

Town of Tyrone
Planning Commission Meeting Minutes
March 24th, 2022
7:00 PM

Present:

Chairman, David Nebergall
Vice-Chairman, Dia Hunter
Commission Member, Carl Schouw

Town Attorney, Patrick Stough
Town Manager, Brandon Perkins

Absent:

Commission Member, Jeff Duncan
Commission Member, Scott Bousquet
Town Planner, Phillip Trocquet

Call to Order:

Chairman Nebergall called the meeting to order at 7:00 pm. The meeting was also available via YouTube Live.

Approval of Agenda:

Commissioner Schouw made a motion to approve the agenda. Motion was seconded by Vice Chairman Hunter. Motion passed 3-0.

Approval of Minutes:

1. Vice Chairman Hunter made a motion to approve the minutes from February 24th, 2022. Motion was seconded by Commissioner Schouw. Motion passed 3-0.

Public Hearings:

2. Consideration of a Setback Variance request from Mr. Douglas Pollard for parcel 0738053 at property address 163 Palmetto Road. **Brandon Perkins, Town Manager | Phillip Trocquet, Town Planner**

Mr. Perkins stated that applicant Douglas Pollard had submitted a petition for a variance at 163 Palmetto Road. The purpose for this variance request was to fulfill a condition to have the property re-platted and reconfigured for 163 Palmetto Road to be reduced to a 1-acre tract with the remaining land added to the adjoining parcel at 129 Palmetto Road. The current accessory

structures located in the rear of the property were granted a variance in September of 2021. The nature of said variance follows this approximate description:

- A 27.6' variance starting at the northeast corner of building 1 run south, parallel with the property line to the southeast corner of building 1.
- A 20' variance starting at the northeast corner of building 2 run south, parallel with the property line to the southeast corner of building 2.

Mr. Pollard was requesting a variance of similar description for this petition consistent with the proposed property line adjustment from the conditionally approved plat.

Mr. Perkins continued that if Planning Commission or Council wished to approve this variance request, staff recommended that variance only be given around the non-conforming structures so as to prevent the granting of any additional rights than what is otherwise necessary to accomplish the goal of creating a legal configuration of the accessory structures.

The future development character area was listed as Town Center which encourages walkable, mixed-use or residential development.

He then read the zoning ordinance compatibility and impact assessment:

1. *Are there extraordinary, exceptional, or peculiar conditions pertaining to the particular piece of land, structure or building in question which are not applicable to other lands, structures or buildings in the same district?*

This piece of property is similar to other properties within the same zoning district with regular shape, size, and topographic conditions.

2. *Would the application of these regulations create a practical difficulty or unnecessary hardship?*

The removal of the structures could be considered a practical difficulty; however, they were grandfathered in under their previous situation before a new application to alter the property or change its zoning was made.

3. *Relief granted would not be injurious to the neighborhood or otherwise detrimental to the public welfare or impair the purposes and intent of these regulations.*

The intent and purposes of these regulations is to maintain a setback that establishes a separation between structures and neighboring property lines. Currently neighboring properties are undeveloped which does not affect neighboring owners greatly; this is subject to change as the neighboring properties develop.

4. *A literal interpretation of this chapter would deprive the applicant of any rights that others in the same district are afforded.*

Other owners would be encouraged to bring structures in a similar situation into conformity with our ordinance. If not granted, the owner would not lose the right to

construct an accessory structure or pool on the property similar to other owners in the same district.

5. *The special conditions and circumstances are not a result of any actions of the applicant.*

The applicant is responsible for the original request to change this property thereby triggering the current course of events. The Town of Tyrone Council, by their actions, placed a condition on the rezoning of this property to obtain a variance with an understanding he would approach the Town again for re-plat and a potential variance request associated with future applications.

6. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.*

This variance would confer a special privilege for the property owner to keep structures that would otherwise need to be brought into a conforming status another way.

Mr. Perkins then pulled an aerial view of the property with the nonconforming structures shown and labeled.

Chairman Nebergall opened the hearing to those in favor of the petition. No one spoke. Chairman Nebergall closed the hearing to those in favor of the petition and opened it for those in opposition of the petition. No one spoke. Chairman Nebergall closed the hearing to those in opposition of the petition.

Vice Chairman Hunter said that he did not agree with the process that put this variance application back in front of them. He stated that zoning should not be applied to just one property. The entirety of the Town should be looked at. He said that the staff report clearly indicates where this variance request could go. He stated that when a landowner decides to subdivide a property, there are costs involved in making that happen. He did not think it was outside of anyone's scope of work to take down the accessory structures to make the property in compliance. He did not agree with spot zoning and did not feel comfortable recommending approval of this petition.

Commissioner Schouw noted that when the application was previously heard, there were several commissioners who had recommended denial, some of which for the same reasons that Vice Chairman Hunter had just stated.

Chairman Nebergall stated that unless there was an overwhelming reason or condition, he was not in favor of variances. He was also concerned that if they granted a variance for one person/property, it could set a precedent for other petitions going forward.

Vice Chairman Hunter noted that they were a recommending body, but that he thought the Town Council should consider this decision carefully.

Commissioner Schouw made a motion to deny the application. Seconded by Vice Chairman Hunter. Motion passed 3-0.

3. Consideration of a staff-initiated Text Amendment of section 113-134, Town Center Architectural Design Considerations. **Brandon Perkins, Town Manager | Phillip Trocquet, Town Planner**

Mr. Perkins said that in anticipation of future development and in an effort to codify recommendations made in the Town's LCI (Livable Centers Initiative), Zoning Assessment, and RSVP, staff had proposed changes to the Town Center Architectural Guidelines Overlay. This was brought before Planning Commission and Council as a workshop item in January and February to discuss some of the changes.

He said changes to the Town Center Overlay consisted of amending the purpose and scope of the ordinance, reinforcing architectural feature and material usage requirements, and reinforcing the goals and intent laid out in both the Comprehensive Plan and *Envision Tyrone* Downtown Master Plan LCI regarding site design, parking, and setbacks.

Staff had prepared a "Phase 1" amendment to the overlay district in an effort to change the more critical and simple items. A second amendment would likely come after the adoption of the Comprehensive Plan in June for more detailed changes discussed in the Workshop meetings. He said that staff recommended approval of this item.

He pulled the red-lined version of section 113-134 up on the screen. He and Mr. Stough gave a brief overview of the proposed changes. Vice Chairman Hunter had a clarifying question about the chain link fencing revision.

Chairman Nebergall opened the hearing to those in favor of the petition.

Mr. Edgar Townsel approached the podium. He stated that these ordinances would help enable him to rebuild his building and he was in favor of the change.

Chairman Nebergall then opened the hearing to those in opposition of the changes. No one spoke. He then closed that portion of the meeting.

Commissioner Schouw made a motion to approve the text amendment changes. Seconded by Vice Chairman Hunter. Motion passed, 3-0.

Staff Comments

No staff comments.

Commission Comments

Commissioner Schouw wanted to say congratulations to the Town Planner, Phillip Trocquet, and his family for their new addition.

Adjournment

Meeting ended at 7:24pm.

Chairman David Nebergall

Phillip Trocquet, Town Planner