vogel also reviewed the definition of soil disturbance in the Land Use Plan to confirm compliance for electrical trenching. The Committee noted electrical service to the residence is located in the same area.

Ken Hefty moved and Bird Cupps seconded the motion to recommend approval of the ground-mounted PV solar array building permit application, contingent on the adjustment of the building site to the east, and to grant a variance to cross Choice soil for underground electrical connection. Motion carried.

5. Ryan & Lori Oehlhof, 365 Tyvand Rd – zoning change for 3 acres from RR-8 to TFR-08, site plan, driveway, and Conditional Use Permit for detached ADU (accessory dwelling unit). Gary Baumgartner moved and Phoebe Blackman seconded the motion to discuss the application. Motion carried.

The Land Use Committee reviewed an addendum to the application submitted by Ryan and Lori Oehlhof requesting reasonable accommodations for their application to rezone 3 acres to TFR-08 based on their interpretation of the Fair Housing Act and the Americans with Disabilities Act.

The Committee also reviewed an email from adjoining neighbor David Jelle opposing any additional residential housing on the property.

The Committee discussed observations from the site view. Committee member Phoebe Blackman inquired about an addition to their existing residence. Lori Oehlhof explained that their request is to accommodate the needs of their children with disabilities; that a detached accessory dwelling unit (ADU) provides the least restrictive environment while maintaining continued support. Applicants also cite that the Town can require a deed restriction on the conditional use permit to ensure the dwelling is for single-family purposes.

Pat Downing requested information regarding the applicants' prior informal discussions with the Land Use Committee.

Committee members evaluated the intended use of a detached dwelling unit and whether the dwelling is to be occupied as a residence. Phoebe Blackman noted that the TFR-08 zoning district accommodates additional residences. Bird Cupps explained that the density unit is central to the town's Land Use Plan and that the Plan requires density units for all dwellings. The Committee agreed the applicants do not have an available density unit.

Committee members acknowledged the need for various types of residences but agreed the current Land Use Plan requires a density unit for a detached residence. Members also agreed more information is needed to determine how the Fair Housing Act and the Americans with Disabilities Act impact the town's Land Use Plan.

Ken Hefty moved and Gary Baumgartner seconded the motion to table the application until legal clarification can be obtained. Motion carried.

6. Pending applications – review and discussion. Deputy Clerk Stephanie Zwettler reported that there are no pending applications at this time.
7. Schedule meetings. Site views will be held on September 2, and the meeting and public hearings will be held on September 6, 2023, for applications submitted by August 15, 2023.
8. Adjourn. Phoebe Blackman moved and Ken Hefty seconded a motion to adjourn. Motion carried. The meeting adjourned at 8:59 PM.

Respectfully submitted,
Stephanie Zwettler, Deputy Clerk
