

TYRONE TOWNSHIP PLANNING COMMISSION
Approved Work Session Minutes

January 9, 2007 7:30 p. m.

PRESENT: Bob Byerly, Sally Eastman, Joe Fumich, Dave Hanoute, Steve Hasbrouck, Laurie Radcliffe

ABSENT: Mark Meisel

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

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC: John Norris, Runyan Lake Association member, asked to participate during discussion of the LK-1 text revisions

APPROVAL OF THE AGENDA:

Mr. Hasbrouck asked to amend the Agenda under correspondence (*). Ms. Eastman asked to amend the Agenda under Other Business from Members (*).

MOTION: Moved by Hanoute, seconded by Eastman, to approve the Agenda as amended. Motion carried by unanimous voice vote.

APPROVAL OF THE MINUTES:

1) December 12, 2006 - Work Session Minutes

MOTION: Moved by Hanoute, seconded by Eastman, to approve the December 12, 2006 Work Session Minutes as corrected. Motion carried by unanimous voice vote.

Page 6, Line 47: (...pulled the application ~~when they ran out of funds...~~)

CORRESPONDENCE:

1)* Bylaws and Register

Mr. Hasbrouck said that draft copies of the newly adopted Bylaws and Register had been distributed for review and comment.

Ms. Radcliffe requested that corrections of the register be returned to her mailbox by January 19, 2007. She said she would note the Subcommittee members when she prepared the final copy.

SUBCOMMITTEE REPORT:

OLD BUSINESS:

- 1) Review of revisions proposed for the Township's Private Road Maintenance Agreement and Shared Driveway Maintenance Agreement (December 2006). The documents have been reviewed by the Attorney and the Township Board.

The Recording Secretary informed the Planning Commission that Shared Driveway Maintenance Agreement Items 7, 8, 9 and 10 had been added to the document by the Attorney and then crossed out at the request of the Township Board. The Board also felt references to the "road" and the "easement" should be more consistent. Mr. Milliken explained that Item 5.a was the clear vision maintenance language requested by the Planning Commission.

During discussion of the Road Maintenance Agreement, the Planning Commission decided to:

- Revise the last sentence of Paragraph 1 to, "..hereby enter into the following Agreement for maintenance of the private road **and private road/public utility easement ("easement")**;
- Insert a revised reference to "easement" throughout the text where appropriate;
- Correct Section 6, Item 3 to reference **\$3,000.00** ~~\$3,000,000.00~~ per occurrence;
- Revise Section 6, Item 1 to, "...each parcel ~~from and after the commencement of an y construction of any house, building, or other improvement on the parcel ("improved parcel")~~ is responsible for maintaining and improving the easement;
- Revise Section 6, Item 2 to, "Each improved parcel **owner** shall share...", to make it consistent with Item 1;
- Renumber Item 5.a as Item 6;
- Correct the spelling of "area" in Item 5.a, lines 11 and 12; and
- Correct the spelling of "properly" in original Item 7, line 1.

Mr. Hanoute asked how the Road Maintenance agreement could be enforced if Items 7, 8, 9, and 10 were removed from the agreement. Mr. Byerly said that the Board tabled action on the agreements and sent them to the Attorney because the Board didn't want to police the roads. This was the first time he had seen the Attorney's corrections. Mr. Hanoute observed that it was the Township's responsibility to police the Zoning Ordinance and private roads are part of the ordinance. If the Township doesn't enforce the Ordinance, who will.

Mr. Byerly believed that the Maintenance Agreement would be enough to make sure that the roads were maintained. Mr. Hanoute was concerned about public safety vehicles traversing the roads. Mr. Byerly thought the County would enforce a lot of the road maintenance, especially where emergency equipment is involved. Mr. Hasbrouck asked Mr. Byerly which part of the County would administer private roads. Mr. Byerly said that was why we had to have agreements before the roads were built. Then everyone is supposed to abide by it.

Mr. Hanoute thought the Attorney added items 7,8,9 and 10 so the Township would have a way to improve the roads whether the residents had enough money to do it or not. He believed the Attorney's sections should stay in the Ordinance to provide an effective way to administer the roads and get the work done.

Mr. Byerly commented that Paragraphs 7, 8, 9, and 10 were taken out of the Agreement by the Attorney. The Board didn't take anything out of the agreement at their last meeting. The Recording secretary explained to Mr. Byerly that one of the Board members had told her the

Board had objections to some of the language in the agreement, particularly Sections 7, 9, 9 and 10 which had been added to the existing agreement by the Attorney. Mr. Byerly said the Board hadn't made changes to the Agreement. They just tabled it.

Mr. Fumich wondered what sort of procedure the Township would need to enforce road maintenance. Would we send in an Engineer for an opinion and then send the Zoning Administrator to write up a violation. Would all the residents have to go to court. Assuming everybody wants to take care of the roads, what will be the mechanics. Mr. Hasbrouck said that if a single person or homeowner living on the road might want it improved, and no one else would be willing to spend the money, they might come to the Board for help. That could begin the process. If no one comes forward, and we have problems with emergency vehicles, that would be obvious and could be dealt with by following the enforcement procedures if we leave them in.

Mr. Milliken explained that private roads are not something that the Zoning Administrator would actively enforce. Private roads are not a county issue or a township issue. They are a private issue. The Township could get involved when a resident calls and complains or when there is an actual emergency and the vehicles have trouble servicing the property. Without the enforcement agreement, the Township can't force anything.

Mr. Fumich questioned if leaving the enforcement sections (7,8, 9, 10) in the agreement wouldn't encourage the owners to sit around and wait for the Township to solve the problem. It would be better to have language that tells them how to solve their own problem. If we leave the enforcement sections in there they will use them to force the Township to fix the road.

Mr. Hasbrouck thought that the proposed language didn't obligate the Township to do anything, but it gave them the opportunity to do something if they wanted. It would probably cost more for the property owner to have the Township do it than if they did it themselves. The Recording Secretary asked what the liability would be to the Township if they had responsibility for road maintenance but didn't maintain them. Mr. Hasbrouck said that was a question for the Attorney and the Attorney could talk to the Board about it. Requiring maintenance is a positive step in indicating that we want to see the private roads taken care of properly. The agreement also states that they are private roads, privately owned, and should be maintained as such.

Mr. Hanoute asked if the Township has the right to condemn a road just like an unsafe building. If the road becomes a nuisance, the Township could condemn it and not let the resident's use it. That might provide a catalyst for correction. Mr. Byerly said the Township did have the authority to condemn buildings. Before, there were problems because we had roads without agreements. Now, if they have an agreement before they build on the road, the residents will maintain and take care of it. If a resident has to complain to the Board, they should be able to and the Board should have to do something.

Mr. Hanoute said he didn't want to create a big disagreement between the Planning Commission and the Board, but he thought there should be some sort of language in the Maintenance Agreements to enforce the document whether it was by condemnation or some other procedure.

The meeting was recessed at 8:00 p.m. for a Public Hearing and reconvened at 8:50 p.m.

During review of the Shared Driveway Agreement, the Planning Commission decided to:

- Use similar "easement" definitions for shared driveway and private road documents;
- Use the same language for maintenance of sight distance in both documents;
- Revise Page 3, Section 7, Line 2 to require charges to be "... reallocated among all property **accessing** ~~abutting~~ the shared driveway..."
- Set a specific time period for completing repairs to unsafe or substandard roads and driveways; and
- Require that both the Shared Driveway and Private Road Maintenance Agreement copies be recorded at the County and filed at the Township.

Mr. Hanoute noted that there were the same enforcement issues in the road and driveway agreements and wanted to know if the Planning Commission intended to take a position on the enforcement language or discuss it with the Board at a joint meeting. Mr. Hasbrouck thought the Planning Commission should take a position. The Attorney believed the language should be in the agreements, and if we believe the regulations should be there, we should send them back to the Board.

Mr. Hanoute said he didn't necessarily agree with the Attorney's recommendations, but he thought the Township should have some means of enforcement. He could appreciate the Board's position in not wanting to enforce maintenance that way because it places a burden on the Township, but there should be some sort of enforcement mechanism. He suggested inserting condemnation language to see if that would be acceptable to the Board.

Mr. Hasbrouck asked the Recording Secretary to contact Attorney Harris, review the issues with him, and find out more about the condemnation process. Mr. Fumich suggested including a time period for making repairs as part of the condemnation process. The Planning Commission agreed that the agreements should be sent back to the Board with some sort of enforcement procedure after discussion with Mr. Harris.

In response to a question from Ms. Radcliffe, Mr. Hasbrouck said it was his understanding that one person from the Board had requested removal of items 6, 7, 8, and 9 from Section 6 of the Shared Driveway Maintenance Agreement and items 7, 8, 9 and 10 from the Private Road Maintenance Agreement. That may not be the consensus of the Board. We think we need something, so we will get another opinion from Mr. Harris, make the corrections we discussed, and review the new draft after Mr. Harris has had a chance to comment.

Mr. Hasbrouck asked to schedule discussion of the Maintenance Agreement revisions as soon as they were completed.

2) Public Hearing recommendations

Mr. Hasbrouck asked the Planning Commission if they were prepared to act on recommendations related to the Public Hearing revisions.

Mr. Hanoute said he would like to wait to act on the revisions in order to get to the LK-1 discussion. Most of the public in attendance was here for that discussion. The Planning Commission concurred with Mr. Hanoute's recommendation.

NEW BUSINESS:

- 1) Review of the proposed language to be incorporated into the LK-1 Zoning District text or other ordinance articles where it would be applicable.

John Norris, said that when the Planning Commission worked on the Master Plan in 1993, the LK-1 Area was set aside for medium density single family residential instead of LK-1. The LK-1 Zoning section has gray areas which are open to interpretation. The LK-1 District is outdated because the new Master Plan doesn't refer to it at all for the Runyan Lake Area.

The Runyan Lake Community is concerned about high density and they want to see lot splits conform to the desired medium density in the Master Plan with proper lake access to maintain today's atmosphere of a lake community. He wondered why the Planning Commission was working on LK-1 language when it isn't in the Master Plan. Why isn't the Planning Commission working on some new Ordinance for medium density single family residential. He volunteered to work with the Planning Commission or an appointed subcommittee on the new language.

Mr. Milliken explained that the language being reviewed by the Planning Commission was presented for the purposes of discussion and isn't intended to be final ordinance language. He had already received comments from Mr. Meisel who had the same question as Mr. Norris. Part of Mr. Norris's question deals with semantics.

The name of the Zoning District does not have to match the name of the residential density described in the Master Plan. In fact, if you talk with some experts and some of the judges, they feel the terms should not match at all because it creates confusion between the two. The intent section of the Ordinance may state that a particular zoning district represents a use category in the Master Plan, but it doesn't have to.

A Master Plan may have five or six categories coded for various residential uses. One of them might be Residential Low Density. Within that category might be R-1 and R-2 Zoning Districts, while a Residential Medium Density category might have R-3 and R-4 Zoning Districts, or however they are designated in the local Ordinance. In urbanized areas you often see three or four residential zoning districts contained in a single use category.

The issue here is that LK-1 covers both Lake Tyrone and Runyan Lake as a zoning category, while the medium density use designation covers Runyan Lake. One solution would be to include Lake Tyrone in the medium density category on the Future Land Use Map. That way, no properties would have to be rezoned and the use of LK-1 would not be expanded. Other solutions which involve changing zoning districts or revising the Master Plan take a lot of time and become very involved. Not only that, it is very difficult to rezone property without the owner's consent.

Changes have been proposed for the introduction to the LK-1 zoning text (7.00) to be more direct about the intent of the Zoning District, to specifically state the lakes it applies to, and to match the Master Plan more closely. Under Section 7.04, land development has been separated into two categories to deal with the existing lots of record (7.04.A) and future lots (7.04.B). The Section 7.04.A minimum width and area requirements were based on typical lot sizes within the LK-1 district.

Mr. Meisel suggested making all currently platted lots conforming. Platted lots that have been changed shall be considered conforming, but may not be divided. New unplatted lots must have 50 feet of frontage and an area of at least half an acre and may not be divided. That is not a typical approach, but because there is a finite number of plats and lots, it could be a good way to deal with existing lots of record.

In the category of newly created lots (7.04.B), the standards would be based on the Master Plan minimum of a half acre. Mr. Milliken suggested a width of 80 feet while Mr. Meisel suggested 60 feet which would permit combination of two 30 foot lots to create a 60 foot lot. Each new lot or unit would have to have lake frontage with the required minimum width at the water frontage.

Mr. Hasbrouck asked if three existing lots were combined if they would be considered a newly created lot or a combination. Mr. Hanoute suggested that a definition of "newly created lots" could solve that issue. Combining lots creates a new configuration from parcels that are already there.

Mr. Milliken noted that the LK-1 language is intended to apply only to Runyan Lake and Lake Tyrone. Mr. Hanoute asked if there were plans for Lake Shannon and the other lakes. Ms. Eastman thought there were deed restrictions at Lake Shannon which were much more stringent than the Township requirements.

Mr. Milliken commented that the ordinance revisions proposed tonight were for minimum lot area and width requirements. The current ordinance regulates funneling and most of the other water frontage in the Township. Before we can go farther with the other water frontage, there should be some sort of analysis of the existing lakes regarding their current zoning, the Master Plan, and what can happen based on the zoning and Master Plan. Although someone could come in and request LK-1 zoning elsewhere, we wouldn't have to approve it. That is why he is recommending a change in the LK-1 zoning text and the Land Use map so it can't happen elsewhere.

If we want to go through the full Master Plan process, that would take almost a year. In his opinion, this wouldn't be a major Master Plan change because designation of the parcels on the map would meet the current zoning. That wouldn't change the zoning or the zoning potential of the parcels. Mr. Hasbrouck noted we had already discussed other changes to the map, and we should put the map revisions on the Agenda.

Ms. Eastman told Mr. Norris it took her five years to understand why the Master Plan doesn't equal Zoning, but the advice we have gotten all along is to not make them the same. She asked if the key-holing ordinance section (7.05.D) measured water frontage differently than we were measuring it anywhere else and wondered if the minimum riparian frontage requirement in Article 7.00 was different than the minimum frontage in Section 20.02.A

Mr. Milliken commented that Section 7.04.B referred to a site condominium unit, which implied that you could build site condominiums on lake front property. The reference to two-family units in Section 7.04.D was currently in the ordinance language, but could be removed from this version.

The Planning Commission discussed whether to specify single family detached structures or allow condominiums and site condominiums in the LK-1 district. Mr. Hanoute explained the difference between a site condominium where common elements and limited common elements are used and building condominiums based on zero lots lines.

Speaking from the audience, James Solden referred to the Hicks property and the parcels proposed for access from Runyan Lake Point. He didn't understand how they could be LK-1 parcels because they wouldn't have lake frontage. Mr. Hanoute explained that they were currently zoned LK-1 which described the Zoning District. Mr. Solden said that was because the property was mis-zoned and it was up to the Planning Commission to change it. Mr. Hanoute said that the owner hadn't requested a zoning change. It has been Master Planned and zoned LK-1 for 10 or 15 years. Mr. Solden said he could understand "Lake" and "Medium Density Residential", but he couldn't understand Lake if you didn't have any lake frontage. That designation limits what can go there. Mr. Hanoute said the Hicks parcel fronts on a lake and he has a right to split it or not. Mr. Solden replied that once it was split, all the parcels would not have access to the Lake.

Mr. Milliken explained that the new LK-1 language was designed to prohibit that type of use in the future. Mr. Solden asked if he could buy one of the lake front lots and then sell his son a ten foot easement to the lake after ten years. Mr. Hanoute said that would be a violation of the current Ordinance. Mr. Hasbrouck explained that there were some easements in existence when the keyhole ordinance was revised and those were allowed to continue. New ones are not permitted.

Mr. Milliken suggested that the Planning Commission might have to review the definition of a single family dwelling and multiple family dwelling contained in the ordinance and then determine whether condominiums would be permitted or not.

Mr. Milliken told Mr. Hasbrouck that he could have the changes for this language prepared in time for the next Planning Commission meeting. He asked if the Planning Commission wanted to see changes to the other ordinance sections based on comments at the hearing. Mr. Hasbrouck suggested a memo which would summarize the discussion and some of the comments to be included as an Agenda item as soon as possible.

The Planning Commission requested revision of Section 7.04.F, Line 2 to read "...conforms with the lot width and or area requirements of this district..."

OTHER BUSINESS FROM MEMBERS:

1)* Zoning Ordinance Amendment Tracking

Ms. Eastman said she had heard that the Board wanted explanations from the Planning Commission regarding the amendment changes. She thought it might be helpful if each of the Commissioners volunteered to track one of the amendments, make notes on it, take it through to the Board, explain the intent, and answer questions as they come up. We have done a whole lot of work that is just languishing.

Mr. Hasbrouck thought that including all the memos from Mr. Milliken and providing the Board with a complete packet and a copy showing the ordinance changes instead of the final copy without changes was what they were looking for. Mr. Byerly will be there to answer questions.

Ms. Eastman said that Mr. Byerly was a Board Member and it would be nice to have someone to wear a Planning Commission hat. Mr. Hasbrouck agreed, but thought it might be difficult for Mr. Byerly to present the request if he didn't agree with it. Mr. Fumich commented that was still part of Mr. Byerly's responsibility. That's why the Board sends someone to the Planning Commission so they can find out what we are doing. When he goes back there, he is supposed to be our spokesman.

Mr. Hasbrouck said Mr. Byerly should get all the memos and all the information when we submit something. We can give that a try and see how it goes, so we don't have to have things coming back just to answer a question. If the Board wants to make changes, that's one thing, but if they don't understand something it makes for timing problems.

Mr. Byerly said he is still learning about the Planning Commission, but he has started asking for the minutes. Mr. Hasbrouck said even if we can submit all the memos, and the minutes and the ordinance showing the changes to the Board, that is a lot of stuff to look at and they might not have time to review it all. Mr. Hasbrouck asked Mr. Byerly to represent us and explain our position even if he doesn't always agree with it or can't support it.

Ms. Radcliffe thought it would be a good idea to include a brief synopsis with the Ordinances stating why the Planning Commission felt a change was necessary and why it was made. That might help. The Board is fairly new and probably isn't familiar with the Ordinance yet and the problems that can come up. Ms. Eastman agreed and suggested including concrete examples of specific problems when we could.

ZONING ADMINISTRATOR'S REPORT:

TOWNSHIP BOARD REPORT:

ZONING BOARD OF APPEALS REPORT:

FUTURE AGENDA ITEMS:

Review of the Maintenance Agreements for Private Roads and Shared Drives
LK-1 Standards
Future Land Use Map revisions

NEXT MEETINGS:

January 16, 2007 - Subcommittee Meeting

January 23, 2007 - Regular Meeting

February 13, 2006 - Work Session

Mr. Hasbrouck asked for an alternate to serve at the Subcommittee Meeting since he had a conflict of interest regarding one of the requests. Ms. Eastman volunteered to attend. Ms. Radcliffe will serve in place of Joe Fumich, who will be away on vacation.

ADJOURNMENT: 9:50 p.m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission