

TYRONE TOWNSHIP PLANNING COMMISSION

APPROVED MEETING MINUTES

October 13, 2009

PRESENT: Gary Butler, Joe Fumich, Steve Hasbrouck, Ed Kempisty, Mark Meisel,
Laurie Radcliffe

ABSENT: Dave Hanoute

CALL TO ORDER: 7:00 p.m. by Vice- Chairman Meisel

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

APPROVAL OF THE AGENDA:

Mr. Meisel asked to add consideration of other November and December meeting dates to New Business Item 1, and to acknowledge the review letter from Ms. Hodges to Mr. Zeller about his greenhouse as Old Business Item 5.

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

APPROVAL OF THE MINUTES:

1) September 8, 2009 - Regular Meeting Minutes

Moved by Butler, seconded by Radcliffe, to approve the September 8, 2009 Regular Meeting Minutes as corrected. Motion carried by unanimous voice vote.

Page 4, Line 36: (Mr. Maly would eliminate the access drive...)

2) September 8, 2009 - Paul White Public Hearing Minutes

Moved by Radcliffe, seconded by Kempisty, to approve the September 8, 2009 Public Hearing Minutes for Paul White as corrected. Motion carried by unanimous voice vote.

Page 1, Line 43: (...inspected the **site prints**...)

Page 2, Line 2: (thus **she** had not had time...)

Page 3, Line 15: (...~~not~~ to not....)

Page 4, Line 2: (Mr. Kempisty asked if Mr. White...)

3 September 22, 2009 - Joint Board and Planning Commission Minutes

Moved by Radcliffe, seconded by Hasbrouck, to approve the September 22, 2009 Joint Meeting Minutes as corrected:

Page 3, Line 30: (...information from the 2000 **2010** Census...)

Page 6, Line 41: (...how results will **be** measured...)

CORRESPONDENCE:

SUBCOMMITTEE REPORT:

OLD BUSINESS:

1) Request of Wayne Perry of Desine Engineering, representing Ken Maly, for approval of an extension to a pre-existing nonconforming shared driveway in Section 11 with access from White Lake Road to four existing parcels

Mr. Perry said that their revised information included the drainage flow arrows on the site drawing (9/22/09) and the letter from the Road Commission agreeing to allow a waiver for the use of the driveway intersection with White Lake Road. Following Township approval, the applicant will be able to complete the Road Commission's waiver process for use of the access.

Tyrone Township Planner Sally Hodges of McKenna Associates noted that there were a few details remaining, but she felt the request was complete enough to recommend conditional approval. The Planning Commission considered the following items included in Ms. Hodges's review comments.

Item 1 - Application Requirements:

a) The Gould Engineering Report dated September 22, 2009 found the pavement sufficient for the proposed use during a visual examination, but recommended a bond to repair any construction traffic damage.

Mr. Perry explained that the proposed Maintenance Agreement establishes procedures for repairing damage caused by construction equipment. Having two sets of repair requirements for the owners to deal with would be confusing. Ms. Hodges said she would have no problem in removing the bond as a recommended condition if repair provisions were made elsewhere. Mr. Meisel commented that the maintenance agreement means that all types of construction and repair work will be the responsibility of the owners. Once the shared driveway easement is approved, the rest of the access will be classified as private driveways for Parcels A and B.

b) The Planning Commission discussed the open space requirement and decided to research the Ordinance to determine if open space would be required.

c) and d) The direction of off site drainage is indicated by the arrows on the site drawing (Sheet 4). There are no wetlands on the property.

e) Mr. Perry explained that a utility easement was not referenced in regard to the shared driveway and private driveway easements because power lines currently exist to only one parcel that utilizes its own Edison (sic) easement.

Item 2 - Site Distance:

Ms. Radcliffe asked who would have the liability if the Township approves the use of a shared driveway entrance which doesn't meet Township or County Road Commission standards. Mr. Perry said the Road Commission would issue a waiver as long as the access remains a shared driveway access. The Road Commission is the responsible authority. Mr. Maly has no interest in the property where the shared driveway entrance is located and it would be difficult to make changes on property he doesn't control. The entrance is able to meet or exceed the sight distance requirements in both directions, but the Road Commission doesn't want to take any action until the easement location is approved by the Township.

Item 3 - Turnarounds:

Ms. Hodges noted that the use of gravel for the cul-de-sac would be at the Township's discretion. Constructing the cul-de-sac as shown on the site drawings will bring the length of the drive and the location of the turnaround into compliance with the Township's requirements.

Ms. Hodges also suggested adding bump-outs to the shared driveway. Ms. Hodges noted that bump-outs weren't an Ordinance requirement and their use would depend on topography and feasibility. Mr. Perry explained that the section of the drive between White Lake Road and the first driveway to Parcel D was wider than the rest of the shared driveway. Ultimately there could be three users beyond that entrance, but only two users beyond the cul-de-sac.

Mr. Fumich was concerned about passing room on a narrow driveway and asked about the height of inclines and declines involved in widening or bump-outs. Mr. Perry said that extensive grading and tree cutting will be required to widen the shared driveway easement. On the uphill side there is a rise of about 15 feet and extensive filling would be required to widen the downhill side. Mr. Butler wondered how necessary it would be to widen the drive based on the amount of increased use proposed.

Mr. Meisel said that if passing becomes a problem, the owners can rectify it themselves. Mr. Perry reminded the Planning Commission that capital improvement provisions were referenced in the Maintenance Agreement. Improvement costs would be shared rather than assigned to one property owner. There might be a problem if two large SUV's try to pass each other, but there is room to move over at spots where the trees don't come right to the edge of the driveway. Mr. Meisel noted that Mr. Maly doesn't own any of the property where widening the drive would occur. The property he owns will be crossed by the single driveway easements.

Item 4 - Private Access Easement:

To maintain single driveway status, Parcels A and C should be strictly prohibited from using the drive for Parcel B beyond the cul-de-sac. The portion of the drive to the barn on Parcel A should be removed to keep the Parcel B easement from becoming a shared drive that fails to comply with the Ordinance requirements for length (Sheet 4).

Mr. Perry said that Mr. Maly had previously agreed to remove the barn access stubs if it were determined that their use would create a shared driveway out of a private drive. Mr. Maly has the potential to achieve access to the barn from his parcel (A).

Item 5 - Setbacks:

Ms. Hodges noted that if the access to Parcel B remains a single access easement and not a shared driveway, the barn will not be required to maintain a 50 foot front yard setback distance from the edge of the easement.

Item 6 - Declaration of Easement and Easement Maintenance Agreement for Shared Drives:

a) Mr. Perry agreed that Parcel B did not abut the shared portion of the driveway. He suggested revising the 'Declaration of Easement and Easement Maintenance Agreement', Page 1, Item 4 to read: "The property described in the attached Exhibit A is **provided access over, across, and through a shared private drive easement,**" in place of the incorrect abutment reference.

b) Mr. Perry suggested revising Page 2, Item 7 of the 'Declaration of Easement and Easement Maintenance Agreement' to read, "**At the time of approval of a land** division or subdivision of any parcel assigned multiple maintenance units..." The maintenance unit concept was created to allow the cost of maintenance to be divided unevenly between the existing property owners. The language permits the cost of maintenance to be transferred. No parcel will have less than one maintenance unit share. Parcel D has been assigned one maintenance unit, but if it is divided in the future, each new parcel would be assigned one unit. Parcel A has three assigned maintenance units. At the time of future land division the owner would have the right to decide whether each new parcel will get one unit or 1 1/2 units as a minimum. Ms. Hodges noted that Article 13 requires Township Board approval for any future land divisions.

c) Mr. Perry said the '**re-gaveling**' and '**improved**' typos would be corrected.

Item 7 - Declaration of Easement for a Private Drive:

Ms. Hodges recommended limiting the Parcel B agreement to specify a single parcel access and utility easement and to include a statement noting that any change in the easement would be subject to Township review and approval. Language should be added requiring a new agreement if a single driveway or shared driveway is converted to a more intense use. Mr. Perry said he would be willing to add that language and language noting that changes would be subject to Township approval. The intent of this section is to insure that future expansion could not be denied because land division was not specifically stated in the initial documents and to make sure that the owners understand that conditions could change at some point in the future.

Mr. Hasbrouck asked how Parcel C would benefit if the owner's wanted to put more than one home on their parcel. Mr. Perry said the intent of the Declaration of Easement was to require conversion of the shared driveway to a private road if more splits are proposed. The cost of the private road would have to be agreed to by the property owners before any property could be split. The private road conversion language is also a condition of the Road Commission's waiver for the entrance.

Mr. Hasbrouck commented that the language for Parcel B is clear, but the language for Parcel C doesn't state they could create future parcels on C or even A. Mr. Perry said that neither Parcel A or C derive any benefit from the private driveway. The private driveway only benefits Parcel B and Parcels A and C are agreeing not to interfere with the use by Parcel B. Any private road can only go as far as the first shared driveway before a new easement would have to be built. A private road would benefit Parcels A and B if their private driveways become shared driveways, but any new private road or shared driveway would have to be reviewed by the Township first. He felt that dividing any of the parcels further would be restricted by the cost of building a road and the number of parcels needed to finance the cost.

Ms. Hodges suggested that the Planning Commission could recommend approval of the nonconforming shared driveway extension subject to the revisions proposed during the Planning Commission review and submitted for confirmation prior to the Board review. The proposal corrects some significant non-conforming aspects of the existing driveway and the Township Engineer has found the condition of the driveway acceptable for the level of surface proposed.

The Planning Commission discussed the Parcel A barn location in terms of access. They noted there is the potential for access from Parcel A, so it might be possible to leave the stub connections in place because barn access doesn't depend on the Parcel B driveway. One of the problems is the Ordinance requirement (21.54). A private driveway can only provide access to a single parcel. The current configuration provides access for two parcels, even though the access is to an isolated barn. The length of access to the point where it is shared with the barn exceeds the length allowed for a shared driveway easement. Looking for ways to get around the Ordinance, even back in the boondocks, makes people lose faith in them.

Ms. Hodges determined that Open Space would not be required for Parcel B because it is an existing parcel (20.02.AA). Mr. Maly was reminded that the Declaration of Easement and the Declaration of Easement and Easement Maintenance Agreements would have to be signed and presented in recordable form prior to Board Review.

Moved by Fumich, seconded by Hasbrouck, to recommend to the Township Board conditional approval based on compliance with Items 4, 5, 6 and 7 of the McKenna Consultant's report as the Planning Commission finds that other conditions in the review letters have been satisfied during discussion, and the existing roadway meets the Ordinance requirements based on the Gould Engineering letter of September 22, 2009 and the revised Desine Engineering site drawings dated September 29, 2009. The Motion carried by unanimous voice vote.

2) Review of the Future Land Use Map for expansion of potential commercial and industrial uses

Ms. Hodges said that seven sites have been identified previously as B-1, B-2 or ES sites. Part of an earlier discussion concerned other sites in the Township which might be considered suitable for commercial or industrial use based on their proximity to non-residential uses already located along the US 23 Corridor. Mr. Meisel recalled that there are some conflicts between the Land Use Map classifications and the probability of residential development adjacent to commercial uses. He thought it was the consensus

of the Board that we should pursue amendment of the Master Plan, consider other potential commercial and industrial sites adjacent to the Corridor, and send out a notice of 'Intent to Plan.' The next step should be to notify the individuals to discuss the planning changes and the Master Plan update.

Ms. Hodges recalled that only two of the parcels identified for PCS rezoning are Master Planned for PCS. All the others are Master Planned for something else. To recommend rezoning now would be flying in the face of the Master Plan, setting a bad precedent, and opening the door for rezoning in conflict with the Master Plan. Before discussing rezoning with the property owners, the Master Plan should be revised.

3) Discussion of a timetable and expense estimates for revision of the Master Plan and Future Land Use Map

Some Master Plan overhaul options were discussed at the Joint Meeting. Mr. Meisel felt that there wasn't a great difference between the costs proposed for Option 1 and Option 2 which would give the Township the best results at this time. We could do an update now and set some priorities for the next 5 year review.

Ms. Hodges explained that the Master Plan does not change parcel zoning. The zoning remains in place until the property owner requests a rezoning or the Township forces it. The Future Land Use Map controls the type of rezoning. In the long run, inviting residents in during the planning stages is more successful than excluding them until the plan is finished.

Ms. Hodges said she would prepare a time table and expense estimate for revision of the Master Plan and Future Land Use Map. Rezoning the existing commercial parcels first would make the Zoning incompatible with the Master Plan. It would be helpful to have the results of the Township Survey which would provide information helpful to Master Plan development. For example, some of the current Master Plan text about sewers may have to be updated.

As a means of streamlining the review process, the Planning Commission discussed revising the Planning Commission Fee Schedule to reflect actual costs; require all specific information before plans are reviewed; use the consultants as the preliminary and/or final review source; establish a specific 21-day period between Planning Commission application and review; establish a waiting period between Planning Commission and Board reviews; and deny requests which are incomplete or where activity has ceased for a determined length of time.

4) Request for an 'Intent to Plan' approval from the Township Board

The Planning Commission discussed the timing of the 'Intent to Plan' notification based on need for a budget review and the lack of time limits required for the notification. It was the consensus of the Planning Commission to delay the request pending receipt of information from the Planner outlining the process and estimated costs associated with the Master Plan update, confirming funds were available in the Planning Commission budget to support the activity, and to allow review of the results of the Township's Survey.

5) Scott Zeller Special Land Use

Mr. Meisel informed the Planning Commission that Ms. Hodges had drafted a review letter regarding Mr. Zeller's Site Plan for his greenhouse operation listing what needs to be done in order to move the project forward. Although the project has been discussed at many meetings, the letter provides a reference for the township and Mr. Zeller and a copy of the letter was forwarded to him. The Planning Commission questioned whether the current sale of chrysanthemums complied with the Ordinance's roadside stand requirement, but were told the use had already been authorized by the Zoning Administrator and the Supervisor. At this point, they felt the most serious issues were related to access, parking, and the combination of the parcels underlying the greenhouse.

NEW BUSINESS:

1) November 10, 2009 Meeting

Mr. Meisel said the Township Board has scheduled a Budget Meeting for November 10, 2009, which is a regular Planning Commission Meeting date. The Planning Commission Options are to cancel the November 10th meeting or reschedule. The second November meeting will be close to Thanksgiving (November 24, 2009) and the Planning Commission has considered canceling that meeting in the past. He wondered if canceling both meetings would allow us to accomplish the business we would like to complete before the year is over. The members asked about the number of applications still pending and decided to make a decision at the next meeting regarding the progress of business at hand and the member's Thanksgiving plans.

2) December Meetings

After a review of the December meeting dates, the Planning Commission noted that the second meeting was scheduled to occur on December 22, 2009 which has made establishing a quorum difficult in the past.

Moved by Kempisty, seconded by Hasbrouck, to cancel the December 22, 2009 Planning Commission Meeting. The motion carried by unanimous voice vote.

OTHER BUSINESS FROM MEMBERS:

ZONING ADMINSTRATOR'S REPORT:

Mr. Meisel reported that the ZBA had approved completion of an addition to a pre-existing barn which was located too close to the property lot line. The barn addition was started without a Land Use Permit and was based on a mortgage survey and previous Township side yard setback requirements. The ZBA voted to allow the addition within less than 1 foot from the side lot line on a split decision.

TOWNSHIP BOARD REPORT:

ADJOURNMENT: 9:25 p.m. by Vice-Chairman Meisel

FUTURE AGENDA ITEMS:

Request of Paul White for a Special Land Use Permit to sell used cars

Election of Officers at the first November Meeting

Boundary Realignment Request for Bobby Butts and Fenton Memorials

Review of Master Plan Update process

NEXT MEETINGS:

October 27, 2009 - Regular Meeting

November 10, 2009 - Regular Meeting


Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission


Laurie Radcliffe, Secretary
Tyrone Township Planning Commission