

**TYRONE TOWNSHIP PLANNING COMMISSION**  
**Approved Work Session Minutes**

**May 9, 2006      7:30 p. m.**

**PRESENT:** Robert Byerly, Sally Eastman, Joe Fumich, Steve Hasbrouck, Mark Meisel, Laurie Radcliffe

**ABSENT:** Dave Hanoute

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

**PLEDGE OF ALLEGIANCE:**

**CALL TO THE PUBLIC:** No response

**APPROVAL OF THE AGENDA:**

MOTION: Moved by Eastman, seconded by Meisel, to approve the Agenda as amended(\*). Motion carried by unanimous voice vote.

**APPROVAL OF THE MINUTES:**

MOTION: Moved by Radcliffe, seconded by Fumich to approve the April 25, 2006 Regular Meeting Minutes as corrected. Motion carried by unanimous voice vote.

Page 8, Line 47: (...ratio would be better than a the variance for...)

MOTION: Moved by Eastman, seconded by Meisel, to approve the April 25 Public Hearing Minutes as presented. Motion carried by unanimous voice vote.

**CORRESPONDENCE:**

- 1) April 18, 2006 - Subcommittee Report, received and placed on file.
- 2) April 28, 2006 - Letter from James and Lois Campbell, received and placed on file.
- 3) May 3, 2006 - Letter from Linda and Rick Harwood, received and placed on file.
- 4)\* May 5, 2006 - Letter from Crown Enterprises regarding a Public Hearing request, received and placed on file.
- 5)\* May 5, 2006 - Notice of Intent to Plan for Oceola Township Master Land Use Plan, received and placed on file.

## SUBCOMMITTEE REPORT:

- 1) Request of **Ronald and Heather Johnson** for state statute shared driveway land division of property at 11950 Parkin Lane, RE parcel 03-400-016, to create 3 parcels. The existing driveway will be extended access Parent Parcel A (approximately 2.76 acres net), Parcel B (approximately 1.65 acres net) and Parcel C (approximately 3.1 acres net). The open space required for Parcels B and C has been located on Parcels A and C. Parkin Lane, a private road, currently provides access for 33 parcels.

The Planning Commission noted that:

- The location of the existing home on Parcel 03-400-015 was shown as requested;
- Parcel 03-400-015 would not be considered a corner lot because it fronted on a shared driveway;
- An open space maintenance agreement should be provided;
- Shared driveway front yard setbacks only had to be 50 feet from the easement for Parcels A, B, and C;
- The open space requirement for Parcel C needed to be recalculated;
- Parkin Lane residents did not have a private road maintenance agreement;
- The number of Parkin Lane parcels exceeded the Ordinance allowance for a cul-de-sac;
- A shared driveway maintenance agreement should be provided;
- The Parkin Lane - Hartland Road sight distance review should be included; and
- A public hearing would be required for the shared driveway location.

MOTION: Moved by Meisel, seconded by Fumich, to recommend to the Township Board approval of the Johnson's request for state statute land division of property at 11950 Parkin Lane, RE parcel 03-400-016, to create three parcels, pending compliance with the Planning Commission recommendations including restatement of the open space for Parcel C, receipt of individual parcel legal descriptions with open space maintenance agreements, receipt of a shared driveway maintenance agreement, and ZBA variance approval for the number of parcels accessed by a cul-de-sac. Withdrawn by Mr. Meisel and Mr. Fumich following discussion of the motion.

AMENDMENT: Moved by Meisel, seconded by Fumich, to amend the motion to require a 50 foot front yard setback from the shared driveway for Parcel C. Withdrawn by Mr. Meisel and Mr. Fumich following discussion of the amendment.

During discussion of the motion and the amendment, questions were raised about the point in the approval process when the ZBA variance would be required, the difference between a state statute land division and the land division requirements needed for building permit approval, and recommending land division approval prior to the shared driveway public hearing.

Mr. Hasbrouck reminded the Planning Commission that a public hearing date needed to be established for the shared driveway. The Johnson's could make the setback corrections and any other drawing changes they would like to make prior to the hearing, but the Planning Commission couldn't make any recommendation about the parcels until there was a way to get to them.

MOTION: Moved by Hasbrouck, seconded by Radcliffe, to schedule the Johnson's shared driveway Public Hearing for June 13, 2006 at 8:00 p.m. Motion carried unanimously by voice vote.

Ms. Radcliffe recommended that the Johnsons contact their neighbors about developing a private road maintenance agreement for Parkin Lane.

Mr. Hasbrouck told the Johnsons they could come to the Subcommittee meeting on May 16, 2006 if they wanted to.

- 2) Request of **Charles** and **Deborah Green** for state statute land division of property at 13087 White Lake Road, RE parcel 12-300-031, to create 2 parcels. Parcel 1 contains the existing residence. Parcel 2, approximately 4.26 acres net, contains the required open space. The LCRC has approved the access location for Parcel 2.

Mr. Green explained that he originally had two 4 acre parcels. The Township's Assessor told him to combine them and now he wants to re-split them because his eight acre parcel wasn't selling, but there were people looking for smaller parcels. He didn't want to create a flag lot because of drainage concerns. He believes the parcels meet the ordinance area and length to width requirements.

When Mr. Fumich reminded him about the White Lake Road paving assessment, Mr. Green said he had been told that he wouldn't have to pay anything until the new parcel was sold. Mr. Fumich explained to him that the pro-rated cost was supposed to be assessed as soon as a Parcel ID number was issued for the new parcel.

During review of Mr. Green's site drawing, the Planning Commission asked for:

- An individual survey and legal description for Parcel 1 and Parcel 2;
- Inclusion of an open space maintenance agreement as part of the legal description for Parcel 2;
- Location of the approved driveway access for Parcel 2 on the site drawing;
- A complete open space calculation chart;
- A complete site drawing for both parcels showing building locations, required yard setbacks, open space boundaries, parcel dimensions, and net and gross parcel areas; and
- Recalculation of the length to width ratios based on the survey measurements.

Mr. Green said that Parcel 1 had a length to width ratio of 1 to 3.6 and Parcel 2 had a ratio of 4 to 1. He couldn't make the width of Parcel 2 any greater because of the required side yard setback for Parcel 1. He did not want to install a shared driveway because the Road Commission didn't ask for it and his Realtor didn't recommend it.

MOTION: Moved by Eastman, seconded by Meisel, to recommend to the Township Board approval of the Green's request for state statute land division of property at 13087 White Lake Road, RE parcel 12-300-031, pending receipt of a complete site drawing and other information requested by the Planning Commission. Motion carried unanimously by voice vote.

Mr. Hasbrouck explained to Mr. Green that the request would be forwarded to the Board for approval when all the descriptions and drawings had been received.

Mr. Green wanted to know if he could get his money back from the ZBA and was informed that he should write a letter to the Clerk requesting a refund. Mr. Meisel and Mr. Hasbrouck said they would support his request for a refund, but the full amount might not be refundable.

- 3) Request of **Nancy Morton** and **Charles** and **Charlene Dwyer** for boundary realignment of FR parcel 35-200-013 and FR parcel 35-200-03 with Denton Hill Road access. The Subcommittee recommended approval pending receipt of a revised open space calculation chart.

Ms. Morton said that the drawings May dated 1, 2006 had been revised as requested.

MOTION: Moved by Eastman, seconded by Fumich to recommend to the Township Board approval of the boundary realignment request for property at 6181 Denton Hill Road between Nancy Morton (FR parcel 35-200-023) and Charles and Charlene Dwyer (FR parcel 35-200-031) as shown in the Real Estate Consulting Engineers site drawing revised 5/01/06 as it meets the Ordinance requirements. Motion carried unanimously by voice vote.

#### OLD BUSINESS:

- 1) Review of the McKenna Summary regarding the new Michigan Zoning Enabling Act (PA 110 of 2006) presented at the April 25, 2006 meeting. The act revises some of the procedures contained in Article 29 of the Township Zoning Ordinance.

Township Planner Greg Milliken of McKenna Associates explained that the new Michigan Zoning Enabling Act goes into effect on July 1, 2006. Changes will have to be made to the Zoning Ordinance as a result of the law. Most of them will deal with substituting "Michigan Zoning Enabling Act" for references to the "Township Zoning Act." More specific changes will involve noticing requirements, state licensed residential facilities (21.42), and ZBA use variances (28.03.D). Some of the required revisions were listed in his Memo of May 2, 2006. He estimated that it wouldn't take him more than a day's worth of work to search the Ordinance and substitute the enabling act language.

If the Township wasn't able to accomplish the revision process by July 1, 2006, the state statute requirements would apply until the revisions were complete. The problem with getting it approved before July might be the 30 day County review provision. If the County really gets inundated with revisions, it could still be forwarded to the Board after 30 days if the County can't respond in time.

The new public act language tried to do away with ZBA use variances for cities or villages. If a Township currently has that language in the ordinance, you are allowed to continue granting use variances, but you have to do it with a two-thirds approval. If you want to continue approving use variances, two-thirds approval language should be added to the ordinance. If the Township doesn't want to grant use variances, this is your opportunity to get rid of them.

A use variance really isn't similar to conditional zoning. To put a restaurant in an agricultural district you would have to conditionally rezone it to a commercial use or some other appropriate category. In some ways, that would be like spot zoning if the use wasn't shown on the future land use map. A use variance is granted for an application that isn't usually specified for the current zoning district, usually because the use is more intense. A special use

approval is restricted to a very specific use. It goes with the operation while a use variance goes with the land. Special uses for each zoning district are specifically stated in the Township Zoning Ordinance. The biggest change might be the one dealing with the residential facilities.

Mr. Hasbrouck asked Mr. Milliken to move forward with the revisions and provide specific recommendations for review. Other revisions suggested for consideration were satellite communications (21.17) and language permitting front yard sheds and storage buildings in the LK-1 Zoning District (21.02.B).

## **NEW BUSINESS:**

### **ZONING ADMINISTRATOR'S REPORT:**

#### **1) Request for location of a sales office trailer in a portion of the Cider Mill MHP**

Mr. Van Hecke said that Hometown Builders will be constructing the stick built homes for Tyrone Associates in a portion of Cider Mill Crossing to be called Stone Brook. They had provided a new site plan and were requesting a permit for a sales trailer. He wanted to know what building restrictions if any, had been established for the new project and if the Planning Commission would have to review the sales office site plan

While discussing Mr. Van Hecke's concerns, questions were raised regarding:

- Ownership of the new Stone Brook (formerly Cider Mill) parcels;
- The construction of permanent homes on rented lots;
- The type of unit ownership and parcel description;
- Application of the contract zoning standards to the MHP project;
- Application of County Building codes to the project;
- Existence of a site condominium document, court order, or site plan for the new development;
- The type of ownership proposed for the stick built and MHP units;
- The assignment of parcel ID numbers to lots or units without legal descriptions;
- The portion of the development which would retain the MHP designation;
- The number of mobile home units required for MHP classification;
- The location of the proposed MHP area;
- The intent, if any, to allow stick built homes in the reserved MHP section or mobile homes in the stick built section;
- Use restrictions associated with the various residential areas;
- The development standards to be used;
- The potential for sale of the reserved MHP lots;
- Classification of the MHP lots as real or leased property;
- Ownership of the private roads and the private water system;
- The regulations to be used for signs and temporary office permits;
- The regulations to be used for setbacks and accessory buildings;
- Land use permit requirements for legal descriptions and Parcel ID numbers;
- Responsibility for maintenance of the infrastructure;
- The amount of property to be designated as MHP on the site map;
- The intent of the MHP development;
- The information required for issuing land use permits;
- Responsibility for ongoing plan review and oversight;

- State and County requirements for the establishment of legal parcels;
- Designation of the parcels to be reserved for stick built homes and manufactured homes;
- Sales of lots for manufactured home sites outside of the MHP sections;
- Maximum or minimum number of mobile homes to be allowed;
- Signed and recorded copies of any amended court order(s); and
- Requirements for foundations, accessory structures, or utility rooms.

Township Clerk David Kuzner informed the Planning Commission that the MHP designation could be retained with 25 manufactured homes. The Board had come to the Planning Commission many times asking for specifications and design standards and that type of thing. The Board had been trying to communicate with the Planning Commission since last October, but still hasn't heard anything. If the Planning Commission questions could be put in a letter, he would present it to someone who has the authority to make decisions about the questions. If you put them in a letter, he can pass them along.

Ms. Eastman suggested that the Planning Commission list what they would like to know and forward a copy directly to Landon as well as to the Clerk. Mr. Fumich said he preferred sending it directly to the Board for their response. If we send it to the Board with some kind of time table and we don't get an answer, then we know where the problem is.

Mrs. Radcliffe asked Mr. Kuzner if Tyrone Park was forcing themselves to keep 20 or 25 manufactured homes so they could keep the MHP zoning. Since the rest of it will be stick built, what is their advantage. Will they collect rent on the houses they are building. How will that help the Township taxes. Can you tax the lots if they keep the MHP zoning. Mr. Kuzner said the lots would be divided and owned. Ms. Radcliffe asked if they would still be zoned MHP. Mr. Kuzner replied that he didn't have an answer, but she could put that question in the letter.

Mr. Milliken explained that zoning doesn't impact tax collection. Each lot, if it is split and privately owned regardless of zoning, would allow the Township to collect more taxes than if it had a manufactured home on it and was rented from the park. Tyrone Park wants to maintain the zoning because it is part of the Court Order and keeping the MHP zoning allows them to keep the MHP density. Mr. Meisel noted that keeping the MHP zoning would allow them to qualify for certain state tax advantages.

Mr. Kuzner said the Board had passed two resolutions, one for waste water treatment and one for water, and the ownership would be retained by Tyrone Park. The Township will not have any responsibility to maintain them.

Mr. Hasbrouck asked if any of the property had been sold without review by the Township. Mr. Milliken suggested asking the Board if there would be a land division application, or if the plans had been approved by consent agreement with a site plan attached to it. Mr. Fumich asked Mr. Kuzner if he could explain what was in the contract since he was a party to it.

Mr. Kuzner replied that there is a lot of discussion, a lot of speculation, and a lot of questions being asked and nobody really seems to have an answer. These folks have been working with the Township in a very cooperative relationship. He doesn't expect any controversy to be created from lack of knowledge. If the Planning Commission tells him what they want to know, he will get the answers. Send a letter.

Mr. Hasbrouck said generally, he would like Landon to give the Board a development plan that shows what they plan to do. Their attorneys must have some idea how they plan to sell the properties. That has to be done either through the Mobile Home Commission or the Township. Ms. Eastman asked if we could see some information about the construction standards, architectural standards, and exactly what standards will relate to the issuance of a building permit.

Mr. Meisel suggested sending the list of questions around by e-mail first, in case there were others that needed to be added before the letter was sent to Mr. Kuzner and the Township Board.

**2) Sewer expansion**

Mr. Van Hecke reported that the second phase of the sewer project was going forward from the intersection of Runyan Lake Road and White Lake Road to the Hills of Tyrone West. Letters have been sent to the residents adjacent to the gravity line asking if they would like to connect to the sewer. There aren't enough residents to form an assessment district, so the Township will have to give them a specific price.

**3) Nonconforming signs**

Mr. Meisel asked about the swimming pool sign on Old US-23. Mr. Van Hecke said he had been trying to make contact with the sign owner and had left messages. Mr. Meisel asked if Mr. Van Hecke had considered sending violations. Mr. Van Hecke explained that he was trying to get the sign removed without resorting to that.

**ZONING BOARD OF APPEALS REPORT:**

Mr. Meisel reported that the ZBA did not meet in April.

**OTHER BUSINESS FROM MEMBERS:**

- 1)** Report on a discussion with John Harris regarding some of the township's private roads: Old Oaks (26 parcels), Parkin Lane (33 parcels) and the Woodland Trail - Windy Hill - Rustic Ridge system (approximately 32 parcels).

Township Attorney Harris said he had received letters from an Attorney regarding two of our private road land division requests. He asked for a history of the private roads and the ordinances in effect at the time the roads were built. After he has reviewed the documentation, he would like to come before the Planning Commission to discuss the ordinance sections regarding private roads and open space.

Mr. Hasbrouck thought the meeting would be appropriate and should be scheduled soon.

- 2)\*** Comments regarding Ron Gordon's request for an amendment to the Irish Hills PUD agreement.

Mr. Hasbrouck explained that some Planning Commission and Board members had met with Mr. Gordon to discuss extending the time frame for removal of the commercial uses at his location. The request didn't seem to be out of line, so we suggested that he submit an

application with all the information about the proposed amendment. The Planning Commission will then review it and make a recommendation to the Board.

Mr. Gordon plans on taking down the large barn, but would like to continue trailer sales because of the residential building slow-down. He wants to put some sales offices in the remaining barn. He is still trying to find a commercial developer for the frontage and if that occurs, it would change his request. No changes have been planned for the residential area.

**BOARD ACTION:**

Mr. Byerly said that the Crown Enterprise law suit and the Fenton Road gravel pit law suit have been settled. Mr. Hasbrouck commented that they had reduced the amount of time the gravel pit gates would be open, which would reduce the amount of time that trucks would go up and down the road. Mr. Van Hecke said that the DEQ had been contacted about the air quality because of the dust, and would be monitoring that situation. Trustee Andy Schmidt said that the number of years the pit could be in operation had been reduced as well.

**NEXT MEETINGS:**

May 16, 2006 - Subcommittee Meeting

May 23, 2006 - Regular Meeting

June 13, 2006 - Work Session

**ADJOURNMENT:** 9:40 p.m.

  
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Laurie Radcliffe, Secretary  
Tyrone Township Planning Commission

  
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Barbara Burtch, Recording Secretary  
Tyrone Township Planning Commission