

TYRONE TOWNSHIP PLANNING COMMISSION
Approved Work Session Minutes

December 13, 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:

1)* Questions regarding a shared driveway site plan amendment for property at 9121 Faussett Road.

Charles Davis asked why his driveway plan for property at 9121 Faussett Road hadn't been approved. His property was landlocked without approval. Mr. Hasbrouck told him his driveway site plan amendment was scheduled for review by the Subcommittee on December 20, 2005.

Mr. Davis said he wanted to know what the requirements were to get a driveway modified. The land division had been approved but they didn't have a driveway. There was a problem with the way the developer handled the piece of property and that caused the trouble. He was told he had a driveway, but he is landlocked because of a shared driveway agreement dispute. He doesn't have any utility rights and he doesn't have a driveway. On top of that, he got approval for a land use permit. He has been hurt by this in the neighborhood of \$30,000.00

Mr. Van Hecke said he had been working with Mr. Davis and Ms. Christian and the Road Commission had approved a second driveway option. It is not the driveway that has already been built, but it is close to the one being used for construction. There was some confusion about whether the second option was allowed for a shared driveway or a single use driveway. That will make three 66 foot wide shared driveway easements within 180 feet.

Ms. Christian said they had to have the new driveway approved as a shared use because the Parcel D owner wouldn't sign a new maintenance agreement including them in the existing easterly easement. They had purchased the bottom parcel (Parcel B) to get access rights from Faussett Road. The condition of purchasing Parcel B was that they had to bring the access easement up to shared driveway specifications as approved by John Shelton of the Livingston County Road Commission. The new joint driveway approach was approved based on work that needs to be done. She has been working with John (Shelton) on a weekly basis and he's been out to the property to show her exactly what he wants, but she isn't going to pay SBC to move junction boxes for \$4,000 and she's not going to pay an excavator \$6,000 to move utilities if they aren't going to get approved by the Township. If they can't get their

driveway approved by the Township, there is going to be ultimate legal action because they are landlocked and they have been forced to purchase the other land to get legal rights. They were issued a land use permit, they have built the house, and now they are stuck.

Mr. Hasbrouck said the Planning Commission Subcommittee was scheduled to review the request on December 20, 2005. Once they reviewed the request, they would make a recommendation to the full Planning Commission, so it would take a little bit of time to get through that. Based on the Planning Commission schedule, the review could take place on January 10, 2005.

Ms. Christian complained that she had been trying to get on the Agenda since September. After reviewing future Planning Commission agenda projects and the Township Board's meeting schedule, the Planning Commission discussed Special Meeting options.

MOTION: Moved by Radcliffe, seconded by Hanoute, to schedule a Special Meeting for December 20, 2005 for purposes of discussing the Subcommittee agenda, to review the Davis - Christian request, and to make appropriate recommendations to the Board. Mr. Hanoute, Mr. Hasbrouck, Mr. Fumich, and Ms. Radcliffe will attend the meeting to insure a quorum. Motion carried by voice vote.

APPROVAL OF THE AGENDA:

Moved by Hartigan, seconded by Radcliffe to approve the Agenda as amended (*).

APPROVAL OF THE MINUTES:

- 1) November 22, 2005 Regular Meeting Minutes: Moved by Hanoute, seconded by Hartigan, to approve the minutes as corrected:
Page 4, Line 3: (Mr. Hasbrouck reminded ~~Mr. Mv.~~ Varcoe...)
Page 5, Line 42: (~~The ZBA has to determine if the issues do or do not meet the ordinance requirements. When you allow flexibility, as in a PUD agreement, it can create variable standards based on natural features or other justifications determined by the Township.~~)
- 2) November 22, 2005 Varcoe Public Hearing Minutes: Moved by Hanoute, seconded by Hartigan, to approve the minutes as corrected:
Page 1, Line 34: (...in according to ~~the~~ regulations.)
- 3) November 22, 2005 Stenz-Velliky Public Hearing Minutes: Moved by Hanoute, seconded by Eastman to approve the minutes as corrected:
Page 1, Line 53: (Jason Pagnani, 8156 Driftwood, said ~~was~~ he was purchasing...)

CORRESPONDENCE:

- 1)* December 9, 2005: E-mail from Ms. Eastman providing notes from the December 1, 2005 MTA Land Division Training Session.

SUBCOMMITTEE REPORT:

No report

OLD BUSINESS:

- 1) Review of proposed final useable floor area (UFA) language (December 2, 2005)

Mr. Milliken commented that he had tried to be more specific about when storage, hallways, and similar spaces should be excluded from the useable floor area calculation.

The Planning Commission asked for revision of the last sentence to read, "Utility or mechanical equipment rooms, hallways, emergency or access stairwell, sanitary facilities, **and/or** storage areas shall be excluded from the measurement unless used or intended to be used for the primary function ~~or use~~ of the unit or structure."

Mr. Milliken said he would make the changes and the language would be available for the next Public Hearing.

- 2) Review of proposed final Minimum Lot Width language (December 2, 2005)

The Planning Commission:

- Questioned how the definition would work if a high water mark didn't run between lot lines;
- Wondered if there might be a future problem with defining a "high water mark," based on recent court decisions involving the Great Lakes;
- Referenced a previously established state bench mark;
- Suggested providing or own inland lakes definition;
- Considered defining the high water mark through observing scouring or bank edges; and,
- Suggested looking for a statute definition.

Mr. Milliken said he would do some further research and noted that right now, the only definition that would need to be added to the Zoning Ordinance was the one proposed for "Waterfront Lots." Although the definition for a pond was included in this discussion, he didn't think it related to waterfront lots.

- 3) Review of proposed final Article 23.00 - Site Plan Review and Impact Assessment language (December 2, 2005)

Mr. Milliken explained that the December draft showed the most recent changes that had been made to allow the Planning Commission to approve Site Plans. Section 21.16, dealing with inspection and penalties, still retained a reference to the Township Board in case fines or other penalties needed to be authorized.

Mr. Hasbrouck asked to have this Article scheduled for review at the next Ordinance Public Hearing.

- 4) Review of proposed changes to the final Land Division Ordinance language (12/06/05) based on information received at the December 1, 2005 MTA Land Division training session. Additions and recommendations for consideration have been shown in **bold face** type. Statute language permitting variances to the depth to width requirements has also been included for discussion.

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Ms. Eastman said that one of the most important things was to define when a land division takes place. It could be at the time of approval, at the time of sale, or at the time of filing. Some of the townships do the filing themselves if it isn't done within a specific time period or they declare it invalid if it isn't filed within a specified time period. We have to tell the Register of Deeds not to record any split unless it has our approval.

Mr. Van Hecke explained that the Assessor assigns a parcel number to new parcels, sometimes before it is recorded and sometimes after. Once the parcel number is assigned, the Assessor keeps the records. Illegal splits can happen if the owner fails to record the land division after it is approved by the Board or the owner records a drawing and description not approved by the Board. The owner gets a parcel ID number when they bring the Assessor a letter from the Board stating the split was approved.

Mr. Fumich then asked if it was the Planning Commission's responsibility to see that it was recorded and Ms. Eastman said that is what she was asking. The statute doesn't say when the split has to be recorded.

Mr. Van Hecke said that applicants are supposed to record what the Township approves, but they don't always do that. After a split has been issued a Parcel ID number, he can issue a land use permit. The problem is the property the Callaghans sold had different easements than the Planning Commission and Board had approved. He gave the building permit based on the drawing the Township approved, not the drawing the land sale was based on.

He had contacted Sally Reynolds (the County Register of Deeds) trying to work out some way to keep the county from recording something that hasn't been stamped by the Township. Any surveyor or anyone else can go there and record anything they want. And that's what happens. He asked her not to record anything unless the Township approved the plan and she said by law she couldn't do that.

Ms. Eastman said that wasn't true. From what she heard at the MTA meeting, if she wouldn't do what we asked, we could go to the County Prosecutor and then we could go to the Attorney General for a ruling to make them do it.

During discussion of the proposed Land Division Language, the Planning Commission:

- Asked for language in the Land Division Ordinance or the Ordinance Definitions stating the point when a land division takes effect and when copies of the recorded site drawings and documents should be returned to the Township;
- Discussed the County Register of Deeds land division recording policy;
- Asked to have a letter forwarded to the County Register of Deeds telling them not to record any land divisions not stamped by the Township;
- Asked to have language in the ordinance stating that the County should only record approved land divisions;
- Suggested making the applicant responsible for recording the land division by adding language to the Ordinance stating that the Assessor could not assign a property ID number until he receives a registered copy of the approved land split with the liber and page number on it;
- Was informed that two individual parcels under single ownership, but with separate ID numbers, had recently been split by the Assessor, leaving one of the parcels land locked;

- Reviewed the statute requirements for availability of access and access quality (PA 591 as amended, Sec.109(5)(b) ;
- Considered going beyond the statute in the land division ordinance to require improved access;
- Was informed that land locked parcels or other parcels which have been created, recorded, or re-split without Township review or approval could be labeled "illegal land divisions" in the Township records;
- Could request that the Board or Assessor send a letter to the Register of Deeds asking them to label the parcels illegal or remove them from the County records;
- Should follow the MTA recommendations if the County refused to cooperate at that point;
- Considered a recommendation to the Board that the Assessor not split parcels without following the Township land division procedures; and
- Thought that all access easements should be reviewed and approved by the Township.

MOTION: Mr. Hanoute moved to authorize the Secretary to write a letter to the Township Board asking them to send a letter to the County Register of Deeds asking the Register of Deeds to not record any land divisions or access easements without an approved stamped drawing from Tyrone Township. Mr. Hartigan supported the motion and said it was a start, but if that didn't work we would take the next step and have the Attorney send something on.

Ms. Eastman said that the MTA instructor didn't cite the portion of the statute that would allow us to set conditions for recording, but in her meeting notes she had written down that we could ask the Register of Deeds not to record the split. If they won't do what you ask, then you go to the County Prosecutor, and the Attorney General. Mr. Hartigan thought that we should reference the MTA recommendation about refusing to register land divisions in the letter. In the meantime, we start the second part of this which is to evaluate our land division ordinance and write in the additional restrictions. Mr. Hartigan wondered if the Township could impose a condition on the County that by law they may not be able to grant.

Recording Secretary Burtch said it was her understanding that the MTA recommendation referred to the procedure to be followed when the Township discovered an illegal split had been recorded without Township review or approval. While Ms. Eastman's process was going forward, the MTA also recommended that the Assessor note that the split is illegal in the Township records and then forward a letter from the Board or the Assessor to the Register of Deeds and the County Equalization Department asking them to remove the split from their records or at the least, note that it is an illegal split. If the Register of Deeds and Equalization Director refuse to comply with the Township's request, the Township could contact the County Prosecutor, their County Commissioner, and the Attorney General to get County cooperation. Noting that the split was illegal in the Township and County records was the fast way to get the attention of the seller, the buyer and the mortgage company and encourage the owner to comply with the Ordinance requirements. The person(s) responsible for making initial contact with the County and state officials should be stated in the ordinance.

During discussion of the motion, the Planning Commission considered:

- Whether the Register of Deeds could legally refuse to record a document;
- Sending a letter so we could get a written response from the Register of Deeds which would let us know what could be done one way or another;

- Providing a process that was very clear about what applicants had to do to record and when it had to be done after approval of the land division;
- What a "complete and accurate" application should include:
- The point in the approval process when the survey and accurate legal descriptions would be required:
- Meeting the 45 day approval or denial time limit when shared driveways or private roads were involved;
- Establishing a time limit for recording land divisions once they have been approved;
- Adding ordinance provisions for concept reviews, and 45 day waivers;
- Requiring surveys, legal descriptions and maintenance agreements as part of the approval requirements;
- Whether to approve shared driveways and private roads separately or include them as part of the land division review associated with waiving the 45 day time limit;
- Adopting the Zoning Ordinance as a regulatory ordinance;
- Stating exactly what was required in the Land Division Ordinance to minimize the amount of time cross-referencing the Zoning Ordinance;
- Mr. Hanoute's request to have the survey reference removed from the first paragraph of Section 17.254 to be listed later in a separate section;
- Mr. Hartigan's recommendation to list a survey of the property and the parcels created in Section 17.274 as one of the items included in a drawing to be referenced as "a site drawing which includes the following items;" and
- Permitting the use of a single site drawing, but requiring a legal description and boundary survey for each parcel, a legal description for private road easements, and references to the specific parcels to be served by a shared driveway or private road.

While reviewing the proposed text changes (12/07/05) additional revisions were requested for:

- Sec 251(4 of 12): Inclusion of a **complete and accurate** application in addition to ownership information;
- Section 17.252 (4 of 12): Addition of language which lists legal descriptions and maintenance documents as part of the requirements, particularly maintenance agreements for roads and driveways to Section A;
- 17.252.B (5 of 12): Referring to **development** rather than **division** rights or possibly relocating the reference to 17.281 (9 of 12);
- 17.271 (6 of 12): Adding language to the waiver section that shared drives and private road reviews, or agency and professional reviews connected with a land division may require more than 45 days;
- 17.274.B: (7 of 12): Including maintenance agreement references in regard to open space and easement descriptions; -
- 17.281 (9 of 12): Referencing site drawings, surveys, legal descriptions, maintenance agreements and other legal documents to be recorded by the applicant;
- 17.281 (9 of 12): Recording of the documents within **90 days** of approval;
- 17.282 (9 of 12): Specifying who will be responsible for notifying the Assessor of violations, who will be responsible for receiving recorded drawings, and who will notify the applicant that the time approval period has elapsed and they will have to resubmit; and
- 17.291 (11 of 12): Inclusion of language stating that the applicant should have first obtained **all approvals required by the Land Division Ordinance and the Zoning Ordinance.**

The Planning Commission decided not to include any of the statute language from Section 109, Subsection 5, regarding length to width variances in the Land Division Ordinance.

Mr. Hanoute reminded Mr. Hasbrouck that he had made a motion to send a letter and asked to have it voted on. Mr. Hartigan reminded the Planning Commission that the motion was to authorize the Secretary to send a letter to the Board asking the Board to send a letter to the County. Mr. Hasbrouck also thought we should ask the Board to notify the Assessor to not issue an ID number unless the approved drawing has been recorded.

Mr. Hasbrouck called for a vote on the motion which was approved by a unanimous voice vote.

- 5) Review of the proposed changes to Zoning Ordinance Article 24 - Private Road, Shared Driveway, and Access Easement Standards.

The review was postponed until the next meeting to provide more time for review and discussion of corner lot line considerations.

NEW BUSINESS:

- 1)* Recommendations regarding the December 27, 2005 Planning Commission Meeting

MOTION: Moved by Hasbrouck, seconded by Eastman, to cancel the December 27, 2005 Regular Meeting due to lack of agenda items. Motion carried by voice vote.

ZONING ADMINISTRATOR'S REPORT:

- 1) Lake Shannon Meeting

Mr. Van Hecke said that Lake Shannon Association had held a meeting to discuss fire service. They were concerned about service from Fenton Township and wanted to consider association with the Hartland - Deerfield Fire Authority for fire protection. Part of the Association is located within Deerfield Township and the Authority has a station located on Parshallville Road. The Fenton Township facility is much farther from Lake Shannon than the Hartland - Deerfield Authority facilities. After questions were raised by the Association members, a fact finding committee was appointed.

- 2) Unauthorized Land Division

Mr. Van Hecke said at the time the Irish Hills development was approved in 2002, some metes and bounds land divisions were created. One of the lots supposedly created with frontage on Dean Road is only 1.25 acres (Parcel B) and has been recently sold. He has been unable to find any language approving the lot in the Township records, so the parcel is actually an illegal land division. The parcel was recorded and the Assessor's records show that a Parcel ID number was issued January 23, 2002 for what was a non-conforming parcel. The Irish Hills Site Plan was approved September 9, 2002.

Mr. Hartigan said he thought that all the lots accessed from Dean Road were part of the PUD proposal. Mr. Van Hecke said that this lot wasn't part of the approval and didn't have a site

condo parcel number. Parcel E was approved to be annexed to the commercial area on US 23 and the two approved on Dean Road (C and G) were approved to become part of Irish Hills. The purchaser of Parcel B wants to build a house on a parcel that is non-conforming.

Mr. Van Hecke told the purchaser that it was a non-conforming parcel and fell under the non-conforming provisions of the ordinance. The applicant said it had a parcel number and he wanted to build on it. The minimum parcel size required in that district is two acres. Mr. Hartigan asked him to go back and review the documentation of what has been approved for Irish Hills.

ZONING BOARD OF APPEALS REPORT:

OTHER BUSINESS FROM MEMBERS:

1)* Election of Officers

MOTION: Moved by Hanoute to nominate the current officers to continue in office. The motion was seconded by Mr. Fumich. Chairman Steve Hasbrouck, Vice Chairman Richard Hartigan, and Secretary Laurie Radcliffe were elected by unanimous voice vote to serve for another year.

Mr. Hartigan recommended that Subcommittee members remain the same for the coming year as well. Mr. Hasbrouck noted that those were appointed positions but thought the Planning Commission could stay with the same members and alternates for now.

3)* Comments regarding changes proposed for Tyrone Park (Cider Mill Crossing)

Mr. Hanoute said Mr. Hasbrouck and he had been meeting with representatives of Tyrone Park, regarding changes they proposed for expanding the number of lots and developing conventional housing units. They have an option to purchase new property on the west side of the development, but the lots they are proposing there don't meet the minimum size requirement for the zoning district. They are requesting that the new parcel be rezoned Mobile Home Park and that they be allowed to construct stick built homes there as well as in the park under a given site plan.

The Township Board had asked for recommendations from Mr. Hasbrouck and Mr. Hanoute about approval of the plan. Mr. Hasbrouck and Mr. Hanoute agreed that they could only act as members of the Planning Commission and not give an approval recommendation to the Board without a Planning Commission review. One of the bigger issues is that the developer wants to do a conditional zoning for this project and they feel that a benefit of their proposal would be an increase in the Township tax base. Mr. Van Hecke thought that we might consider an R-1 zoning for the property and Mr. Hasbrouck said that wasn't what they were requesting. Mr. Hartigan asked if they planned to sell the lots so the units could be taxed as a conventional house and if they would all be stick built. He has seen this type of development happen in other areas. Ms. Radcliffe said that one of the things to be considered was that the Fire Department would no longer be across the street from this development. The closest fire truck will be located on Owen Road. That's a lot of houses to deal with for a fire department 30 minutes away.

CORRECTIONS TO THE MINUTES:

- Page 1, Line 27: (...was landlocked without ~~the~~ approval.)
- Page 3, Line 5: (Mr. Milliken commented that ~~he the~~ had tried...)
- Page 3, Line 10: (...areas shall be exluded from the measurement...)
- Page 3, Line 13: (...the changes and~~e~~ the language...)
- Page 4, Line 14: (...the Planning Commission's responsibility to see...)
- Page 4, Line 22: (...not the drawing ~~he sold~~ **the land sale was based on.**)
- Page 4, Line 41: (... the County ~~would~~ **should** only record...)
- Page 6, Line 46: (...language stating ~~that the~~ that the applicant...)
- Page 7, Line 7: (Mr. Hasbrouck also thought ~~the~~ we should...)
- Page 7, Line 23: (...the December ~~20~~ **27, 2006** Regular Meeting...)
- Page 7, Line 13: (...consider association with ~~with~~...)
- Page 8, Line 30: (They have ~~optioned~~ **an option to** purchased new property...)
- Page 8, Line 44: (...conventional house ~~would be taxed~~ and if they would...)
- Page 9, Line 2: (...to go back to court and **it was his understanding that** public hearings weren't required...)

Ms. Eastman asked if the consent judgment would affect the request. Mr. Hanoute said Tyrone Township didn't want to go back to court and it was his understanding that public hearings weren't required for contract zoning requests. He was under the impression that the Township Board members felt that they had no options and if we don't accept the proposal, the Township would go bankrupt.

Mr. Hasbrouck recommended reviewing the Conditional Zoning statute before we make any decision. He had looked at the MTA model ordinance and that fills in a lot of gaps and loop holes the developers didn't speak about. Responding to a question from Mr. Fumich, Mr. Hanoute said the plan showed the home locations and the areas for playgrounds. Mr. Hasbrouck commented that he thought the open space area for playgrounds was insufficient.

Mr. Milliken asked if the consent judgment area was outside the area they were discussing. Mr. Hanoute said the new property consisted of 40 acres adjacent to the consent judgment area, but they also wanted to convert the use of some of the consent area as well. Mr. Milliken asked if the plan was to conditionally rezone it from RE to whatever conditions they wanted to give us. He said he would look at the state acts which controlled Manufactured Housing development. All of that is laid down for manufactured housing and now they are trying to convert it to stick built housing. He wanted to see if the state legislation allows for that.

Mr. Hasbrouck said the developers don't want to license the project as a manufactured home park, but they want to keep that zoning and there are some reasons for that—site plan review for one. Mr. Fumich said you would think that there would be some kind of stipulation for wiping out our due bills from them if we do that. Mr. Hartigan said he thought that was what the program is supposed to be. If they get what they want, the slate will be wiped clean and they will pay for all the Attorney fees. If we don't agree they will pursue a law suit against us for money they say we owe.

Mr. Hasbrouck and Mr. Hanoute asked Mr. Milliken to look over the drawings and report his findings to the Planning Commission on January 10, 2006.

NEXT MEETINGS:

January 10, 2006 - Work Session

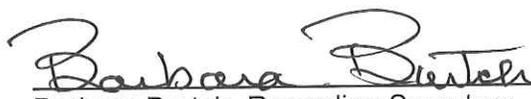
January 17, 2006 - Subcommittee Meeting

January 24, 2006 - Regular Meeting

ADJOURNMENT: 9:45 p. m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission