

TYRONE TOWNSHIP PLANNING COMMISSION

MEETING MINUTES DECEMBER 10, 2013

PRESENT: Mark Meisel, Dave Wardin, Cam Gonzalez, Ron Puckett, and Anne Linder.

ABSENT: Deb Lee

OTHERS PRESENT: Zoning Administrator Vanessa Bader, Tyrone Township Planner Sally Hodges, and 13 others.

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

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

APPROVAL OF THE AGENDA:

Gonzalez moved to accept the agenda as presented. (Puckett seconded)
The motion carried by unanimous voice vote.

APPROVAL OF THE MINUTES:

Gonzalez moved to approve the November 12, 2013 meeting minutes as presented. (Wardin seconded)
The motion carried by unanimous voice vote.

CORRESPONDENCE: None.

NEW BUSINESS #1: Boundary Realignment for James Spencer and Brian Spencer at 12274 White Lake Rd

Applicant, Brian Spencer, stated that they are selling their house and want to fulfill an agreement to give 33' of his property to his father, James, to help in gaining 66' of road frontage on his parcel, 4704-11-300-004, for potential future development which is 40+ acres. The property at 4704-11-401-008 is only able to give 20' due to the house on the property and wanting to maintain the side setback of 20'. Parcel 4704-11-300-004 will have 53' of frontage after the transfer and intends on gaining the remaining 13' through the platted parcel to the West, which James Spencer owns, or a variance. There will be an easement on the transferred acreage to allow use of the existing driveway for the house on 4704-11-401-008.

Planner Hodges asked about gaining access to future development from Wind Chill Way, an access road for Top of the Pines development adjacent to their property. The applicant said they tried that approach already and it was not well received by the Top of the Pines association.

Chairman Meisel stated that if a development occurs it will require a private road and that will make parcel 4704-11-401-008 a corner lot with two front yard setbacks. The house will need 50' instead of 20'. This would become a self-created problem and make it difficult to get a variance. The Livingston County Road Commission may also be unable to grant an access point with less than 66' of frontage for a residential development.

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Chairman Meisel stressed the problem with not having 66' of frontage and wanted to make sure the applicants were aware they may have a difficult time in the future developing the property.

The Commission discussed Lot 10 of the Laurel Springs subdivision and using the parcel to help gain future access. Commissioner Wardin said that because Lot 10 is platted, it cannot be used as a road to serve other property unless the plat was amended accordingly. However, the land that comprises Lot 10 could be included in a site condo development that includes all or part of the "back land" and by using the Condominium Act, access could be created across Lot 10, thereby solving the problem.

Further discussion on the 20' adjustment and whether it made sense. Planner Hodges questioned what was being accomplished. This adjustment does not provide enough lot width for a private road and they cannot adjust the lot line between Lot 10, so it does not seem to make much sense to do the boundary realignment. There will be a problem with a front yard setback if a road does go in and there may be better options.

Puckett commented that it does not make much sense in what they are doing now and Gonzalez felt they were just pushing the problem to the future.

Chairman Meisel stated that the PC is not trying to discourage future development of the 40 acres ("back land"), but just want to work through the potential issues and make the applicants aware of future hurdles they may still face.

Planner Hodges noted that parcel 4704-11-300-004 will own the land where the driveway and proposed easement for parcel 4704-11-401-008 is located. That means they can technically use either driveway, which are next to each other and joined near the first house. Does that make it a shared driveway?

The applicant stated they are separate driveways and the Planning Commission proposed a physical barrier where the two meet to prevent access by parcel 4704-11-300-004 to prevent the creation of a nonconforming shared driveway..

The surveyor for the applicant stated they met all the requirements of the zoning ordinance and should be granted approval.

Chairman Meisel said that was correct, however, the house on 4704-11-401-008 could become nonconforming depending on where a future road is placed. It is the Planning Commission's job to not only consider the request at hand, but also look to the future.

Chairman Meisel cited Section 24.06 of the Zoning Ordinance which states the Commission can modify the requirements for a shared driveway.

The Commission discussed the physical barrier between the driveways and agreed that would solve the problem. There would be no shared driveway and they could allow a lot width less than 66'.

Gonzalez moved to recommend approval that the alignment for James Spencer and Brian Spencer with the following conditions (Linder seconded):

- 1) No future development of 4704-11-300-004 without access or easement or ROW that conforms to Township standards, consistent with the January 3, 1996 Township Board decision.
- 2) Parcel B is not approved as a standalone parcel, rather it is a description of land being exchanged and the final parcels should be represented as Parcel 004 + Parcel B and Parcel A - Parcel B.
- 3) A new survey will be provided showing the new parcel configuration lot lines.
- 4) Advised applicant there is a possible future issue - front yard setback for house on Parcel A could become nonconforming if a shared driveway or private road is created.
- 5) The Township does not guarantee the parcels created by this action will be buildable, or that land use permits will be issued in the future.

Original motion passed with a unanimous voice vote.

Gonzalez moved to amend the original motion by adding the following condition (Linder seconded):

- 6) Create a physical separation between the two driveways to result in easement access and private driveway access, and thus eliminating the current shared private driveway which is nonconforming.

Amended motion passed with a unanimous voice vote.

NEW BUSINESS #2: Land Division for Troy and Justina Willis at 13414 Rohn Rd.

The applicant would like to divide their property and build a new home on the remaining 4+ acres. All zoning requirements are met for parcel size and setbacks for the existing home near the road. They are proposing a 33' easement on the west side for a new driveway where there is an existing two-track drive. This would also not interfere with the existing horse fence on the parcel with the house.

The Commission again discussed the lack of 66' for an easement. It was determined this was not a shared driveway and they could reduce the width based on Section 24.06 of the Zoning Ordinance. The Commission also suggested using their neighbor's existing shared driveway on the east side of their property. There is currently a 33' easement for that driveway and the applicant could add another 33' over their property, to create a total of 66'. This would eliminate the creation of a new driveway and no trees would need to be removed. The applicant stated that they already approached those neighbors, since they know them, and asked if they could use it. The neighbors had said they were not(?) fine with the Willis' using the driveway, but were leery if they ever moved and what type of neighbors would move in.

Chairman Meisel noted we would require a maintenance agreement to prevent future problems and the Zoning Ordinance encourages sharing access points.

Chairman Meisel also noted there was more than enough open space provided, only 1.38 acres required. They can choose to reduce the acreage or keep it as is. He also said the words "proposed" and "after split" would need to be removed so the legal descriptions and survey were in recordable form, as required by our ordinance..

Wardin moved to recommend approval of the Willis' land division with the following conditions. (Puckett seconded)

- 1) That the open space calculation be corrected.
- 2) The words "proposed" and "after split" must be removed so they are in recordable form.
- 3) Final survey with seal and signature required prior to submittal to Township Board.
- 4) The Township does not guarantee the parcels created by the action will be buildable, or that land use permits will be issued in the future.

NEW BUSINESS #3: Boundary Realignment for WHB & Associates and Enbridge on Parshallville Rd.

The purpose of this realignment is a result of land being sold to Enbridge Energy. Use for the expanded land area to be owned by Enbridge was not disclosed. The Planning Commission cautioned any expanded use would be subject to an impact assessment to address existing adjacent residential development and intensity of use of the access easement. The Planning Commission identified a few issues with the legal descriptions, and requested the survey be provided in recordable form, clearly representing the new configuration of the property lines. The submitted survey contains both current and proposed property lines and is very confusing.

The Planning Commission also expressed concern about the existing private road maintenance agreement, noting Enbridge had the implied right to encumber use of the easement at the expense of the Bantles' and Davillas'. It was noted by the applicant fee for the easement is actually held by the Bantles', thus they have unencumbered use by right. While the Planning Commission is not fond of the language as currently written, if the Bantles' and their attorney find the current language acceptable to protect their interests, the Planning Commission will accept their view, and the language as presented. The remainder of the agreement meets our requirements.

The Planning Commission noted approval does not guarantee the ability to further development the enlarged Enbridge parcel.

Gonzalez moved to recommend approval of the WHB & Associate's land division with the following conditions. (Puckett seconded):

- 1) The survey will be redone to show the property lines for the new configuration only.
- 2) Correct Easement "A" legal description. Should reference parcel 300-036. Also, the entire parcel number should be used in the description as is done elsewhere (4704-32-300-036).
- 3) Easement A cannot be "commonly known as: Vacant Land". It is a shared private driveway, developed for such use and clearly not vacant. The applicant agrees to remove this statement.
- 4) Final survey with seal and signature is required prior to submittal to township Board. Reference Article 17.254, Section 4.B.2.
- 5) Suggest paragraph 3 of the maintenance agreement read as follows: "Use and Maintenance by Enbridge...." A.2 modified to include the following language: "Maintenance shall be conducted in such a manner as not to unreasonable interfere with the free and unencumbered use of the Easement by Davilla, the Davilla's successors, the Bantles', the Bantles' successors, and the Partnership and its

Successors.”, or as necessary to meet the Bantle’s and Davilla’s needs. (*Bantles’ hold fee to easement, so this concern was mitigated. Change at the discretion of the applicant.*)

- 6) The township does not guarantee the parcels created by this action will be buildable, or that land use permits will be issued in the future.

NEW BUSINESS #4: PCI, PCS, and PIRO locations and uses consolidations.
This was tabled to the next meeting due to the late hour.

Miscellaneous Business: Rescheduled the January 14, 2014 meeting to January 28, 2014

ADJOURNMENT: The meeting adjourned at 9:40 p.m.

NEXT MEETING: January 28, 2014 - Regular Meeting

Respectfully submitted by:
Vanessa Bader, Zoning Administrator