

1 **TYRONE TOWNSHIP PLANNING COMMISSION**
2 **REGULAR MEETING & PUBLIC HEARING MINUTES**
3 **June 24, 2020 6:00 p.m.**
4 **Meeting Held Via Zoom Video Conferencing**
5
6

7 **PRESENT:** Mark Meisel, Dave Wardin, Kurt Schulze, Rich Erickson, and Dan Stickel
8

9 **ABSENT:** Bill Wood and Perry Green
10

11 **OTHERS PRESENT:** Tyrone Township Planning & Zoning Administrator Ross Nicholson and
12 Tyrone Township Planner Greg Elliott
13

14 **CALL TO ORDER (6:00 pm):** The meeting was called to order by Chairman Mark Meisel.
15

16 **PLEDGE OF ALLEGIANCE (6:01 pm):**
17

18 **CALL TO THE PUBLIC (6:02 pm):**
19

20 Chairman Meisel asked if there were any public questions or comments not related to an agenda
21 item. Joe Perrera asked if the Planning Commission follows Robert’s Rules of Order. Chairman
22 Meisel responded, indicating that they follow as best as they are able to. Joe Perrera thanked
23 Chairman Meisel. Chairman Meisel asked if there were any additional questions or comments.
24 None were received.
25

26 **APPROVAL OF THE AGENDA (6:03 pm):**
27

28 Kurt Schulze made a motion to approve the agenda as presented. Dan Stickel supported the
29 motion. Motion carried by unanimous voice vote.
30

31 **APPROVAL OF THE MINUTES (6:03 pm):**
32

33 Chairman Meisel indicated that the Planning Commission does not technically approve minutes
34 during workshop meeting and, therefore, no draft minutes were included on the agenda.
35

36 Chairman Meisel announced that the meeting will be recessed at 6:30 pm for a public hearing
37 required for the proposed Special Land Use included on the agenda as New Business Item #1.
38 He suggested beginning with discussion on Old Business Item #1- Betley Sight Line
39 Determination.
40

41 **OLD BUSINESS #1 (6:04 pm): Betley Sight Line Determination:**
42

43 Chairman Meisel indicated that he has recused himself from discussion on the topic at the
44 request of the applicants. He asked the Planning Commission for a volunteer to open the
45 discussion.

46 Dave Wardin asked Greg Elliott to confirm he had prepared a review letter based on the
47 information submitted for the Betley sight line determination request and the Betley temporary
48 dwelling during construction application. Greg Elliott confirmed. Dave Wardin suggested that
49 Greg Elliott read through and explain the review letter he had prepared.

50
51 Greg Elliott briefly summarized the sight line determination request and temporary dwelling
52 application. He described the information the review was based on which included the
53 temporary dwelling during construction application and documents pertaining to the sight line
54 determination request. He suggested to the Planning Commission, that it would be logical to
55 begin their discussion pertaining to the sight line determination request prior to the temporary
56 dwelling application because the outcome of the sight line determination will dictate what occurs
57 in regards to the temporary dwelling application. He read through the review letter (dated June
58 23, 2020).

59
60 Greg Elliott worked through the review letter, beginning with the requirements for the temporary
61 dwelling during construction application. He stated that the relevant portions of the plot plan
62 requirements have been submitted. He stated that the requirement for Planning Commission
63 review is being addressed at the present time. He stated that the written agreement requirement
64 has not been addressed as far as he is aware. He elaborated on the written agreement
65 requirement. He stated that the Zoning Ordinance standards for temporary housing during
66 construction directly applies to the use of mobile homes/travel trailers (temporary dwellings that
67 are generally mobile/movable in nature), not existing dwellings, however, the same standards
68 could be applied to an existing dwelling to accommodate for the use as temporary housing
69 during construction. He stated that the duration that the temporary dwelling being inhabited
70 should be discussed since the Zoning Ordinance requires that an approved temporary dwelling be
71 removed after a period of ten (10) months. He noted that the 10-month limit is intended to apply
72 to trailers/mobile homes that can be easily moved from a site. He indicated that an existing
73 dwelling would need to be demolished to be considered removed, which would require
74 additional time to complete, so that should be taken into consideration. He stated that another
75 important aspect of the proposal which would be discussed is access. He indicated that it will
76 need to be verified that there is adequate space between the existing dwelling on the subject
77 property and the side yard property boundary for construction vehicles and equipment to access
78 the area where the proposed new dwelling would be constructed. He noted that construction
79 vehicle access has already been discussed but additional information is necessary. He suggested
80 that the applicants should, at the very least, install construction safety fencing at the property line
81 along which construction vehicles would be accessing the site.

82
83 Greg Elliott continued to read through the review letter he had prepared. He stated that he will
84 be moving on to the portion of the letter which addresses the sight line determination request.
85 He stated that in the LK-1 (Lakefront Residential) zoning district, the minimum rear yard setback
86 is usually fifty feet (50') (measured from the established waters edge on waterfront properties).
87 He noted that Footnote X (Section 20.02.X in the Zoning Ordinance) modifies the minimum rear
88 yard setback requirement under specific circumstances. He stated that Footnote X indicates that
89 where the average rear yard setbacks for the adjacent buildings on either side of the proposed use
90 is greater than the minimum required for the district, the Planning Commission may require a
91 rear yard setback greater than the average rear yard setbacks of the adjacent buildings in order to

92 preserve sight lines to the water. He stated the rear yard setback for the structure located on Lot
93 5 (property located immediately adjacent on the north side of the subject property) is 114.08' and
94 the setback for the structure located on Lot 3 (property located immediately adjacent on the south
95 side of the subject property) is 121.82', resulting in an average rear yard setback of 117.95'. He
96 stated that Footnote X allows for an exception to the typical setback averaging requirement if it
97 is determined that the subject or adjacent structures are located along a cove or peninsula or
98 where the rear yard setbacks of adjacent structures differ by more than 40 feet. He continued,
99 stating that, in those instances, the Planning Commission shall determine if a cove or peninsula
100 exists, as well as the appropriate setback required such that Sight Lines for existing adjacent
101 structures are protected. He stated that, based on previous discussions, it appears that the
102 Planning Commission believes that a cove does exist, however, they have not yet made a formal
103 finding of such.

104
105 Greg Elliott continued through the review letter. He stated that the proposed dwelling on the
106 subject property would project closer towards the lake than the existing dwellings located on the
107 adjacent lots on either side. He stated that it is also worth noting that there is a detached
108 accessory building located on Lot 5 which extends significantly closer to the lake than the
109 existing dwelling on the lot. He noted that the location of the detached accessory building would
110 be approximately the same distance from the water as the proposed dwelling on the subject
111 property. He continued, stating that the portion of the proposed dwelling on the subject property
112 that projects in front of both adjacent existing dwellings (towards the lake) is lower than the rest
113 of the proposed dwelling (in terms of elevation). He noted that the grade of all three lots drops
114 off significantly as you move closer towards the lake. He described the finished floor elevation
115 (FFE) of both adjacent existing structures as well as those for the proposed dwelling on the
116 subject property. He suggested that if a person of average height was standing on the first floor
117 of each existing adjacent dwellings, a portion of roofline of the proposed dwelling would likely
118 be visible in the field of view. He continued, stating that it is not likely that second story views
119 would be significantly impacted by the proposed dwelling, except for a portion of the upper
120 portion of the proposed dwelling on the subject property, which would likely be in the field of
121 view from the second story of the existing dwelling on Lot 5. He noted that the accessory
122 building located on Lot 5 has a roofline that would be at roughly the same level as the FFE of the
123 proposed dwelling and would not be impactful on sight lines.

124
125 Greg Elliott continued explaining the review letter he had prepared. He indicated that the
126 proposed placement of the new dwelling on the subject parcel would impact the sight lines from
127 the existing dwelling located on Lot 5 to a greater degree than the impact to sight lines from the
128 existing dwelling located on Lot 3. He stated that the Zoning Ordinance requirements for
129 setback averaging do not directly apply to the proposal since it has been determined that the
130 exception in Footnote X applies. He continued, stating that the exception requires the Planning
131 Commission to determine an appropriate setback, such that sight lines for the existing adjacent
132 structures are protected. He stated that, if the Planning Commission finds that any greater
133 setback than what is proposed is necessary for that purpose, it would likely render moot the
134 question of temporary housing, because the proposed location of the new dwelling is right up
135 against the location of the existing dwelling on the subject property.

136

137 Dave Wardin indicated that he noticed a potential error in the FFE calculation for the first floor
138 of the existing dwelling located on Lot 3. He stated that he believes the number depicted on the
139 topographical drawing seems to be the FFE of the walkout basement level of the existing
140 dwelling. He stated that he agrees with Greg Elliott's analysis that the sight lines from the
141 existing dwelling located on Lot 5 would be significantly impacted if the proposed dwelling on
142 the subject property is permitted at the currently proposed rear yard setback.

143
144 Dan Stickel asked if the Planning Commission is making a determination on the exception to
145 setback averaging noted in Footnote X, on the basis that a cove exists. Greg Elliott stated that, if
146 the Planning Commission feels that a cove does exist, and thus, the exception applies, they
147 should make a formal statement to that effect. He continued, stating that, if the Planning
148 Commission feels that the exception cannot be applied, they would need to use setback
149 averaging to determine the appropriate setback. He stated that he has been evaluating the
150 proposal based on the assumption that the Planning Commission believes that a cove does exist.
151 Dan Stickel asked if there are any objective criteria for determining whether or not a cove exists.
152 Dave Wardin replied, indicating that the Zoning Ordinance does not include any such criteria in
153 regards to determining if a cove exists. Dan Stickel stated that he does not believe a cove exists
154 and he believes setback averaging should be used to determine the appropriate rear yard setback
155 for the proposed dwelling on the subject property. Rich Erickson stated that he believes a cove
156 does exist based on the dictionary definition of a cove. He explained that, if one looks at the
157 shoreline of the immediate area on aerial imagery, it is clear that there is a depression in the
158 shoreline, indicative of a cove. Dave Wardin asked Chairman Meisel to bring up a document on
159 the shared screen that shows an aerial view of the entire lake. Chairman Meisel brought up the
160 document on the shared screen. Dave Wardin referenced the area in question and indicated to
161 the Planning Commission that they need to decide whether that area between the two peninsulas
162 where the properties in question lie should be considered a cove. Dan Stickel stated that he
163 believes a cove does exist, based on the aerial image. Dave Wardin asked Greg Elliott, since a
164 definition of a cove does not exist in the Zoning Ordinance, if the Planning Commission is
165 supposed to arbitrarily determine whether or not they believe a cove to exist. Greg Elliott stated
166 that it is not arbitrarily up to the Planning Commission to decide, but is completely up to them to
167 decide. Dan Stickel asked if they should just utilize the dictionary definition of cove to make the
168 determination. Greg Elliott replied, indicating that using the dictionary definition would be
169 appropriate since the Zoning Ordinance does not define it. Chairman Meisel looked up the
170 dictionary definition of the word "cove" on the shared screen. The Planning Commission read
171 the definition. Dave Wardin stated that, based on the definition which stated "recesses in the
172 coast are often considered coves". Rich Erickson agreed with Dave Wardin's statement. Dan
173 Stickel referenced the aerial image of the lake and indicated that most of the shoreline of the lake
174 could be considered either coves or peninsulas. Kurt Schulze stated that, based on the
175 information provided, he believes a cove does exist. Dan Stickel asked Greg Elliott if the
176 Planning Commission should somehow formally establish their finding that a cove does exist.
177 Greg Elliott stated that the Planning Commission should make a finding and vote on it to
178 formally add it to the record.

179
180 *The item was temporarily recessed by Chairman Meisel at 6:32 pm for the scheduled public*
181 *hearing.*

182

183 **PUBLIC HEARING #1 (6:32 pm): Martin Special Land Use for a Church at the old**
184 **Tyrone Township Hall:**

185
186 Chairman Meisel called the Public Hearing to order and read from the Public Hearing Notice,
187 published in the Tri-County Times on Sunday, 06/07/2020:

188
189 *“Notice is hereby given the Tyrone Township Planning Commission will hold a Public Hearing on*
190 *Wednesday, June 24, 2020, beginning at 6:30 via Zoom teleconference. The purpose for the Public*
191 *Hearing is:*

192 *1. To receive public comments regarding a request by John Martin for a special land use permit to*
193 *operate a church, regulated by Zoning Ordinance #36 Sections 22.05.D, 25.11.B, and 27.03.A.3, located*
194 *at 10408 Center Rd, Fenton, Michigan 48430, Tax ID 4704-21-200-040. The property is zoned FR,*
195 *Farming Residential. This meeting will be held via Zoom teleconference. A meeting link will be provided*
196 *on the township's website for public participation.”*

197 Chairman Meisel brought up the application and associated documents on the shared screen. He
198 brought up the Zoning Ordinance standards applying to Church special land uses in the Farming
199 Residential (FR) Zoning District. He summarized the application and associated documents. He
200 explained the site plan, inclusive of existing structures/features, parking calculations, etc... He
201 noted that there are occupancy load calculations included on the drawings which will need to be
202 approved by the fire authority/department having jurisdiction. He described the location of the
203 site. He indicated that the applicant is not intending to expand the structural footprint of the
204 existing building on the site (formerly the Tyrone Township Hall).

205
206 Chairman Meisel suggested that the applicant provide the public with a brief overview of his
207 proposal. John Martin (applicant) stated that the church congregation is a small, non-
208 denominational group. He indicated that the primary use for the existing building would be for a
209 place of worship (regular church services). He stated that they are not proposing to conduct
210 many other uses except for small annual/semi-annual potlucks, occasional wedding and funeral
211 services, and similar types of gatherings typically associated with church congregations. He
212 stated that they do not intend to offer daycare services. He stated that services would follow a
213 regular schedule with the exception of the occasional late service or additional weekend service
214 for special occasions on a monthly/bimonthly basis. He stated that the intent is to operate as a
215 typical church and that there are no plans to conduct any use outside of those directly associated
216 with churches. He indicated that he is always open to answer questions about the proposed use.
217

218 Dan Stickel asked if there is any plan or intent to initially/in the future, utilize space on the
219 premises for support groups, such as Alcoholics Anonymous (AA). John Martin stated that they
220 have no plans for renting/offering space for support groups. He stated that there are a number of
221 facilities in the local area where these types of support groups are already offered, so there isn't a
222 need for the use at the site. He stated that he may offer services to help members of the church,
223 such as marriage counselling. Kurt Schulze asked if there is any intent to hold wedding
224 receptions on the site. John Martin stated that they may consider holding small weddings
225 (approximately 50 or less attendees) with alcohol prohibited. He stated that such small
226 gatherings would likely occur not more than twice per year on average. Kurt Schulze asked if
227 there are any plans to rent out the building/a portion of the building for use by someone not

228 associated with the church for any use other than those specified in the use statement. John
229 Martin indicated that they would not rent out the building. Kurt Schulze asked if there was any
230 intent to sponsor any groups such as the Boy Scouts of America (BSA) or Girl Scouts of the
231 USA (Girl Scouts). John Martin indicated that there is no plan to sponsor such groups, but they
232 have not been asked or approached so they have not considered it. Kurt Schulze asked if there
233 was any intent to sponsor groups such as AA. John Martin indicated no. He stated that, if
234 approached and asked to sponsor AA, he would point that person in the direction of local
235 facilities already offering the program. He continued, stating that the Church's approach to
236 helping those with alcohol/drug addictions would be through spiritual guidance. Dan Stickel
237 asked about how the Church would operate in the case of another pandemic or similar
238 occurrence. John Martin indicated that they have not experienced any issues with practicing safe
239 social distancing practices. He stated that, during the current COVID-19 outbreak, the Church
240 has not been significantly impacted due to the small size of the congregation. He stated that, for
241 those members of the congregation that do not want to risk exposure from physically attending
242 services, they offer live-streaming services to members which can be viewed remotely. John
243 Martin stated that the Church has been in existence for approximately 18 years and, during that
244 time, have not seen any need to conduct any uses other than those indicated on the use statement
245 (all uses typical of churches).

246
247 Chairman Meisel asked the Planning Commission if they had any additional questions for the
248 applicant. Dave Wardin asked Chairman Meisel to bring up the use statement from the
249 application on the shared screen. Dave Wardin recommended that the use statement should be
250 amended to reflect the discussion on permitted and nonpermitted uses, such as AA. He also
251 recommended that the revised use statement be included on the site plan document. Dave
252 Wardin briefly explained the proposed revisions to the use statement and the incorporation of the
253 use statement onto the site plan drawing. Chairman Meisel made suggestions for the proposed
254 language modification to the use statement. Dave Wardin asked if he had contacted Ross
255 Nicholson to get topographical contour data for the subject property. John Martin indicated that
256 he has received the information. He indicated that his engineer advised that the contour data not
257 be incorporated onto the site plan drawing. Chairman Meisel suggested including the aerial
258 image with contour data as an attached page to the site plan. Ross Nicholson indicated that he
259 would send the aerial image with contour data to the applicant and Planning Commission
260 tomorrow.

261
262 Chairman Meisel asked the Planning Commission if they had any additional questions or
263 comments regarding the application. No comments or questions were received.

264
265 Chairman Meisel asked the public if they had any questions or comments regarding the
266 application. No comments or questions were received.

267
268 Chairman Meisel asked the Planning Commission and Greg Elliott if they had any additional
269 questions or comments regarding the application. Greg Elliott indicated that he did not. He
270 stated that it seems to be a relatively straightforward request. Dan Stickel agreed.

271
272 *Chairman Meisel closed the public hearing at 6:52 pm.*

273

274 *Chairman Meisel respectfully suggested that the Planning Commission move to suspend the*
275 *order of business to finish review of the Special Land Use application for efficiency.*

276
277 *Dave Wardin made a motion to suspend the order of business, placing New Business Item #1*
278 *ahead of all other business items. Kurt Schulze supported the motion. Motion carried by*
279 *unanimous voice vote.*

280
281 **NEW BUSINESS #1 (6:54 pm): Martin Special Land Use for a Church at the old Tyrone**
282 **Township Hall:**

283
284 Chairman Meisel summarized the application and discussion from the Public Hearing. He stated
285 that the Planning Commission is requesting that topographical contour data be added as an
286 attachment to the site plan, revisions to the use statement per the discussion during the Public
287 Hearing, and confirmation on the proposed maximum capacity of the building from the fire
288 authority having jurisdiction. He asked the Planning Commission if he missed anything.

289
290 Dave Wardin asked, procedurally, if the motion(s) would be regarding both a Special Land Use
291 and a site plan. Chairman Meisel replied, stating that it is a Special Land Use which requires a
292 site plan as part of the approval process. Dave Wardin asked if there should be two separate
293 motions for recommendation. Greg Elliott indicated that the Planning Commission would
294 actually approve the site plan, but make a recommendation for the Special Land Use itself. The
295 Planning Commission briefly discussed the procedural aspect pertaining to recommendations and
296 motions. Chairman Meisel indicated that the motions for the last church were done in two parts;
297 a recommendation for site plan approval and a recommendation for Special Land Use approval.
298 He stated that it was due to the fact it was a proposal for a new structure on a previously vacant
299 site which required additional agency reviews and, therefore, the site plan recommendation was a
300 separate element from the Special Land Use recommendation. He stated that, in this instance,
301 the proposal is to utilize an existing building, which will not require all of the additional agency
302 reviews and, therefore, could be considered to be an element of the Special Land Use.

303
304 Dave Wardin made a motion to recommend Township Board approval of the Send the Light
305 Church Special Land Use conditional upon; contour data being included as an attachment to the
306 site plan, amendments being made to the use statement per the recommendations of the Planning
307 Commission, and confirmation/approval from the fire authority having jurisdiction of the
308 maximum building occupancy rating. Chairman Meisel reiterated the motion for clarity. Kurt
309 Schulze supported the motion. Motion carried by unanimous voice vote.

310
311 Chairman Meisel summarized the conditions for favorable recommendation to John Martin.
312 John Martin indicated that he already has the contour information, so there's no need for Ross
313 Nicholson to send it to him. He asked which fire authority had jurisdiction. Chairman Meisel
314 indicated that the site is located on the boundary between City of Fenton jurisdiction and
315 Hartland-Deerfield jurisdiction. Ross Nicholson indicated that he did not know for certain which
316 fire department had jurisdiction of the site. He stated that he would verify and provide the plans
317 to the appropriate department requesting a review tomorrow. John Martin stated that he has
318 contacted all fire departments having jurisdiction within the Township and all of them were

319 uncertain of who had jurisdiction of his property. John Martin confirmed that he would work
320 with Ross Nicholson to get clarification on the question of fire authority jurisdiction.

321
322 John Martin thanked the Planning Commission for their time and efforts. The Planning
323 Commission thanked John Martin.

324
325 *The item was closed at 7:02 pm.*

326
327 **OLD BUSINESS #1 (7:02 pm): Betley Sight Line Determination:**

328
329 Chairman Meisel indicated that the Planning Commission had left off in discussion on the topic
330 of determining whether or not a cove exists at the subject property. Dan Stickel stated that he
331 believes, at the time they left off in the discussion, the consensus amongst the Planning
332 Commission was that a cove does exist. Rich Erickson confirmed. Chairman Meisel stated, in
333 an administrative capacity, that the determination that a cove does exist at the subject property
334 and those immediately adjacent would be consistent with the findings of the Zoning Board of
335 Appeals (ZBA) from the 2013 ZBA meeting granting a front yard setback variance associated
336 with the construction of the existing dwelling located on Lot 3.

337
338 Dan Stickel made a motion to indicate that the subject property (Lot 4 of the Runyan Lake Court
339 Subdivision/10466 Runyan Lake Road/4704-09-202-004) is located along a cove. Dave Wardin
340 supported the motion. All voted yes except for Chairman Meisel who abstained from the vote at
341 the request of the applicants. Motion carried.

342
343 Dan Stickel asked if the next item for discussion should be to determine the appropriate rear yard
344 setback for the proposed dwelling on the subject property (in accordance with the exception in
345 Footnote X). Greg Elliott confirmed. He added that the setback should be determined in order
346 to ensure that the sight lines of the immediately adjacent structures are protected, in accordance
347 with Footnote X. Dan Stickel asked Chairman Meisel to bring up the topographical drawing on
348 the shared screen. Dave Wardin recommended bringing up the latest version of the drawing
349 (revised to include additional dimensions per Planning Commission's request) which was
350 submitted the day before the meeting. Chairman Meisel located the drawing and shared it on the
351 shared screen.

352
353 Dan Stickel stated that he believes there is no question that the sight lines from the existing
354 dwelling located on Lot 5 would be impacted by the location of the proposed new dwelling on
355 the subject property. He asked if anyone on the Planning Commission disagreed with his
356 analysis. No objections were made. Dan Stickel continued, indicating that he does not believe
357 moving the location of the proposed dwelling behind the approximate average setback line
358 would significantly improve the situation in regards to sight lines. He stated that, due to the
359 location of the existing dwelling located on Lot 5, it would be extremely difficult or impossible
360 to build any new dwelling on the subject property that would not impact the sight lines.
361 Chairman Meisel stated, for administrative clarification, that the language in the Zoning
362 Ordinance does not mean that the sight lines cannot be obstructed at all. It just means that there
363 should be a compromise that reasonably protects the views of both immediately adjacent
364 properties. He stated that all three properties involved should ultimately have similar views/sight

365 lines, taking into account elevations and all other variables. He stated that, the fact that the house
366 to the north would be impacted in terms of a reduction of sight lines, would not be a deal-
367 breaker. He continued, stating that the Planning Commission is tasked with the determination of
368 how much of an impact to existing sight lines would be reasonable. Kurt Schulze stated that the
369 Planning Commission should also consider the fact that the existing detached accessory building
370 on Lot 3 is the point where the approximate average setback line is being measured. Dan Stickel
371 asked Greg Elliott whether or not the measurement from the accessory building is appropriate
372 according to the Zoning Ordinance. Greg Elliott stated that, once the determination has been
373 made that a cove exists, the setback averaging does not apply since it would then fall under the
374 exception in Footnote X. He reiterated that the Planning Commission needs to determine the
375 appropriate rear yard setback so that adjacent structures sight lines are reasonably protected.
376

377 Dan Stickel stated that he believes the location of the proposed dwelling is too close to the water.
378 He stated that the proposed dwelling would lie completely in front of (towards the lake) the
379 existing adjacent dwellings. He stated that he believes some effort should be made to move the
380 proposed dwelling further back (towards the road). Kurt Schulze stated that, if the proposed
381 dwelling is moved further back (towards the road) the question becomes whether or not there
382 would be enough distance between the proposed dwelling and the existing dwelling on the
383 subject property for the existing dwelling to remain standing and be utilized as a temporary
384 dwelling during construction. Dan Stickel stated that he is trying to separate the two aspects and
385 focus on determining an appropriate setback to reasonably protect adjacent sight lines first. He
386 continued, stating that at the end of the process, only one dwelling would exist on the subject
387 property, so that is what they should be evaluating as the primary focus. Dave Wardin agreed
388 with Dan Stickel's strategy, but added his opinion. He stated that the front yard setback would
389 be dictated by the location of the existing dwelling on the subject property (which is proposed to
390 be utilized as a temporary dwelling during construction), which was likely a scenario never
391 considered prior to adoption of the temporary dwelling standards in the Zoning Ordinance. Dan
392 Stickel stated that he believes a more reasonable effort should be made to move the location of
393 the proposed dwelling further back (towards the road) in order to protect adjacent sight lines.
394 Rich Erickson weighed in. He stated that, if one takes into account the positions of the majority
395 of existing dwellings located around the entire lake, what is being proposed would not appear to
396 be unreasonable in regards to sight lines. He stated that some homes have 180-degree view, but
397 many others do not have as much of a view due to inconsistent development patterns. He
398 referenced the location of existing dwellings in several areas around the lake, inclusive of
399 properties located within the Runyan Lake Court Subdivision to the north of the subject property,
400 specifically referencing the significant variations in rear yard (lake side) setbacks of between
401 adjacent properties. He stated that he believes it is unrealistic to assume that individual
402 properties are entitled to a full view of the lake, but they are entitled to a reasonable degree of
403 sight lines.
404

405 Penny Lucia asked the Planning Commission if the public is allowed to comment at the end of
406 the discussion or at the present time. Dan Stickel asked Chairman Meisel when the appropriate
407 time for public comments would be. Chairman Meisel respectfully suggested that the Planning
408 Commission manage as they see fit. Penny Lucia indicated that they would like to formally
409 disagree with Rich Erickson's previous statements pertaining to the degree of sight lines property

410 owners are entitled to. She stated that she believes the proposed dwelling on the subject property
411 would very greatly reduce the sight lines of Lot 5, blocking out their view of most of the lake.
412

413 Tom Landers made a public comment. He suggested that the Planning Commission use the
414 drawing provided for the 2013 ZBA application for Lot 3 when making their decision. He
415 thanked the Planning Commission.
416

417 Chairman Meisel brought up the drawing provided for the 2013 ZBA application for Lot 3.
418

419 David Anderson referenced the drawing from his prior ZBA application. He indicated that
420 anything beyond the line shown on his drawing would significantly impact the views from Lot 3.
421 He suggested using the topographic survey he had prepared for his ZBA application instead of
422 the drawings provided by the applicants for reference. He also suggested that the Planning
423 Commission consider the decision from the ZBA meeting, which indicates that if a structure was
424 erected anywhere beyond the approximate average setback line on the drawings (towards the
425 lake), sight lines of adjacent structures would be impacted. He stated that he made changes to
426 the design of his dwelling in order to preserve adjacent sight lines.
427

428 Joe Perrera made a comment in reference to David Anderson's comment regarding the language
429 in the ZBA decision letter. He stated that he believes the language in the decision letter,
430 indicating that the proposed home being located beyond the line depicted on the drawings would
431 impact adjacent sight lines, to be precedent setting.
432

433 David Anderson indicated, in reference to the survey prepared for his previous ZBA application,
434 that anything built beyond the approximate average setback line (towards the lake) would impact
435 views. He noted that all properties shown on the survey currently have spectacular views. He
436 indicated that he believes the subject property should be required to build in an area behind the
437 approximate average setback line (towards the road) so it would not impact any of the adjacent
438 views. He stated that losing any portion of existing views from properties adjacent to the subject
439 property would impact the adjacent property values, adding that that said impact may be
440 significant. He stated that potential reduction in property values should be taken into
441 consideration. He stated that nobody wants to build a new home and have the value diminished
442 as a result of a disregard for sight lines, especially in this instance where a precedent has been
443 set.
444

445 Dave Wardin stated that he does not agree or disagree with David Anderson's statements. He
446 stated that the information provided on the survey for the Anderson ZBA application is
447 insufficient in terms of determining how the approximate average setback line depicted was
448 generated. He stated that the ZBA decision letter does not specifically reference or elaborate on
449 the approximate average setback line shown on the survey.
450

451 David Anderson stated that he has a full-size version of the topographical survey he had prepared
452 for his ZBA application. He stated that, if the Planning Commission would like a copy of said
453 survey, he would be happy to provide it.
454

455 Dan Stickel asked for clarification on whether the approximate average setback line depicted on
456 the survey was generated specifically as a point of reference for approval of the location of the
457 dwelling located on Lot 3. David Anderson indicated that the survey was part of his presentation
458 to the Planning Commission and the ZBA at the time he was seeking approval for the location of
459 his dwelling on Lot 3. Dave Wardin stated that the ZBA motion only pertains to the front yard
460 setback variance that was being requested. David Anderson stated that the decision made
461 reference, twice, to the fact that any location beyond the approximate average setback line
462 depicted (towards the lake) would impact adjacent sight lines. He stated that the ZBA would not
463 allow him to build any further (towards the lake) due to the location of the approximate average
464 setback line depicted on the survey and, therefore, he modified his plans to comply. He added
465 that both the previous owner of Lot 4 and Joe Perrera gave their consent as to the location of his
466 home prior to approval.

467
468 Dan Stickel thanked those members of the public that weighed in on the discussion. He
469 suggested that the Planning Commission shift their focus back to the location of the proposed
470 dwelling on the subject property. He stated that they should work together to try to make some
471 kind of a recommendation. He indicated that he would like other members of the Planning
472 Commission to weigh in on what they believe an appropriate rear yard setback would be in
473 regards to protecting adjacent sight lines. He stated he believes more of an effort should be made
474 by the applicants to protect adjacent sight lines.

475
476 David Anderson stated that the proposed dwelling on the subject property would be located
477 completely in front of his existing dwelling (towards the lake). He suggested that anything less
478 than the information he had provided on the topographical survey for his ZBA application should
479 be considered unacceptable.

480
481 Tom Landers and Penny Lucia commented. They indicated that they concurred with David
482 Anderson's statement that anything less than the information he had provided on the
483 topographical survey for his ZBA application should be considered unacceptable.

484
485 Dave Wardin stated that he agrees the proposed dwelling on the subject property should be
486 moved back (towards the road), however, he is uncertain to what degree would be considered
487 appropriate. He indicated he is uncomfortable with relying solely on the approximate average
488 setback line depicted on the topographic survey for the ZBA application because he does not
489 know how the line was generated.

490
491 David Anderson asked Dave Wardin what he can do to help. He offered to have the surveyor
492 who prepared the drawing get in contact with him. Dave Wardin indicated that he would just
493 like to see the full-size survey. David Anderson indicated that he could have a copy of the
494 survey made and have it dropped off at the Township Hall the next day.

495
496 Molly Betley asked the Planning Commission if the approximate average setback line depicted
497 on the survey for the Anderson ZBA application complies with Footnote X in the Zoning
498 Ordinance. She stated that it doesn't appear to be consistent with Footnote X.

499

500 Dan Stickel stated that there's currently no way for them to tell whether or not the line depicted
501 would comply since there they do not have information on how the line was generated.
502

503 David Anderson stated that it doesn't matter whether or not the approximate average setback line
504 depicted on his survey complies with Footnote X.
505

506 Molly Betley indicated that her question was directed to Dave Wardin and/or the Planning
507 Commission.
508

509 Dan Stickel stated that he believes Footnote X would not apply to Lot 3 for the same reason it
510 does not apply to Lot 4; because the properties are located along a cove. He asked for
511 confirmation from the Planning Commission on his interpretation. Greg Elliott stated that the
512 exception is still part of Footnote X. He stated that the setback averaging requirement within
513 Footnote X would not apply to the properties in question because they are located along a cove
514 and, therefore, the exception applies.
515

516 Dave Wardin stated that, without having the full-size/complete topographical survey from the
517 2013 ZBA application concerning Lot 3, there is no way to tell whether or not the approximate
518 average setback line depicted on the survey is consistent with the setback averaging requirement
519 in Footnote X.
520

521 Chairman Meisel indicated that he is not completely certain since the aforementioned ZBA
522 meeting was years ago, but he believes it is possible that the approximate average setback line
523 depicted on the topographical survey may extend beyond those properties that are directly
524 adjacent to the subject property (Lot 3, in the case of the ZBA application and associated
525 topographical survey).
526

527 Dave Wardin stated that, without having the full-size drawing, there is no way to tell.
528

529 Neil Webb stated that he had done some historical research in terms of patterns of development
530 in the immediate area of the subject property. He noted that there was previously a house on Lot
531 3 located in much closer proximity to the lake than the existing dwelling located on that lot and
532 structures located on adjacent lots.
533

534 David Anderson stated that the house Neil Webb was referencing was actually a very old
535 cottage, which has since been removed as a condition for approval of the ZBA variance (for
536 construction of the existing dwelling located on Lot 3). He stated that the height of the cottage
537 was low, approximately an eight-foot ceiling height, so all existing dwellings in the immediate
538 area could see over to the lake. He stated that the height and location of the cottage could be
539 comparable to the existing detached accessory structure located in the rear yard (lake side) of Lot
540 5, in terms of height and minimal/negligible impact to adjacent sight lines. He stated that the
541 ZBA, at the time of his appeal, actually question him as to why he did not want to keep the
542 existing cottage and convert it to an accessory structure to be used for storage, because of the
543 minimal/negligible impact to adjacent sight lines.
544

545 Kurt Schulze read the last sentence from Footnote X: "For these cases, the Planning

546 Commission shall determine if a cove or peninsula exists, as well as the appropriate
547 setback required such that Sight Lines for existing adjacent structures are protected.” He asked
548 the Planning Commission, based on the context of that sentence in Footnote X, what “protected”
549 actually means. He stated that he doesn’t believe it to mean that adjacent sight lines may not be
550 affected/impacted in any way, shape, or form. He stated that, the question may be what an
551 appropriate percentage of sight lines that are to be protected should be. He stated that he doesn’t
552 believe he could make a good decision on an appropriate rear yard setback without knowing to
553 what degree the Planning Commission is obligated to protect sight lines.

554
555 Greg Elliott indicated that Chairman Meisel had previously attempted to summarize what the
556 practice for determining appropriate sight line protection in the past has been. He indicated that
557 he does not disagree with the general idea of how it has been practiced. He stated that the
558 Planning Commission is trying to find a reasonable standard. He stated that what the existing
559 views are at the time sight lines are evaluated are of importance when making a determination.
560 He stated that, if a proposed structure would potentially cut off an adjacent properties entire view
561 of the lake, that’s one thing, but if there’s an additional ninety degrees of view in the other
562 direction, that’s another. He indicated that the evaluation of sight lines is, in each individual
563 case, an analysis of the totality of the situation as it relates to views of the lake. He stated that
564 the Planning Commission is tasked with evaluation the entire situation with all variables
565 considered in order to come to a conclusion of what they believe to be reasonable in terms of
566 protecting adjacent sight lines.

567
568 Kurt Schulze indicated that he does not believe it can be assumed that a 180-degree view is
569 reasonable. He stated that, if the Planning Commission was required to ensure all properties
570 around the lake maintained 180-degree views, it would not be feasible to regulate. He presented
571 a hypothetical scenario where the first person to build on a lake could then theoretically prevent
572 anyone from building near them, specifically nothing closer to the lake than whatever they chose
573 their rear yard setback to be.

574
575 Greg Elliott agreed with Kurt Schulze’s statement that expecting full, 180-degree views would
576 not be reasonable. He stated that it is also a function of what is possible on each lot [which
577 should be taken into account when evaluating protection of adjacent sight lines]. He indicated
578 that, on the subject property, the location of the proposed dwelling is much further forward
579 (towards the lake) than it needs to be. He stated that the question is, is it reasonable to require
580 that it be moved back (towards the road) and, if so, what is the appropriate distance for it to be
581 moved in order to reasonably protect adjacent sight lines. He stated that the location of the
582 proposed dwelling on the lot is, in part, dictated by the location of the existing dwelling on the
583 property with the additional variable that the applicants would like to utilize said existing
584 dwelling as temporary housing during construction of the proposed dwelling. He stated that
585 those circumstances are not the same as the circumstances associated with construction of the
586 existing dwelling located on Lot 3. He stated that the circumstances, in the case of the current
587 existing dwelling on Lot 3, were such that the ZBA required that the previously existing dwelling
588 (cottage near the lake) located on the property was removed before completion of the current
589 existing dwelling.

590

591 David Anderson indicated that Greg Elliott's statement regarding the requirement to remove the
592 previously existing cottage on Lot 3 was inaccurate. He stated that the ZBA would have allowed
593 them to keep the cottage as an accessory structure, however, they voluntarily chose to remove it
594 from the site. He stated that the location of the cottage did not impact the proposed location of
595 his existing dwelling. He stated that the Planning Commission should be taking into account the
596 long-term effect, not just the existing conditions.

597
598 Neil Webb stated that the primary purpose that the applicants chose to position the proposed new
599 dwelling in the area depicted on the drawings was due to the existing grade of the subject
600 property. He stated that the proposed location would minimize the amount of excavation
601 required for construction, allow for the maximum degree of preservation of the existing grade to
602 maintain the natural flow of the terrain. He stated that, if the proposed dwelling was moved back
603 further (towards the road), significantly more excavation and grading would be required, which
604 would more significantly alter the existing grade and surface drainage. He stated that retaining
605 walls would be required, much like those existing around the dwelling on Lot 3, which would
606 add significant cost to the construction of the proposed dwelling.

607
608 David Anderson stated that the retaining walls that exist on his property (Lot 3) were not
609 required/necessary for the construction of the existing dwelling. He asked Neil Webb not to
610 make assumptions regarding the purpose/function of his retaining walls.

611
612 Greg Elliott respectfully requested that questions and comments should be addressed to the
613 Planning Commission.

614
615 Mark Betley stated that his understanding of the retaining walls on Lot 3 is that they were
616 necessary to keep the dwelling from collapsing. He stated that he believes the walls had initially
617 failed as a result of fill being thrown forward towards the lake. He stated that he believed the
618 house nearly collapsed as a result.

619
620 David Anderson stated that the house was never in jeopardy of collapsing and that it was built on
621 natural ground. He stated that he believed the function of the retaining walls to be an irrelevant
622 part of the discussion.

623
624 Neil Webb noted that there were previously two very large trees in the area just beyond (towards
625 the lake) the furthest point of the proposed dwelling on the subject property. He stated that they
626 were located approximately seventeen feet (17') beyond (towards the lake) the location of the red
627 line depicted on the applicant's topographical drawing. He stated that the trees were very tall
628 and significantly obstructed the views of the lake from both properties adjacent to the subject
629 property, especially when in full foliage.

630
631 Dan Stickel stated that, in his opinion, the statements regarding excavation, filling, and grading,
632 are really just technical construction details that are irrelevant to the discussion on protecting
633 sight lines. He stated that, in his opinion, the comments pertaining to the previously removed
634 trees on the subject property are also irrelevant because trees change in terms of size, seasonal
635 foliage variations, and general obstruction to views. He stated that trees are not the same as a

636 wall associated with a permanent structure and, therefore, it would not be a fair comparison, in
637 his personal opinion.
638

639 Greg Elliott stated that he believes that vegetation which previously obstructed views is a
640 relevant point which should be taken into consideration when evaluating sight lines. He stated
641 that he doesn't believe the Planning Commission has been provided with good information
642 pertaining to the trees which previously existed on the subject property.
643

644 Penny Lucia stated that she had previously provided photographs of the trees to the Planning
645 Commission.
646

647 Greg Elliott asked members of the public to refrain from making comments, unless called upon,
648 so the Planning Commission may continue their discussion.
649

650 He stated that the Planning Commission has seen the photographs of the trees. He continued,
651 stating that he doesn't believe the applicant has directly tried to establish what the existing
652 conditions were versus the proposed conditions in an effort to prove that the impact to sight lines
653 would be minimal in comparison to the sight lines as they existed prior to removal of the trees.
654 He stated that, in his opinion, vegetation should be taken into account when evaluating the
655 potential impact to sight lines of adjacent properties.
656

657 Dave Wardin indicated that he believes photograph(s) of the trees were provided and reviewed
658 during the February Planning Commission meeting which demonstrated the views that existed
659 when the trees were present from various perspectives.
660

661 Neil Webb indicated that he had also provided a rendering of the trees to demonstrate the views
662 that had existed at that time when the trees existed in full bloom versus the proposed view with
663 the proposed new dwelling.
664

665 Ross Nicholson indicated that the photos should be included in the February 11th, 2020 meeting
666 packet.
667

668 Penny Lucia indicated that there were drawings of those trees which were superimposed based
669 on Mr. Betley's memory/recollection of how they impacted views. She stated that she had
670 provided the Planning Commission with actual/physical photographs of the trees during a
671 previous meeting.
672

673 Mark Betley asked Chairman Meisel to pull up the photographs of the trees he had previously
674 provided to the Planning Commission on the shared screen.
675

676 Chairman Meisel attempted to locate the photographs. Ross Nicholson volunteered to re-
677 forward the photographs via email to expedite the search for the photographs. Chairman Meisel
678 located the rendering of the trees that Neil Webb previously referenced and brought it up on the
679 shared screen. Kurt Schulze asked Chairman Meisel to return to a previous rendering without
680 the trees, which showed the projected view from the adjacent dwelling located on Lot 5 with the
681 proposed dwelling superimposed. He stated that the rendering demonstrates what the projected

682 views from Lot 5 would be if the proposed dwelling is built in the location being proposed. He
683 asked Mark Betley to confirm. Mark Betley indicated that the rendering was the initial rendering
684 to demonstrate the potential impact to the sight lines from Lot 5 as was requested by the
685 Planning Commission. Kurt Schulze asked Mark Betley if the rendering still accurately depicts
686 the proposal and potential impact to adjacent sight lines. Mark Betley indicated that he believes
687 it was accurate back when it was submitted. Dan Stickel asked if the portion of the proposed
688 dwelling depicted in the rendering was still consistent with the current proposed placement of the
689 dwelling in regards to the projected view of the lake from Lot 5. Mark and Molly Betley
690 confirmed. Dan Stickel stated that there have been revisions to the design of the proposed
691 dwelling in terms of orientation and location of the garage, but he believed that the rendering on
692 the screen still accurately depicts the area of the proposed dwelling which would be visible from
693 Lot 5 since the proposed rear yard setback and external design features on that portion of the
694 dwelling have not changed. He asked the applicants to confirm. Mark Betley confirmed. Kurt
695 Schulze asked Chairman Meisel to bring up the photograph provided by the applicants which
696 shows the view from Lot 5 of the lake towards the subject property after the trees had been
697 removed. He asked the applicants to confirm that the stumps visible in the photograph showing
698 the projected view from Lot 5 demonstrated where the trees had existed prior to removal. Mark
699 Betley confirmed. Kurt Schulze asked Chairman Meisel to bring up the rendering showing the
700 projected view from Lot 5 with the proposed dwelling superimposed on the subject property that
701 was initially submitted by the applicants. Kurt Schulze asked the applicants to describe how the
702 views with the rendering of the proposed dwelling differ from the views from the same position
703 when the trees were present. Mark Betley referenced the top of an existing tree that is visible
704 beyond the roofline (near the chimney) on the rendering of the proposed dwelling superimposed
705 from the vantage point of Lot 5. He indicated the height of the existing tree is consistent with the
706 height of the trees that he had removed from the subject property. Penny Lucia objected,
707 indicating that the tree height was not consistent. Mark Betley continued, stating that the trees
708 significantly obstructed the view of the lake from the existing dwelling on the subject property.
709 He stated that the trees were removed in order to create a view of the lake which previously had
710 not existed. David Anderson indicated that it is his goal to have a view of the lake as well,
711 consistent with the goal of all parties involved in the discussion. Kurt Schulze indicated that he
712 believes the ultimate goal for the Planning Commission is to determine how much of the sight
713 lines would the proposed dwelling impact and to what degree is the Planning Commission
714 obligated to protect sight lines of adjacent properties. He indicated that he still has questions in
715 regards to what percentage of sight line preservation is appropriate in order to appease all parties
716 involved. He added that he does not agree that the adjacent properties are entitled to maintain
717 100% of their existing sight lines in perpetuity. Dan Stickel stated that he believes a more
718 reasonable effort should be made to open up the sight lines for Lot 5. Penny Lucia asked if the
719 topographical drawing submitted by the applicants verify that the height of the proposed
720 dwelling as depicted in the initial rendering of the view from Lot 5 with the proposed dwelling
721 superimposed is accurate. Dave Wardin stated that there is no way to verify that the height of
722 the structure depicted in the rendering is accurate. Dan Stickel stated, in regards to the height of
723 the proposed structure depicted in the rendering, that he believes the dwelling would block the
724 whole view of the lake in that area.

725
726 Molly Betley referenced a previous discussion on the topic from the February 11, 2020 Planning
727 Commission meeting. She stated that the island on Runyan Lake was used as a reference point

728 when discussing potential impacts to adjacent sight lines. She suggested that the view of the
729 island be taken into account during this discussion as well.

730
731 Mark Betley requested that Chairman Meisel bring up the rendering he had provided which
732 shows approximate projected sight lines in relation to the entire lake. Chairman Meisel indicated
733 that he had just received a number of images from Ross Nicholson related to the discussion on
734 how the previously removed trees on the subject property impacted adjacent sight lines.

735
736 Joe Perrera indicated that he had to leave the meeting. He thanked the Planning Commission for
737 their time and efforts on this issue. He requested that the Planning Commission move the
738 proposed dwelling back (towards the road) appropriately. He asked that they protect his sight
739 lines as well as his property value. He thanked the Planning Commission again. Chairman
740 Meisel thanked Joe Perrera.

741
742 Chairman Meisel brought up the photographs previously submitted by the applicants that showed
743 the trees that had recently been removed from the subject property. The Planning Commission
744 viewed the photographs. Mark Betley referenced in one of the images that there are other black
745 walnuts and other mature trees located around the lake which potentially obstruct views. Mark
746 Betley requested that Chairman Meisel bring up the rendering he had provided which shows
747 approximate projected sight lines in relation to the entire lake. He explained that the image
748 shows projected sight lines with the proposed dwelling considered. He indicated that, if the trees
749 were still present, most of the sight lines would be either significantly reduced or eliminated.
750 Chairman Meisel brought up an aerial image of the property from Google Maps for reference.
751 Mark Betley pointed out the trees shown on the aerial image, including those on the subject
752 property which had been recently removed, to demonstrate how they impacted the views from
753 the subject property and adjacent properties. Greg Elliott stated that a relevant inquiry might be
754 to determine what may have existed on Lot 4 (subject property) which would have impeded the
755 views from Lots 5 and 3 (adjacent properties), from a historical perspective, versus how the
756 proposed dwelling would impede the views. Mark Betley indicated that the trees that had been
757 removed from the subject property impeded the views to the lake more significantly than the
758 proposed dwelling would. Penny Lucia stated, based on the photographs of the trees provided,
759 that the lake was still visible through the leaves on the trees. She argued that the trees would be
760 a more aesthetically pleasing view than that which would exist with the proposed dwelling
761 present. She stated that she understands that there will be some loss in regards to the field of
762 view from Lot 5, but there should be a compromise to reduce the impact to the existing views.
763 Molly Betley indicated that the photograph of the trees referenced by Penny Lucia in her
764 previous statement was taken in early spring when the trees were not in full bloom. David
765 Anderson stated that the trees that have been removed are not relevant to the discussion. He
766 added that new trees have been planted on the subject property as well. Molly Betley stated that
767 they had also provided a photograph of the trees taken from the lake which was taken when the
768 trees were in full foliage. Penny Lucia stated that looking at the trees from the lake towards the
769 dwellings would not affect the view from Lot 5. Molly Betley indicated that the photograph
770 demonstrates the fullness of the trees. Ross Nicholson asked Chairman Meisel if he had received
771 the photograph Molly Betley had referenced. Chairman Meisel brought the photograph up on
772 the shared screen. Molly Betley pointed out that the existing dwelling on the subject property is
773 not even visible from the vantage point where the photograph was taken due to the fullness of the

774 trees. Mark Betley stated that there are people who live on the lake who were unaware that the
775 existing dwelling on the subject property even existed due to the obstruction of views created by
776 the trees. He stated that the previous owner of the subject property was renting out the home to
777 tenants prior to his purchase of the property. He indicated that the former owner of the property
778 would not allow the tenants to remove the trees from the property. Penny Lucia stated that the
779 trees did not always exist. David Anderson indicated that he has photographs going back to a
780 time before the trees existed. He stated that he does not believe the trees are relevant, especially
781 since new trees have been planted on the subject property which will likely obstruct views to the
782 lake as they mature. Mark Betley stated that the Planning Commission could look back at
783 historical images of the views from before David Anderson's current dwelling existed.
784

785 Dave Wardin asked Chairman Meisel why the existing dwelling located on Lot 3 was required to
786 go before the ZBA before it was approved. Chairman Meisel stated, to the best of his
787 recollection, that the original placement of the home would potentially impact sight lines. In
788 order to protect adjacent sight lines, the proposed location of the dwelling was moved back
789 (towards the road), resulting in encroachment into the required front yard setback, which
790 ultimately required a setback variance through the ZBA. He asked David Anderson to confirm.
791 David Anderson confirmed. He stated that the ZBA determination letter is consistent with
792 Chairman Meisel's recollection. He added that consent for the variance was expressed by the
793 owners of both properties located immediately adjacent to his property (Lot 3).
794

795 Dave Wardin indicated that he understands the basis of the discussion on the trees in relation to
796 sight lines, however, he personally does not consider them to be relevant in the discussion. He
797 stated that trees are trees, not walls. He asked if the ZBA made their decision based on the
798 location of the approximate average setback line depicted on the topographical survey or if it was
799 just mentioned during the discussion. David Anderson indicated that the topographic survey was
800 submitted as part of the complete ZBA application and the approximate average setback line was
801 not specifically requested by the ZBA before they considered approval of the variance request.
802 He said that the proposed location of his dwelling depicted on the survey was agreed upon by the
803 ZBA and the adjacent property owners. Dave Wardin stated that the sight lines were a ZBA
804 determination. He asked David Anderson to confirm. David Anderson confirmed. David
805 Anderson stated that the ZBA determination set the precedent. Chairman Meisel stated, based
806 solely on his recollection of the ZBA meeting from 2013, he believes that because of the
807 language in Footnote X (making note that he does not know for certain if the current language in
808 Footnote X is consistent with the language during the time of the ZBA meeting, but assuming it
809 is different because the Planning Commission had, at some point, revised the language to
810 improve the process), the approximate average setback line depicted on the Anderson
811 topographical survey extended beyond the immediately adjacent structures (as is currently
812 required for setback averaging under Footnote X). He stated that it was likely shown on the
813 survey in an attempt to show the approximate average of rear yard setbacks of properties within a
814 certain distance of the subject property based on a number of other variables such as topography
815 and existing development. David Anderson confirmed. David Anderson indicated that the deck
816 located in the rear of his existing dwelling was also considered in determining the approximate
817 average setback line.
818

819 Mark Betley stated that he would like to focus the conversation back to a statement made by
820 Kurt Schulze earlier regarding what the actual expectations are for determining the appropriate
821 rear yard setback to protect adjacent sight lines would be. Greg Elliott asked Mark Betley, in
822 regards to the location of the proposed dwelling on the subject property, what the approximate
823 setback to the property line adjacent to the lake would be. Mark Betley stated that they have
824 provided documents which include that information. He stated that he believes that the proposed
825 rear yard setback is around one hundred and thirty-seven feet (137') from the lake. Chairman
826 Meisel brought up the latest topographical drawing provided by the applicants on the shared
827 screen. Dave Wardin pointed out that the dimension which shows 137' on the drawing is from
828 the edge of the proposed dwelling to the lake, not the property line adjacent to the lake. David
829 Anderson stated that the dimension showing 137' does not include the deck which shared a
830 common roofline with the rear of the proposed dwelling. He indicated that the deck should be
831 considered the corner of the structure and included in the measurement as he was required to do
832 for approval of his dwelling. Mark Betley asked David Anderson to refrain from interrupting.
833 He stated that he does not interrupt David Anderson.

834
835 Greg Elliott stated that he would like to know the actual dimension from the edge of the
836 proposed dwelling, inclusive of the rear deck, to the rear yard property line adjacent to the lake.
837 Mark Betley indicated that, according to the Zoning Ordinance, the rear yard setback is actually
838 measured from the approximate high-water mark of the lake, not the property boundary. He
839 asked for confirmation. Greg Elliott indicated that he believed that the setback was measured
840 from the property boundary. Chairman Meisel indicated that he believes Mr. Betley is correct
841 and the rear yard setback is measured from the ordinary high-water mark. Ross Nicholson
842 indicated that the information is located in Article 7 of the Zoning Ordinance, Section 7.04.C-
843 Yards and Setbacks. Chairman Meisel confirmed that the rear yard setback is measured from the
844 ordinary high-water mark, not the property boundary. Dave Wardin stated that, according to the
845 scale of the topographical survey, the distance between the ordinary high-water mark and the
846 edge of the proposed dwelling (inclusive of the rear deck) is approximately 125' on the north
847 side and approximately 115' on the south side. Dave Wardin and Greg Elliott briefly discussed
848 the approximate rear yard setback distance according to the topographical drawing. Greg Elliott
849 stated that he is attempting to determine if the proposed rear yard setback would be consistent
850 with the average rear yard setbacks of both immediately adjacent dwellings (Lots 3 & 5). Mark
851 Betley asked for clarification on how Dave Wardin came up with the dimensions he had
852 indicated to be the approximate rear yard setback of the proposed dwelling. Dave Wardin
853 explained that the measurement includes the rear deck as part of the proposed structure, which is
854 not factored into the measurement depicted on the topographical drawing. Mark betley indicated
855 that the rear deck extends approximately 14' from the rear of the proposed dwelling, which is
856 depicted on the house plans that had been previously provided. Dave Wardin indicated that the
857 rear yard setback would then be closer to 123' as opposed to the 125' he had previously
858 estimated. Greg Elliott stated that the topographical drawing should also include the rear yard
859 setbacks for the structures located on the properties directly adjacent to the subject property (Lots
860 3 & 5). He stated that the average rear yard setback of those two properties would be somewhere
861 between 150' and 185'. Mark Betley and Greg Elliot briefly calculated the approximate rear
862 yard setback average for the immediately adjacent properties. Greg Elliott indicated that the
863 approximate average rear yard setback would be roughly 167'. He stated that, if the cove
864 exception in Footnote X could not be applied, the proposed dwelling could not be located where

865 it has a rear yard setback less than 167'. Dave Wardin indicated that it would require the
866 proposed dwelling to be pushed back approximately 30' (towards the road). Mark Betley stated
867 that, because of the cove exception in Footnote X, that is not the case. He asked for
868 confirmation. Dave Wardin confirmed that the setback averaging requirement would not apply,
869 however, it does not necessarily prevent the Planning Commission from requiring that it does not
870 exceed the average rear yard setbacks of the adjacent structures. Kurt Schulze indicated that the
871 Planning Commission would still need to protect the sight lines of adjacent properties. Greg
872 Elliott stated that the minimum setback would be at or more than the average of adjacent
873 structures. He stated that the language in Footnote X includes the word "may" which gives the
874 Planning Commission discretion in imposing a minimum rear yard setback. Chairman Meisel
875 added, in an administrative capacity for clarification, that the language in Footnote X is written
876 that way to take into account variables such as topography, existing adjacent development, and
877 the fact that a cove in one area may be different than another. He stated that it was intended to
878 consider that there may or may not need to be relief from the setback averaging requirement,
879 based all of the variables. Dave Wardin stated that he still believes that the proposed location of
880 the dwelling on the subject property would impact the views from Lot 5 more than it needs to.
881 He stated that he is having difficulty determining what an appropriate distance would be, in
882 terms of an increased rear yard setback for the proposed dwelling, without seeing the full-size
883 survey that was prepared for the 2013 ZBA application for a front yard setback variance on Lot
884 3. He stated that he doesn't believe the decision the Planning Commission arrives at should
885 contradict the previous ZBA decision on an immediately adjacent property. Chairman Meisel
886 asked Dave Wardin if he is asking for confirmation that the approximate average setback line
887 utilized by the ZBA in 2013 is either valid or invalid in order to justify how they can establish an
888 appropriate rear yard setback for the proposed dwelling. Dave Wardin confirmed.

889
890 David Anderson offered to provide the Planning Commission with a full-size copy of his
891 topographical survey from the 2013 ZBA meeting and have the designer contact the Planning
892 Commission. Ross Nicholson indicated that a copy of the full-size topographical survey exists
893 within the Township records so providing another copy would not be necessary. He requested
894 that, it would be beneficial if David Anderson had access to/is able to provide an electronic
895 version of the full-size drawing, if possible, to expedite the distribution of the information to the
896 Planning Commission. David Anderson stated that he is not certain if he has a digital copy, but
897 he would try to find one. Mark Betley stated that he was under the impression that they had
898 provided all of the information the Planning Commission has requested in order to make a sight
899 line determination. He expressed frustration with the fact that the Planning Commission is now
900 requesting additional information from neighbors.

901
902 Rich Erickson indicated that he understands Dave Wardin's perspective, however, based on the
903 development patterns of other properties located around the lake, he believes that the proposed
904 location of the dwelling on the subject property to be reasonable. He indicated that it is his
905 personal opinion based on only the information that has been provided to the Planning
906 Commission thus far, and not based on historical data. Mark Betley agreed. He asked the
907 Planning Commission how they can reasonably gauge potential impacts to property values based
908 on his proposal for a new dwelling. He stated that he has provided documents to demonstrate the
909 facts as requested by the Planning Commission. He asked how the decision made by the ZBA in
910 2013 is relevant in the discussion. Rich Erickson stated that the background information may

911 help the Planning Commission to arrive at an appropriate number they believe the house should
912 be set back, if they determine that an increased rear yard setback is necessary in order to protect
913 adjacent sight lines. Dave Wardin agreed with Rich Erickson's statement.

914

915 Larry Laubrick (public) stated that, if the Planning Commission uses information specific to Lot
916 3 to determine appropriate setbacks for adjacent lots, there is no bearing from the water line to
917 the proposed site. He indicated that he does not believe Lot 3 should have any bearing because,
918 based on the way their approximate average setback line is measured, it extends to the north side
919 of the rear deck located on Lot 5, excluding the entire area where the new dwelling on the
920 subject property is proposed. David Anderson disagreed. He stated that the location of the
921 proposed dwelling would result in his view being restricted to look directly at the proposed
922 dwelling on the subject property. Larry Laubrick disagreed. He stated that David Anderson's
923 house sits high on the hill. He stated that the 50' tall black walnut trees that have been removed
924 from the subject property did not impede the views from David Anderson's dwelling. He stated
925 that if the dwelling on the subject property was built in the location it is currently proposed, the
926 views from the dwelling on Lot 3 would barely be impacted, if at all. He stated that the line of
927 sight requirements should pertain to the width of a lakefront lot, not views across adjacent
928 properties on either side. David Anderson strongly opposed Larry Laubrick's opinion regarding
929 the degree of views lakefront property owners should be entitled to. He indicated that he
930 believes the suggestion that waterfront property owners are only entitled to the view between
931 their property boundaries to be completely unrealistic. Larry Laubrick expressed displeasure
932 with David Anderson's interruption. He indicated that he was addressing his comments to the
933 Planning Commission. Greg Elliott directed members of the public to address all questions and
934 comments to the Planning Commission. Larry Laubrick indicated that he believes sight lines
935 should be drawn from the waters edge back towards the road side of lakefront properties to
936 ensure fairness. He stated that, if the location of the proposed dwelling is approved, the views
937 from Lot 5 would still be exceptional, understanding that they would be slightly hindered by the
938 roofline of the proposed dwelling on the subject property. He thanked the Planning Commission
939 for allowing him to make his comments.

940

941 Penny Lucia stated that she had just sent over several photographs (via email) to Chairman
942 Meisel which demonstrate the existing views from Lot 5 under the existing conditions. She
943 stated that she disagrees with Larry Laubrick's statements indicating that the views from Lot 5
944 would be protected to a reasonable extent if the proposed dwelling on the subject property is
945 approved in the proposed location on the subject property. She stated that the views from Lot 5
946 would not be reduced by fifteen percent (15%) or an insignificant amount. She stated that she
947 understands that the views from Lot 5 will be reduced to a certain degree, and understands that
948 the Planning Commission is tasked with determining the appropriate amount of a reduction in
949 views. She stated that she appreciates all of the work and consideration the Planning
950 Commission has been putting into making a sound decision. She stated that she hopes that
951 everyone can find a compromise that is acceptable to all parties involved.

952

953 Molly Betley stated that, during the February 11th 2020 meeting, there was discussion amongst
954 the Planning Commission utilizing the view of the island on the lake as a focal
955 point/approximate center of the lake. She indicated that, based on the proposed placement of the
956 proposed dwelling on the subject property, views to the island and a large portion of the lake

957 would still be visible from adjacent properties. Penny Lucia stated that she is not certain where
958 the island being used as a focal point originated. Chairman Meisel offered to provide some
959 context to the discussion. He indicated that the island being utilized as a focal point was part of
960 the preliminary stage of evaluating potential impacts to sight lines based on the limited
961 information that was available at that time. He stated that the discussion was not intended to
962 establish what might be considered a desirable view of the lake but was intended to get an
963 approximate idea of what the view might be, based on the proposed location of the proposed
964 dwelling on the subject property.

965
966 Dave Wardin indicated that he would still like to obtain and review the information from the
967 2013 ZBA appeal for a front yard setback variance in order to build the existing dwelling on Lot
968 3. Mark Betley requested that, if the Planning Commission feels that they need to consider
969 information from that ZBA appeal, that the information be provided to them internally from the
970 Township records as opposed to from the property owner of Lot 3. He asked if that would be
971 possible. Dave Wardin confirmed. He indicated that Ross Nicholson could obtain the
972 information from the Township records and distribute it to the Planning Commission. Ross
973 Nicholson confirmed.

974
975 Dave Wardin stated that he is still uncomfortable with the location of the proposed dwelling on
976 the subject property. He indicated that he believes it should be moved back (towards the road).

977
978 Mark Betley stated that he would like to point out that the existing dwelling on Lot 3 is setback
979 approximately 184' from the water. He stated that he is not familiar with very many homes
980 around the lake that are set back such a great distance from the lake. He stated that it has been
981 mentioned in previous discussions that his intent was not to locate his proposed dwelling close to
982 the water. He stated that he does, in fact, want to position the dwelling as close to the water as
983 possible while preserving as much of the adjacent sight lines as possible. He indicated that he
984 would like for himself and his family to be able to walk out to the water from the lower level of
985 the proposed dwelling and be able to access the lake without needing to traverse the steep hill
986 which is present on the subject property. Penny Lucia asked Mark Betley for clarification. Greg
987 Elliott asked that questions and comments be directed to the Planning Commission. Penny Lucia
988 stated that Mr. Betley purchased the subject property understanding the current conditions of the
989 site. She stated that she doesn't believe what Mr. Betley would like to do with the subject
990 property is relevant in the discussion. She stated that her family purchased Lot 5 understanding
991 the existing conditions and did not change them. She suggested that it may have been a good
992 idea for Mr. Betley to seek Township approval for the proposed improvements to the subject
993 property prior to purchase. Mark Betley stated that the existing dwelling on Lot 5 has existed for
994 a long time in the present location, significantly set back from the lake, but the current minimum
995 rear yard setback for the Zoning District is 50'. He stated that he believes that to force a property
996 owner to build significantly further back from what the minimum rear yard setback for the
997 Zoning District is, based only on the locations of existing adjacent structures, places an
998 unnecessary burden on the property owner.

999
1000 Dave Wardin and Ross Nicholson discussed options for quickly providing the Planning
1001 Commission with information from the ZBA records pertaining to the 2013 variance request for
1002 construction for the existing dwelling Located on Lot 3.

1003 Molly Betley referenced the topographical drawing provided by the applicants which was
1004 currently up on the shared screen. She referenced the dashed green lines depicted on the drawing
1005 which were intended to demonstrate sight lines from both lots adjacent to the subject property.
1006 She asked the Planning Commission what they were unsure about in regards to the projected
1007 sight lines depicted. Dave Wardin stated that the projected sight line from Lot 5 is drawn
1008 incorrectly. He stated that the line should be drawn to the furthest point of the rear deck of the
1009 proposed structure, not to the corner of the foundation as currently depicted. Molly Betley
1010 indicated that she believes the lines, as currently depicted, demonstrate what the resulting sight
1011 lines of adjacent properties would be if the proposed dwelling is approved. Dave Wardin and
1012 Molly Betley briefly discussed sight line calculations as depicted on the drawing, specifically in
1013 regards to the point of the proposed dwelling where the projected sight line from Lot 5 should be
1014 drawn to. Greg Elliott indicated that he agrees with Dave Wardin's statement indicating that the
1015 projected sight line should be drawn to the furthest point (towards the lake) of the proposed
1016 dwelling on the subject property.

1017
1018 Rich Erickson asked Chairman Meisel to bring up images that were used in preliminary
1019 evaluation of the sight lines for the proposed dwelling. Chairman Meisel brought up a rendering
1020 on the shared screen that was generated by the Planning Commission prior to documentation
1021 being provided by the applicants. He noted that the rendering was generated prior to having an
1022 actual site plan and, therefore, the estimated location of the proposed dwelling is not consistent
1023 with the information currently available. He stated that the purpose of the rendering was simply
1024 to get a preliminary idea of how significantly adjacent sight lines might be impacted by a
1025 proposed dwelling on the subject property. He stated that the rendering does not include any
1026 reference to actual elevations and, because of that, may not be of much relevance. Mark Betley
1027 indicated that he agreed with Chairman Meisel's statements. He stated that, because the
1028 Planning Commission determined that additional information was required, he provided the
1029 topographic drawings, the site plan drawings, the building plans, various elevation renderings,
1030 and additional information. He asked Chairman Meisel to bring up the rendering he had
1031 previously submitted which depicts the portion of the proposed dwelling that would be visible
1032 from Lot 5. He indicated that the rendering shows that some of the views from Lot 5 would be
1033 obstructed by the proposed dwelling, however, a significant portion of the lake would still be
1034 visible. Dave Wardin agreed that a portion of the lake would still be visible around and over the
1035 proposed dwelling, however, based on the topographical and elevation data available, he believes
1036 the perspective shown in the rendering may be inaccurate. He stated that it may be that the roof
1037 pitch is not accurately depicted or another aspect of the rendering, but he believes that something
1038 looked to be inaccurate. Mark Betley asked Dave Wardin how he would like him to address his
1039 questions pertaining to the perspective depicted in the rendering. Tom Landers stated that he
1040 believed the rendering to be completely inaccurate. He stated that the rendering includes a
1041 computer-generated image of the proposed dwelling superimposed onto a photograph of the view
1042 from the existing dwelling located on Lot 5. He stated that he believes the rendering holds no
1043 bearing in relation to the size of the proposed dwelling on the subject property. He stated that
1044 there is no way to tell if the rendering reasonably demonstrates what the view from Lot 5 would
1045 actually look like if the proposed dwelling is constructed. Dave Wardin asked that comments be
1046 directed to the Planning Commission. Mark Betley stated that the conversation is reverting to a
1047 similar previous discussion during the February 11, 2020 Planning Commission Meeting. He

1048 stated that he has provided all of the information the Planning Commission has requested in
1049 order to arrive at a decision. Tom Landers stated “welcome to democracy”.

1050
1051 Dave Wardin indicated that he still believes the Planning Commission should review the
1052 information from the 2013 ZBA appeal for a front yard setback variance in order to build the
1053 existing dwelling on Lot 3.

1054
1055 Dave Wardin made a motion to table the Betley Sight Line Determination request and
1056 Temporary Dwelling During Construction application pending the Planning Commission’s
1057 review of the documents associated with the 2013 ZBA appeal for a front yard setback variance
1058 in order to build the existing dwelling on Lot 3. Kurt Schulze suggested amending the motion to
1059 indicate that, following the receipt of the ZBA information the Planning Commission will arrive
1060 at a decision on the sight line determination request during the next available meeting. Dave
1061 Wardin agreed to amend the motion to include the language suggested by Kurt Schulze. Dave
1062 Wardin moved to table the Betley Sight Line Determination request and Temporary Dwelling
1063 During Construction application pending the Planning Commission’s review of the documents
1064 associated with the 2013 ZBA appeal for a front yard setback variance in order to build the
1065 existing dwelling on Lot 3 and noting that the Planning Commission will arrive at a
1066 determination on the sight line request at the next available meeting. Kurt Schulze supported the
1067 motion. Chairman Meisel asked for clarification on the date of the next meeting referenced by
1068 Kurt Schulze in the amended motion. Kurt Schulze proposed the workshop meeting scheduled
1069 for the following week. The Planning Commission briefly discussed meeting dates to determine
1070 the earliest possible date for a meeting in which a quorum would be present. The Planning
1071 Commission agreed on a meeting to be held on July 1st, beginning at 6:00 pm. Chairman Meisel
1072 recapped the amended motion. He asked if there was any further discussion. No further
1073 comments were received. He indicated that there was a motion made by Dave Wardin and
1074 support by Kurt Schulze. All voted in favor except for Chairman Meisel who abstained from the
1075 vote at the request of the applicants. Motion carried.

1076
1077 Chairman Meisel confirmed with Ross Nicholson and Dave Wardin the following steps in
1078 regards to obtaining and distributing information from the 2013 ZBA appeal for a front yard
1079 setback variance in order to build the existing dwelling on Lot 3. Both confirmed that they will
1080 coordinate with each other to ensure the information is distributed to the Planning Commission
1081 as quickly as possible.

1082
1083 *The item was closed at 8:48 pm.*

1084
1085 **CALL TO THE PUBLIC (8:49 pm):**

1086
1087 Chairman Meisel asked if there were any additional public questions or comments not related to
1088 agenda items. No questions or comments were received.

1089
1090 *The item was closed at 8:50 pm.*

1091
1092 **MISCELLANEOUS BUSINESS (8:50 pm):**

1093

1094 None.

1095

1096 *The item was closed at 8:50 pm.*

1097

1098 Chairman Meisel asked the Planning Commission and Greg Elliott if they had any additional
1099 comments or questions. Kurt Schulze asked Mark Betley how accurate the rendering depicting
1100 the view of the lake from the existing dwelling on Lot 5 with the proposed dwelling on the
1101 subject property superimposed was. Chairman Meisel brought up the rendering on the shared
1102 screen. Chairman Meisel asked Kurt Schulze for clarification on the question. He stated that he
1103 believes what he is asking is for the applicants to potentially review the rendering to verify the
1104 accuracy. Kurt Schulze confirmed. He added that the applicants should also make corrections to
1105 the rendering to correct any inaccuracies, if any exist. Chairman Meisel relayed the request to
1106 the applicants. Mark Betley stated that he will work with Neil Webb to attempt to verify the
1107 accuracy of the rendering and make any necessary corrections. Kurt Schulze stated that he feels
1108 verification of the accuracy of the rendering is important in order to determine the sight lines for
1109 Lot 5. Mark Betley stated that, based on the discussion tonight, it appears that the Planning
1110 Commission's primary concern is the potential impacts to the sight lines for Lot 5. He asked for
1111 confirmation. Kurt Schulze confirmed. He stated that, based on the information provided, the
1112 potential impacts to the sight lines on Lot 3 would be minimal compared to the impacts on Lot 5.

1113

1114 Chairman Meisel asked if there were any additional questions or comments. None were
1115 received. He thanked those in attendance for their participation.

1116

1117 *The meeting was adjourned at 8:53 pm by Chairman Meisel.*