

TYRONE TOWNSHIP PLANNING COMMISSION APPROVED PUBLIC HEARING MINUTES

ORDINANCE 25 - THE SUBDIVISION ORDINANCE ORDINANCE 36 - THE ZONING ORDINANCE

April 11, 2006

8:00 p. m.

PRESENT: Robert Byerly, Sally Eastman, Joseph Fumich, Dave Hanoute, Steve Hasbrouck, Mark Meisel, Laurie Radcliffe

CALL TO ORDER: 8:00 p.m. by Chairman Hasbrouck

READING OF THE PUBLIC NOTICE: The notice was read aloud by Secretary Radcliffe

CORRESPONDENCE: None received

PURPOSE OF THE HEARING:

To receive comments regarding the text revisions proposed for Ordinance 25 - The Subdivision Control Ordinance and Ordinance 36 - The Zoning Ordinance

The following Ordinance Sections have been revised and presented for comment:

- I Ordinance 25, Section 17 - Land Division
- II Ordinance 36, Section 2.01 - Definitions
- III Ordinance 36, Section 20.02.A - Lot Width
- IV Ordinance 36, Article 23 - Site Plan Review
- V Ordinance 36, Article 24 - Private Road, Shared Driveway and Access Easement Standards

I - ORDINANCE 25, SECTION 17 - LAND DIVISION

COMMENTS FROM THE PLANNER:

Mr. Milliken explained that the goal of the amendments was to take some of the decision making authority of the Township Board and assign it to the Planning Commission. All of these are primarily procedures which relate to meeting the Zoning Ordinance requirements. The decision is cut and dried and you meet the requirements of the Ordinance or you don't. First, you come in to the Planning Commission to show that you have met the Zoning Ordinance requirements and the Planning Commission gives a recommendation for approval to the Board. By eliminating the step involving the Township Board, it makes it a more efficient process and relieves the Board of some of the duties that are more appropriate at the Planning Commission level.

The Land Division Ordinance is an old ordinance that is not included in the Zoning Ordinance. It was written in the 1980's and there have been recent changes in the state land division legislation that needed to be included as well, so other changes were made to make the Ordinance easier to understand, easier to use, and to bring it into compliance with the state code.

For example, it spells out more clearly what the applicant is required to submit when they come before the Township. Now the applicant knows what to provide and the Township knows what they can expect to receive when they get an application. It allows for different applications like an informal concept review and formal Planning Commission review. Concept review is optional, has fewer requirements than the full review, and is non-binding. Full formal review requires a complete application, approval from other agencies, a boundary survey and approval must be given within a specific time period.

Because the Board no longer makes the land division approval in this version of the ordinance, we have provided an appeal process which will permit appeal to the Township Board. The two step process is maintained, but it is not automatic for every land division review, but only for applicants who feel aggrieved by the Planning Commission decision.

The recording process has been spelled out clearly. The earlier process led to administrative issues, lost surveys, and a lapse of time between approval and recording of the land division. This ordinance was the one with the most significant changes.

PLANNING COMMISSION COMMENTS:

Mr. Hasbrouck asked if the intent of Article 17.254, B.4 (Page 7 of 14) was not to begin formal review and approval of the land division request until all of the other information was received and the four additional items referenced in B. were provided and if the applicant could skip the concept review if they provided all of the information in A and B at once. Mr. Milliken said that was what the language intended.

Mr. Hasbrouck thought that would mean that the applicant would have to bring a survey in before approval of the land division rather than after the approval as we had done in the past. If they wanted to skip the concept review and get their survey before making a land division application, they would have to take their chances on getting the application approved as presented.

Mr. Milliken agreed that the process has changed. Now, once the land division is approved, a copy of the approved survey will be taken to the Register of Deeds for recording. The recorded drawing would be returned to the Township Assessor for comparison with the approved drawing before issuing a parcel ID number within 90 days. Mr. Hasbrouck commented that one of the things that drove the revision of this ordinance was the problem of getting the approved drawings recorded.

Mr. Hanoute wondered why the survey would have to be presented with the application. It might require correction and that was expensive. He thought the applicant should move through the site plan review process before the survey and we should include another step (17.254, Sec. 4.C). We might require corrections to the formal application, so why should we require a survey prior to that. Say there was a division where the applicant had to shift one lot, or remove one lot, and the survey would have to be totally redone. That could be a big expense.

Mr. Hasbrouck commented that most applicants usually began the process with a conceptual plan. This section probably needed to be reworded so the plan would be needed to complete

the formal review process rather than begin it. The survey was required at time of formal land division application to keep us within the allotted statutory land division time frame. We don't have to see it up front if they aren't ready to provide it.

Mr. Van Hecke referred to page 11, Section 17.271, Sec. 1, B (Duty to Report), and asked if the Planning Commission was sure they could mandate that recording requirement and if the language had been approved by the County. He said he had talked to the Register of Deeds, and they didn't care if the Township gives their approval or not. If someone brings in a survey, they are going to record it.

Ms. Eastman said that she wasn't sure the Township could mandate that, but she believed that is what the most recent revisions to the Land Division statute required.

Mr. Meisel said he had been informed that it was a Livingston County Register of Deeds issue and wasn't necessarily the case in other Townships. At some point, if the Livingston County Register of Deeds changes their rules to be more appropriate so they are not recording illegal land divisions, then our Ordinance would be appropriate. It's better for us to have things the way they should be, and if the County wants to ignore it, that is another issue. He thought the letter requested by the Planning Commission from the Board had been sent to the Register of Deeds and a reply came back stating that the current process that the Livingston County Register of Deeds has in place does not require that process (approval by the Township).

Mr. Hasbrouck noted that we would be submitting this for review to the Attorney and the County and we could reconsider this section or make corrections after their reviews.

The Planning Commission requested the following text changes:

- Page 7 of 14, 17.245.B: To be considered a complete application and to **complete** ~~begin~~ the formal review process...
- Page 11 of 14, 17.271, Sec1, B: Revise the language regarding valid approvals to make it easier to understand.

PUBLIC COMMENTS:

There were no Public Comments regarding Ordinance 25, Section 17

II - ORDINANCE 36, SECTION 2.01 - DEFINITIONS

COMMENTS FROM THE PLANNER:

Mr. Milliken noted that there were two different sections of the Zoning Ordinance where definitions had been expanded.

Useable Floor Area is used in the computation of parking spaces. Typically the Ordinance allows a minimum number of parking spaces based on the number of square feet of useable floor area. That usually doesn't count storage areas, bathrooms, or other parts of the building that aren't frequently used. The current useable floor area definition primarily deals with retail space, but doesn't address industrial use, office use, or home occupations.

The new definition provides two ways to calculate the useable floor area. The first says that useable floor area can be calculated as 75 percent of the gross floor area which provides an

easy computation. For applicant's who would prefer adding up the area, there is a description of the areas which count, or do not count, as useable floor area. The second definition is similar to the existing one, but is a little more general so it is not specifically geared to retail uses. This is proposed change for Section 2.01, Definitions

During review of the Zoning Ordinance, we found that there was no standard for measuring the width of water front lots. We provided a definition based on the ordinary high water mark as referenced in the state statute. Measurement of lots based on this definition will not be retroactive, but any new development or lot splits would be regulated by the definition.

COMMENTS FROM THE PLANNING COMMISSION:

Mr. Meisel asked if there should be some exclusions to the water front definition. We talk about a body of water such as a lake, river or canal, but defining a river versus a stream and what our intent is may be left to interpretation by somebody. How wide is a stream. Many people in Tyrone Township are on a body of water, but they also have small streams that run alongside or through their property. You have two water frontages, so we might want to provide examples of what is not included. Also, water frontage was defined as the ordinary high water mark on a lake, but we have rivers and canals. We need to define the ordinary high water mark for a river or canal so we make it consistent and don't get lost in interpretation issues. How do you handle property bounded with water on three sides.

Mr. Milliken said that he agreed that we needed to have consistency with whatever we put into the ordinance for definitions. Water frontage needed to be consistent with water front lots. However, "lake, river and canal" is terminology that comes from the state lake and streams act. You can put whatever you want in the ordinance, but he worries about using specific numbers. The ordinance does define lake and includes a reference to rivers, streams, and other watercourses.

Mr. Meisel agreed, and suggested that we capitalize Lake to indicate a reference to that definition, but he was still concerned that a stream running through his property, and that was all that he had, could be construed as water frontage.

Mr. Hasbrouck didn't feel that casual streams would be considered frontage, because we were referencing lot lines adjacent to water. He did agree that multiple bodies should be considered later and whether the major body of water would take precedence or not or if we needed some sort of process to determine if it is frontage or not. Mr. Milliken said that would be similar to a corner lot where two streets intersect. His interpretation would be that the water front setbacks would be the same for each one of those as it would for corner lots. Mr. Meisel was still worried about getting caught up in definitions. He asked Mr. Hasbrouck to define a river. Mr. Hasbrouck replied that we didn't have any rivers in the Township, although he thought all moving bodies of water were regulated. The County might be able to come up with some comments regarding Mr. Meisel's concerns.

PUBLIC COMMENTS:

There were no Public Comments regarding the definitions proposed for Section 2.01.

III - ORDINANCE 36, SECTION 2020.A, MINIMUM LOT WIDTH

COMMENTS FROM THE PLANNER:

Mr. Milliken referred to the Schedule of Regulations, Section 20.02.A, which defined minimum lot width measurement. Language was added to determine the width of a water frontage lot where the frontage was often not straight and referred to the high water mark as a point of reference "where the water meets the land." The distance between the side property lines must equal the minimum lot width required for the Zoning District.

COMMENTS FROM THE PLANNING COMMISSION:

There were no comments from the Planning Commission

PUBLIC COMMENTS:

There were no public comments.

IV - ORDINANCE 36, ARTICLE 23 - SITE PLAN REVIEW

COMMENTS FROM THE PLANNER:

Mr. Milliken explained that when a property is being developed, the developer has to provide a site plan for review. It comes before the Planning Commission and if it is allowed as a permitted use, all that is required is a site plan approval recommendation. The ordinance then requires site plan approval by the Township Board. However, as a permitted use all the applicant has to do is meet the conditions of the Ordinance. If it does that, the request should be approved according to the statute and the zoning ordinance. To make things more efficient and to make the process easier for everyone, it was decided at a joint meeting that the Planning Commission should be allowed to make the final approval.

Minor corrections have been made to remove references to Board approval. We have added a requirement for soil erosion and sedimentation control plans and simplified the wording on some of the standards to make them clearer. As with the land division ordinance, when we removed the two step process we added an appeals process in case applicants aren't satisfied with the Planning Commission action so they can go to the Township Board and appeal the decision.

COMMENTS FROM THE PLANNING COMMISSION:

Mr. Hasbrouck noted that the introduction to Section 23.02 contained language which gives the Planning Commission an option to schedule a Public Hearing.

Mr. Milliken thought that was probably included as a way to allow Public Hearings for things like land divisions or expansions of existing uses which wouldn't ordinarily require them. Ms. Eastman wondered if that would cause problems if we seemed to not be consistent or fair when we required Public Hearings. Mr. Milliken replied that it might be a possibility. If the Planning Commission found itself holding hearings over and over again, they might want to

develop a policy statement regarding the types of developments or thresholds that would require a Public Hearing, but hearings are mandatory for special uses and planned unit developments.

Mr. Hanoute commented that he had never encountered a Public Hearing for a site plan other than the ones specified in the Zoning Ordinance. He thought the discretionary hearing language should be removed from the introduction.

Mr. Milliken explained that the language was carried over from the current Zoning Ordinance. If an item generated public interest, people would come to the meeting to find out what it was about. You already provide for Public Comments during meetings and they would have an opportunity to comment at that point.

Mr. Hanoute wondered what kind of pressure it would take to schedule a Public Hearing. They have to be advertised and you have to take the time to go through the whole process and would slow it all down. Hasbrouck asked if there were limits on taking public input during a Call to the Public at a regular meeting. Mr. Milliken said the Planning Commission is required to offer that at every Public Meeting. Mr. Hasbrouck noted that the Article 23 did provide for an appeal, so there would be another chance to speak at that point.

Mr. Hasbrouck referred to Section 23.04.B (Page 23-5) and commented that we should request both an aerial plan and an aerial photograph. There are aerial photos obtainable that have so much information that you can't omit or add things to the site plan. There should be some parameters, like the size of the aerial sheets and the scale of the drawing. The County has them, but eventually we should have the capability to print them here and sell them to the applicants. Even one sheet at 24 by 36 could be passed around. The small ones work well for a land split, but for a bigger project like a site condominium you would need a full size. Until we get the capability, they should provide it.

Referring to Page 23-7, Item B Submittal Procedures, Mr. Hasbrouck asked if the Zoning Administrator should be the person requiring the Impact Assessment and if there were criteria for him to follow. He thought that decision should be made by the Subcommittee during the preliminary review or from the full Planning Commission.

The Planning Commission requested the following text changes:

- Page 23-2, Section 23.02: Delete the second sentence. Add language to the following sentence which references other sections of the ordinance where a public hearing is required in connection with a site plan review.
- Page 23-6, Section 23.04.C - Overall site conditions, last sentence: "Aerial photographs are **required recommended** to assist in describing the general vicinity."
- Page 23-7, Section 23.05.B, Submittal Procedures, Sentence 2: "The applicant may discuss or meet with **a Planning Commission Subcommittee** ~~the Building and Zoning Administrator~~ to determine if a study is needed,...)

PUBLIC COMMENT:

There was no Public Comment

V - ORDINANCE 36 - ARTICLE 24 PRIVATE ROAD, SHARED DRIVEWAY AND ACCESS EASEMENT STANDARDS

COMMENTS FROM THE PLANNER:

Mr. Milliken explained that the primary changes to the Ordinance were related to Planning Commission approval of Land Divisions and Site Plans. Clarifications and adjustments were made to make the ordinance easier to understand and to define corner lots for shared driveways and private roads. Often private roads and shared driveways are associated with land divisions, so we will now require review of the roads and driveways at the same time as the land division review and specify a requirement for stub streets to provide for a future street system network. Language was also added for establishing yards and setbacks if shared driveways or private roads provide the access.

COMMENTS FROM THE PLANNING COMMISSION:

Referring to the Mark Up copy, Mr. Miesel asked about Section 24.03.P (p. 24-6) which allowed access to the private road for adjacent land divisions. His concern was if there is a private road located on private property, and another development comes in that has frontage on the existing private road which they do not own. How can we require someone to provide access to their private road. There is the same issue for private driveways as well. If you have a road along a property line where the adjacent parcel is developed, and you put homes there you are essentially saying you must provide more access through this private road. He thinks the property owners who own the road could say, "It's my private property, why do I have to allow you access to it?" How can the Township require someone to provide access from their property.

The intent to minimize the number of roads is exactly right, but he was concerned because we were saying "shall" instead of "may." He thought we should encourage the process, but he didn't know if we could enforce it.

Mr. Hasbrouck explained that there had been a lot of discussion about private road access. Say you had a private road with ten parcels on it and they all change hands, and the next thing you know there is one property owner who has a problem. There should be a public hearing about it, and obviously any improvements to the road would have to be born by the developer.

Mr. Milliken said that he had talked with Mr. Meisel, and after thinking it over, he felt that it was really important to not get rid of stub streets. He doesn't feel we should include language that minimizes those connections. If we require someone to provide a stub street then we should require the person next to him to connect to that stub street. In this case we are connecting street networks and not turning driveways into streets. His primary concern is maintaining a street network.

Mr. Hasbrouck commented that the Township hasn't been successful at connecting private roads that are adjacent to each other. Developers would rather come to the ZBA and get a variance for the distance or the number of parcels, rather than connect the roads together.

Mr. Meisel asked what would happen if the owners agreed to provide access to an existing road and the developer agreed to compensate the owners. How would you arrive at the

compensation agreement. Is it worth \$25,000 a parcel or do you divide the future costs of reconstruction and improvement by the number of new homes using the road.

Mr. Hanoute asked if Mr. Meisel was referring to the situation with Runyan Lake Point (Drive) and if he was concerned with new private road construction or rights to the existing road. Mr. Meisel said he was concerned with the existing road. Mr. Hanoute explained that we wouldn't approve a new private road unless we got the consent of the developer to allow the adjacent property to access that road, so that would not be an issue. Mr. Meisel said he had a situation where there was a platted subdivision and the new developer decided he would take advantage of the existing road. That's a good thing to try and do, but if you don't own the property that the road is on, and you have never paid for the road, and it is private, how do we say you shall provide access to the road. That is private property.

Mr. Meisel agreed that if deeded rights to access the road existed, then your rights are reserved for ever. Mr. Hasbrouck said we would still have people who would claim that even with rights, the rights holder didn't build the road and never paid for maintenance, they couldn't use it. That's why we need language that will help in that situation.

Mr. Hanoute wondered if we could all agree that latecomers should pay a pro-rata share, and if we agree, why can't we come up with a mechanism to assign costs. Mr. Milliken said that was a civil issue. Mr. Meisel said he thought it should be up to the owners of the road to make the decisions to allow some one else to connect. You can negotiate, but you can't enforce.

Mr. Hanoute commented that Zoning Ordinances enforce things all the time. You have to be reasonable and you have to have a mechanism.

Ms. Eastman asked if that wasn't an issue for the Maintenance Agreement. Mr. Milliken commented that if there were ten units with a maintenance agreement and four more units were added, the maintenance agreement would need to be amended to give evidence that the four units were being included in the road maintenance. Ms. Eastman asked what would happen if the ten people didn't want to add the four people. Mr. Milliken commented that the Township roads were supposed to function as County roads in essence. You are supposed to be able drive down them and not tell if they are public or private except for the signs. In that regard, you should be able to build a house and put a driveway in, so that becomes a civil matter.

Mr. Meisel said that maybe we had to separate new roads from pre-existing roads in the Ordinance and apply the regulations to new developments. Mr. Hasbrouck commented that there were a lot of driveways along property lines that could be turned into a private road. When that happens you have the potential for people who want to use it and maybe help pay for it. The appropriate thing to do is require it when you can, and make the people who are opposed provide proof that it can't be done.

Mr. Meisel asked to have changes made in the language for Section 24.06.R Adjacent Properties (p. 24-11), to replace "shall" with "may. Mr. Hanoute stated that "if desired" should be removed from the sentence also.

Mr. Van Hecke questioned the definitions for shared driveways and private roads. Mr. Milliken explained that the definitions set a minimum number for use, but it would be good to include the maximum number for shared driveways.

Mr. Hanoute recommended that we not make any more changes in the text until we had received the comments of the Attorney and the County Planning Department. Mr. Hasbrouck agreed and asked Mr. Milliken to explain the approval process to the audience.

Mr. Milliken explained that after the Planning Commission Public Hearing amendments will be forwarded to the County for their review and recommendation. After that, the comments from the Public Hearing, the recommendation from the County and the recommendation from the Planning Commission get sent to the Township Board for a final decision.

Mr. Milliken said he could make the easy changes, but the Planning Commission would probably want to think about some of them a little more, like the adjacent property discussion. Changes could be made after the report comes back from the County. The amendments should also be sent to the Attorney now since the County recommendations are advisory. Then you could have another meeting, or public hearing if necessary, to make any adjustments before forwarding the revisions to the Board.

The Planning Commission requested the following text changes:


- Page 24-1, Section 24.01.D - Definitions: Add a reference to the maximum number of units allowed on a shared driveway

PUBLIC COMMENTS:

There were no comments from the Public

CLOSING PLANNING COMMISSION REMARKS:

There being no further questions, the hearing was closed at 9:15 by Chairman Hasbrouck


Laurie Radcliffe, Secretary
Tyrone Township Planning Commission


Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission

CORRECTIONS TO THE MINUTES:

- Page 2, Line 2: (...and the Townships knows what they can expect...)
Page 3, Line 36: (...there were two different sections of the Zoning Ordinance...)
Page 4, Line 36: (...we didn't have ~~many~~ any rivers...)
Page 6, Line 1: (...from the current Zoning Ordinance. ~~and was carried over~~)
Page 6, Line 34: (...**required** ~~recommended~~ to assist...)
Page 7, Line 12: (...do not **own**. **How** can we ~~can~~ require someone...)
Page 8, Line 34: (Mr. Hanoute **stated** that...)