

TYRONE TOWNSHIP PLANNING COMMISSION
Approved Work Session Minutes

November 8, 2005 7:30 p. m.

PRESENT: Sally Eastman, Joe Fumich, Dave Hanoute, Richard Hartigan, Steve Hasbrouck, Laurie Radcliffe

ABSENT: S. Randy Laue

CALL TO ORDER: 7:30 p. m by Chairman Hasbrouck

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC: No response

APPROVAL OF THE AGENDA:

Moved by Hanoute, seconded by Fumich, to approve the Agenda as amended (*).

APPROVAL OF THE MINUTES:

Moved by Hanoute, seconded by Hartigan, to approve the October 25, 2005 Regular Meeting Minutes as corrected:

Page 1, Line 14: (...Chairman **Hasbrouck Hanoute**)

Page 2, Line 22: Delete the sentence beginning at line 22

Page 3, Line 22: (**Ms. Mr.** Eastman...)

Page 3, Line 24: (Mr. Hanoute said **the his** concept...)

Page 5, Line 5: (...increase **any** cul-de-sac turning **radii radius** to 45 feet...)

Page 6, Line 35: (...support **a** creating **multiple a lot of** pointed lots...)

Page 7, Line 44: (...taking a line **to** from Faussett Road...)

CORRESPONDENCE:

- 1)* October Planning Commission Budget Summary
- 2)* November 4, 2005 - Letter from Attorney John Harris regarding the McGuire Ravine Site Condominium Master Deed and Bylaws
- 3)* November 8, 2005 - Shared driveway maintenance agreement for the Stenz - Velliky land division

SUBCOMMITTEE REPORT:

- 1) Request of **Tim, Scott, and Walter Ashley** for state statute land division of property at 8232 O'Connell Road, RE parcel 19-100-071 to create Proposed Parcel A (approximately 9.82 acres net) and Parent Parcel B (approximately 76.65 acres net). The required open space (approximately 5.00 acres) has been located on the Parent Parcel.

Mr. Hanoute reviewed the request and commented that all of the changes listed on the subcommittee report had been made and the request complied with the ordinance to the best of his knowledge.

MOTION: Moved by Hanoute, seconded by Hartigan, to recommend to the Township Board approval of the Ashley request for state statute land division of property at 8232 O'Connell Rd, RE parcel 19-100-071, as shown in the drawing from Delta Land Surveying and Engineering, revised 10-24-2005, as it complies with Township Zoning Ordinance #36. Motion carried by voice vote.

- 2) Request of **Gary R. Edwards**, for land division and site condominium development of vacant land in Section 30 with frontage on McGuire Road, R-1 parcel 30-100-017 (Parcel G). In May 2005, Mr. Edwards divided a larger parcel into 6 lots and one boundary realignment. Following the May land division, Parcel G remained eligible for an additional split. The division of G will complete the number of splits allowed by the statute. The development of the new split into site condominium units is not prohibited by the state land division statutes. Open space required by the land division has been located on the remainder of Parcel G retained by Mr. Edwards. There is a discrepancy between the LCRC approval for three access points and the number of lots proposed (4).

Mr. Hanoute explained that the concept review was forwarded to the Planning Commission for further comment. During review of new site drawings submitted at this meeting by Mr. Edwards, the Planning Commission:

- Questioned the legality of allowing subdivision of the new parcel;
- Noted that Mr. Edwards had not requested or been approved for a land division to create the site condominium parcel;
- Reviewed the Township Attorney's recommended changes to the proposed By-laws;
- Asked for LCRC site distance reviews for each of the five parcels shown with McGuire Road access;
- Asked Mr. Edwards about his plans for the Parcel G remainder;
- Supported the Subcommittee recommendations for shared driveway access for the site condominium parcels;
- Noted that condominium by-laws usually require unit owner's cooperation for maintenance of common elements including shared driveways;
- Was informed that McGuire Road was a dead end road with limited potential for an increase in use or speed limits;
- Considered the proposed development density in relationship to the zoning potential of future development on McGuire Road;
- Discussed the importance of clear vision maintenance where driveways are closely spaced;
- Noted that decreasing the number of driveways would improve the safety of the site;
- Informed Mr. Edwards he would have to comply with the requirements of Section 21.43 for buffers and landscaping;
- Reviewed the site condominium conceptual site plan submittal requirements (Section 21.43, Table 21.2) for information related to natural features, wetland boundaries, wetland evaluation; general location of trees and woodlands; flood plain areas, general landscaping plans, storm water plans, and other items required for concept plan approval; and
- Noted there might be difficulty providing the required roadside landscaping and buffers without using shared driveways.

Mr. Edwards informed the Planning Commission that:

- Individual driveways were consistent with the character of the adjacent subdivision;
- There was excellent site distance on McGuire Road;
- Individual driveways provided more flexibility in locating buildings on the sites;
- Individual driveways would eliminate the potential for disagreement between neighbors;
- He had no plans to divide the remainder of Parcel G
- He would be willing to provide shared access easements between Parcels 1 and 2 and between 3 and 4;
- The ravine acted as a ditch to drain water from McGuire Road;
- There were no wetlands associated with the property; and
- Storm water plans were usually approved along with the other agency approvals and final documents.

Mr. LeClair asked if Mr. Edwards could receive preliminary and final site plan approval at the same time. Mr. Hartigan explained that each approval would have to be approved by the Board after a recommendation from the Planning Commission, so each approval would be a two step process. Mr. Hanoute commented that there were still several concept plan requirements missing from the application. The wetland boundaries hadn't been determined and that might impact the open space. The Board didn't want to get recommendations with conditions attached, so the plans would have to be complete. Mr. Hasbrouck commented that the Planner would still have to review the Master Deed and Bylaws before final approval and the Township's Engineer might have to review the drainage plans. Mr. Hanoute reminded Mr. Edwards that it was important to have Road Commission approval of the driveway locations before providing a final plan.

Mr. Hasbrouck commented that the driveway locations should be shown on the plan and the Township would require that they be constructed as shown. If they wanted to take the risk of getting approval for the concept plans and the site plans at the same time, the Planning Commission could review them, but they should provide all of the information required for concept approval and final approval so we didn't have to approve things with conditions.

MOTION: Moved by Hanoute, seconded by Hartigan, to table Mr. Edwards' request until the concept plan is corrected and complete information is submitted, according to the Zoning Ordinance requirements for site condominiums.

During discussion of the motion, Ms. Eastman asked the planner if tabling the request would put the Planning Commission at some kind of risk for not responding within 45 days of receiving the application, or if it meant the Township Board could come back and say the Planning Commission left this plan in limbo like they have before. Township Planner Greg Milliken said that he considered the application incomplete. The 45 days doesn't begin until a complete application is submitted. Mr. Hartigan noted that the plans would have to go to the Planner and the Engineer first if they were going to submit for final review. Mr. Hanoute thought the recommendation for consultant reviews could be made at the Subcommittee once the concept plans have been approved and the final plan reviewed. Ms. Eastman suggested voting "Yes" or "No" rather than tabling the request.

Mr. Hanoute thought the request should be tabled until they give us a complete application. If they want to take the chance to submit final plans at the same time, why not? Mr. Hartigan said they could do that or they could just come back with a complete concept plan. At this point, he couldn't approve the project, although he didn't think it was a bad idea.

Mr. Hasbrouck called for a vote on the motion to table the request. Ayes: Fumich, Hanoute, Hartigan, Hasbrouck, and Radcliffe. Nays: Eastman. Motion carried by voice vote.

3. Request of **James M. Stenz** and **Cristen L. Velliky** for land division of property at 7090 Linden Road, RE parcel 29-300-013, to create three parcels. Parent Parcel C (approximately 3.8 acres exclusive of a shared driveway easement) will be accessed from Linden Road via an existing driveway. Proposed Parcel B (approximately 60,000 square feet net) and Parcel A (approximately 678703 square feet net) will be accessed with the parent parcel from a shared driveway across the Linden Road right-of-way.

Mr. Hanoute commented that the site drawing still showed a driveway paralleling the shared driveway down to the intersection. He preferred to see the driveways combined until they were closer to the existing dwelling. In addition, they needed to maintain a 50 foot radius on both ends of the turn around at the end of the shared driveway. He also felt that a column should be added to the Open Space chart noting the amount of open space provided, but he saw nothing wrong with the parcels as shown.

MOTION: Moved by Hanoute, seconded by Hartigan, to recommend approval of the land division as it complies with the ordinance.

During discussion of the motion, Mr. Hartigan asked if the open space was preserving anything of value. Mr. Stenz replied that their Surveyor told him the Township preferred to see contiguous open space on adjoining lots. The developable area wasn't large enough in Parcel B because of the right of way, so some of the open space had to be assigned to parcel A. Based on the aerial photo, Mr. Hartigan observed that there were some woodlands between parcel B and the parent parcel. That was the kind of thing the Township liked to see preserved. There also appeared to be a wooded area along the south property line worth protecting.

Mr. Hasbrouck reminded the Planning Commission that we haven't held the shared driveway public hearing so we could only review the site drawing at this time. He asked Mr. Stenz if he had explored joint use of the driveway easement with the adjoining property owners on the north. It might be a benefit to both owners to put the center of the easement on the property line with each of them providing half of the required width. Mr. Stenz commented that the owner of the front parcel had a building near the line and wouldn't have room for an easement on his property.

Mr. Hanoute explained that he had forgotten about the public hearing and asked to withdraw his motion for approval. Mr. Hartigan agreed to withdraw his second.

MOTION: Moved by Hanoute, seconded by Hartigan, to table decision on the land division request until after the shared driveway public hearing.

Mr. Stenz asked for clarification of the comments regarding the design of the shared driveway at the road. There is an existing black-top driveway to the house in good condition and of value to the parent parcel. That's why they showed the shared driveway split off after the entrance point. Mr. Hanoute replied that he didn't understand how they planned to treat the curvature of the shared driveway on the south side of the easement. The existing driveway had to be linked into the shared driveway easement in some fashion and they might have to

remove part of the paved portion to do it. They should maintain the center of the driveway in the center of the easement.

Ms. Velliky said that the Road Commission had suggested clearing and widening the entrance and then sharing the existing driveway across the right-of-way and a little beyond. Mr. Hanoute commented that the site drawing didn't show the Road Commission recommendations and Mr. Stenz offered to provide a detail for that section. Mr. Hasbrouck noted that the ordinance didn't require the driving surface to be located in the center of the easement and there was enough room to bring utilities down the easement even if the driveway was located on the south edge.

Ms. Velliky said the Road Commission had suggested widening the entrance, leaving the existing driveway to the parent parcel, and adding a shared driveway to the back two parcels so the parent parcel wouldn't have to pay for the shared driveway when they already have a driveway in good shape. Mr. Hanoute replied that it was the recommendation of the Subcommittee that all three parcels share the driveway so there would only be one penetration at Linden Road. Mr. Stenz said that would have been shown if the driveway had been detailed properly.

Mr. Stenz asked for clarification of the 50 foot turn radius requirement and Mr. Hanoute explained that the Township required a 50 foot radius on both sides of the turning area, but the turn could extend into parcel A as part of the driveway for that parcel as long as it met the shared driveway construction requirements. He then asked Mr. Stenz to add an "Open Space Provided" column to the calculation chart.

Mr. Van Hecke asked why some of the open space hadn't been located on the parent parcel to protect the wooded area. Eliminating the open space on the side of Parcel A would probably eliminate a request for a variance in the future. Mr. Stenz said that had already limited some of the parent parcel flexibility with the shared driveway easement. Since there was already an existing tree line on the south edge, they used the open space as a buffer between the new parcels and the property on the north side.

Mr. Hanoute asked if there were any structures within 50 feet of the north property line. They would have to maintain 50 feet between their easement and any adjacent structure or the land division would create a nonconforming parcel. The driveway location would turn both front parcels into corner lots which would require front yard easements from Linden Road as well as the driveway easement. The front yard setback for a private road or private ingress easement was 50 feet. Mr. Hasbrouck said the site plan should show any buildings on adjoining property within 50 feet of the easement. Once the property became a corner lot, it required two front yard setbacks to comply with the zoning ordinance. Mr. Hartigan commented that even if the accessory structure was far enough away from the property line it would still be in the front yard, so we would still have a nonconforming situation.

Mr. Hasbrouck explained that a shared driveway was limited to four parcels while a private road could have many more. The easements were the same width, but there were differences in the surface width requirements. Because of the location, this shared driveway had the potential to become a private road. Ms. Velliky asked if they could create a deed restriction to allow access to only the two parcels shown in the site drawing. Mr. Hasbrouck said that could be done, but they might not want to. There might be a need for a road there in the future.

Mr. Hanoute commented that establishing a shared driveway created a front yard out of the adjacent property and they might not want their side yard turned into a front yard. In that case, the applicant could create a narrow strip of property between the driveway and the north property line. The so called 'spite strip' would eliminate direct access to the easement and there would be no corner lot. Mr. Stenz asked if the strip could be designated as open space and was told it could.

Mr. Milliken explained that the critical issue was the definition of front lot line which was, "The line separating the lot from the public or private street right of way or easement that provides access to the lot." The easement is what creates the front lot line for the property to the north. Mr. Hasbrouck observed that the parcel to the north wouldn't have access to the driveway and he thought the rights of that owner superseded the easement.

Mr. Milliken referred to the definition of a corner lot as, "A lot at the junction of and fronting on two or more intersecting street rights-of-way. In the case of a corner lot, the 'front lot line' shall mean that line separating the lot from the street which is designated as the front street in the plat and in the application for a land use permit." Mr. Hasbrouck thought that meant that the parcel on the north wouldn't be held to be nonconforming because his front lot line parallels Linden Road.

Mr. Milliken said that definition was true when the applicant came in, but we are changing things with this application. Mr. Hasbrouck observed that this hasn't occurred in the past, because we haven't had any accessory buildings or houses that close to a shared driveway. This will probably set a precedent. If we don't have to consider it as non-conforming, that would be the better way to go if the definition fits.

Mr. Stenz recalled that the definition referred to "two public roads," and he wondered if the shared driveway was defined as public road or private drive. Mr. Milliken said there was a discrepancy in the definition of front lot line (easement) and corner lot (public streets). Mr. Hasbrouck wondered if there was a section in the road ordinance that handled that. Mr. Hanoute recalled that all the previous plans we have administered have included both the easement and the road as being front lot lines. If we regulate it that way on the subject property why would we change it for the adjacent property. Mr. Van Hecke observed that a shared driveway was classified as a private road in terms of setbacks and reviewed the definition on page 20-5 (20.02.C).

Mr. Hasbrouck and Mr. Hartigan agreed that to approve the request at this stage it would be best to follow Mr. Hanoute's suggestion, and move the easement over a few feet. However, Mr. Hasbrouck felt that road and drive easements were intended to be different because they had separate definitions in Section 24.00. Mr. Hanoute said he thought the safety issue was more important than aesthetics, and by making exceptions we could conceivably have a building within ten feet of the side lot line next to the easement. Mr. Stenz replied that he didn't think the speed on the driveway would be fast enough for that to be an issue. Mr. Hasbrouck was worried that regulating the adjoining 50 feet of a neighbor's property could be considered a taking of land whenever someone puts in a driveway. Mr. Hanoute said we have enforced the 50 foot driveway setback for three years, and called for the motion.

The voice vote on the motion to table a decision on the land division request until after the public hearing was unanimous.

Mr. Hasbrouck told Mr. Stenz that he could be represented by his attorney at the November 22, 2005 public hearing. Action on the request could be scheduled following the hearing, but would be based on the drawings reviewed at the hearing.

Mr. Hanoute suggested that the Township consult with their Attorney since this was a controversial request. Mr. Hasbrouck said the request had already been tabled and Mr. Hanoute could request attorney review under 'Other Business from Members' if he wanted. Mr. Van Hecke read from Section 20.02. BB on page 20-8 and asked if it would apply in this case. Mr. Hartigan said what he heard from listening to the planner, Mr. Milliken, is that an easement for a driveway is the same as a private road, and the language just redefines it. That goes back to Mr. Hanoute's point that if a corner lot setback is off an easement it has to be at least 50 feet.

OLD BUSINESS:

- 1) Review of revisions to the text proposed for a new Land Division Ordinance, prior to forwarding a recommendation to the Board for adoption.

Mr. Milliken noted that changes made in the text were based on comments made at the last Planning Commission meeting. Mr. Hanoute said he still had reservations regarding 'lot width' (page 3). Mr. Milliken replied that he had provided a separate memo regarding lot width for later discussion.

During review of the proposed language, the Planning Commission:

- Asked to have the utility reference on page 7 (B) revised to include a reference to 'public utility easement,' as required by the Land Division act;
- Determined the Land Division Ordinance was not a zoning ordinance;
- Decided to forward the revised land division ordinance to the Board with a request to follow their procedures for adoption of a regulatory ordinance;
- Agreed that the remaining revisions should follow the Planning Commission hearing and review procedures for zoning ordinance amendments;
- Requested attorney review of the proposed Land Division ordinance language;
- Decided not to delay adoption of the land division ordinance until all revisions to the zoning ordinance language had been made;
- Asked to have the zoning ordinance revisions scheduled for future Planning Commission review; and
- Decided not to include a specific open space definition in the proposed land division ordinance;
- Discussed how detailed the land division ordinance open space references should be.

MOTION: Moved by Hartigan, seconded by Eastman, to forward the revised Land Division Regulatory Ordinance to the Township Board with a recommendation for approval and adoption. Motion carried by voice vote.

Mr. Milliken said he would provide a copy of the new Site Plan Review language for the next meeting and reminded the Planning Commission that changes would have to be made to the Private Road and Shared Driveway ordinance section so the Planning Commission would have the authority to approve those as part of their land division and site plan approvals.

2) Discussion of recommendations for addressing the issue of minimum parcel width aside from references to the setback lines (7.05.D., 20.02.A., and 21.02.D).

Mr. Milliken noted that the current lot width definition (page 2-13 and 20.02.A) is measured from the front lot line and could result in a zero lot line width in the case of triangular lots. Some members of the Planning Commission had asked for a better definition to use with lake lots.

To avoid zero width lot lines, he recommended measuring the width of the lot at the front and back setback lines. If the real concern is the issue of water front lots, he suggested creating another standard for a minimum water frontage lot width. He observed that flexibility in lot widths allows for more creativity in road networks and lot layouts when important natural features are involved.

The Planning Commission members commented that:

- Front lot lines and rear lines might not always be parallel;
- Measurements should be made parallel to the 'respective' lot lines;
- The best way to control lake frontage is to specify the minimum width of the lot at the waters edge;
- We might need to review the definition of a 'front yard' in the case of lake lots;
- The size of the building envelope was more important than the shape of a the lots;
- Lake frontage lots should meet the zoning district minium width at the water line;
- Water frontage widths should be applied to ponds, streams, or any other areas with a water line;
- An average lot width could be established based on the existing properties with water frontage; and
- Creating smaller lots than the zoning district allows doesn't meet the intent of the Planning Commission and the Zoning Ordinance to make the community better.

The Planning Commission asked Mr. Milliken to prepare new language which would maintain the current zoning ordinance language in regard to lot width and add language which would require lots with frontage at any water's edge to meet the zoning district minimum width requirements at the water line.

3) Discussion of useable floor area (UFA) calculations

The Planning Commission considered:

- Basing UFA on 80% of the gross floor area;
- Uses like supermarkets which may not fit the profile;
- Basing the UFA on 75% of the gross floor area;
- Providing a method of adapting to changes in use; and
- Allowing a gross area option and a calculated area option as alternative methods of determining the UFA.

The Planning Commission asked Mr. Milliken to develop language which would provide options for determining useable floor area based on the gross area or the calculated area, with the gross area preferred.

NEW BUSINESS:

- 1) Request to the Township Board for amendment of the Township Fee Schedule to establish a shared driveway public hearing fee in the amount of \$300.00. At present, the fee for a private road hearing is \$600.00, but there is no fee listed for shared driveways.

It was the consensus of the Planning Commission to request the addition of a shared driveway public hearing fee to the Township Fee Schedule.

ZONING BOARD OF APPEALS REPORT:

- 1)* Zoning Ordinance Updates:

Mr. Hartigan said that the Township needed to be sure that it was updating not only the Planning Commission Zoning Ordinance books but the ZBA books. Right now the ZBA needs to have current ordinances to work with.

Chairman Hasbrouck asked Secretary Radcliffe to send a letter to the Board requesting updated copies of the Zoning Ordinance for the all the Board and Commission Members and the various Township Administrators.

OTHER BUSINESS FROM MEMBERS:

- 1)* November Subcommittee Meeting:

The Planning Commission cancelled the November 15, Subcommittee Meeting. There was only one item scheduled for review and only one of the members was able to attend on that date.

NEXT MEETINGS:

November 15, 2005 - Subcommittee Meeting (Cancelled)

November 22, 2005 - Regular Meeting

December 13, 2005 - Subcommittee Meeting

ADJOURNMENT: 9:50 p. m.


Laurie Radcliffe, Secretary
Tyrone Township Planning Commission


Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission

CORRECTIONS TO THE MINUTES:

Page 2, Line 22: (...at this meeting by Mr. Edwards ~~at this meeting~~...)

Page 3, Line 7: (He would be willing **to** provide...)

Page 3, Line 36: (...~~Ms. Mr.~~ Eastman asked the planner...)

Page 6, Line 28: (...Mr. Milliken said ~~the~~ there were...)

Page 7, Line 9: (...from listening to the **the Planner, Mr. Milliken**, is that an easement...)

Page 8, Line 21: (...more important than the shape of the lots.)