

TYRONE TOWNSHIP PLANNING COMMISSION
Approved Work Session Meeting Minutes

March 14, 2006 7:30 p. m.

PRESENT: Sally Eastman, Dave Hanoute, Steve Hasbrouck, Mark Meisel

ABSENT: Robert Byerly, Joe Fumich, Laurie Radcliffe

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

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

Andrew Schmidt, recently appointed Township Trustee, introduced himself to the Planning Commission.

APPROVAL OF THE AGENDA:

Moved by Hanoute, seconded by Eastman, to approve the March 4, 2006 Agenda as corrected.

APPROVAL OF THE MINUTES:

Moved by Hanoute, seconded by Meisel, to approve the February 28, 2006 minutes as corrected:

Page 2, Line 5: (...to provide an entrance **from** for the new parking lot...)

Page 3, Line 34 (...stablization, and ~~so~~ removal of...)

Page 4, Line 6: (...for their recommendations ~~regarding the appeal process for their~~
recommendations...)

Page 8, Line 8: (...revoke such **land** and use...)

Page 8, Line 36: (...and Fenton Township May **reconsider** it's decision...)

Page 5, Line 7: (...a freeboard level of 900.)

Page 5, Line 9: (...the pond shows a level of 898.)

Page 5, Line 17: (...that Mr. Van Hecke ~~to~~ continue...)

Page 5, Line 20: (...convert the pond to a **detention retention** pond...)

Page 5, Line 21: (...discontinue the use of **retention detention** ponds in the Township and
require that all ponds be **detention retention** ponds...)

Page 5, Line 39: (...representative to the **Zoning Board of Appeals Township Board**)

Page 5, Line 44: (...or property **with** wieth frontage...)

CORRESPONDENCE:

SUBCOMMITTEE REPORT:

OLD BUSINESS:

- 1) Establishment of a Public Hearing date for review of revisions to the following sections of the Ordinance: Article 2.02 - Definitions; Article 20.02.A - Minimum Lot Width; Article 23 - Site Plan Review and Impact Assessment; Article 24 - Private Road, Private Driveway and Access Easement Standards; and Ordinance 25.00, Article 17.00 - Land Division

The Planning Commission established an Ordinance Public Hearing for April 11, 2006. Copies of the revisions will be forwarded to the Board for their review and comment prior to the Hearing.

- 2) Review of the changes to Article 23 - Site Plan Review requested at the February 23, 2006 meeting

The Planning Commission reviewed the most recent revisions provided by Township Planner Greg Milliken (3/7/2006). Following the discussion it was agreed to retain the fourteen (14) day appeal period referenced in Section 23.10.C and revise Section 23.03.U to reference Landscaping Section **21A.08**.

Mr. Milliken also presented language requested during the previous review of Article 23 regarding preservation of natural resources for inclusion in the Site Plan Review Section or the Landscaping Section of the ordinance.

The Planning Commission decided to review the landscaping recommendations at a later date. Chairman Hasbrouck asked Mr. Milliken to provide a new copy of the March 7 version of the Article 23.00 text with the other Public Hearing review documents.

The meeting was recessed at 8:00 p.m. for a Public Hearing and reconvened at 8:25 p.m.

NEW BUSINESS:

- 1) Recommendation regarding an amendment to the Tanglewood Assisted Living Special Land Use Permit to allow an increase in occupancy from 9 residents to 12 residents as shown in the amended site plan received February 28, 2006. Conditions of use may be established as part of the approval.

Mr. Milliken reminded the Planning Commission that the ordinance required a recommendation to the Board and reference to some of the considerations (22.5.N, 23.04) could be included in the Motion. In place of an amended permit, a new Special Land Use Permit would be required because there was a change in the intensity of use.

MOTION: Moved by Hanoute, seconded by Eastman, to recommend to the Township Board approval of a new Tanglewood Assisted Living Special Land Use Permit to allow an increase in occupancy from nine (9) residents to twelve (12) residents as shown in the amended site plan received by the Township February 28, 2006 and carrying that stamp, in as much as the request complies with Zoning Ordinance # 36 (Sections 2.01, page 2-2; 21.42; 22.02; 22.03; 22.05.N; 23.01; 23.02) and there has been a special effort by the applicant in terms of applying a quality addition to the project with significant landscaping additions. Motion carried unanimously by voice vote.

- 2) Information regarding the Rezoning Public Hearing scheduled by the Township Board for April 28, 2006 at their April 3, 2006 meeting which Mr. Hasbrouck attended in order to request additional Public Hearing information.

Mr. Hasbrouck said that he wanted to share his information about the proposed change in the Ordinance Public Hearing. After our last meeting, we knew that there would be a request for rezoning for the vacant Bantle property next to Cider Mill Crossing. On the morning of March 1, 2006, the Township Clerk instructed the Planning Commission Recording Secretary to set a Public Hearing date for March 28, 2006. He was informed of the Clerk's instructions and that Township Attorney Nielsen had also contacted the Recording Secretary to get the process going.

At their next meeting (March 7, 2006) the Board formally established a Planning Commission Public Hearing date for March 28, 2006 to rezone property on Parshallville Road apparently owned by Helen Bantle. At the time the Clerk set the Hearing Date, the only information provided was a small site drawing and a legal description, so he attended the March 7, 2006 Board Meeting to ask for the Impact Assessment and the conditional contract information. That was delivered this morning. The public is allowed to review the information on file so they will be aware of what is at stake and the benefits to the property owner and benefits to the Township.

Mr. Milliken noted that he couldn't find any language that required establishment of a public hearing date at a public meeting, but the Planning Commission is required to establish the date and hold the hearing. To protect the Township, the Planning Commission should act on the hearing date at this meeting.

The central issue is that this is a rezoning request from a procedural point, a review point, and a recommendation point. Article 29 of the Zoning Ordinance is the guide for zoning amendments. Section 29.03 lists the information required for a rezoning and the Planning Commission should review the information to determine if it is a proper and adequate request, for instance a sign off from the owner. The review criteria listed in Section 29.04 should serve as considerations for making a recommendation for approval or denial. Once the criteria have been applied to the overall rezoning request, they should then be applied to the contract conditions. Whatever the recommendation is, the request will then move forward to the Township Board for their action. They have the option to agree with the recommendation or overturn it.

Many of the people he contacted did not feel that conditional zoning would set a precedent that would make it difficult to uphold the Zoning Ordinance in the future because the conditions attached to the rezoning would have to be based on similar circumstances. In order to set a precedent, the same unique circumstances would have to be established once again. Allowing a conditional zoning in one area does not guarantee that you will have to allow it in another area, unless the same circumstances are in place again.

He also noted that the results of the final approval or disapproval would have to be published (29.06) and that the decision is subject to referendum (29.07).

When asked about the lack of owner information (29.04.A4 & A5), Mr. Milliken said that should be provided before the Public Hearing. Although the Township can initiate a rezoning, they shouldn't function as the conditional zoning applicant since the conditional zoning statute states that the applicant must provide the conditions and the township must agree or disagree.

If the Township Board provided the conditions, the Township Board would have to approve or disapprove them and the law doesn't work that way. If the applicant is not the owner, then we would need to have that information and the owners agreement to the conditions.

In regard to the purpose and intent of the hearing, The Planning Commission wanted to know;

- If the conditional zoning required review by the County Planning Commission as the Zoning Ordinance states;
- If ordinance zoning district standards and site plan requirements could be referenced when reviewing rezoning conditions;
- If the conditional zoning (CL 125.286i) was referred to as a "rezoning" why Township Ordinance requirements for rezoning review (Article 29.00) should not apply;
- If all proposed variances to the R-2 Zoning District requirements had been included in the list of conditions;
- If the normal site plan review procedure (Article 23.00) would be followed after approval of a conditional zoning request;
- Why the plan was never forwarded to the Engineer or Planner for comment;
- When the Board decided to follow the ordinance requirements for a hearing to receive public comment;
- Whether the recent MHP consent agreement revisions contain language which would be binding on the Bantle property;
- If or when the MHP (Cider Mill) property was rezoned from MHP to R-2;
- If or when the proposed conditional zoning agreement for the Bantle property was signed by the Board;
- The identity of the person(s) who will present the request at the Public Hearing;
- If the "unique circumstances" and R-2 zoning density proposed for the Bantle property have already been extended to the Cider Mill Crossing property;
- If the Public Hearing is being held after the fact;
- If attorneys have authority to rezone property through negotiated settlement of suits;
- If all of the proposed zoning conditions are contained in the agreement;
- Which parcel legal description is correct; and
- The number of acres contained in the proposed R-2 parcel.

Following the general discussion, the Planning Commission agreed to conduct a Public Hearing on March 28, 2006 at 7:30 p.m. as directed by the Township Board and to request all of the application information required by Section 29.03 from the Board; i.e. an accurate legal description and address; the name, address, and authorization from the owner of record; the Assessor's determination of the correct area and legal description of the property to be rezoned, the name and interest of the individual(s) who will present the request, and copies of any signed or recorded documents involving the parcel to be rezoned.

- 3) Review of Zoning Ordinance Article 29 - Amendments and the conditional zoning language provided by McKenna Associates

The Planning Commission rescheduled the review for the April 11, 2006 meeting

ZONING ADMINISTRATOR'S REPORT:

ZONING BOARD OF APPEALS REPORT:

OTHER BUSINESS FROM MEMBERS:

NEXT MEETINGS:

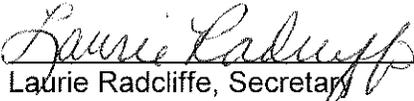
March 21, 2006 - Subcommittee Meeting

March 28, 2006 - Public Hearing and Regular Meeting

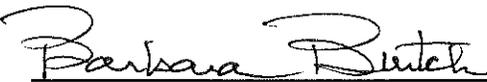
April 11, 2006 Work Session and Public Hearing

ADJOURNMENT:

9:45 p.m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission

CORRECTIONS TO THE MINUTES:

Page 2, Line 8: (...April 11, **2006** 2207)