

TYRONE TOWNSHIP PLANNING COMMISSION
TYRONE TOWNSHIP BOARD
Approved Zoning Ordinance Special Meeting Minutes

November 13, 2007

6:00 p. m.

PLANNING COMMISSION:

Present: Gary Butler, Bob Byerly, Dave Hanoute, Ed Kempisty, Mark Meisel, Laurie Radcliffe
Absent: Joe Fumich

TOWNSHIP BOARD:

Present: Bob Byerly, Dave Kurtz, Hod Morton, Steve Nagy, Andy Schmidt, Lynn Thompson
Absent: Brian Miles

OTHERS IN ATTENDANCE:

Deputy Supervisor Ralph Dawson, Zoning Administrator George Van Hecke, Planner Greg Milliken

CALL TO ORDER: 6:05 by Planning Commission Chairman Hanoute

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

AGENDA:

- 1) **Discussion of revisions to Zoning Ordinance Article 24.00 Private Road, Shared Private Driveway, and Access Easement Standards**

Mr. Kurtz expressed his concerns about some of the proposed Ordinance Language. Livingston County has allowed Townships to minimize curb cuts by turning four cuts into one, but there is no rule that requires the County or Township to make eight curb cuts into one. The old Ordinance just says that good planning will attempt to minimize curb cuts which we have done by using shared driveways. That is a wise choice

But now the new ordinance says that you have to give use of your access to your neighbor who hasn't done anything. We say that if you want to put new development in, the access has to be built up to Livingston County Standards and the neighbor still does absolutely nothing. He can drive across the driveway that I built and then drive on down to the road.

Mr. Hanoute asked Mr. Kurtz if he would feel more comfortable if the ordinance required the neighbor to pay his pro-rata share of costs if he opted to use an existing shared driveway. Mr. Kurtz said, "No." He didn't want the Planning Commission to tell him that he had to sell his property to his neighbor. He didn't want any part of that in Tyrone Township.

Mr. Hanoute commented that he knew of many areas where sharing was a requirement. Mr. Kurtz said he had done developments in many areas and none of them had that requirement. As far as he was concerned, he didn't want anyone telling him he had to give some of his property to his neighbor.

Mr. Hanoute thought the neighbor next door should have the same rights to develop his property as the first shared driveway developer. If they didn't want to share, developers should be required to move their shared driveway away from the property line farther so the neighbor would have space to locate a driveway on his property.

Mr. Kurtz asked why the driveway would have to be spaced at all. If Joe Blow develops his property first, and he meets our ordinances, we don't have the right to tell him he can't put his driveway on the property line. If he meets our ordinance, we can't stop him from putting it there.

Mr. Hanoute suggested amending the ordinance language to not allow shared driveways on property lines. Mr. Kurtz said that isn't what the new ordinance language says. It says you must give your neighbor the use of your easement if it is on a property line. He was looking at the revised ordinance in front of him.

Mr. Hanoute said the Planning Commission was trying to encourage shared use, not force it. Mr. Kurtz replied that the ordinance in front of him said that (new) Parcel B must be allowed to use Parcel A's driveway. I didn't say "might" it said "must."

As a clarification, Township Planner Milliken commented that the proposed ordinance says that if Parcel A has a shared driveway with access for four units and Parcel B wants to develop, Parcel A has to give access to its shared driveway to Parcel B, but if Parcel B wants to build its own shared driveway, it can. The ordinance does not prohibit Parcel B from developing its own driveway, but that doesn't change the argument about the rights to the use of Parcel A by Parcel B.

Mr. Meisel explained that Mr. Hanoute was trying to say that an alternative to the text currently in front of the meeting would be to address the issue by requiring that a shared driveway be located an adequate number of feet from the property boundary so it doesn't create a spite strip at the property line.

Mr. Kurtz said the way to do that was to go back to the Ordinance and say that the minimum distance from the property line would be 50% of the minimum width for the driveway. That gives you a green strip up the center which may or may not be big enough for the utility easement, but that would reduce the number of square feet available for each lot and reduce the number of splits.

Referring to proposed section 24.06.R, Mr. Kurtz noted it said that after 2007, access to a shared driveway shall be provided to the adjacent property. It doesn't say "may" it says "shall." That is a taking, legal or not. We shouldn't be doing that to our neighbors. There are 100 different ways to divide a piece of property, but if the only place you can put a driveway is on the edge of the property, we are telling the owner he has to give access to his neighbor too.

Ms. Radcliffe said she thought that the intent of sharing existing driveways is partially derived from the "In Harmony with Nature" motto adopted by the Township. If you have 300 feet along a roadway with four driveways in it, all of sudden all of the trees that buffer the houses from the road will be gone. There is also a concern about "health, safety, and welfare" situations. There is a situation on Faussett Road which happens to be close to the Shannon Glen entrance. Even though there are recording issues, there is nothing that can stop what the builder wants to do. It is not a good situation and there are going to be driveways, driveways, and more driveways to take away from the beauty of the area with a lot of road cuts.

Mr. Kurtz said he didn't have a problem with using shared driveways, but he didn't want to take it to the next step, and impose neighbors on them. We already have an ordinance that says if you develop a private road you have to leave stubs for future use.

Mr. Hanoute asked if Mr. Kurtz would consider mandating the joint use of shared driveway only if the original developer gives permission. Mr. Kurtz said encouragement was one thing, but mandate is the wrong word. He didn't like the use of "shall" and he didn't want the Township to require that Parcel A would have to do it. Mr. Hanoute thought we should encourage it, but we could allow Parcel A (the original developer) to make the decision to permit it. Mr. Kurtz thought it would be alright to encourage the use if Parcel A permitted it, but Parcel A shouldn't be mandated to share their driveway.

Supervisor Morton said that all of the Township Board members felt the same way. Mr. Hanoute said in that case, that would end the discussion and the ordinance will be set up that way. Mr. Morton said the Ordinance should allow the property owner to make the decision about who is going to use their driveway. Mr. Morton asked why Parcel A should be put in the position of having to allow shared use. Mr. Hanoute said Parcel A wouldn't have to do anything. If they didn't want to give their permission to share their driveway, they didn't have to do it. Mr. Morton asked why A should have to share it if he didn't want to. He might not like the neighbor who wanted to use his driveway. The neighbor should put in his own driveway on his own property line.

Mr. Kurtz said there was already a County regulation about not putting two driveways next to each other. Mr. Morton said that all a property owner had to do was put his driveway where the County wanted it at the road, and then move back into his property along the property line. The owners should have the option to put the driveways along the property line because we don't allow them to use driveway rights of way for open space. Yet we require 30% of his property for open space so we take all of his land for open space. The open space is too severe, and property owners can't use all of their land. Why should he buy 5 acres if he can't use it.

Mr. Morton said we should look at our open space requirements so we can include rights-of-ways and driveways. You can't put a building on a driveway so it should be allowed as open space. He could understand not having two driveways come together at the road, but people should be able to move them around on their own property so each one can have their own driveway. We shouldn't have to make people cut a deal with their neighbor to be able to use a driveway.

Mr. Nagy asked if the paragraph could be rewritten to encourage developing property to use the shared driveway already in place. As opposed to "shall," make it accessible by Township encouragement of a joint agreement. Mr. Kurtz said we had to get rid of "shall" because that

makes it the only way the use can be allowed. If they can't make a deal with their neighbor, then they should be able to put in their own driveway. They are already covered for distance by Livingston County. He was not opposed to using shared driveways, but was opposed to an ordinance that tells the people they have to share.

Mr. Milliken commented that the discussion had been focused on private driveways. He asked how the requirements should relate to private roads. The language in the ordinance's private road section is very similar to the language in the shared driveway section.

Mr. Kurtz thought that was a different. If an owner creates a new parcel (Parcel B), he will have to attach his road to the stub that Parcel A left when the private road was created for that development. Referring to a sketch on the chalk board, Mr. Hanoute explained that the right-of-way shown was a private road developed for the parcel on the right. If the parcel to the left wants to develop, the ordinance will require him to access his property from the existing private road as opposed to building another private road.

Mr. Kurtz said if the right hand parcel was big enough to develop with a private road 1,000 feet long with a cul-de-sac on the end and more than four houses, he didn't see that as a problem because there would be a stub left at the end of the road.

Referring to ordinance Section 24.03.R, Mr. Milliken asked about a situation where a cul-de-sac private road had been created for 8 parcels on the right. The parcel owner on the left who has a long narrow lot would then be able to take off a couple of lots and access them from the private road because the proposed ordinance says "shall."

Mr. Kurtz referred to a section of the text on page 24-6, item R, which did not guarantee access to the private road for property developed after the private road has been built. That would revert the use question to another section which required establishment of a stub road for expansion, so any new development would have to be accessed from the stub. That would require an internal road on the newly developing parcel to connect with the stub.

Mr. Hanoute asked why the ordinance couldn't allow for cuts onto an existing road from an adjacent parcel. Why not require the road to be used for both developments with any new parcels paying their pro rata share of maintenance costs. Mr. Kurtz said the ordinance didn't say anything about pro rata shares, and it would still be taking his property. His copy of the ordinance (page 24-7, Paragraph 1) specifically stated that the parcel on the left wouldn't necessarily be granted use of the road.

Mr. Morton asked if the parcel on the left moved over to use the road, and it was a gravel road, would the addition of more users require that the road be paved. Mr. Hanoute said that any additional users would have to pay their pro-rata share of maintenance and improvement. Mr. Kurtz commented that if the first developer paid to build the road, the only thing the new owners would have to pay for would be drainage. Mr. Hanoute said they should be assessed for a share of the original construction costs at the time they got access to the road. There would be economic impacts to the property on the left as soon as a private road was developed along the boundary line and the impacts might not be favorable. His options were to share the road or move the private road away from the property line.

Mr. Kurtz said we have already asked them to consider sharing a driveway and now we are telling them they have to share a road. Mr. Hanoute said the ordinance language could be revised to address his concerns. Mr. Morton commented that we should "encourage" the use. Mr. Kurtz thought the intent was good to reduce the number of curb cuts and keep the area as rural as we could keep it, but the new approach goes too far.

Mr. Kurtz noted that Section 24.07 - Access Management had been pulled from the ordinance, and that section did "encourage" the shared use of common lot lines by adjacent owners. He thought that language should be consistent throughout the Road Ordinance (Article 24.00) and the Access Management section (21.54).

Referring to Page 24-7, Paragraph 2, Mr. Kurtz asked how paving requirements were determined. He also asked what would happen if a nonconforming building on a nonconforming road burned. Mr. Van Hecke explained that if that more than 50% of the building was destroyed it would have to be built in compliance with the Ordinance regulations for the Zoning District. He also told Mr. Morton, that the footprint of the new building could be increased, but only in compliance with the ordinance requirements for new construction in the particular Zoning District.

There was discussion of the 50 foot turning radius for a T turn-around referenced on Page 24-13 which seemed excessive. Mr. Nagy asked to have authority for the 50 foot requirement researched with the Fire Department and Road Commission.

The following text revisions were requested during discussion of the ordinance:

- Page 24-1; 24.B, last line: (...access the properties located along the road or **shared private** driveway.);
- Page 24-1; 24.01.B, Line 3: Mr. Nagy asked if the roads within condominium or site condominium projects weren't similar to an apartment complex. Mr. Milliken said not necessarily. There could be a series of buildings like the Township Hall or storefronts which were accessed by private roads;
- Page 24-1, B and 24-2 C: Remove the minimum parcel number references from B and C;
- Page 24-3, Section 1: The recordable agreement should be filed with the **Township Clerk** rather than the Planning Commission Secretary and other references revised accordingly throughout the Ordinance;
- Page 24-4, Section 24.03, Paragraph 2: Remove the last sentence;
- Page 24-5, G: Consider basing the length of the cul-de-sac on the length of the quarter section lines (2,640 ft.);
- Page 24-10, C: Maintenance agreements should be filed with the **Township Clerk** . and all references to the Planning Commission Secretary be revised accordingly;
- 24.12.A: The intent of the section should be clarified in regard to corner lots created by a shared driveway;
- Page 24-12.C: Line 4: (...Approaches, Banners, and Parades on and Over Highways **for access easements across the public road right-of-way.**)
- Page 14, 14.R, Line 2 (...access to that shared driveway ~~may be~~ **shall be** provided to the adjacent property.)

ADJOURNMENT: 7:10 p.m.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission