

Tinicum Township Planning Commission Minutes

July 25, 2023

Members Present: Dr. David Upmalis, Chair; Carl Ruthardt, Vice Chair; John Clement, Secretary; John Cole; Terry Johnston; Tim Cashman. Absent: Neil Sullivan

Others in Attendance: William Benner, Lary Brandt, Mark Baran, Tinicum Supervisor Eleanor Breslin.

Call To Order: Dr. Upmalis

Public Comment: None

Approval of Minutes: deferred at this time.

New Business

1. 2023-01 Conditional Use Application of Michael Hessol received May 24th. Hearing clock 60 days. Applicant's attorney requested extension.

Requests approval for driveway modification within Riperian Corridor.

- Received 5-24
- BOS 6-6
- PC 7-25
- BOS 8-15

Mr. William Benner, attorney for Mr. Hessol, presented the application for additional use, asking to add about 500 square feet to the existing driveway so a car can turn around in the driveway, where it would be safer, rather than on River Road. There was some discussion about whether the additional bump-out for the turnaround spot would add to the existing impervious surface, and there was no clarity about the actual size of the requested turnaround spot due to a lack of dimensions on the plan. There was also some discussion on whether it would be better to have the turnaround spot in the back of the house, as the requested spot could be used for additional parking. A suggestion was made to put the turnaround spot in the back of the house rather than in the front yard, which is not allowed.

MOTION by Dr. Upmalis to advise that the Township be neutral with conditions as listed below:

- Applicant to justify why the backyard cannot be used for a turnaround
- Applicant to explain why the existing parking space behind the house can't be utilized (and perhaps extended)
- Dimensions be defined (maximum that is required for turnaround, not parking, for a front yard is 10 ft deep x 12 ft wide)

- Applicant be required to submit a flood plain development application as recommended in Steve Baluh's review.

Seconded by Mr. Ruthardt. Unanimous vote to approve.

2. 2023-02 Conditional Use Van Eyck Miller. Request for relief for holding tank near property line and within front and side yard setback.
 - Received 6-19
 - BOS 7-11
 - PC 7-25
 - BOS 8-15

Mr. Benner represented his client, Mr. Miller, explaining that this is an application for the installation of a holding tank. He mentioned that Mr. Brandt as the listing agent also has authority to speak on the client's behalf. After Mr. Miller listed his property for sale, the buyer discovered that the property had no septic system, and what was treating the waste water is called the cesspool. Seller and buyer reached agreement to install a 2,000 gallon holding tank. There is no place on the property that qualifies for a standard septic system, and so Mr. Miller hired Rick Swiantecke, who obtained a permit from the Department of Health. The permit is part of the application. Tincum Township has its own ordinance regulating the placement of surface facilities, stating that any holding tank requires conditional use approval.

Mr. Benner said that a holding tank does not have to comply with front, side or rear setbacks. The application includes an email from Mr. Swiantecke stating that in his opinion, the proposed location of the holding tank is the only place on the property where it can be. When the application was being processed, documentation was requested that the new owner be made aware of the existence of this condition. The property is limited to one bedroom.

There was a discussion about the number of bedrooms (in a variance from 2005, it had been stated as two bedrooms, which will have to be corrected), whether the neighbors were notified, and the age of the structure of the building (which was confirmed as being 1890 according to public records). The tank is sufficient for a 2-3 bedroom house. The buyer does not intend to make the property his main residence. It was agreed that the holding tank is not ideal but that it represents an improvement over the existing situation.

MOTION by Mr. Ruthardt to approve the application as written. Seconded by Mr. Clement. Unanimous vote to approve.

3. 2023-03 Zoning Hearing Luck/Berger. Request for relief from steep slope overlay disturbance requirements, for driveway, single family dwelling, septic system and pool. Received with fees 6-27 (electronically 6-26).
 - a. BOS 7-11
 - b. PC 7-25
 - c. BOS 8-15

d. ZHB 8-24

Mr. Benner introduced registered engineer Mr. Stanley Lalka, PE or Crews Surveying who supervised the design, and the primary architect of the project, Mr. John Wolstenhohm.

The nature of the application concerns certain steep slope variances. Mr. Benner explained that this is a difficult site that poses many challenges, and the reason for the request of variances is that the physical characteristics of the property are such that it is impossible to reach an area on the property that could support a single-family dwelling without having to cross steep slopes that adjoin the property's two perimeter streets, Headquarters Road and Center Road. There was a lot of experimentation to design the driveway in order to make it safe for the property owner and to minimize the extent of the variance. He said that there had to be relief, otherwise the steep slope provisions on this 10 acre lot would prevent the property from being used in any form whatsoever.

Mr. Benner pointed out that his client had been asked to have the design for the driveway reviewed by the fire marshal to determine whether he would be satisfied with the design or whether changes needed to be made for a firetruck to more easily reach the property. Mr. Benner has not been able to reach the fire marshal yet, he therefore said he would volunteer that if the PC thought it necessary that the variance be conditioned upon the confirmation that the fire marshal is satisfied with the design, such a recommendation would not be resisted.

Mr. Ruthardt recused himself from the discussion since he is a neighbor.

Mr. Wolstenhohm explained the considerations that went into the due diligence efforts and the design of the driveway. His firm was hired by Mr. Berger to design a home, a pool, and a pool house on the property. The goal for his firm was to maintain as much of the woodlands as possible and to access the property.

During a lengthy discussion, the qualities of the property, the proposed square footage of the home, the location of the driveway, and the impact on the steep slope of the property and existing trees were debated. Mr. Clement pointed out that the current design would cause a huge number of variances and disturbances. Mr. Cole reminded Mr. Benner that the buyer had been cautioned about the steep slope issue of the property when the lot was created. Mr. Wolstenhohm explained that the building envelope sits in a buffer area, not in the steep slope itself, and that their design aims for balance between the building envelope and the existing woodlands. Pros and cons of the current design and options of a bigger/smaller house, moving the house, moving the driveway, and the desire for a minimal disturbance of the buffer to reach the house were discussed. As the proposed driveway calls for a number of switchbacks and berms between the road and the home, Mr. Clement asked what the average height of those berms would be and how they would be constructed. Mr. Wolstenhohm replied they would be built of stone or block and be approximately eight feet in height.

Mr. Johnson questioned whether the minimum relief necessary was what was being requested and whether development could occur in a way that would have less impact on natural resources. He also asked who had established the building envelope in the area depicted on the drawing and why that was being presented as the only viable option. He further pointed out that the plan noted trees within the Limits Of Disturbance “to remain” and suggested that trees in close proximity to the foundations of proposed buildings and the proposed pool would not likely survive construction and therefore should not be represented as such. Mr. Johnson asked if the applicant had explored other options of building into the hillside to minimize driveway cuts and overall disturbance, such as tiered construction, pilings, etc.

Dr. Upmalis presented the five criteria in the Zoning Ordinance that are required for approving any variance, and a majority of the Commission agreed that the application as presented failed to meet most if not all of the criteria for all the variances requested. Dr. Upmalis concluded that he would like to hear alternatives and see more cooperation in considering changes to the design to minimize the variances.

MOTION by Mr. Clement to recommend that the Board of Supervisors oppose based on lack of fulfillment of the requirements for a variance.

Seconded by Mr. Johnston.

Mr. Cashman opposed.

Mr. Ruthardt abstained.

All others approved.

Approval of Minutes:

MOTION by Mr. Johnston and seconded by Dr. Upmalis to approve the minutes of the Planning Commission meeting held on June 27, 2023. Mr. Cashman abstained. Unanimous Vote to Approve.

Spineo Planning Modules – Signatures needed (Planning Modules reviewed by Eng and Solicitor). The modules were signed where appropriate.

Old Business

1. Septic Ordinance Amendment

Mr Ruthardt gave an update of the progress made. There remains ambiguity about sections 130 and 131. It was agreed to review and determine these sections to whether this particular issue was covered or not.

2. Warehouse Use

Mr. Johnston said an email was sent out and it looks good. The Board will have to take new definitions after they are codified and incorporate them into the amendment. Mr. Johnston stated he will send a draft of the codification.

3. Entertainment Ord (with BCPC)

The Bucks County Planning Commission (BCPC) is in the process of reviewing the proposed Entertainment Ordinance.

4. Codification – Update

It was noted per the Bucks County Planning Commission’s review that Article XIX – ~~Living Community Traditional Neighborhood~~ was missing from the codified Zoning Ordinance. Mr. Clement agreed to add the article where appropriate.

MOTION by Dr. Upmalis to have Mr. Clement add Article XIX to the final draft of the codified Zoning Ordinance and forward it to the Township.

Mr. Ruthardt seconded. Unanimous vote to approve.

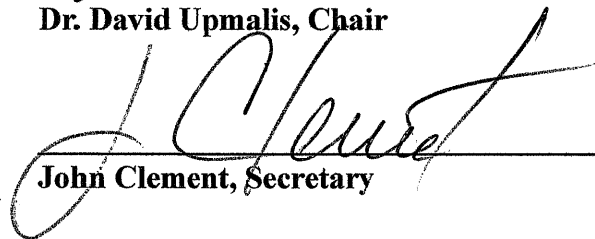
Adjournment

MOTION by Dr. Upmalis to adjourn. Seconded by Mr. Cole. Unanimous vote to Approve.

TINICUM TOWNSHIP PLANNING COMMISSION



Dr. David Upmalis, Chair



John Clement, Secretary