

TYRONE TOWNSHIP PLANNING COMMISSION
Approved Regular Meeting Minutes

September 25, 2007

7:30 p. m.

PRESENT: Bob Byerly, Joe Fumich, Dave Hanoute, Ed Kempisty, Mark Meisel, Laurie Racliffe

ABSENT: Gary Butler

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

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

APPROVAL OF THE AGENDA:

MOTION: Moved by Kempisty, seconded by Radcliffe, to approve the Agenda as published.
Motion carried by unanimous voice vote.

APPROVAL OF THE MINUTES:

1) September 11, 2007 Work Session Minutes

MOTION: Moved by Meisel, seconded by Fumich to approve the September 11, 2007 Work Session Minutes as corrected. Motion carried by unanimous voice vote.

Page 2, Line 6: (Mr. Fumich asked why they the Township...)

Page 2, Line 19: (That process just isn't working, **possibly after Mr. Nicholson left,**
~~whether it is a good one or not.~~)

Page 2, Line 48: (...was added as a new section.)

Page 3, Line 4: (...should be located in an areas...)

Page 4, Line 13: (...was not given the variances **because variances were not he**
requested.)

CORRESPONDENCE:

1) September 9, 2007 - Letter from **Giffels-Webster** representing **GMF Properties** regarding the Township's PUD Ordinance

Mr. Hanoute explained that the letter was in reference to a meeting the Township held with a potential developer, GMF Properties, regarding property at the northwest corner of US 23 and White Lake Road. There was concern that the Township's PUD Ordinance was written primarily for residential development and seemed inappropriate for the mixed use application they were planning. Giffels-Webster offered to provide input into our PUD revision discussions.

Mr. Hanoute recommended placing the letter on file for future action. Mr. Meisel thought we should wait to contact Giffels-Webster until the draft was ready. Township Planner Greg Milliken commented that he hadn't seen the letter, but had considered suggesting inclusion of Giffels-Webster or GFM during discussion of the PUD revisions. The Ordinance shouldn't be written to shoe horn the development into the township, but it is sometimes easier to develop an ordinance when you have a practical example to work with. The costs of his participation could be passed on to the developer as part of a pre-application meeting. Some costs at this point could save months of meetings in the future.

Mr. Hanoute asked Secretary Radcliffe to draft a letter to Clerk Morton, since the letter was addressed to him, advising him of the discussion and offering the Planning Commission's future involvement with the planner and developer on the terms which Mr. Milliken suggested, stating that as soon as a preliminary PUD draft is available, the Planning Commission would like to establish a meeting with members of the Township Board, Planning Commission, Mr. Milliken and Giffels-Webster to discuss PUD issues and conditions.

Mr. Meisel suggested a time line of six to eight weeks before contacting them for a potential meeting. Mr. Hanoute thought it could be done sooner. Mr. Milliken noted that completion of the initial PUD reading was scheduled for the meeting tonight, and he could have a revised draft from tonight's review available for the next meeting. Then it could be forwarded to the Board for review and scheduled for a joint meeting. Mr. Milliken suggested working toward a date in the first part of November while trying to have something ready sooner than that.

SUBCOMMITTEE REPORT:

- 1) Request of Mike Meloche for relocation of Faussett Road access easements to three parcels originally approved in 1998.

Mr. Hanoute observed that the land division easements approved in 1998 hadn't been recorded. That means that in the eyes of the County and the Township there are no easements.

Mr. Meloche missed the Subcommittee Meeting last Tuesday and appeared at the Board Meeting. A request was made from the Board that we expedite his request and that is why Mr. Meloche is on the Agenda for this evening. The Subcommittee has seen the application, but has not discussed it with the applicant or taken any action on it.

Mr. Meloche told the Planning Commission that two shared driveway easements had been approved for the three parcels, but they wanted to abandon the shared driveway on the west side approved for Parcel C and access the homes on Parcel C (29-300-037) and D (29-300-038) from the shared driveway easement on the east property line of Parcel B. The Road Commission has since approved a single private driveway access for Parcel B (19-200-036). He also informed the Planning Commission that:

- The proposed access for Parcel C was located on the west side of Parcel B;
- The shared driveway has been redesigned to access Parcel C from a spur crossing Parcel B from the east property line access easement;
- There is another 66 foot wide single private driveway easement on parcel 29-300-029 east of, and adjacent to, the easement proposed for Parcels C and D;
- The easements are adjacent and parallel to each other;

- Only two parcels would have to be accessed from the shared driveway because the private drive for Parcel B has already been approved and built;
- He had no knowledge about an easement to Parcel 29-300-008 north of Parcel D;
- He had no ability to regulate the use of property on the other side of his property line;
- The driveway proposal he was making didn't affect Parcel D, Parcel B, or 300-008 north east of Parcel D;
- The neighbor's easement on 300-029 only extended to the edge of parcel 29-300-030;
- He didn't feel the neighbor would want to share his easement when he already had his own;
- The legal description from the Title Company for Parcel D already has the easement described in it;
- He had no legal interest in Parcels B and C;
- If the Township wanted a description, he could write an easement for the legal description of Parcel D and record it himself;
- The driveway easements were side by side because there was a 25 foot wide fence row between them;
- The fence row was full of big trees and rock piles;
- If he had to use the easement on the adjacent parcel as far as the spur between B and D, he would have to wipe out all the trees;
- Somehow the original shared easement with 33 feet on each side of the property line got lost;
- It was unreasonable for him to have to solve a problem that had been created by the Callaghans, the Township, and the Road Commission;
- The easements could be combined because there were only four parcels involved;
- Parcel B has a single driveway from Faussett Road;
- Parcel 29-300-007 has been purchased by the owner of 29-300-002 and has access from Dean Road;
- The 20 acres on the north side of Parcel D doesn't affect the easement he is requesting;

During review of the request, the Planning Commission noted that:

- The description of the shared driveway easement for Parcels C, D and 300-008 had not been referenced in the legal descriptions of Parcels B and D;
- The spur to Parcel C that crossed Parcel B should be a private drive, not a shared drive;
- This was a situation where the drawings did not match the documentation;
- The original plan showed a hatched area intended to combine a 33 foot wide easement for Parcel B, D and 300-008 with a 33 foot wide easement on adjacent parcel 300-029 to connect to parcel 29-300-030 on the north side of 300-029;
- The owner of parcel 300-029 probably laid off his own 66 foot wide easement and recorded it when he split off 300-030;
- Based on the information provided by Mr. Meloche, parcel D did not contain proof of access for 300-008;
- The shared driveway being used was never recorded, the one recorded is not being used, and the proposed new one (B) is not shown on the drawing or described in the descriptions of Parcels B and C;
- Easements that are not legally recorded do not legally exist;
- A new shared driveway hearing may be required because the design originally approved is not being used;

- The new ordinance would require access to parcel 300-008 from 300-029;
- The new ordinance would require that all of the easements be consolidated at a single access point either this one or the one next door (300-029);
- The request is to attach a new private single access driveway for Parcel B to the shared driveway easement;
- The Planning Commission is discussing the possibility of denying the request and requiring permission from the neighbor for the use of the easement on 300-029 to access Parcels C, D, and 300-008;
- Locating two driveways immediately next to each other is inherently dangerous;
- Using the neighbor's easement (300-029) would improve an unsafe situation;
- Working with the neighbor would improve the health, safety and welfare of the residents using Faussett Road;
- A site drawing should be provided showing all of the parcels with access from Faussett Road and all of the easements connecting the parcels to Faussett Road;
- Mr. Meloche should explore the possibility of using the neighbor's easement to access Parcels C, D and 300-008;
- It would be much better to cross the neighbor's easement than to put another easement on Parcel B;
- The spur to Parcel C could come straight across from an easement on the neighbor's parcel (300-029);
- If Parcels C and D have been foreclosed, the financing companies will still be interested in proof of access;
- Mr. Meloche needs to provide the drawing showing the properties to the east and showing the location of the easements to see whether or not there is some ability to negotiate and arrive at a better solution for a private road versus a shared driveway;
- Copies of any parcel deeds which have been recorded should be provided;
- The easement originally approved across Parcel D stops at the corner of parcel 300-008 and information about any turning easements should be provided;
- The easement recorded for Parcel B is described as an ingress egress easement leading to Parcel C, with nothing in the description about shared access;
- Action to vacate the easement on the west side of Parcel B and correct the legal descriptions could be taken at the same time access to Parcel C is approved;
- If the neighbor didn't want to share the easement, the Township should have the authority to make him share it whether he wanted to or not;
- The current ordinance did not permit mandatory shared driveway access for adjacent parcels and the new one mandating shared use hasn't been adopted yet;
- The only portion of the fence row which would have to be cleared would be the strip where the driveway access crossed from west to east or east to west;
- The Township cannot approve a land division which creates a landlocked parcel;
- The challenge is a request for something many of us would agree is reasonable, but it doesn't comply with the Zoning Ordinance and so we don't have the ability to grant it;
- We have to see what we can do to fix it, or the next thing will be to tell you our recommendation is a trip to the Zoning Board of Appeals for a variance;
- In granting the easement we don't want to create a landlocked situation for the neighbors property;
- The Planning Commission needs to address all the parcels and make sure there is proper ingress and egress for them;

- If we can't arrive at a proper Zoning Ordinance compliance solution, then collectively we will have to come up with a proposal that can go forward to the Zoning Board of appeals; and
- The applicant should contact the owner of Parcel 29-300-029 regarding a shared easement.

Mr. Hanoute asked for a new drawing including the adjacent parcels, the easements and the easement ramifications, copies of any recorded parcel legal descriptions, copies of the the easement descriptions recorded or not, information regarding the easement for parcels 200-029, and 300-030 and a shared driveway maintenance agreement for Parcels B and C.

MOTION: Moved by Meisel, seconded by Fumich, to table the request of Michael Meloche for land division revision until the next meeting (October 9, 2007) pending receipt of the requested information. Motion carried by unanimous voice vote.

MOTION: Moved by Meisel, seconded by Radcliffe, to suspend the Order of Business and take up New Business Item One. Motion carried by unanimous voice vote.

OLD BUSINESS:

- 1) Consideration of revisions to Zoning Ordinance Article 11 - PUD Planned Unit Development to reference PCS and PIRO development
- 2) Review of the PCS Zoning Ordinance Text continued from September 11, 2007
- 3) Review of the PIRO Zoning Ordinance Text continued from September 11, 2007

NEW BUSINESS:

- 1) Request of The Rock Congregation (Linden Road Community Baptist Church), represented by Pastor Bob Easlick for an October 23, 2007 Special Land Use Permit Public Hearing to connect a new recreation center to the existing church. The Township has requested a Special Land Use Permit application from the Church prior to final review of a site plan amendment.

Mr. Hanoute said that the request had been reviewed by the Subcommittee. At that time, we found that the church did not have a Special Land Use Permit. The fact that the use is being expanded by the addition requires site plan review. The objective tonight is to set a Special Land Use Permit Public Hearing on the date requested by the applicant.

Moved by Meisel, seconded by Radcliffe, to establish a Public Hearing for October 23, 2007 at 8:00 p.m. for the Rock Congregation (Linden Community Baptist Church) to hear their request for a Special Land Use Permit to connect the Church to the recreation center site. Motion carried by unanimous voice vote.

OTHER BUSINESS FROM MEMBERS:

ZONING ADMINISTRATOR'S REPORT:

ZONING BOARD OF APPEALS REPORT:

BOARD ACTION:

Recording Secretary Burch asked for review of the Board comments in order to return the documents to the Board for approval and adoption of Ordinance 24.00 for private road development. One of the comments from the Board referred to Section 26.04.R which might require re-review by the Attorney.

- 1) Township Board Meeting Minutes of September 18, 2007 regarding revisions to the Shared Driveway Ordinance and the proposed Maintenance Agreements.

Mr. Meisel said he had discussed the comments with some of the Board members and we just need to communicate to clarify issues. He volunteered to take the Planning Commission comments to the Board members for small group discussion.

Mr. Hanoute asked why the Board comments weren't written down and sent back to the Planning Commission to avoid getting three or four different interpretations of the comments. Mr. Meisel replied that he had queried a couple of the Board members and volunteered to act as a conduit with Mr. Byerly to serve as a technical guide and bring back information and comments. Township Board Meeting Minutes don't have to cover the discussion, so he takes notes to bring back to the Planning Commission, get feedback from the Planning Commission, take that back to the Board members and then figure out if there needs to be more dialog.

Referring to Page 24-6 of the Private Road Ordinance, Item Q, Mr. Meisel said the Board was concerned that requiring access from a private road only did not take pre-existing corner lots into consideration. Mr. Milliken explained the article referred to structures built after approval of the land division or private road. When a private road creates a new corner lot, any existing structures remain the same, but any new structures will have to access from the private road.

Mr. Meisel mentioned that some Board members questioned why corner lots couldn't have driveways from two roads. Mr. Hanoute explained that existing corner lots have the option of choosing to use the private road or the public road, but not both. Mr. Meisel's understanding was that access from both roads wouldn't be allowed because of sight distance and separation distance requirements. Mr. Hanoute said the intent was not to force existing driveways to be relocated to a private road when an existing yard becomes a corner lot. Revising the text might make the intent clearer.

The Planning Commission asked Mr. Milliken to revise the 24.04.Q (page 24-6) to read, "Any new structure ~~expansion or addition~~ proposed after approval of the private road shall satisfy the appropriate setback standards for the zoning district, shall have access to the private road only and shall not be permitted to access the public road." Mr. Milliken also suggested an additional sentence to read, "Existing structures with access on the public road shall be permitted to maintain said access until the structure is replaced."

Mr. Meisel said that the language on Page 24-8, Item 3, Paragraph 2, was marked because the text in the private road section and the shared driveway section should be the same.

In regard to questions about the text on page 24-9, Section 24.05.B.1, The Recording Secretary explained that it is the statutory responsibility of the Clerk to receive all legal documents for the Township. The last sentence of Paragraph 1 should read, "...with a copy of such registration filed with the Township Clerk

Mr. Meisel said the Board felt that the language on Page 24-10, Article H, Line 3, "Design Standards" should be revised to read, "The driveway and utility easements shall meet the Livingston County standards for public roads with the exception of bituminous surfacing or as modified by Tyrone Township through the standards in Section 24.05 and 24.06." Language permitting Township modification of roads should also be referenced in Section 24.03.A.

Mr. Meisel commented that Page 24-14, Item R, was questioned by the Board in terms of mandating joint use of shared driveways for future land divisions after the shared driveway had been installed on an adjacent parcel. Mr. Hanoute said when we talked about this before, we decided it should be first come, first served on the driveway. Once the potential for four splits with shared driveway access had been used up, the person who wants to add a fifth split should have to pay for converting the driveway to a road.

Recording Secretary Burch thought that the revision to Section 24.06.R altered the intent of the Ordinance after it had been reviewed and approved by the Attorney. It should be returned to him for evaluation of the change from "may" to "shall."

In regard to Section 24.06.R., Mr. Hanoute asked what the difference was between the use of "may" or "shall." If we are empowered to invoke the Ordinance and utilize and enforce it, what's the difference. Mr. Van Hecke commented that one word (may) means we prefer to do it this way. "Shall" means it must be done and there is no option. Mr. Hanoute asked if he thought we could get Mr. Meloche to consolidate his driveway with his neighbor if we didn't demand it. That's why we changed the language from "may" to "shall."

Mr. Meisel commented that forcing someone to allow a neighbor to use some one else's property is a pretty demanding requirement. Mr. Fumich replied that the neighbor should be able to use the other neighbor's property because we approved the splits. He may have put up five or six splits in there and his neighbor should be allowed to use the road.

Mr. Meisel said we had gotten the Attorney's opinion three times on this ordinance and we didn't need any more. The Recording Secretary said that in this case, the Attorney's opinion was based on the use of "may" in regard to shared driveways. Now the article says "shall" which is a substantive change. Mr. Van Hecke asked how payments would be assessed and if the person benefitting from the right to his neighbor's driveway would have to become part of the maintenance agreement.

Mr. Hanoute wondered why the same principle regarding the use of public roads didn't apply to shared driveways. The public road right of way is your private property, but the Road Commission tells you what you can do with it. Doesn't the same principle apply here. The driveway is private property that is getting improved for everyone's benefit and use. Mr. Meisel said that even if a property owner agreed to share his driveway for mutual benefit, he would want to chose which parcels could use it. A complete stranger could come along to tell him he is going to convert his driveway to a private road. The traffic from three or four homes would be minimal compared to adding another four or five units to it just because the owner

of a larger parcel has the right to convert the driveway to a private road. Mr. Hanoute said that although that might increase the use of the driveway it would minimize the problems at the public road. Applicants needed to be aware of what is in the Ordinance when they develop a shared driveway on a property line.

Chairman Hanoute asked the Recording Secretary to contact the Attorney regarding the use of shared driveway easements. Mr. Meisel asked to have the Attorney call him or Mr. Hanoute if he isn't clear about the issue.

Continuing with the review of the Board's comments, Mr. Meisel said there was some discussion about the turn around requirements for roads and driveways between cul-de-sacs (roads) and T turnarounds (driveways). He explained that private roads carry more traffic and the Planning Commission was concerned that a T turnaround would impede the flow of commercial vehicles. Mr. Hanoute commented that is also an AASHTO recommendation.

Mr. Meisel said the Board was looking for consistency between the Maintenance Agreements. Page 2, Section 6 of the sample Driveway Maintenance Agreement refers to a "simple majority" while Page 3, of the Road Agreement, Section 12 Amendments, requires a 75% majority. Mr. Hanoute replied that road maintenance was much more complex than driveway maintenance. Associations usually maintain roads, while driveways are maintained by a small informal group. He also noted that Page 3, Section 8, should require re-recording of any amended maintenance agreement with the Township.

Mr. Milliken suggested revising Page 3, Section 10 of the Road Agreement with the addition of "...except in accordance with Section 10 ~~by written agreement.~~"

2) Planning Commission Meetings

Mr. Byerly asked to have the Planning Commission consider a 7:00 p.m. starting time for their meetings. Chairman Hanoute scheduled discussion of the request for the next meeting.

FUTURE AGENDA ITEMS:

Chairman Hanoute asked to have the PUD items carried over to the next meeting.

NEXT MEETINGS:

October 9, 2007 - Work Session

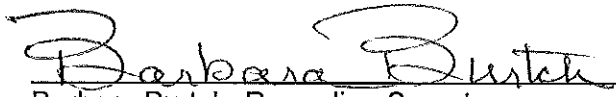
October 16, 2007 - Subcommittee Meeting

October 24, 2007 - Regular Meeting

ADJOURNMENT: 9:50 p.m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission