

TYRONE TOWNSHIP PLANNING COMMISSION
Approved Public Hearing Minutes

Article 4.03 - Agri-Business Special Land Use
Jeffrey Zeller

October 14, 2008

7:15 p. m.

PRESENT: Gary Butler, Robert Byerly, Joe Fumich, Dave Hanoute, Ed Kempisty, Mark Meisel, Laurie Radcliffe

ABSENT:

CALL TO ORDER: 7:20 by Chairman Hanoute

READING OF THE PUBLIC NOTICE:

The notice was read aloud by Secretary Radcliffe

CORRESPONDENCE:

- 1) A telephone message was received from a neighbor, Karen Kubic, who supports the project and is happy to see the use located there.

PURPOSE OF THE HEARING:

The purpose of the Public Hearing is to receive comments regarding the issuance of a Special Land Use Permit to Jeff Zeller for an Agri-Business (22.05.K, 22.05.R) at 8444 Bennett Lake Road, RE parcels 06-200-004 and 06-200-005, to use the site as a greenhouse and seasonal agricultural products sales location.

COMMENTS FROM THE APPLICANT:

Mr. Zeller referred to his letter and hoped that everyone had a chance to read it. He said there is nothing new to add. He is not here as a prospective buyer. He owns the property and wants to move forward and continue to clean up the property. He has made many improvements over the last month or two and would like to speed things up, so he can do exactly what the country needs—start a business.

COMMENTS FROM THE PLANNER:

Township Planner Sally Hodges, of McKenna Associates, said her question had to do with the Agri-Business label. She asked where things would be grown on the site. For an Agri-Business Special Use, more than 50% of what is sold has to be grown on the property.

Mr. Zeller said that there were two starter greenhouses in the back of the property and approximately 10,000 square feet at the front, so more than 50% of the plant material will be grown on site. They could grow some of their pumpkins out back, but the Christmas

Tyrone Township Planning Commission
Approved Public Hearing Minutes
Zeller Agri-Business Special Land Use Permit
Oct 14, 2008
Page 2

trees and wreath making equipment would be brought from outside. Pretty much everything from flowers to starter pepper and tomato plants that people can take home will be grown on the site. The greenhouses will probably start operating in March.

Ms. Hodges asked where the pumpkins would be located. Mr. Zeller said there was a spot out back that looks like dark black mud. He was told they were cutting wood out there and they left a lot of wood and wood chips. That was all composted at the back and he cleaned it out. That could be one little pumpkin field. At the rear of the property there is a football size field that is all sand right now where more pumpkins can go.

Ms. Hodges said when she looked at the site plan, 50 parking spaces seemed like a lot for an Agri-Business use. Mr. Hanoute commented that there were no parking calculations and nothing else to relate parking to. That is one of the deficiencies of the site plan. Ms. Hodges said the parking has a bearing on the special use because we're talking about some gravel fill for a fairly large area of the site and she can't tell what relationship that area has to the use. How can people get there? Is the parking too much or not enough?

Mr. Zeller said they proposed the parking area on the side of the building, but 50 parking spots was just a number he pulled out of the air. If the Planning Commission tells him what to do, that is what he will do. The reason the parking was put on the side is to control parking and the flow of traffic. You can stand there at any time of the day and within an hour you will have half a dozen cars do a U-turn in the parking lot. With a 30 foot opening to control traffic, he probably wouldn't need more than a dozen parking spots. It's not a high volume operation.

COMMENTS FROM THE PLANNING COMMISSION:

Mr. Hanoute observed that on a more complete site plan, Mr. Zeller needed to estimate the number of employees and locate the employee parking area, the truck delivery parking area and the retail client parking spaces on the site drawing. Mr. Zeller said they wouldn't be bringing semi-trailers in there. On Strarr's Farms busiest day, they might have 4 cars at a time. If you want stops in front he will use them. He was told to move the traffic away from the front of the building, and go from there. He told Mr. Hanoute he needs help, because when you are in the business, it doesn't help him to have to pay a guy \$5000.00 to decide how many parking spots he will need and then come back here and get told there are too many or not enough.

Mr. Hanoute replied that the Planning Commission could give you some direction, but there are other things that need to be delineated on the site plan that you will need to pay for. No topography is shown on the site and no elevations are shown so we can't tell about the drainage. Ms. Hodges explained that there is drainage flow on the site, and one of the requirements of a site plan is to show the topography of a site so you can see where the water is flowing and what drainage changes might be required.

Mr. Zeller said the water has been flowing for 30 years on that property and they won't change the flow. It will still flow into the field. Mr. Hanoute explained that development can change the flow because you are reconfiguring the land and adding parking. There will be a difference between your parking arrangement and the one that is there now. Storm water

Tyrone Township Planning Commission
Approved Public Hearing Minutes
Zeller Agri-Business Special Land Use Permit
Oct 14, 2008
Page 3

management has to be demonstrated on the site plan. Mr. Zeller said he didn't know how many cars there would be so Mr. Hanoute would have to tell him how many cars to plan for so he can get the right parking numbers.

Mr. Hanoute reminded Mr. Zeller that he was the one who asked to have the hearing expedited. He could have met with a Subcommittee that could have suggested a few things, but time wasn't allowed for that. Mr. Hanoute hadn't told him to come to the Planning Commission and demand approval.

Mr. Zeller said he wasn't demanding things, but he didn't want Mr. Hanoute to tell him he didn't have enough parking when he comes before the committee. Tell him he needs 12 spots, then he can come back. Ms. Hodges noted that the parking requirement information is located in the Zoning Ordinance. Mr. Zeller replied that the property wasn't zoned for retail, so the retail standards shouldn't apply. Ms. Hodges explained that Agri-Business is a blend of agricultural and business uses. If people are coming to his business, they need a place to park. Nobody wants more parking than needed, but if there is too little they will be parking in the road causing traffic problems.

Mr. Zeller said he didn't think anyone would want asphalt (parking) in there. Mr. Hanoute explained that the parking area didn't have to be hard surfaced. The Zoning Ordinance doesn't require that. You just have to put dotted lines on the paper, but you should line out the spaces so you can prove the parking spaces will have adequate width. You are going to draw those lines on the site drawing so we know the depth and width of each space. You have to show a safe pedestrian path from the parking to the building, the barrier free parking has to be demonstrated, and there needs to be site lighting. Those are the sorts of things that have to be on the site plan. We aren't prepared to give you the site plan numbers at a Public Hearing.

Mr. Zeller asked how much parking Mr. Hanoute wanted to see. Mr. Hanoute said that information is available in the Zoning Ordinance. It is the responsibility of the gentleman you hired to do a drawing that complies with the Ordinance and you will have to have the Road Commission's approval of the sight distance for your proposed entrance. The entrance that is there now may not meet the Road Commission's sight distance requirements. What you have may be OK, but we don't know that. The Road Commission will have to give you approval. There may have to be a culvert under the entrance to maintain drainage and they will review the entrance and make that recommendation. Mr. Zeller said the drainage was flowing now and he isn't proposing a change in grade. Mr. Hanoute asked if there was culvert there now or if one would be needed.

Mr. Zeller said if Mr. Hanoute was requiring a major investment, he would like to know. He would be willing to go back and rework the drawings, but that isn't why he is here. He wants to know if the township will allow retail sales from his location. If not, there is no point in doing anything about drainage. Mr. Hanoute told him the Planning Commission was trying to tell him some of the site plan issues this evening. Mr. Zeller said the main issue, from what he has been told, is whether the Township will allow retail sales at this site.

Ms. Hodges explained that some of the drawing items being brought up are specifically related to whether retail sales will be permitted there or not. Another of her questions is

Tyrone Township Planning Commission
Approved Public Hearing Minutes
Zeller Agri-Business Special Land Use Permit
Oct 14, 2008
Page 4

about what will happen at the front of the building. There is a drawing note that says, "Roadside stands only, no parking." She asked if he was going to grade and seed the front gravel area and if he would put the stands on the grass. Mr. Zeller said there would be a berm at that location to keep traffic from pulling in across the frontage. There are the stands in front of the building now that are attached to the building. They are from the previous owner. Mr. Hanoute said those should be checked because the site's front yard setback area should not be encroached upon by buildings or parking.

Ms. Hodges asked if he planned to close off all the other driveways, for instance the one to the house. Mr. Zeller said that would not be closed off. Ms. Hodges thought the plan showed another driveway. Mr. Zeller said if it was the one by the utility pole it would be gated. Ms. Hodges said she just wanted to make sure that people would know how to get into the main drive. That needs to be addressed in the drawing.

In reply to her question about the location of the retail space. Mr. Zeller said there was a space off the greenhouse with french doors. Ms. Hodges asked if that was the part labeled "wood building" at the front of the greenhouse. Mr. Zeller said it was, and the steel building off to the east side is a work shop and prep room for the green house. Ms. Hodges asked him to outline the total area he planned to use for display in order to keep it from expanding over the whole lot. She reminded him that the existing and proposed site lighting should be shown on the plan.

Mr. Hanoute explained that the Ordinance requires retail site lighting. If there is barn lighting, it has to be shielded so it can't be seen from far away. The septic tank(s) should be shown. Mr. Hanoute reminded Mr. Zeller that there is a section in the Zoning Ordinance for Site Plan review (23.00). This plan should meet the requirements of that section and it doesn't. One of the biggest site deficiencies is that there are two parcels and a building that lies across the property line. Each parcel has its own distinct setbacks. He read in the summary that Mr. Zeller was opposed to combining the parcels and asked him why.

Mr. Zeller said the Appraiser (sic) told him that if he combined the two parcels he would immediately devalue the property and it doesn't matter where the building is. It will lower his taxes \$1200 by combining them. That means it will lower the value of his property. The Assessor can combine the parcels for free, but that will lower the value of the property. If the greenhouse thing doesn't work, the barn in front and the greenhouses will be torn down and he will have two parcels, so someone can build a house out back. Granted you can't build it up front, but they don't comply with sideline setbacks right now if he wanted to sell either parcel.

Mr. Hanoute agreed that was one of the problem issues. The buildings adjacent to the east property line may be nonconforming in terms of setback. That can be corrected by going to the Zoning Board of Appeals and getting a variance. The only way the building located on top of the property line can be corrected is by combining the parcels. Mr. Zeller said he could correct the problem if he changed the property lines and got some variances. Mr. Hanoute told him that the new parcel lines might not meet the Ordinance requirements.

Mr. Zeller said the easy solution would be to combine the parcels, but the front and side yard setbacks still might not be conforming. Mr. Hanoute explained that Agri-Business uses

Tyrone Township Planning Commission
Approved Public Hearing Minutes
Zeller Agri-Business Special Land Use Permit
Oct 14, 2008
Page 5

require specific setbacks but the existing buildings don't meet the requirements. You are requesting a special use which changes the previous use. If you weren't requesting a special use, they would be grandfathered in. An Agri-Business use is more intense than a greenhouse. It is a change in intensity of use so you need variances for the non-conforming setbacks.

Mr. Zeller said he was told he could grow whatever he wanted, have semis come in, load them up and send them to market or take it to the farmers's market and there would be no issue. He is just talking about some lady across the street coming over to buy some tomatoes. Mr. Hanoute said that under Agri-Business you can do more than grow plants. You can retail them, hold events, put up displays, have seminars and serve food.

Ms. Hodges said this is a request for a specific Agri-Business. Whatever conditions Mr. Zeller proposes and portrays on the plan will be attached to the request to keep it from becoming a different Agri-Business. Mr. Meisel thought the question is whether an Agri-Business use is really in Mr. Zeller's best interest. Mr. Hanoute observed that Mr. Zeller wants to have something more than a greenhouse. You can wholesale from a greenhouse, but this is something different. To retail from the green house with the addition of materials not produced on site is classified as Agri-Business.

Mr. Meisel said he wanted to think if there was a category other than Agri-Business that would suit the use. A nursery is a permitted use in an RE district. The other special use that might be considered here is a roadside stand or permanent structure for the sale of agricultural products raised on the farm, but this isn't a farm. Ms. Hodges agreed, but said production from a green house was protected by the Right to Farm Act. Mr. Meisel said the Agri-Business items in the RE Zoning District under Special Land Uses talk about the accessory retail sale of agricultural products and then it goes on to say besides retail sales and roadside stands, other commercial uses may include food services, and so on as an Agri Business (22.05.R).

Mr. Hanoute commented that Mr. Zeller wasn't requesting roadside stands and he has no place to locate roadside stands. Ms. Hodges said roadside stands were usually limited in size to a specific number of square feet, as are the temporary or permanent buildings. Mr. Meisel asked what would differentiate a roadside stand from a nursery. He wondered if Mr. Zeller would be better off looking for a permit to retail out of a nursery versus an Agri-business. Mr. Hanoute asked where nursery retail was permitted in the Zoning Ordinance. Mr. Meisel commented that fruit orchards, greenhouses, and nurseries are generally commercial operations. There has to be some form of saleable product whether it is wholesale or retail. Ms. Hodges recalled that the Agri-Business section was adopted to allow a retail category for agricultural products.

Ms. Hanoute said that the fact that the former owner conducted retail on the site doesn't mean that the site was zoned for it. Agri-Business is the right classification for the use. Ms. Hodges agreed that it was, based on what Mr. Zeller said he wanted to do. We make sure that a Public Hearing is held and comments are taken so that any retail operation concerns can be discussed. We respect the fact that greenhouses and agriculture are uses by right, but it keeps the owner from bringing in stuff from Eastern Market. Mr. Hanoute added that one of the purposes of the permit is to limit the hours of operation for the retail business.

Tyrone Township Planning Commission
Approved Public Hearing Minutes
Zeller Agri-Business Special Land Use Permit
Oct 14, 2008
Page 6

Mr. Hanoute recommended that the parcels be combined to alleviate the problems with setbacks on the building that is built over the property line. Side lot line problems can be mitigated through the ZBA.

Mr. Zeller asked what would happen if he wanted to build a house out back on the other parcel. That would put two houses on one parcel. He would have to get a variance anyway, because all of the accessory buildings would be located in the front yard of the residence. You can only have one primary residence on a parcel, so if you want to build on the lot, you will have to divide it so that there is nothing in front of the house. Then you would have to get a variance to build another house. Ms. Hodges reminded him he would have to meet the variance criteria. Mr. Meisel said that he could apply for a variance, but there is nothing that says he would get one. Mr. Zeller said at that time, if he couldn't get a variance to build a house, the common sense thing would be to combine the parcels. He could put something in an agreement that says they wouldn't ever sell one piece without the other. The real problem would be one person buying one property and someone else buying the other. Then you would have a green house encroaching on a neighbor.

Mr. Meisel said he knows Mr. Zeller is trying to do something good with the property and we are trying to debate the right direction. He really needs to forget about what the value of the property is whether it is split or whether it is combined. He needs to make a decision about what he wants to do with this property so he can try to get it approved in a configuration that meets his needs. Otherwise, he will get a little bit of something he is going to want to change and it will be under a special use, so it probably won't get changed.

Mr. Meisel told Mr. Zeller to think strategically about what he wants to do so he can get a plan together and we can work with him to make the plan fit, if it can. We can help get some guidance for some of the things he needs to do, or have a professional do, to get the right information on the drawings and a configuration of property that we can work with.

Mr. Zeller asked what would stop him from tearing down the house in the front. Is that because if there is a building out front, you can't have one out back. Mr. Meisel told him that he can't have an accessory building in the front yard. It would be beneficial for him to try to understand the zoning requirements for this piece of property so that he knows when we try to give him some guidance what he can do, what he can't do, and what he needs a variance for. We are trying to give you some guidance. The list of things that Chairman Hanoute has been providing are things that are required in the Zoning Ordinance and are changes that need to be in place, not really for you per se, but for anybody. And not really just for your benefit, but to protect the adjacent property owners. We are trying to work with you, but you will have to work with us. You need to help us understand what this property looks like. We can't go over there with flashlights to try and understand where the water flows and the drainage is. You need to get the County Road Commission involved. It is not our purview to understand the traffic under their jurisdiction but we do require the County to give us a recommendation and give you a requirement about where the location of the driveway should be.

Mr. Zeller asked at what point combining the parcels came into play. He isn't going to combine them without having approval to do something. Mr. Hanoute said the combination

Tyrone Township Planning Commission
Approved Public Hearing Minutes
Zeller Agri-Business Special Land Use Permit
Oct 14, 2008
Page 7

might be a condition of approval. Mr. Meisel asked Mr. Zeller to think about what he wanted to do. If you want to have an existing building that goes across two property lines, put that in the drawing. If you will have 12 parking spaces, show where they will be. You don't need lines on gravel, but you need to show that there is enough room with imaginary lines to actually park. As you develop your plan you will probably see that there is only one thing you can do. We can't tell you what is the best plan. You have to come up with your own plan. Then we can tell you the way we see you going forward. You might get a couple of variances for setbacks if we think they might be minor concerns, but the building in the middle of the property line is something that can't stay.

Mr. Hanoute said there appeared to be wetlands on the property. The drawing indicates a small portion in the southwest corner, but the aerial photo shows it going much farther into the property. That needs to be determined and whether it is regulated or not needs to be determined. Mr. Zeller said it wouldn't be regulated if it isn't over five acres of land. Mr. Hanoute said that if it is adjacent to, or attached to, other wetlands it will be regulated. It may be connected under ground. Mr Meisel said if the wetland is not within 500 feet of water, they may not be regulated but if it is within 500 feet it will be regulated. Mr. Hanoute explained that it needed to be determined because they might not be able to plant in certain areas they are planning to use. It would be to your benefit to determine the wetlands. The MDEQ will flag the boundaries of the wetland and determine if they are regulated or not. You can order that through the DEQ or you can hire someone and get it done ten times faster.

Continuing review of the site plan, Mr. Hanoute noted that building heights were not indicated. We are going through the list of site plan criteria, but that is not the purpose of a Public Hearing. We are just trying to demonstrate the deficiencies in the drawing. If all the information were here, we could take action on the request tonight, but the information isn't here.

Mr. Meisel said this was a perfect case for Subcommittee help, so Mr. Zeller could get some direction about what is really required. He wondered if that would be within our budget. Mr. Hanoute thought that the applicant needed to make an effort with his planner to bring us a plan that complies with the Zoning Ordinance. If it's determined necessary to have a subcommittee review it, we can do that after we have the drawing.

Mr. Byerly asked if instruction had been given to Mr. Zeller about what he has to have for the hearing. The Recording Secretary said he was given a Site Plan check list. Mr. Hanoute noted that the individuals who prepared the drawing are well aware of what the Township requires for Site Plan Review and a Public Hearing.

Mr. Zeller said he didn't understand what the building height would have to do with anything. It is what it is, and they aren't building anything new. If you don't want to have his use there, there, tell us and we can go onto the next step. Mr. Hanoute said he had told Mr. Zeller before that he was applying for a Special Use Permit, and certain things are required for that permit. There is a height limitation in this zoning district. If you exceed the limit you would have to have a variance. Mr. Zeller asked Mr. Hanoute if he had been to the site. Mr. Hanoute said he had, but he didn't measure any of the buildings. Mr. Zeller said he didn't want to call Mr. Hanoute at work and take up his time. Mr. Hanoute replied that Mr.

Tyrone Township Planning Commission
Approved Public Hearing Minutes
Zeller Agri-Business Special Land Use Permit
Oct 14, 2008
Page 8

Zeller did call him at work and insisted that the Public Hearing should be scheduled for this date. You insisted that, even though you were told the plans weren't ready. Mr. Zeller said the plans were delivered three weeks ago, and Mr. Hanoute should have brought up some of those things when he called. He knows Mr. Hanoute is in competition with Brian (Shaltz) so he knows where Mr. Hanoute is coming from.

Mr. Fumich commented that this is one of the reasons we had a Subcommittee. We are using the whole Planning Commission to discuss stuff that could have been resolved in Subcommittee. We have spent almost forty-five minutes to an hour on this thing and he still hasn't gotten anywhere. Hopefully, when he comes back the next time he will have what is required. If it had been at Subcommittee, all we would have to do is review it and approve it.

Mr. Byerly noted that if Mr. Zeller had been given a check-list and the plans aren't right, he should go back to whoever did them and it shouldn't be a charge to him. They are supposed to know how to do the plans. Mr. Zeller said he agreed. He got the check list and areas had been highlighted that he needed to address. He thought they had been addressed, but to be honest, he didn't foresee the need for a drain tile across the driveway.

COMMENTS FROM THE PUBLIC:

Karl Gill, a neighbor of the property in question, told the Planning Commission he had been a Tyrone Township resident for 67 years and this property was brought back in April to the Township Board here and it has been back and forth different times to the Township Board and what was supposed to be taken care of has not been taken care of in the first place. The people should have been notified that sold this man the property that the Ordinance was to be taken care of before they even sold to the man. There is a whole lot of clean up to be done there because he knows the property. He used to own it.

Mr. Zeller said he wasn't sure what Mr. Gill was talking about. Mr. Gill said there was another fellow in the same business that you are in who wanted to buy the place. When he found out what the job was, he closed out. He could give Mr. Zeller the man's name.

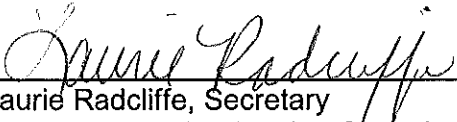
CLOSING PLANNING COMMISSION REMARKS:

Mr. Meisel said the Recording Secretary could give Mr. Zeller copies of the pertinent sections of the Zoning Ordinance that apply to this. As Chairman Hanoute mentioned, Brian Shaltz has been before this Commission and the Township Board a number of times. He knows exactly what our requirements are, and quite honestly he knows that we can't do anything with this drawing. Mr. Meisel is sorry that he feels he is being pushed back, but this is just not enough information for a decision.

Mr. Zeller asked if he could get a copy of the hit list, and Mr. Hanoute said he could have that and a copy of the minutes of the entire discussion.

There being no further comments, the Hearing was closed at 8:20 p.m. by Chairman Hanoute

Tyrone Township Planning Commission
Approved Public Hearing Minutes
Zeller Agri-Business Special Land Use Permit
Oct 14, 2008
Page 9



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission