

1 **TYRONE TOWNSHIP PLANNING COMMISSION**  
2 **REGULAR MEETING MINUTES**  
3 **June 12, 2018**  
4

5  
6 **CALL TO ORDER: (7:03 pm)**

7 **PLEDGE OF ALLEGIANCE: (7:03 pm)**

8 **Present:** Mark Meisel, Kurt Schulze, Dave Wardin, Cam Gonzalez, Al Pool, and Ron Puckett.  
9

10 **Absent:** Bill Wood.

11  
12 **CALL TO THE PUBLIC: (7:04 pm)** No questions or comments.

13 **APPROVAL OF THE AGENDA: (7:04 pm)**

14 Cam Gonzales motioned to approve the agenda as presented. Al Pool seconded the motion. The  
15 motion carried by unanimous voice vote.  
16

17 **APPROVAL OF THE MINUTES: (7:04 pm)**

18 On page two (2), lines 85 and 86, Brian Keeseey said that his comment needed clarification. It  
19 currently reads there are no significant concerns surrounding surface water runoff or drainage,  
20 but his intent was to say that it was according to county review since he is not necessarily  
21 qualified to make that statement. On page six (6), line 248, the second sentence didn't make  
22 sense and needed clarifying. On pages twelve (12) and thirteen (13) there were some minor  
23 grammar corrections needed. Cam Gonzales motioned to approve the March 13, 2018 minutes  
24 as amended. Al Pool seconded the motion. The motion carried by unanimous voice vote.  
25

26 **OLD BUSINESS: (7:13 pm)**

- 27  
28 1) **(7:13 pm)** Provisions to allow Detached Accessory Structures on Adjacent Lots in certain  
29 districts:  
30

31 Chairman Mark Meisel stated that there were two outstanding items. First was the requirement  
32 for the placement of an entrance door on the front of the property. Collectively the Planning  
33 Commission agreed it was not a good standard because it doesn't necessarily apply to all the  
34 homes that are adjacent, and the fact that you have a door facing the road doesn't necessarily  
35 make it appear as a primary residence. It was agreed to remove that requirement and defer to the  
36 architectural guidelines section. The second issue was the need to identify what constitutes an  
37 attached or detached accessory structure. The intent is that a qualifying structure would not have  
38 an existing detached accessory structure on the property. Structures are attached if they have a  
39 roof or walls in common. Brian Keeseey stated that if you can take down that portion of the  
40 attachment and not have any impact to either of the things you're attached to, it wouldn't  
41 necessarily qualify for attached. The definition of an attached structure as is currently written in

42 the ordinance reads as follows: “The joining of two or more structures by the continuation of  
43 foundations and rooflines, utilizing the same construction materials to create a single unit with  
44 interior access from the existing structures”. This implies the continuation of foundations, and  
45 this wouldn’t define a breezeway. Is the definition of a detached accessory structure consistent  
46 with the definition for attached accessory structures? The question was raised “if breezeways or  
47 other attachments have a roof in common and are intended to imply that they are attached, does  
48 that match the definition in the ordinance?”. It states it has to have both a continuation of  
49 foundations and rooflines. Chairman Meisel asked Mark Betley if he considered his breezeway  
50 to be attached or unattached. Mr. Betley answered that he has a shared roof that covers the  
51 breezeway and there is a concrete walkway between the two of them. Chairman Meisel asked  
52 under what conditions does the Township want to allow this provision. It is stated that someone  
53 is only permitted one detached accessory structure and there cannot be a detached accessory  
54 structure on the lot that is under consideration; if you read the definition of what attached is, one  
55 can argue that the attached definition doesn’t necessarily match the detached. The commissioners  
56 were in agreement with the roofline aspect of the definition. They agreed they need to either  
57 amend the definition of attached or add some language to clarify or define for this particular  
58 section of the ordinance. Brian Keesey is supportive of addressing this in this particular section,  
59 because “attached” as a definition applies throughout the entire ordinance. He said he wanted to  
60 be sure they were all on the same page as far as intent and in general of how they want to apply  
61 it. He said he doesn’t really want to allow this if there is room, in general, for a detached garage  
62 on the primary parcel. Applicability has to be changed in this part of the ordinance. It was  
63 agreed that rooflines in common would be considered “attached” but need to better define  
64 “roof”. Dave Wardin asked if they should be asking if the roof was installed as part of a building  
65 permit. If so, then it is considered a legally established roof. If not, and it was never inspected it  
66 is not attached. It was suggested to define “roof” as *if it is attached by a roof in common that has  
67 been legally permitted and constructed. Further discussion will occur during the Board/PC joint  
68 meeting.*

69  
70 **(7:39 pm)** Dave Wardin motioned to suspend the order of the business and move the Bentley  
71 Sand and Gravel business up in front of old business item #2. The motion was seconded by Cam  
72 Gonzalez and carried.

73  
74 **(7:42 pm)** Bentley Sand and Gravel Special Land Use Permit:

75  
76 Chairman Meisel introduced the topic and gave a brief summary. The business has changed a bit  
77 over the years, and the last time the Planning Commission spoke with them was to work out  
78 some amendment language to industrial extraction to allow the crushing of concrete. Setbacks  
79 and standards were reworked. It was still intended and understood to be an accessory use;  
80 general extraction was still intended to be the primary operation. Meisel asked Dave Conklin if  
81 he is currently asking to be able to crush and sell more concrete than materials extracted from on  
82 site. Mr. Conklin explained that the potential volume of crushed concrete is based entirely on the  
83 demand and economic conditions and are, therefore, virtually impossible to predict. He stated  
84 that there may be certain times where the crushed concrete sales would exceed that of mined  
85 materials, and other times where the opposite occurs. Mr. Conklin said they were looking for an  
86 amendment to the ordinance. He stated that, under the current economic conditions, crushed  
87 products generally exceed that of their mined products. He said he cannot run a business the way

88 the zoning ordinance is constructed. He said he cannot control the demand; that crushed products  
89 are a significant resource. He said he needs to be able to run a business to meet community  
90 needs. In the next ten (10) years it's going to be difficult to find necessary resources, and the  
91 materials will go to landfills or be shipped out to other areas to be processed, and the Township  
92 will lose all its resources and then there will be higher taxes. Tyrone Township has built a lot of  
93 homes around their operation. The average price for fresh limestone delivered is \$38-\$40 per  
94 yard. Chairman Meisel stated the challenge they have is that the Township Zoning Ordinance  
95 allows for concrete crushing in the Extractive Industrial zoning district to be an accessory use to  
96 a mining operation. Accessory uses, by definition, imply that the use would be secondary in  
97 nature to the principal use (mining). A lot of communities like Tyrone Township didn't have  
98 anything that allowed for concrete crushing, and they weren't compatible with each other, which  
99 made them incompatible with the State, because the State has regulations for crushing vs. the  
100 other types of operations. There are two options: 1) Here is what is in the ordinance, you have to  
101 live by it, or 2) We better understand what you need and work through the process of amending  
102 the ordinance while making sure that you remain compatible with the adjacent residential  
103 development. Mr. Conklin asked how his operation affects the surrounding area. Meisel stated  
104 that he speaks for everyone in saying that they all know him and his business very well. He is a  
105 valuable asset to the community. He's the only legitimate mining operation in the community.  
106 He is well known, well respected, and well-liked by the residents. He is the source of choice by  
107 most. The challenge they have is that at the time this concrete crushing section was created,  
108 there was a decision that concrete crushing was going to be a lesser operation than extraction. It  
109 needs to be determined if a larger scale concrete crushing operation is still compatible with the  
110 existing adjacent development. Ron Puckett stated that there are no new homes being built, that  
111 the homes that are there have been there for 25+ years and have had no problem with Bentley.  
112 Once an operation is expanded, the Township needs to ensure that there are no health, safety, and  
113 welfare impacts. Mr. Conklin stated the he is storm water certified now, and he passed out water  
114 tests from Brighton Analytical. The water tests were done off of his outfall, spill water run-off.  
115 The tests were taken from his detention pond around his concrete operation that's been going on  
116 for 30 years. There is no contamination in the water after 60 years of mining. He was asked if  
117 he was increasing the size of the operation. He stated that he just wanted to increase the volume.  
118 He isn't looking to grow any bigger than he is now. He just wants to be able to provide people  
119 with what they want. Meisel asked if he was looking to continue what he's been doing recently  
120 or if he is looking to crush more concrete. If the Township prohibits Bentley from selling  
121 crushed concrete until they sell other products, then they'll have crushed concrete sitting there  
122 and not be able to move it. Meisel said they need to be sure there is dust control, noise control,  
123 etc. Brian Keesey stated that the state regulates that, but that doesn't mean the Township doesn't  
124 address it. Bentley must stay compliant. The Township needs to make necessary modifications  
125 for peaceful coexistence. Brian Keesey stated that the Township strictly prohibits use variances,  
126 therefore it would be necessary to allow a change from extraction to potentially concrete as the  
127 primary use. Dave Conklin said he was not sure if the Township can justify basing primary use  
128 vs. accessory by volume. If his sand and gravel mine runs out, as long as he is washing rocks,  
129 making sand, and has all required extractive permits, everything should be in order to fit the bill  
130 for permitting concrete crushing. Meisel stated that mining volumes were originally designed to  
131 measure three (3) year averages, and this may not work now. Dave Wardin stated that he doesn't  
132 agree with the percentages and other things in the ordinance. He said he thinks the reason it was  
133 written this way was to prevent an operator from taking advantage and push the zoning

134 ordinance to absolute limits. Corey stated that sand and gravel is 45% of their total business. It is  
135 closer to 50/50 than 80/20. Meisel asked Brian Keesey what he was referring to when he spoke  
136 about “use variance”. Brian Keesey said they need to amend the zoning ordinance text rather  
137 than taking this to the ZBA. Meisel agreed and stated that if the Township collectively agrees  
138 that the concrete crushing operation at Bentley needs to be better accommodated, then they need  
139 to amend the ordinance with the most knowledge that they have so everyone is peacefully  
140 coexisting. Brian Keesey agreed that it needed to be practical so that there is no need to get a  
141 variance. Mr. Conklin stated he only planned to run the business for maybe another 10-12 years  
142 and he wants to do everything right by the Township. Meisel stated that the intent was to work  
143 with him. There is currently an injunction on Bentley brought on by the Township, because they  
144 were determined to be noncompliant with respect to concrete crushing requirements. The terms  
145 and conditions of the injunction are to bring the rest of the operation into compliance, including  
146 State laws, federal laws, DEQ storm water runoff plans, etc. All of that has been done and the  
147 only thing that is holding him back now is the ordinance as it is worded. Meisel stated that  
148 Bentley needs the ability to crush more concrete at periods of time that may be in excess of the  
149 amount of materials they may be extracting based on demand. Mr. Conklin stated that he would  
150 like to crush 50k tons a year. The stockpile size would be no more than 40-50k tons stocked at  
151 one time.

152  
153 Meisel said they need to now determine what is necessary to get Bentley back up running. First,  
154 they need to speak to Mike Cunningham about the next steps to lift the injunction. They need to  
155 figure out how to modify this ordinance. Dave Wardin feels the ordinance needs to be changed  
156 completely. He said that since this is so site specific, rather than trying to modify this ordinance  
157 now for this site, why not enter into a consent judgement. That will be a site specific legally  
158 recorded ordinance. Then they can tailor the consent judgment to this site and not worry about if  
159 it fits the ordinance, and it gives them time to modify the ordinance. This would protect not only  
160 Bentley Sand & Gravel, but also the Township. Meisel said they need to have a conversation  
161 with the Board on the next steps, and maybe consult with the attorney and ask if a consent  
162 judgement would be a good idea. Brian Keesey said this would be a good idea if all parties are  
163 agreeable. This conversation will be started at tomorrow night’s joint meeting. They will explore  
164 with them what their collective thoughts are as far as how they see the operation existing in the  
165 foreseeable future. Brian Keesey said they may be able to convince the attorney that they can  
166 allow the use to proceed without a consent judgement with a limited amount of time so they  
167 don’t have to decide whether or not the consent judgment is the way to go. He also stated that  
168 one thing he didn’t want lost in conversation is the long-term impacts. They want to get them up  
169 and running, but they need to ask themselves if they want to permit a solely concrete crushing  
170 operation. Does the Township want to reclaim the site and utilize it for other purposes?

171  
172 **(8:47 pm)** End discussion regarding Bentley Sand & Gravel.

173  
174 **(8:58 pm)** Meisel suggested they skip over Old Business #2 (Solar Farms) and continue onto Old  
175 Business #3 (MMMA).

176  
177 Meisel opened up his draft and proposed adding a new section. He stated that there have been  
178 four (4) amendments to this act from when it was originally introduced. He suggested they fit in  
179 this new section intended for acknowledging amendments and incorporating them accordingly.

180 Brian Keeseey asked if these were amendments to the original law. He liked that Meisel was  
181 separating them out from the original voter approved portion. Meisel continued to work through  
182 his draft. He said there was a nonconforming lot because it only had an accessory structure on it;  
183 that someone illegally occupied for a commercial purpose in a residential district and that was  
184 not the Township's intended definition for a caregiver operation. There are two pieces to this  
185 ordinance. It is broken down into 1) Qualifying patient, and 2) Primary caregiver. The MMMA  
186 allows a qualifying patient to grow and consume for himself if he has a medically established  
187 purpose. He drafted the following: "The requirements for qualifying patients; in residential  
188 districts, growing for personal use must be an accessory use in a portion of an existing single-  
189 family residence or an accessory structure located on the lot. The single-family residence must  
190 be owned and occupied by the qualifying patient or his or her parent or guardian". Dave Wardin  
191 wanted to clarify that growing for personal use can be anywhere in the township, not just FR  
192 which applies to caregivers.

193  
194 A resident asked if in cases where there were multiple qualifying patients in one residence,  
195 would they then be able to grow all those plants? Meisel explained that each one of them has to  
196 have their own locked separate facility. The other people in the house would not be allowed to  
197 access the others' plants. The Township is limited in what they can do with the qualifying  
198 patients because the act sets forth what their rights are and the Township cannot infringe on their  
199 rights, but they can be sure they are complying with what state law says. With caregivers there is  
200 a little more latitude.

201  
202 Brian Keeseey said that the accessory use statement should be with "growing for personal use"  
203 rather than under "patient control"; or it should stand alone, because the accessory use portion of  
204 that doesn't necessarily relate to patient control. Cam Gonzales asked about whether or not  
205 someone could operate on leased property. Meisel answered that people were previously caught  
206 with an illegal outdoor grow operation, so the ordinance was amended to allow outdoor growing,  
207 because that was a new thing. They had a lot of compliance issues, and in order to get themselves  
208 into compliance, they decided it wasn't worth it, and they didn't come back. The most recent  
209 situation here where they were caught operating without both local and state permits, they got  
210 shut down. They asked if they could possibly operate there if they got compliant with the  
211 amended ordinances, and it was suggested that they should find a new location since they won't  
212 be able to get in compliance to their satisfaction. The only responsibility of the Township is to be  
213 sure people are compliant with the laws and that they would pass inspection. Cam asked why we  
214 can't issue citations to people who violate the laws regarding growing marijuana. Meisel stated  
215 that could be done. The goal is to give people the benefit of the doubt and try to work with them  
216 so that we can peacefully coexist. Then, if they won't work with the Township, they are taken to  
217 court. A resident said that she felt that this business should be treated differently than other  
218 businesses because it of the nature of the business, being a controlled substance. She felt it brings  
219 danger to the neighborhood, that there are over 20 children in her neighborhood. She is upset that  
220 he is marketing the place as a grow operation. Meisel stated that if he did that legally under the  
221 ordinance and under the state laws, people may not care as much.. He created a situation that the

222 Township decided was undesirable and they don't want it repeated. They are limited to what they  
223 can enforce when it comes to qualifying patients.

224

225 Meisel talked about caregiver operations; how do they manage control and authority so someone  
226 doesn't purchase homes and turn them into grow houses. Suggested language: "If the registered  
227 qualifying patient has site control, only the primary caregiver for that qualifying patient shall  
228 access the growing portion of the structure and only those qualifying patients residing in the  
229 residence may be supported by the primary caregiver of the structure. The caregiver is only  
230 serving the people in the home that he has access to. It is not the caregiver's operation, it is the  
231 patient's operation. The caregiver has to be limited to their control of that house otherwise they  
232 are operating a commercial business". Brian Keesey felt this statement was determining who a  
233 caregiver can and cannot provide care to. This is something that may need to be taken to the  
234 attorney.

235

236 Meisel talked about breaking the ordinances into residential and commercial. For commercial  
237 there needs to be setbacks and the right separations from adjacent residential. There needs to be  
238 language added about separation distances from shared private driveways or private roads that  
239 provide access to people so they aren't close to school bus stops, etc. There needs to be a  
240 reinforcement statement stating there shall be no outward appearance of a caregiver operation;  
241 no signs, etc. For the FR district they will add "caregiver operations shall not be permitted if an  
242 occupied single-family residence does not exist on the lot. If the growing portion of the caregiver  
243 operation will exist in a single-family residential area, the structure shall comply with the  
244 following requirements:

245

- 246 • Qualifying patients, unless residing in the single-family structure, are prohibited from  
247 entering the structure where growing is occurring. This is also set forth in state law.
- 248 • Those qualifying patients in a single-family structure must comply with section 21.55.H.2  
249 which talks about separate, locked, enclosed facilities that no one else can have access to.
- 250 • No outward appearance of the operation".

251

252 A person can't buy a piece of property and lease it to someone else under the prospect of having  
253 a grow house. Also added was a 1,000-foot separation distance to an established school bus  
254 stop. Kurt Schulze asked if a growing operation would be in violation if a new bus stop was  
255 established nearby. Meisel said they would not be in violation, they would be grandfathered in.  
256 It was asked what, if any, transactions were allowed to take place on the property? Meisel said  
257 there is a section called "delivery" which states that no on-site transfer to a qualified patient is  
258 permitted. A resident asked about the proximity separation and if that included daycare centers.  
259 Meisel said that it included K-12 and any State licensed child center or daycare facility in order  
260 to comply with federal drug-free school zone requirements. She asked if that would include  
261 someone's in-home daycare and it was determined that it would since an in-home daycare would  
262 legally have to be licensed by the State. Also added was "additional separation requirements may  
263 be required by the Planning Commission and approved by the Township Board".

264 Previously there were discussions about creating a Township checklist for outdoor grow  
265 operations; this is something that needs to be done. Kurt asked whether there was a section on  
266 security. Answer – yes. There is a plan but it is not discussed in a public forum. They are  
267 required to submit a security plan which includes cameras and digital information, fencing,  
268 lighting, etc. They have to demonstrate that they comply with the Act relative to security. Kurt  
269 asks if dogs for security are prohibited. Meisel said that at the time this was drafted the security  
270 requirement was believed to be adequate because of the sensitive nature of it being a controlled  
271 substance. People wanted to be able to identify who is coming and going, so if there was a  
272 breach of the facility you’d want something to show law enforcement. There are some basic  
273 requirements written in there now but of course they are subject to amendment. This will be  
274 discussed with the Board tomorrow night; the Planning Commission will share their thoughts on  
275 how to address the most recent concerns and the most recent amendments to this Act. They need  
276 to ensure consistency and get this adopted quickly. The commissioners had a brief discussion  
277 about whether they should consider a minimum acreage. Dave Wardin expressed concern about a  
278 site that was previously used for a grow operation, being purchased and having a grow operation  
279 started again. That person could potentially run an illegal operation for a year before he gets shut  
280 down. Meisel responded with the fact that they would not be able to comply with all of the  
281 application requirements. Dave said that wouldn’t matter, they would continue to do what  
282 they’re doing, and the sheriff wouldn’t do anything about it, either. Meisel said that would be a  
283 different situation because in the previous situation the person agreed to come into compliance  
284 and then he left when he couldn’t do it. If he had not been willing to work with us we would  
285 have come down harder on him. If Ross was to take an application, he should go back to that  
286 particular clause that in our current language, “based on a recent experience, the separation  
287 distances that exist from existing adjacent development and school children and other concerns  
288 for school bus stops is insufficient to allow the operation to occur there”. Dave prefers the ten-  
289 acre minimum. Meisel feels that is something that could be done since it is a commercial  
290 operation in a residential district. Brian Keesey said that if they get the right separation distances  
291 they are essentially dictating what the minimum lot size will be. It may be easier to say they need  
292 100 feet of separation to maintain the health, safety, and welfare of adjacent neighbors, than to  
293 require a ten-acre parcel that could be a very narrow parcel that could have potentially more  
294 impact.

295  
296 Meisel went over the game plan for tomorrow’s meeting with the Board. He would like to give  
297 them an update on what they came up with in regards to MMMA. He would like to talk about  
298 their thoughts on rebuilding a non-conforming structure. Additionally, he’d like to discuss Solar  
299 Farms; what they have developed so far. After looking at concerns from other states relative to  
300 the amount of agriculture land that can potentially be lost to solar farms at the great expense of a  
301 loss of tax revenue, they would like to increase some set backs or other dimensional  
302 requirements as suggested by Mr. Wardin to try to limit the size of the solar farms. Animal  
303 Units, particularly bees and chickens, will also be part of tomorrow’s discussion.

304  
305 There is some speculation about the northwest corner of White Lake Road / US-23 area  
306 becoming rezoned EI. This would not fit with the Master Plan, and they’d have to prove there

307 were extractive materials there. This can be addressed during the general quick review and  
308 maintenance of the Master Plan.  
309  
310 **(10:28 pm)** Meeting Adjourned