

TYRONE TOWNSHIP PLANNING COMMISSION

MEETING MINUTES JULY 12, 2011

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

OTHERS: Tyrone Township Planner, Sally Hodges

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

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

Scott Dietrich, 13505 White Lake Road, would like to address 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.

APPROVAL OF THE AGENDA:

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

APPROVAL OF THE MINUTES: Regular Meeting Minutes for June 14, 2011

Kempisty moved to accept the June 14, 2011 Planning Commission minutes as presented (Peabody seconded). The motion carried by unanimous voice vote.

CORRESPONDENCE: None.

OLD BUSINESS #1: Review of final draft of proposed Article 27 Outdoor Advertising and Sign Regulations text revisions

Planning Commission and Planner Discussion:

- reviewed planner changes of proposed Article 27 Outdoor Advertising and Sign Regulations from the June 14, 2011 meeting
- concerns about regulating the illumination of the light levels coming off the electronic elements
- difficult to get an objective measure of illumination: depends where it is measured from and on the background conditions
- 27.06.G Illumination (page 27-22); changed the language to address the intensity of light concerns
- will remove “, nor” and replace it with “shall” (second line of 27.06.G)
- 27.07.A.8 changeable message sign (page 27-25); was written to prohibit the objectionable characteristics
- a lengthy discussion took place regarding 27.07.A.8 changeable message signs
- the three main areas of disagreement were: 1) messages cannot change more frequently than one time in 20 minutes (not including time/temperature signs), 2) cannot

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- have more than one color of illumination on the entire changeable message screen, and
- 3) changeable copy area cannot exceed more than 35% of the total sign face
- this is too restrictive, a company's logo generally has more than one color itself
- the illumination is the sign, there is no back illumination, the sign itself is made up of led's or lcd, or similar technology, it is a single element that you either turn on or turn off, there is no backlighting to the sign whatsoever
- the proposed text is set up for the more typical changeable copy sign that you see today, which is a fixed face with a changeable copy piece that acts like a bulletin board
- changing colors on a sign, especially on the freeway, can be very distracting
- planner will make final changes to 27.06.G Illumination and 27.07.A.8 changeable message signs
- the time element is relevant to this, the color restriction is a requirement because of the time element that is associated with it
- the 20 minutes time frame was modeled from an ordinance that was extremely scrutinized and written up in the American Planning Association literature, an extensive review on changeable copy took place and this is what they arrived at
- a sign changing frequently is a documented safety hazard
- 5 minute intervals for changeable content would be acceptable
- cannot limit the content of the message, but can limit the districts that can use changeable signs
- want to prohibit rapid changing text and/or graphics, but not limit the number of colors on the changeable sign
- a changeable message sign can also be mechanical, so a portion could be on flippers
- do you establish a standard that says, no more than 35% of the sign can be in active animation; or do you have a standard that says, only 35% of the sign can be potentially animated or changeable – this is a big restriction
- add that the sign can be configured, but only 35% can be actively changing
- determine what is the definition of "changeable", what constitutes a changeable sign
- decide what to permit and then the Planner can write the changeable definition to address it

Planning Commission and Planner changes/decisions:

- planner to write a definition to address what "changeable" is
- it is a portion of the sign intended for messages that are intended to change, other than the name of the tenant or business and the address
- use some discretion to review by the Planning Commission; for example, to negotiate with PUD
- change 20 minutes to 5 minutes for changeable message sign
- planner will reference footnotes 2 and 3 in Table 27.1
- planner will change footnote 3 to read "maximum height column"

Tyrone Township Planner, Sally Hodges will make all the changes discussed for 27.06.G Illumination (page 27-22) and 27.07.A.8 changeable message sign (page 27-25), and present a final draft to the Board at the August 9, 2011 Regular Planning Commission Meeting. If there are no additional changes, a public hearing can be scheduled.

OLD BUSINESS #2: 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:

- planner found accessory building amendments, proposed back in November 2010
- proposed changing the maximum square footage of accessory buildings from 800 to 1,200 square feet in the footnote to schedule of regulations
- this leaves the discretionary aspects to the Planning Commission as opposed to the Zoning Board of Appeals
- at June P.C. meeting, decided to leave discretionary aspects to the ZBA; 1) forced the public hearing aspect of it, 2) forced you to look at the harmonious relationship with the adjacent neighbors, and 3) it was a variance for anything over 800 square feet
- previously, the P.C. unilaterally agreed that 800 square feet is more than enough space for an accessory building in most cases
- want this to be thoroughly reviewed and justified with the mechanism like what the ZBA utilizes as far as substantial justice and unreasonable burden, etc., and make sure it is compatible with the surrounding area
- do not want to change the maximum square footage to 1,500 square feet, because it would be too big for a lot of areas
- percent coverage has generally not been an issue at the ZBA
- the 40% limitation is the non required rear yard
- 800 square feet seems to be reasonable relative to scale of adjacent neighbors, this is in most cases a second accessory building
- more than 800 square feet might be ok, but want to make sure it will not create a problem in the area it is being allowed
- suggestion during last meeting was to keep standards as they are now, but put some discretionary language in the footnote giving the ZBA discretion to grant a variance on a case by case basis since each site is unique; the ZBA would address the scale, adjacent neighbors, Ordinance requirements, and do it in a public hearing forum
- planner suggested that this not be done as a variance, because these applications are probably not going to meet the strict criteria for a variance; the ZBA can review things on their own merit, without them being variances as provided in the Ordinance
- could change ZBA to P.C. and tweak the wording elsewhere so the PC would be the body that reviews in the first case to allow accessory structures greater than 800 square feet in size
- no good reason why the P.C. could not hear these cases, but the discussion last month was that the ZBA would continue to hear this issue
- this Ordinance, the way it is written, is for the permitted area; it provides criteria which if met in the opinion of a PC, you can have the increased floor area
- 99% of the cases do not meet extraordinary circumstances or unreasonable burden criteria to grant a variance by the ZBA
- If the PC were to review these cases, a site plan is required for approval
- consider site plan requirements the same as for a home occupation use
- the applicant would go to the P.C. first, and the ZBA as a second avenue
- in Mr. Phelps case, he would continue with the ZBA; if the PC agrees to amend the Ordinance and the Township Board approves it, a variance could be granted by the ZBA based on the fact that the Zoning Ordinance has been amended and the intent is to now allow the applicant to do what he is requesting to do, from Sally: a community recently adopted a new Zoning Ordinance, an applicant applied for a variance in December, the Ordinance was changing the 1st of Jan., they couldn't in Jan. hear a case that was no longer part of the Ordinance, opinion of the community attorney, the applicant had to

wait to make the application for a variance under the Ordinance that was in place at that time.

- Mr. Phelps applied for a variance under the current Ordinance, can't establish unreasonable burden or extraordinary circumstance for the request
- worst case scenario is for Mr. Phelps to wait until the proposed amendment is adopted and waive the fees he paid to the ZBA
- off topic question: a lean-to off a building is considered part of the square footage of the structure

Public Comments: Scott Dietrich

- if you live on a lake lot and put an 800 square foot structure in the back, observing the 50 foot setback from the water, it would obstruct the view of the neighbors
- does the 40% to 50% of land take into consideration the square footage of the first floor or is it combined with the second floor area

Planning Commission response to public questions:

- in the lakefront areas the Ordinance only allows accessory structures in the front yard, with a variance, and allows nothing in the rear yard that is taller than 12 inches in height, within 50 feet of the water. There are also site line requirements so the view will not be affected
- in regards to the 40% of land; an example would be a 1000 square foot 1st floor home, the most an accessory structure could be is 400 square feet in size or 40%, the second floor does not matter, the intent of the Ordinance is to maintain scale

Planning Commission and Planner changes/decisions:

- planner to amend proposed Section 20.02.O (Footnote to Schedule of Regulations), changing 1,200 to 800 square feet (page 3)
- planner to amend proposed Section 21.02.J.1.b (Accessory Structure Provisions – Modification of Requirements), changing 1,500 square feet to 1,200 square feet (page 6)
- change the language to require a registered professional prepare the site plan, a mortgage survey would meet the requirements (21.02.J.2.a)

OLD BUSINESS #3: Medical Marijuana Regulations

Planning Commission and Planner Discussion:

- reviewed June 30, 2011 first draft of the suggested Zoning Amendments to address medical marijuana uses
- based on review of Ordinances from all over the state (Lansing, Brighton, Livingston County, Grand Rapids)
- Brighton's is based on Grand Rapids, which permits medical marijuana distribution as home occupations in the community, which is most appropriate in a city where you have a police department and the ability to enforce it
- in definitions, added a reference to medical marijuana and then referred to definitions that are in the medical marijuana section of the supplemental regulations
- in Article 21, under supplemental district regulations, put in findings, the reason we are doing the regulation and the purpose of it
- page 2, item C, prior use; to protect the community against places where there may have been illegal activity, and those individuals come in and claim they are grandfathered under Zoning, and we say they don't have a legally established use

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- subsection D, provides definitions
- the Attorney General opinion is consistent with what many communities are doing
- many communities have changed their Ordinance to specify that anything prohibited under federal/state law is prohibited there; these are communities that are being sued
- wait until the legislature clarifies some of this, before the P.C. proceeds
- subsection G, Requirements for Caregiver Operations will be changed to subsection H
- recommendation to discuss at a future P.C. meeting

OLD BUSINESS #4: Strategizing on Master Plan

Planning Commission and Planner Discussion:

- reviewed memo from McKenna regarding considerations for a process to update the Master Plan, dated July 12, 2011
- there are 2 things the P.C. is concerned with doing: 1) making sure we meet the technical, legal requirement for the 5 year Master Plan review, and 2) what to do with the US-23 corridor
- the 5 year Master Plan review will probably say we need to consider amendments to the US-23 corridor
- need to do the following: 1) decide on the process, 2) develop a schedule, 3) determine the criteria to decide if the plan is relevant or not, 4) have everyone read through the current Master Plan and identify concerns and talk about them at a meeting
- some census data is available and can be used
- analyze the existing Master Plan, text and maps
- planner can make suggestions of things to change based on what we know today
- identify what to change and not change, put into an actionable form, make a motion and that will complete the official 5 year review requirement
- it will say it is fine and does not need to be amended or that certain items need to be reviewed and you proceed to do so, this goes in the minutes, the 5 year review is complete; this is all the statute requires
- if going forward with amendments, need to issue a notice of intent to plan that gets sent out to all the surrounding communities
- for corridor amendments: McKenna can do portions or all of it for you, trying to keep the consultant effort to a minimum to keep the cost down, try to pull this in on a month to month basis with normal planning work, will need someone to update the existing land use map, look at aerial photos, compile new census data, update base map, etc.
- all information should be put together, dedicate an entire meeting to it, mark up an issues and opportunity map; follow this with a visioning workshop; then draft a land use plan and the goals and recommendations; then go into the adoption process
- ask the Strategic Planning Committee members to come to the next P.C. meeting and establish the schedule, get everyone involved in the process
- planner will get a schedule in mind for the P.C. and Strategic Planning Committee members and assignments; what the intent is, what the objectives are, and how the Strategic Planning Committee members can assist with the process
- make a motion at the next meeting to update the plan, put this in the record as the 5 year review, so there is a record of it
- see about getting the Master Plan online
- at the next P.C. meeting, will discuss strategy for updating the Master Plan
- have everyone read through the current Master Plan before the next P.C. meeting, including the Strategic Planning Committee members

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- this will be a 6 month process, plus adoption

NEW BUSINESS: None

MISCELLANEOUS BUSINESS:

1. Other Business Items: 1) Distribute final draft of the Planning Commission By-Laws to the Clerk per Dave Hanoute, put on website. 2) Washburn appeal has been tabled, per the applicant's request, at the sub-committee meeting.
2. Township Board Actions: Radcliffe and Meisel are up for re-appointment, terms expire August 31, 2011
3. ZBA Report: Update given on the five appeals from the ZBA meeting on July 11, 2011
4. Future Items: 1) Review of final draft of proposed Article 27 Outdoor Advertising and Sign Regulations text revisions and 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; 2) Master Plan Update – establish a schedule, review existing Master Plan; 3) Schedule a public hearing for PIRO, Dog Kennel Ordinance, and Article 27 Outdoor Advertising and Sign Regulations

ADJOURNMENT: The meeting ended at 9:25 pm

NEXT MEETINGS:

August 9, 2011 - Regular Meeting