

TYRONE TOWNSHIP PLANNING COMMISSION

**MEETING MINUTES
JUNE 14, 2011**

PRESENT: Present: David Hanoute, Steve Hasbrouck, Mark Meisel, Ed Kempisty, Laurie Radcliffe and Deb Lee.

ABSENT: Brandon Peabody

OTHERS: Tyrone Township Planner, Sally Hodges

CALL TO ORDER: 7:00 p.m. by Chairman Hanoute

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

APPROVAL OF THE AGENDA:

Kempisty moved to accept the meeting agenda as presented (Lee seconded). The motion carried by unanimous voice vote.

APPROVAL OF THE MINUTES: Regular Meeting Minutes for May 10, 2011

Changes:

Page 2, line 46; remove "on the"

Page 5, line 35; change "Denton Hill" to "Hartland"

Lee moved to accept the May 10, 2011 Planning Commission minutes as corrected (Meisel seconded). The motion carried by unanimous voice vote.

CORRESPONDENCE: None.

Meisel moved to suspend the order of business and move New Business item #1 ahead of the Old Business items in consideration of the applicant (Radcliffe seconded). The motion carried by unanimous voice vote.

NEW BUSINESS: 1) Washburn realignment

DISCUSSION WITH P.C., TOWNSHIP PLANNER AND MR. WASHBURN:

- applicant is looking to purchase 2.5 acres and realign the boundary between two parcels, he owns parcel C (04-29-300-037) and Janine Plott owns parcel D (04-29-300-037)
- parcel C and parcel D were created by way of a shared driveway land division in 1998
- the land division also created parcel B, which is not affected by the requested boundary realignment and is closest to the public road
- parcel 008, is vacant and not shown on the drawing, is located at the northeast corner of the north end of the shared driveway and was granted rights to use the shared driveway,

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- parcel B, parcel C and parcel D all contain single family dwellings
- the subject site is zoned RE, Rural Estate and is master planned Residential/Natural Resources Preservation
- there is an easement to parcel 008 but not a shared driveway to parcel 008
- there was an existing 33 foot easement that served parcel 008 years back, when easement requirement was only 33 feet as opposed to 66 feet
- there is now a 66 foot wide easement across parcel D to the NE corner of parcel D
- neither parcel C nor parcel D have frontage on Faussett Road
- these two parcels are served by a shared driveway in a 66 foot wide access and utility easement that crosses parcel B along its east lot line and extends north along the entire east lot line of existing parcel D
- according to the applicant's survey by Boss Engineering, only the easterly 33 feet of this easement is recorded
- the 1998 land division that created these parcels also included a separate easement along parcel B's west lot line for the exclusive use of parcel C, which was abandoned in 2004
- sometime after 1998, a new 66 foot wide access easement was added along the east portion of parcel B's (04-29-300-036) north lot line to serve parcel C
- the 33 foot easement is recorded from Faussett Rd to the north property line of parcel D
- the 66 foot easement is not recorded, but the horizontal piece from east to west and then south is recorded
- the vertical piece, the difference between the 33 feet and 66 feet on parcel D, is not recorded
- unclear whether a shared driveway site plan was previously approved for parcels C and D, if the shared driveway conforms to the conditions of shared driveway approval, or to what standards the shared driveway was constructed
- it appears the shared driveway is not built to current design standards, according to a recent aerial photo of the site, and appears to be only a two track
- a 66 foot wide easement was approved with the 1998 land division, only half or 33 feet of it has been recorded
- planner requested a copy of any approved plan, construction details, and other relevant information about the shared driveway be provided by the Township or the applicant
- the parcel in the front has its own driveway
- Zoning Ordinance Section 24.04.B.1 permits the development of existing lots of record with access to legal nonconforming shared driveways
- since request is for a boundary realignment and not creating a new lot, if the shared driveway is legally nonconforming, it would not be required to be upgraded
- planner strongly encourages the applicant to bring the shared driveway into greater compliance with the Zoning Ordinance
- one of the maintenance agreements submitted indicates that the maintenance of the south portion of the shared driveway is parcel C's responsibility
- unable to determine if the shared driveway was required to be built to a certain standard
- parcel B is sharing a driveway with parcel C and parcel D, according to the applicant
- the 66 foot easement to access parcel C is not conducive to a driveway, according to the applicant because you have to go up a hill and around a corner
- the shared driveway terminates at the juncture of the two driveways and after that juncture it becomes a private driveway
- if there was a structure on parcel 008 and the driveway on parcel D was used to access 008, then it would become a shared driveway; even though there is access to that lot by

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virtue of that easement, it was ruled that it was not currently a shared driveway; therefore the front yard that would be required on parcel D between the easement and the house is not required at this point

- if there is ever access to parcel 008 by a shared driveway then the house on parcel D would be nonconforming.
- there is an existing driveway that has been closed, connecting to Faussett Road across parcel D
- to the left of the two track is the designated bus stop on Faussett Road; the land owners have brought in a lot of gravel and a new culvert was installed; the pond drains down the tree line to Faussett Road and created quite a mess on the applicant's driveway
- the good driveway, which was very usable, was deemed by the Township as not being recognized as a legal driveway
- a lengthy discussion about the driveways, changes to the driveways and easements took place
- the Township needs to know that the driveway the applicant is currently using has sight distance approval from the Livingston County Road Commission
- the applicant did not install or improve the driveway he is currently using, it was existing at the time he purchased the property
- according to the applicant, there was a legal matter that caused issues with the driveways and changes with the driveways, the boundaries were never changed
- this is now a shared driveway and it is too close to the house to meet the requirements for setbacks, there needs to be an easement for that driveway; there are safety and welfare issues especially for emergency vehicle access that have to traverse the shared driveway to get to the existing houses
- what is considered the good driveway is no longer being used and is abandoned; a berm was put at the end of this driveway and it can no longer be driven on
- the applicant accesses his house by coming up the drive along the tree line, which he maintains with gravel, then across the easement and then up again
- the 66 foot wide easement would be for a single family driveway and not for a shared driveway
- there are many more issues with this request than anticipated and this request should go before a sub-committee and the planner to iron out these issues before being brought back to the Planning Commission
- in order to resolve this, need to establish a driveway route that everyone agrees upon and would use; establish proper shared or private driveways for the three parcels; the driveway must be built to construction standards; and it must be recorded
- if someone were to develop parcel 008 with more than one dwelling, the easement would then be required to be improved as a private road with a new set of standards and requirements that have to be met
- right now there isn't a structure on parcel 008 so it isn't a shared driveway beyond the point where it makes the turn
- want to try and bring this into as much compliance as possible and reach a solution that everyone can agree on
- the boundary realignment has nothing to do with the access issues that are on this site, it does not affect access at all
- if you change the boundaries, everything is still nonconforming anyway
- the applicant is trying to make improvements
- the previous developers and owners created this situation, not the current owners
- the applicant would like to bring this into compliance

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- in regards to open space designation, records were pulled from 2008 to 1998 and it was never noted prior to this, so there was no open space designated to this property, no wetlands designated and no drainage affected by the surveys
- if the applicant only wants to realign the boundaries and is not making improvements to the property, what in the Ordinance prevents the P.C. from allowing them to realign the property boundaries and not require that they bring this into full compliance; the P.C. can restrict them from making improvements to the property as a part of that realignment
- the Ordinance does say that when there is an application for a boundary realignment, you need to have basically the same information as for a land division: 1) written permission from the owners of both parcels affected by the proposed realignment must be submitted; 2) it is required that the scale of the new parcel reconfiguration survey be a minimum of 1 inch = 100 feet for parcels larger than 3 acres (the P.C. may accept the scale submitted); 3) any required open space must be delineated and described on the submitted plan, if none was required, then the plan must note so (the newly submitted plan has this denoted); 4) the easterly rear yard dimensioned on parcel C is actually a side yard and the plan must be revised, and dimensions must be added for parcel C's front yard abutting the easterly shared driveway; 5) the proposed realignment west lot line of parcel D must be moved sufficiently to the west to maintain at least the required 75 foot rear yard (this is shown on the updated survey); 6) location of the existing driveway on parcel B and any other structures must be added; 7) must note whether any wetlands exist on the parcels and if so, locate and dimension them on the drawing; 8) the full 66 foot width of the shared driveway easement should be recorded and noted on the plan; 9) the extent of the shared driveway must be labeled on the plan and a note added to identify the other parcel(s) with access; 10) the location and size of any existing and proposed surface water drainage features must be shown; 11) need documentation that addresses maintenance of the entirety of the shared driveway easement and it must be to the satisfaction to the P.C.
- during the meeting, the applicant submitted an updated site plan that he said addresses many of the concerns from the planner; it shows the house in the front; it shows the driveway for the house in the front; it shows the 33 foot two track going to parcel 008; it lists that there is no open space based on the prior survey
- there is a 66 foot utility easement recorded, the 66 foot ingress/egress is not recorded
- the drawing shows a 33 foot wide ingress/egress easement which is the recorded piece, the existing 66 foot wide ingress/egress & public utility easement is not listed as recorded
- another problem is the area requirement for parcel D which is 2 acres net, you need to deduct the 66 foot wide easement and then have 2 acres of property, because the easement goes all the way up to parcel 008 and eventually it will have to serve parcel 008; at which time a private road would be required to serve parcel 008
- the issue is we have a reconfigured parcel D which appears to be shy of the required acreage for the zoning district
- the applicant asked if he purchased a 66 foot wide egress across parcel D, from east to west, would it make the situation any easier; he would not be purchasing any property, just an easement to allow him access to his property
- the applicant would need to improve the shared driveway up to where the applicant's easement takes off
- instead of realigning the boundaries, just purchase a 66 foot wide easement across parcel D; it could be done as long as it does not impact the setbacks, septic, or well on parcel D

- the shared driveway would still need to be brought up to standard (ditching, width of drive, certain specification of stone, and proper drainage)
- the so called "good driveway" did not have proper sight distance from the driveway around the curve to the west
- the P.C. did not approve any driveways; the P.C. approved easements to provide driveways (on a drawing back in 1998) and the standards which were set then are not known
- the applicant might be able to purchase an easement across parcel D and not have to purchase property and do a boundary realignment, but the shared driveway will need to be built to standard
- the applicant does not feel it is his responsibility to fix all the pre-existing problems with the property
- the information provided is incomplete and more detail is needed; the submitted drawing does not show a house on the front parcel, but a house exists
- the applicant should be able to gain access across parcel D and it will not increase the usage of the shared driveway; the existing use is nonconforming, all they are trying to do is establish legal access
- the easement represents .72 acres, so there needs to be 2.72 acres minimum for parcel D to comply
- the applicant would like to get an easement across parcel D to access his property
- a sub-committee meeting was scheduled for June 24th at 4:30 pm

PUBLIC RESPONSE:

- none

MOTION:

Meisel moved to table the Washburn realignment to allow time for the subcommittee to meet and arrive at a recommended solution.
(seconded by Kempisty). The motion carried by unanimous voice vote.

OLD BUSINESS #1): Review of final draft of proposed Dog Kennel Ordinance text revisions (Article 22.05G)

Article 2: Definitions – Section 2.01 Definitions

No changes.

Article 21 Supplemental District Regulations - Section 21.49 Keeping of Pets

No changes.

Article 21 Supplemental District Regulations - Section 21.49 Limitation on Number of Dogs

No changes.

Article 22: Special Land Uses Section 22.05 Site Design Conditions – G. Kennels (#1 through #8)

No changes.

Reviewed planner changes from the May 10th meeting, the final draft of proposed Article 22.05.G Dog Kennel Ordinance is ready to be scheduled for a public hearing in the future

OLD BUSINESS #2): Review of final draft of proposed Article 27 Outdoor Advertising and Sign Regulations text revisions

Reviewed planner changes of proposed Article 27 Outdoor Advertising and Sign Regulations, planner will make final changes to 27.06.G Illumination and 27.07.A.8 Electronic changeable message signs. Article 27 will then be ready to be scheduled for a public hearing in the future.

OLD BUSINESS #3): Review of proposed amendments to define Primary Roads

Reviewed changes to PIRO: a new definition was added to Article 2 DEFINITIONS – Primary Roads and a reference added into draft Article 16A PIRO district text. The draft was accepted as presented. Article 2 is ready to be scheduled for a public hearing in the future.

OLD BUSINESS #4): Review of proposed PC By-Laws revisions

Reviewed proposed PC By-Laws revisions, changed 3.09.D to 4.09.D on page 3. Motion by Meisel to adopt the PC By-Laws as amended, last revised and approved on June 14, 2011, (seconded by Lee). The motion carried by unanimous voice vote.

OLD BUSINESS #6): Review of Schedule of Regulations as it applies to the maximum size of accessory structures in the LK-1, R-1, R-2, and RM-1 districts

Planning Commission and Planner Discussion:

- 800 square feet is the maximum size allowed for a detached accessory structure under Zoning Ordinance Section 20.02.O
- not opposed to increasing the maximum size to something larger on a unique and specific basis, as opposed to a general blanket
- scale and appropriateness for neighborhood, still must comply with scale relative to the principal residence
- planner will prepare proposed text revisions for the next meeting
- keep standards as they are now, but give the ZBA discretion on a case by case basis because each site is unique and the ZBA would be addressing the scale, adjacent neighbors, Ordinance requirements, and do it in a public hearing forum.
- add a paragraph to the current Ordinance allowing the ZBA to exercise discretion in increasing the 800 square foot maximum to something more based on a list of guidelines
- guidelines would be good because the job of the ZBA is to interpret the Zoning Ordinance, the ZBA should not have to figure what the P.C. intended
- possibly amend the Ordinance with “the intent of the P.C. was....”
- reviewed Schedule of Regulations as it applies to the maximum size of accessory structures in the LK-1, R-1, R-2, and RM-1 districts, planner will amend language to Section 20.02.O (Footnote to Schedule of Regulations)

OLD BUSINESS #5): Medical Marijuana Regulations

Planning Commission and Planner Discussion:

- lengthy discussion on how to regulate medical marijuana
- some communities have prohibited any use that is contrary to federal, state, or local laws
- since marijuana is a federally controlled substance, it is still illegal to use it under federal law

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- planner does not recommend taking the approach of prohibiting outright at this time
- some communities are taking the approach of accommodating medical marijuana businesses to a greater or lesser extent
- some communities refer to a dispensary, where patients go to purchase his or her marijuana, which is regulated such that only a registered caregiver can provide marijuana to his or her five patients
- to use marijuana for medical purposes legally you need to obtain a card, get doctors permission saying you have a debilitating condition that requires you to use marijuana to alleviate the symptoms, the caregiver gets registered and records the patients to whom he is providing marijuana, but the Act requires privacy such that there is no way for local government to link the caregiver to the patient
- you cannot get a list of the patients because the Act ensures privacy and prohibits use of the FOIA to gain information
- police would like to have the ability to go to a facility and see if these are legitimate people that belong to that caregiver or caregivers
- the act doesn't define dispensary
- some communities require separations of either 500 to 1000 feet from a church or park
- Ocoala Township is considering an ordinance that allows a patient to grow their own marijuana in their own home. A caregiver providing marijuana to others would have to locate growing operation in the industrial zoning district
- some communities are requiring that patients not be allowed to go to the caregivers houses to pick up their medical marijuana, the caregiver has to deliver it to the patient
- each year the patient must reapply to get a new card and pay the annual fee
- marijuana cannot be distributed through pharmacies
- can prohibit dispensaries because the statute does not protect dispensaries, it provides for registered caregivers and patients
- primary protection is for the patient
- planner will see how Brighton is handling the medical marijuana issue
- recommend the P.C. consider zoning amendments that would allow medical marijuana as a regulated use, permitted in a district such as an industrial or commercial district, limit the number of caregivers per site, include minimum separation requirements, and consider not allowing dispensaries or growing centers since they are not authorized per state law
- recommendation to discuss and identify what is acceptable at the next P.C. meeting

OLD BUSINESS #7): Strategizing on Master Plan

Strategizing on Master Plan will be discussed at the next meeting.

MISCELLANEOUS BUSINESS:


1. Other Business Items: None
2. Township Board Actions: Reviewed PA 33 of 2008. It confirms what the P.C. is doing, gives more direction as to whether the P.C. will do a capital improvement plan or if it is left up to the Township Board, also sets the number of commissioners on the P.C. or if you have one or not. This will be discussed at a future Board meeting.
3. ZBA Report: None. Next ZBA meeting is July 11, 2011

4. Future Items: 1) Review of final draft of proposed Article 27 Outdoor Advertising and Sign Regulations text revisions; 2) Review Tyrone Township Zoning Ordinance No. 36 – Section 20.02.O (Footnote to Schedule of Regulations) regarding the 800 square foot maximum size for an accessory structure for property in LK-1, R-1 and R-2 zoning districts, 3) medical marijuana regulations; 4) strategizing on Master Plan update

ADJOURNMENT: The meeting ended at 9:55 pm

NEXT MEETINGS:

July 12, 2011 - Regular Meeting



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Lorie Thielen, Recording Secretary
Tyrone Township Planning Commission