

Tinicum Township Planning Commission Minutes
January 25, 2022

Members Present: (In person) John Cole, Terry Johnston, Carl Ruthardt, Neil Sullivan, Joy von Glueck, David Upmalis and (via Zoom) John Clement.

Others In Attendance: Township Supervisor Rich Rosamilia, Gavin Laboski of Laboski Law, Scott McMackin of Cowan Associates

Call To Order: David Upmalis

Public Comment: None

Approval of Minutes: Motion by John Cole and seconded by Joy von Glueck to approve the minutes of the Planning Commission Meeting of December 14, 2021. David Upmalis abstaining due to absence. Unanimous vote to approve.

New Business

1. Reorganization – Selection of chair, vice-chair and secretary.

Dr. Upmalis noted that he was stepping down as Chair of the Planning Commission. Mr. Ruthardt suggested an Executive Session to discuss appointments. It was agreed that the current Commission appointments of Chair, Vice-Chair and Secretary would remain in place for the current meeting.

MOTION by Mr. Johnson to table reorganization in the interest of time and to afford the Commission the opportunity to review internally. Seconded by Mr. Sullivan. Unanimously approved.

2. ZHB Application 2021-10 Wehrung/M&W Precast

Attorney Gavin Laboski of Laboski Law related the details of the Application before the Township, which seeks a variance for the construction of a simple metal pole building to house a crane used in the manufacturing process on the M&W site, an approved non-conforming operation located in Zone VR. A variance is needed because the proposed building height exceeds the maximum allowable building height of 35 feet. Mr. Laboski explained that the crane is used in the manufacture of concrete forms for pre-fab buildings, which have recently risen in demand. Housing the crane would improve conditions for workers who currently work outside battling the elements, as well as limit noise and allow M&W to expand their business. The proposed building height is approximately 41 feet. He explained that the variance requested is not necessarily *de minimis*, but is minor given that the proposed building site is not visible from any neighboring property due to the size of the lot, and that when viewed from property

boundaries, the difference between 35 feet and 41 feet would be barely noticeable and would not have a negative effect on the character of the neighborhood. He noted that the Commission had been provided with a site plan of the layout of the property, photographs, and an aerial view of the site.

Engineer Scott McMacklin of Cowan Associates explained that the height of the building was driven by a number of factors, including the construction needs of the building, the size of the materials being manufactured, and the crane's hook elevation of 26 feet.

Mr. Cole asked about the height of other buildings on the property, including a batch mixer, which is more than 42 feet, and a building behind the batch mixer, although Mr. McMacklin did not know the height of other buildings.

Dr. Upmalis asked about the footprint of the proposed building being larger than the existing slab. Mr. McMacklin explained that they needed to build just outside the current slab to pour the footings and build walls. He noted the entire site is covered with either stone, asphalt, or buildings, so the larger footprint for the proposed building would have no effect on imperviousness.

MOTION by Mr. Sullivan to recommend to the Board of Supervisors that they not oppose the application. Seconded by Mr. Ruthardt. Unanimously approved.

Old Business

1. Ordinance 254 - Draft ordinance relating to Solar Farms and Fencing - Review BCPC comments and finalize.

Mr. Ruthardt raised a point noted by Mr. Clement that in Section K there are two versions of language regarding the requirement that a proposed commercial solar facility provide proof of a contract with a utility company before construction. It was agreed that the second version was preferred.

MOTION by Mr. Ruthardt to delete the first version and keep the second version as follows: "No facility shall be constructed until proof is submitted that the owner has a written agreement with an applicable utility company to accept the electricity generated by the solar collection system." Seconded by Mr. Johnson. Unanimously approved.

The BCPC comments were discussed and Mr. Ruthardt suggested the Planning Commission's previous recommendations with regard to fencing and subdivision requirements remain unchanged and that the Planning Commission's minutes of November 23rd be submitted to the Board of Supervisors.

2. Codification Update - Recommendation of Draft Codification to Board of Supervisors to approve as presented subject to the following amendments.

Mr. Ruthardt noted in Article IX, Section 900.11, regarding limitations on fences, walls and gates, the order of the items leads to confusion. For clarity, he suggested moving Item #3 to the first position, Item #1 to the last position, and changing the number of the other items accordingly, so that the order reads as follows:

1. The maximum height of fences in the front yard setback shall be four (4) feet above natural grade, except as permitted in Section 900.11.C. Posts may be no more than one (1) foot higher than the horizontal portion of the fence.
2. When permitted, fences located within the required front yard setback shall be erected outside the existing right-of-way.
3. Walls in the front yard shall not consist of exposed block facing the right-of-way.
4. The finished side of all fences shall face outward.
5. The required front yard setback shall not apply to terraces, steps, uncovered and unenclosed porches, nor to similar features less than three feet above finish grade, except for a fence installed for the sole purpose of protecting vegetation from deer pursuant to Section 900. 11.C.
6. For houses existing within thirty-five (35) feet of the centerline of the road, fences up to six feet in height are permitted in the front yard setbacks.

It was agreed that the change was necessary.

He also noted that Article IX contains regulations regarding fencing, which will need to be updated when the draft fencing ordinance is approved.

Ms. von Glueck reviewed Article X and noted that in Section 1000, in the definition of a sign the use of the phrase “in mind” is vague and unnecessary.

Additionally, she noted that in Section 1003(D), the language regarding two facing signs is vague and confusing:

“Two (2) sign faces may be utilized in a back-to-back arrangement provided in which case they shall be parallel and directly opposite sign faces oriented in opposite directions located not more than 5 feet apart.”

Mr. Clement suggested amending the item to read as follows: Two (2) sign faces may be utilized in a back-to-back arrangement provided

they are 1) parallel, 2) directly opposite facing and 3) not more than five feet apart.

It was agreed to make that change.

Ms. von Glueck suggested that the phrase “provided the following provisions have been met:” be added to Section 1003 (P) Paragraph P for clarity’s sake and it was agreed to make that change.

Mr. Cole reviewed Article XI and XII and suggested no changes or corrections.

Mr. Clement noted the word “insure” in Article XII, Section 1201(B) should be changed to “ensure” and that change was agreed to.

Mr. Sullivan pointed to Article XIII, Section 1300(A)8, where the Zoning Officer is empowered to issue stop orders and cease & desist orders. It was confirmed that a building inspector delivers such orders at the direction of the Zoning Officer.

Mr. Ruthardt asked about Section 1301(A)-Duties of the Planning Commission, which states that, “The Planning Commission shall review applications for Zoning Permits referred to it to ensure compliance with the terms of this Ordinance.” He pointed out that the Board of Supervisors previously approved an amendment giving the Zoning Officer the power to approve all zoning applications, thereby eliminating any required review by the Planning Commission in all zones. A lengthy discussion among the Commission and Mr. Rosamilia then followed as to whether Section 1301(A) should be changed to reflect that amendment, and whether there should be a requirement for the Planning Commission to review zoning applications prior to approval in some instances, particularly in the Commercial and Planned Industrial zones. Mr. Ruthardt said ultimately the Municipal Planning Code gives certain authority to the Planning Commission to perform certain duties, and if a question ever arose the Municipal Planning Code would prevail.

Mr. Clement noted that in Article XIV, some alphabetic prefixes were upper case and some were lower case. It was agreed that they should be corrected to be consistent.

Mr. Johnson reviewed Articles XV and XVI and recommended no corrections.

Mr. Clement reviewed Article XVII and recommended no corrections.

Dr. Upmalis pointed to Section 707(D)2 where it is stated that “Tree harvesting activities shall be subject to suspension in the Township’s discretion

until corrective work has been completed and approved by the OIC. Penalties for non-compliance will accrue at a rate of \$100.00 - \$300.00/ calendar day.” It was agreed that the penalty for non-compliance should be reviewed.

Mr. Ruthardt noted that Article XVII reads “This ordinance amends the Tincum Township Zoning Ordinance of 1971, as previously amended,” and asked whether the year should be updated. It was agreed that the term “as previously amended” would include all subsequent amendments and codification and therefore the date should remain unchanged.

Before final submission of the codified Zoning Ordinance to the Board of Supervisors, it was agreed that Mr. Clement would make all agreed-upon corrections and edits (as well as any necessary formatting corrections) and then submit a final, clean copy at the next working meeting of the Planning Commission.

Mr. Ruthardt asked how the Ordinance will be available once approved by the Board of Supervisors. Mr. Rosamilia said that the Township is in the process of arranging for the Ordinance to be made available online in a searchable format.

Discussion. None

Executive Session to discuss reorganization. Mr. Rosamilia was excused.

Adjournment

MOTION by Mr. Sullivan to adjourn. Seconded by Mr. Ruthardt. Unanimously approved.