

TYRONE TOWNSHIP PLANNING COMMISSION

APPROVED PUBLIC HEARING MINUTES

Amendments to Ordinance 25.00 - Subdivision Control and Ordinance 36 - The Zoning Ordinance

September 12, 2006

8:00 p. m.

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

ABSENT: Dave Hanoute

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

READING OF THE PUBLIC NOTICE:

The notice was read aloud by Secretary Radcliffe

CORRESPONDENCE:

- 1) August 20, 2006 - Letter from John Harris regarding a recent Appellate Court land division decision.
- 2) September 5, 2006 - Memo from Greg Milliken regarding Land Division Approvals

No correspondence or requests for information from the public were received at the Township Hall.

PURPOSE OF THE HEARING:

- 1) To receive comments regarding revisions to Regulatory Ordinance 25, to bring the Section 17 Land Division language into compliance with new state statutes and revise some standards and procedures, including:
17.200 - Land Division Ordinance: 17.240, 17.251, 17.252, 17.253, 17.254, 17.255, 17.256, 17.257, 17.261, 17.262, 17.263, 17.270, 17.271, 17.272, 17.273, 17.280, 17.281, 17.283 and other sections brought forward at the hearing.
- 2) To receive comment regarding Ordinance 36, the Zoning Ordinance, to bring the language in various sections into compliance with new state statutes and revise some standards and procedures. General Reference revisions to:
Preamble, Article 1 - Section 1.03, 1.12, 1.13; Article 2 Definitions, Adult Day Care, Adult Foster Care Facility, etc., Board of Appeals, Care Organization, etc., Exception, State Licensed Residential Facility; Article 9 - Section 9.03; Article 11 - Section 11.10, 11.14; Article 19 - Section 19.07; Article 21 - Section 21.17; 21.42; Article 22 - Section 22.03, 22.05.J, 22.05.N; Article 23 - Section 23.10; Article 24 - Section 24.02, 24.05; Article 26 - Section 26.01, 26.04; Article 27 - Section 27.08; Article 28 - Section 28.00, 28.02, 28.03, 28.04, 28.05 and other sections brought forward at the hearing.

- 3) Article 2 - Definitions: Floor Area, Usable; Local Fire Officials; Ordinary High Water Mark; Waterfront Lots; Water Frontage and other definitions brought forward at the hearing
- 4) Article 20.00 - Schedule of Regulations: 20.02.A and other sections brought forward at the hearing
- 5) Article 23.00 - Site Plan Review & Impact Assessment: Section 23.02, 23.05.E, 23.13 and other sections brought forward at the hearing
- 6) Article 29.00 - Zoning Amendments: Section 29.00, 29.01, 29.02.A, B., C. D., E., F, 29.03.A.3, 4, 8, 29.03.B., 29.04., 29.04.A; 29.05 (New Section); 29.06. 29.07., 29.03, 29.04, and other sections brought forward at the hearing.

COMMENTS FROM THE PLANNER:

Township Planner Greg Milliken of McKenna Associates explained this hearing was for a number of ordinance changes made over the last several months. This is a second hearing for some of the ordinance sections that were revised following agency reviews and the April hearings. It is the first hearing for the language in Article 29.00. Following this hearing, all the amendments except for Section 29.00 will be forwarded to the Board. Article 29 will be sent to the County Planning Commission for review.

One of the items is a sort of "global response" to the recent Michigan Zoning Enabling Act (MZEA) signed into law July 1, 2006. That was primarily an administrative act combining township, city, village, and county zoning acts formerly regulated by three different pieces of legislation that forced some bookkeeping changes. For instance, the township public notice requirements were changed, some of the functions of the Zoning Board of Appeals were changed, and there were changes related to State licensed residential uses like Foster Care.

Other changes are primarily word changes like changing "Planning and Zoning Act" to "Michigan Zoning Enabling Act" as a reference. This is a second hearing for the general reference revisions.

Article 2 - Definitions contains terms being amended or added to the Zoning Ordinance to support the new statutory terms and definitions or language revised to to make the Ordinance easier to understand. This is a second hearing for Article 2.00

Changes to Article 20 - Schedule of Regulations are the result of the Planning Commission's attempt to better describe lot width. We have added a standard for minimum water front footage and tried to improve the description of the method used to measure curved lot lines with a new graphic illustrating the measurement terms. This is a second hearing for Article 20.00

Article 23 - Site Plan Review was revised to allow the Planning Commission to review and approve site plan and shift the decision making from the Township Board to the Planning Commission. As in the church request discussed this evening, site plan review is based on uses permitted in the Zoning District. Instead of having to go to the Board after Planning Commission review, they could be approved at the Planning Commission level. It becomes a one step process instead of a two step process to speed up reviews and approvals.

However, Board appeal language was added to the ordinance in case an applicant or resident is aggrieved by the Planning Commission approval or denial so they have a way to appeal a Planning Commission decision. This is a second hearing for Article 23.00

Ordinance, 25 - Section 17 is not a zoning ordinance. It is a regulatory land division ordinance. This ordinance was revised to comply with changes in the state statute and will also shift the decision making authority from the Board to the Planning Commission. Again, an appeal process has been added to this ordinance in order to provide maintain the two step option for an aggrieved applicant.

This ordinance was also inconsistent with the current Land Division Act. Most of the changes were made to bring it into compliance with the new regulations, procedures, and policies of the state, the county, and township and to make it easier for residents to understand and use. This is a second hearing for Ordinance 25 - Section 17.

Article 29.00 Zoning Amendments has been revised to comply with the new Michigan Zoning Enabling Act requirements. This is the first hearing for Article 29.00.

PUBLIC COMMENTS:

Linda Harwood, 9028 Green Hickory Lane, asked if the Township Board could change zoning without having it come to the Planning Commission first. Mr. Milliken said that was not allowed by the Zoning Ordinance. Ms. Harwood then asked If the Planning Commission sends a "No" decision to the Board and it is appealed, can the Board over-ride the Planning Commission. Mr. Milliken said it could be done, but the Ordinance has specific procedures for how it should be done.

Ms. Eastman asked to have Section 20.00, Table 20.01 revised based on the lot width memo presented by Mr. Milliken for revisions to the LK-1 minimum lot width

Mr. Meisel asked for a change in ordinance Section 21.17 - Noncommercial Satellite Dish Antennas and Amateur Radio Antennas. Section 21.17.B permitted regulation of antennas in the RM-1 zoning district, but the Telecommunications Act controls the RM-1 district, and the Township does not have authority there. He asked to have the RM-1 reference deleted from the text until the Planning Commission has time to bring the rest of the section into compliance with the most recent regulations.

Darlene Kimmel, 9069 Green Hickory Lane, asked the Planning Commission if minimum lot widths could be changed by conditional rezoning. Mr. Milliken said revisions to another Public Hearing ordinance, Article 29 - Zoning Amendments, deals with rezoning. This section has been revised to bring it up to date with the Michigan Zoning Enabling Act, and new provisions have been added to deal with conditional zoning. Primarily they are administrative procedures dealing with the type of information that has to be submitted, the way it is processed, the way it is approved, and how the land gets rezoned.

Mr. Milliken thought that Ms. Kimmel's question really dealt with density and granting density variances through conditional zoning. The state leaves that decision up to the community. Under the Township's draft ordinance, variances for use and density cannot be granted through conditional zoning. A bigger sign size, less landscaping, or a taller fence than the

ordinance allows could be granted through conditional rezoning, but if they wanted to ask for a business in a residential zone, or more houses than would be permitted, or more apartments than would be permitted, that is not what conditional zoning is for.

Ms. Harwood wanted to know if the Board had to follow the zoning rules of the Planning Commission. Mr. Milliken said that the ordinance (Section 29) is still in draft form. It has to be recommended by the Planning Commission and approved by the Township Board. If the draft is approved, it is ultimately what the Board would have to follow. Ms. Kimmel asked if that meant that if something was appealed to the Board, and the applicant followed all the Zoning Ordinance rules, the Board would have to grant the appeal.

Mr. Meisel explained the Planning Commission's intent. The way the ordinance is written, if the Township Board was to overrule a Planning Commission decision, there are specific criteria they must use to arrive at that decision. They have procedures to follow and very specific findings to make to determine if there is a reason why the Board should overturn or put aside the rules of the Zoning Ordinance. The rules have to be dealt with carefully, because if this happens more than once, the ordinance usually becomes unenforceable. The Board should act carefully when it goes against a decision that is spelled out in the ordinance.

Ms. Kimmel asked where she could find the written criteria. Mr. Hasbrouck explained that the information was available at the Township for residents to look at. If there was something that she didn't like, she should contact a Planning Commission or Township Board member before the Ordinance Section 29 is adopted. The Board can approve the request as presented or send portions back to the Planning Commission for further review. Mr. Milliken told them to ask for the Zoning Amendments ordinance section if they wanted to review the language.

Recording Secretary Burtch asked for clarification of the language in Article 20.02.A and Article 2.00 regarding the lot width of parcels with water frontage. After discussion it was determined that "Lake" had the same meaning as "waterfront" and "lake" would be capitalized in the new "Water Frontage" definition in Section 2.00.

Another suggestion was made to change the text of 20.0.2.A to allow for inclusion of language related to the shores of lakes, pond, streams and wetlands in addition to cul-de-sacs. Sentence 1 could be revised to, "Minimum lot width is measured along a straight line between the points where the front **or rear** setback line intersects with the side lot lines, except for ~~cul-de-sac lots located on the outside or inside of a curve in the road~~: flag lots, or **parcels with curved lot lines.**"

Sentence 2 could be revised to, "The width of ~~cul de sac lots located on the outside of a curve in the road~~ lots with ~~an outside~~ a **concave** curve is measured along a straight line tangent to the arc of the front setback line. The tangent line shall only have one point of contact with the required front **or rear** yard area.

Sentence 3 could be revised to, "The width of lots ~~located on the inside of a curve in the road~~ with a **convex curve** is measured along a chord, which shall be a straight line that has its end point located where the front **or rear** setback line intersects with a side property line (see Figure 8).

The Planning Commission discussed describing curves as "concave" or "convex" as a substitute for "inside curve" and "outside curve." Mr. Meisel was concerned that the proposed language change may not meet the intent of the ordinance section and no changes should be made until Mr. Hanoute was able to review the language. Mr. Hasbrouck agreed.

CLOSING PLANNING COMMISSION REMARKS:

There being no further comments, the Public Hearing was closed at 8:30 p.m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission