

1 **TYRONE TOWNSHIP PLANNING COMMISSION**
2 **SPECIAL MEETING MINUTES**
3 **July 1, 2020 6:00 p.m.**
4 **Meeting Held Via Zoom Video Conferencing**
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7 **PRESENT:** Mark Meisel, Dave Wardin, Kurt Schulze, Rich Erickson, and Dan Stickel.
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9 **ABSENT:** Bill Wood and Perry Green.
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11 **OTHERS PRESENT:** Tyrone Township Planner Greg Elliott and Tyrone Township Planning &
12 Zoning Assistant Karie Carter
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14 **CALL TO ORDER (6:09 pm):** The meeting was called to order by Chairman Mark Meisel.
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16 **PLEDGE OF ALLEGIANCE (6:09 pm):**
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18 **CALL TO THE PUBLIC (6:10 pm):**
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20 No public comments or questions were received.
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22 **APPROVAL OF THE AGENDA (6:10 pm):**
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24 Kurt Schulze made a motion to approve the agenda. Dave Wardin supported the motion.
25 Motion carried by unanimous voice vote.
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27 **APPROVAL OF THE MINUTES (6:10 pm):**
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29 1) None.
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31 **OLD BUSINESS #1 (6:12 pm): Betley Sightline Determination:**
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33 Chairman Meisel explained that he was there to administrate the meeting, and at the request of
34 the applicants another commissioner should lead the discussion. Dave Wardin offered to lead the
35 conversation.
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37 Dave Wardin asked to view the additional documentation that Mr. Betley had provided last week
38 after their meeting. Chairman Meisel brought up the additional views and renderings provided by
39 Mr. Betley. Multiple slides were shown from depicting different views from lots 3, 4 and 5.
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41 Dave Wardin stated that his concern with Lot 5 – View 2 was that if the deck is at 930 feet in
42 elevation, he didn't think anyone could see the lake over the roofline of the deck. He then
43 presented some high-resolution GIS photos from Livingston County to put all of the same
44 information into a different perspective.
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46 The first slide was titled “Sightline Study as Submitted”. The purpose of the studies was to do a
47 comparison on lots 3, 4 and 5 as far as what views they have now and what views they will have
48 as the plan was submitted. Lot 3’s existing view angle is 91 degrees, lot 4’s existing view angle
49 is 68 degrees and lot 5’s existing view angle is 79 degrees.

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51 When the new house is built as proposed, the view angles change. Lot 3’s view is not affected
52 much; the largest effect is on lot 5 which goes from 79 degrees to 50 degrees, which is a 29-
53 degree view angle loss. He explained this was taken from the peak of the proposed deck. Mr.
54 Betley’s view (Lot 4) goes from 68 degrees to 103 degrees, gaining 35 degrees of view angle.

55
56 The next slide titled “Sightline Study as Altered” was to show the existing vs. new view angles
57 with Mr. Betley’s new house moved up so the front of the new house is where the front of the
58 existing house is to calculate what the difference would be. The existing view angles are the
59 same, lot 3 is the same with the proposed condition, and lot 4 goes from 58 to 97 degrees, and lot
60 5’s view angle goes from 79 to 66, just a 13-degree loss rather than the 29 degrees with the
61 proposed house location. He showed a green dashed line indicating the average setback line that
62 was determined at the last meeting that went from the corners of the adjacent homes on lots 3
63 and 5 (note – lot 5 is referenced from the existing accessory structure between the residence and
64 the water).

65
66 The final slide was titled “Livingston with Average”. For dimensional purposes, he printed out
67 Livingston’s survey and measured off the water’s edge what that setback line (the green dashed
68 line shown on the previous slide) would be, based on being the in middle of the lot and trying to
69 be as parallel as possible with the lot lines. Lot 5 the setback would be 152’, lot 4 would be 152’
70 and lot 3 would be 155’.

71
72 The question becomes “where do we want to establish that setback line”? Dave Wardin said that
73 he reviewed the minutes from the Anderson ZBA meeting and could find nothing in the minutes
74 or on the submitted plan that establishes a basis for that line being generated. It was almost as if
75 it was an approximate average of where everyone could build in the future. One thing he did get
76 out of the minutes was that it was noted that this area is defined as a cove so it concurs with what
77 they came up with at the last meeting.

78
79 Rich Erickson asked if there was any situation in the past where the Planning Commission
80 decided they didn’t want to reduce anyone’s view below 45 degrees. He asked if they’d ever
81 said that below 45 degrees is unreasonable? Chairman Meisel stated that they have talked about a
82 proposed measurement method with degrees and other ways to calculate something that would
83 be repeatable with all the variations; they’ve been looking for ways to add additional information
84 to the existing method of calculating setbacks but nothing exists today. Rich Erickson felt they
85 should look around at other lake properties; he said he is okay with Mr. Betley’s proposed
86 location.

87
88 Kurt Schulze asked if this average setback is what would be required if this was not a cove. With
89 a cove, it leaves it up to the Planning Commission to determine what the appropriate setback
90 would be. It would have to be an appropriate setback to protect the sightlines of adjacent
91 structures, within reason. The minimum setback on a non-cove lot would be 152’, and on a cove

92 lot, the minimum setback is whatever the Planning Commission decides. He said he has an issue
93 with the fact that they've already decided that the Anderson lot was a cove, but there is no
94 calculation of that in any documents on how that setback number was determined.

95
96 Dave Wardin explained that the Anderson's concern was with the roadside, not the lakeside
97 because they determined that the proposed location had no impact on any sightlines as it was.
98 Rich Erickson said they needed the variance for a garage by the roadside. Kurt Schulze asked if
99 sightlines were even a factor in the decision. Dave Wardin said it was specifically stated in the
100 meeting minutes that the sightlines were not a concern.

101
102 The Planning Commission discussed their opinions on how to determine a fair setback. Dave
103 Wardin and Dan Stickle both agreed that the average is the best way. They felt that it reduces the
104 hardship for lot 5. They agreed that they can't totally protect their sightline in this case because
105 their house is so far back from the lake. They both felt that 152' is reasonable. Rich Erickson
106 said he felt it was reasonable but he was having a hard time when he looks two houses to the
107 right, which is only 50' off the water, so why can't someone build 130' back? Kurt Schulze
108 stated that this whole process here was to come to a compromise, and unfortunately, nobody's
109 going to be happy with what the compromise is.

110
111 Dave Anderson asked if the covered porch was included in the setback number, Chairman
112 Meisel stated it was.

113
114 Rich Erickson asked Mr. Betley how far back his existing house was from the 152' setback
115 location being discussed. Could he build to the average while living in the house? Mr. Betley
116 stated he needed to tear down the old house, he can't live in it. Mr. Betley also wanted to bring
117 up the fact the trees weren't being taken into account, but it was something that was discussed in
118 previous meetings. Dave Wardin stated that the trees were no longer there, and Mr. Betley stated
119 that the reason he tore them down was to build the new home. He stated they already determined
120 it was a cove, so the green line shouldn't matter. Dave Wardin stated that the green line was the
121 average setback and the Planning Commission is to determine what they think the setback should
122 be. That doesn't mean they can't go with the average setback. Mr. Betley asked how they
123 established that setback. Dave Wardin reiterated that it was the two structures on either side with
124 the closest points to the lake and a line drawn in between. The Planning Commission can
125 determine that the average setback is the most effective, the fairest setback in this condition.

126
127 Mrs. Betley read a statement she had prepared for the Planning Commission.

128
129 Tyrone Township resident Brian Hill stated that he has been building houses for 30 years and
130 was looking at this from an outsider's view. He asked about the future of the home to the north
131 and said that it appears to be vacant. He said it is a "tear-me-down" property, and that's where
132 the value of that land is when that house is gone. When someone wants to build there, they're not
133 going to want to build up by the road, they're going to want to build down where the garage is
134 currently which will impede some of Mr. Betley's proposed sightlines. If someone was standing
135 on that land looking around, they would feel that the homes being built closer to the water is the
136 right decision to be made. The neighbors participating in the meeting disagreed that the house
137 was a tear down and Mr. Hill said it would take more money to rebuild than to remove and put

138 on the side of the hill. David Anderson said “These are opinions and nobody ever thought that
139 someone was going build at the bottom of the lake either, and these are assumptions that should
140 not play a factor and we need to deal with the current structures that are in place”.

141
142 Mr. Anderson stated that building a home at the top of the hill was the best thing he ever did.
143 They’ve been on that property for 53 years.

144
145 Neil Webb, representing the applicant, stated that his other concern was about the future; the
146 selling of lot 6 that’s going to create an issue for lot 5, because that’s going to allow them to
147 build closer to the water if you use the average setback from lot 4. He proposes that the material
148 and data that lot 4 has given to the township is more than adequate, in their view, to go with the
149 130’ setback. It will give everyone a reasonable view of the lake.

150
151 Dave Wardin asked if anyone knew when lot 6 was built. Mr. Anderson stated that it was a
152 cottage that was rebuilt in possibly the mid-60’s. Chairman Meisel looked at the Register of
153 Deeds website to confirm and the best information he found was that there was a mortgage
154 serviced on the property in 1987 but it likely existed before that. Mr. Anderson said that in the
155 53 years that he’s lived there, there has always been someone living there.

156
157 Resident Theresa Laubrick asked about the visuals that Dave Wardin presented. She wanted to
158 know what is considered a reasonable view for properties. Dave Wardin stated that there isn’t an
159 actual number, per se, that is considered reasonable or not reasonable. Most people are not going
160 to be happy, but they are doing their best to come up with a compromise that will have the least
161 effect on everyone. Using that average setback line reduced the effect of the sightline loss on lot
162 5 by half over what the proposed sightline angle was. Ms. Laubrick asked that even with the
163 proposed structure where it is, is that still reasonable? She said that seems to be what the
164 question is.

165
166 Greg Elliott explained that the question isn’t whether it’s reasonable, the question is whether
167 they are protecting the sightlines of existing adjacent structures. Ms. Laubrick asked what the
168 beginning sightline was of lot 5 compared to the proposed? Greg Elliott referred to the
169 “Sightline Study as Submitted” showing the maximum impact on lot 5’s sightline, which is a
170 reduction of 29 degrees. Looking at the altered sightline study, lot 5’s sightline loses 13 degrees.
171 Ms. Laubrick asked where the 79 degrees of the existing view came from. Dave Wardin stated
172 that it was shown on the drawing, the red line coming off the corner of each deck. Ms. Laubrick
173 said that she believes that what the Betleys were stating earlier that if those trees had not been
174 removed it would have put the sightline less than 79 degrees because their view would have been
175 blocked by the trees. Should the 79-degree be the starting point? Dave Wardin said that the trees
176 are a non-issue and that new ones have been planted. Ms. Laubrick stated that the trees were an
177 issue at past meetings and asked if any of the other commissioners had thoughts on the 79
178 degrees being the starting angle. Dan Stickle said that he felt this was great work and it was a
179 good starting point. Mrs. Betley asked if the Planning Commission has used this method of using
180 degrees of angles when determining sightlines in the past. Chairman Meisel answered that they
181 have used lines and angles in the past to establish sightlines in prior decisions. Mrs. Betley asked
182 the Planning Commission how many degrees of sightline are appropriate for each home on the
183 lake? She asked how they can determine that 50 degrees isn’t an appropriate sightline for one

184 property but 91 degrees is appropriate for another property. How do you determine how many
185 degrees of sight a property owner is entitled to? Dave Wardin explained that he didn't prepare
186 this to come up with numbers, it was to come up with what the difference would be, not an actual
187 number. He was looking at the comparison between "as presented" and the extreme possibilities
188 to find out how the sightline would be affected. The number itself is just a number, and it's going
189 to change as you go around the lake depending on the depth of the lots.

190
191 Mr. Betley stated that most of the lakefront houses are about 50' or less from the water; people
192 want to be closer to the water to enjoy the lake and don't want to crawl down 30' of hill to get to
193 the water. They are trying to get their house as close to the water as possible and be at the bottom
194 of the hill. He feels like there is no clear language that defines what people are entitled to. He
195 explained that Fenton Township has a 50' setback requirements and they move it up to a 40'
196 setback if in a cove. He said that Tyrone Township doesn't have language; the commissioners
197 are just "kicking the can around". Dan Stickle said this is more than "kicking the can around",
198 Dave Wardin worked hard on this. The language in the ordinance allows them to have these
199 kinds of discussions and for Dave to do this work and present it to them so that they can make
200 the most informed decisions possible. Mr. Betley said he would have liked this to happen back
201 in February when everyone was talking about it, not now that he has done all the work with the
202 plans, the topography & the site plan. The current setbacks for the township are 50' from the
203 water. Dave Wardin said that the way the ordinance reads, it says that they are to protect the
204 adjacent sightlines, and that's what they're charged to do. Mr. Betley didn't feel like that's a
205 clear description of what the Planning Commission is doing.

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207 Rich Erickson said that if you go back to the rendering, if the trees were still there, the 79
208 degrees wouldn't hold merit, because that would also be a false line, for the existing sight line.
209 By pushing lot 4 back to the so-called average 152 feet now you're forcing them to be 20' back
210 further. How is that going to affect the true sightline of lot 5 and lot 3, because if they're going
211 back further, they're going to sit higher than they sat before and more soil is going to be
212 disturbed in putting in the foundation for this established view? If they are at the 130' setback as
213 proposed, lot 5 will lose 29 degrees but they can still see over the top of the house; they cannot
214 see over the top of the house if it is at 152 feet. Mrs. Betley agreed that if the house was moved
215 closer to the road that the elevations of the home would change and make the house higher than
216 if it were built in the proposed location.

217
218 Dave Wardin motioned, in accordance with Footnote X in the Schedule of Regulations the
219 Planning Commission has determined the appropriate setback for lot 4 as measured from the
220 water's edge shall be 152 feet as shown on the modified topographical survey that was presented
221 on July 1, 2020, during the Tyrone Township Planning Commission Zoom meeting with the
222 setback line shown in red. It should be noted this is the same as the average setback determined
223 to be appropriate to protect as much of the adjacent structure's sight lines as reasonably possible.
224 The plot plan shall be resubmitted to the Zoning Administrator overlaid on top of the Livingston
225 Engineering topographical survey dated 6-8-2020 and no point of the house shall be any closer to
226 the lakeside than the aforementioned setback line.

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228 Dan Sickle supported the motion. The motion carried by unanimous voice vote. Meisel abstained
229 at the request of the applicants.

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OLD BUSINESS No. 2 (7:03 pm): Temporary Structure Application

The Planning Commissioner discussed the request. Chairman Meisel showed the report prepared by Greg Elliott. There were three points of discussion that were highlighted at the last meeting. One was whether they could do a conditional approval based on the submittal of an agreement acceptable to the Township Board. Also discussed was that the property line be protected with a safety fence along the access path for construction equipment. The final point was whether or not ten months is sufficient time to construct the new home proposed. Greg Elliot explained that the agreement itself is to provide security that after ten months the temporary home will be removed. The negotiation of the agreement implicates whether or not it can be done in ten months and then what happens if it's not done in ten months. The Planning Commission discussed how to address this ten-month issue, and Kurt Schulze suggested that it could be renewable by the Township Board.

Chairman Meisel stated that all of the options or other requirements have been addressed for such use. It is served by electric, water & sewer, so it meets the conditions for being habitable.

Dave Wardin moved to recommend Township Board approval of use of the existing Betley home as a temporary structure during construction conditional upon placing a safety fence along the adjacent property line of lot three and providing a written agreement as required in section 21.31.A.3.c that is acceptable to the Township Board and contains a renewable clause.

Dan Sickle supported the motion. The motion carried by unanimous voice vote. Meisel abstained at the request of the applicants.

NEW BUSINESS (7:13 pm):

None

CALL TO PUBLIC (7:23 pm):

No public comments or questions were received.

MISCELLANEOUS BUSINESS (7:23 pm):

Dave Wardin asked about the two applications on the upcoming agenda for the July 14 meeting. He would like to see topographical reports on both applicants. Chairman Meisel will relay the request to Ross Nicholson. The Planning Commission briefly reviewed the applications for the July 14 meeting.

Kurt Schulze asked if they can expect to continue holding meetings via Zoom. Chairman Meisel stated that to be safe we will continue to conduct meetings virtually. He said that indoor public gatherings should not be held until the CDC and the State of Michigan say it is safe to do so. All of the Planning Commissioners agreed with this decision.

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Mr. Anderson thanked Dave Wardin for the drawings he presented and for all of his hard work. He told the Planning Commission they've all done an excellent job at managing this situation. Penny Lucia also expressed her gratitude toward the Planning Commission and she agreed that not everyone can be 100% happy, but that they did a great job.

ADJOURNMENT: 7:25 PM