

**TYRONE TOWNSHIP PLANNING COMMISSION
MEETING MINUTES**

September 16, 2020 6:00 p.m.

Meeting Held at the Township Hall and Via Zoom Video Conferencing

PRESENT: Dan Stickel, Bill Wood, Kurt Schulze, Rich Erickson, and Jon Ward

OTHERS PRESENT: Tyrone Township Planner Greg Elliott and Tyrone Township Planning & Zoning Administrator Ross Nicholson

CALL TO ORDER (6:01 pm): The meeting was called to order by Chairman Dan Stickel.

PLEDGE OF ALLEGIANCE (6:01 pm):

CALL TO THE PUBLIC (6:02 pm):

No public comments or questions were received.

APPROVAL OF THE AGENDA (6:04 pm):

Kurt Schulze made a motion to approve the agenda. Rich Erickson supported the motion. Motion carried by unanimous voice vote.

APPROVAL OF THE MINUTES (6:04 pm):

- 1) None.

OLD BUSINESS #1 (6:05 pm): Election of Officers:

Rich Erickson nominated Jon Ward for Planning Commission secretary. All were in favor and the motion carried by unanimous vote.

Kurt Schulze nominated Rich Erickson for Planning Commission ex-officio of the Zoning Board of Appeals. All were in favor and the motion carried by unanimous vote.

Rich Erickson nominated Kurt Schulze for Vice-Chairman of the Planning Commission. All were in favor and the motion carried by unanimous vote.

The item was closed at 6:08 pm.

OLD BUSINESS #2 (6:09 pm): Pool Covers:

Chairman Dan Stickel asked Ross Nicholson to bring the Planning Commission up to speed on pool covers. Nicholson summarized past communication. He explained that the Township Board had tasked the Planning Commission with reviewing our current swimming pool enclosure

requirements specifically because the state of Michigan Building Code now permits the use of ASTM-compliant pool covers in lieu of perimeter fencing with self-latching gates. The Planning Commission has been working on a draft document with some recommendations on how to handle it. There was a suggestion to make it a Special Land Use and also a discussion to just treat it as a fenced enclosure with a self-latching gate in accordance with the state building code. Mark Meisel had prepared a draft that Nicholson had sent to the commissioners. He said they can either continue working on this document or start over.

Stickel recapped what Nicholson stated, and he said he agrees that we should allow the ASTM 1346 rated pool covers to be installed in lieu of a fence. Right now, Tyrone Township does not provide for such an alternative. The only change from the last time we talked would have been #5 on the drafted document which were Rich Erickson's thoughts which states *"If the cover has reached the recommended life expectancy, and it has not been repaired or replaced to comply with ASTM 1346-91 the Township requires a compliant fence to be erected"*.

Erickson said when they were talking about it in the past (**INAUDIBLE**)

Planner Greg Elliott stated that the Township is immune from liability exclusive of gross negligence. The Township is not the inspecting body; this is a provision of the Michigan Building Code and the County is going to be performing the initial inspection to ensure that the pool is compliant. We are just removing an obstacle to that which is contained in the zoning ordinance. As opposed to telling them what they can do, another option would be to eliminate the provisions of the zoning ordinance that require the fence or that addresses how the pool has to be kept entirely and just reference the Michigan Building Code. That way the Township is not involving itself in the matter at all and leaving it to the county to enforce the building code, which they do.

Schulze said they were concerned with whether there was a need for a Special Land Use Permit. We don't require one for a fence, so why would we require one for the pool cover? Why not just include the building code in the ordinance?

Elliott said one of the concerns was the life span of the pool covers & having a Special Land Use review was a way to revisit from time to time to be sure they're still a functional cover. That would have applied to fences, as well, but fences are less prone to failure than a pool cover.

Stickel asked Schulze what the Board had to say about it. Schulze stated that the Board was not interested in adding an enforcement piece to this, to keep track of those people who have a pool cover and to check on them. Why do we want to do this? We're not doing this with fencing.

Stickel said we should allow the pool & spa covers just as the building code does and defer to the building code as much as possible.

Erickson said we should write in section F of the ordinance something that says enclosure must comply with Michigan Building Code and then reference it. We don't need any other language.

Stickel said if we get into too much detail about what kind of pool and spa covers we allow, we run the risk of the building code changing and the ordinance not. Bill Wood said he didn't feel like it should be Ross's responsibility to check on the pool covers. If they put up a fence when their pool cover fails, then who's to say they'll replace their fence if it fails.

Stickel asked Elliott if he was aware of any townships that had a building department with an enforcement mechanism in place for pool covers. Elliott said that would not be typical, once there is a final inspection, the building department is done. Unless there is a complaint or new construction there would be no reason to visit the property again. If a violation occurs and a neighbor complains about an unprotected pool, you could enforce it if you have an ordinance in place that sets a standard for that. If our zoning ordinance says it must comply with Michigan Building Code, then you find that it isn't in compliance, then it's a violation of both our zoning ordinance and the Michigan Building Code.

Stickel asked should we be specific in the ordinance as far as ASTM standards they should follow, etc.? Elliott said that they should not be specific and just reference Michigan Building Code. It is revised every three years. It's never a good call to prescribe standards that are contained in other ordinances. Stickel agreed.

Stickel talked about the proposed text on the document that Nicholson submitted. He said he doesn't think they should move forward as it's written. Maybe they can re-write section F, maybe soften it up and just defer to the Michigan Building Code and revisit it at the next meeting. Schulze suggested having Nicholson rewrite it and send it to Elliott for review and they could have it by the next meeting. Nicholson agreed. Schulze motioned to table Pool Covers, pending revisions by Nicholson and review by Elliott, until the next meeting. Erickson supported. The motion carried.

The item was tabled at 6:25 pm

OLD BUSINESS #2 (6:26 pm): MMMA Caregiver Regulations:

Stickel asked Nicholson to bring them up to speed. Nicholson said that back in 2018 they had open enforcement on someone who started a caregiver operation without going through the special land use. The board tasked the Planning Commission with reviewing the current caregiver operation standards. It was sent to Livingston County to review. Then the Supreme Court decision put everything back into the air.

Elliott said it was the Court of Appeals' decision previously, and the Supreme Court reversed it. Based on that decision it said that we could regulate certain aspects of the caregiver operations through the zoning ordinances in particular locations that made us take it off the shelf and start looking at it again.

The next step would be to hold another public hearing because it's been a long time since the original one. After that, it could be recommended to the township board. And then it would go on to Livingston County Planning Commission for their review and recommendation.

Schulze asked if other townships have gone in and revised the caregiver portions of their ordinances. Elliott said most people feel that caregiver operations are a thing of the past. There used to be motivation to get into the caregiver operations, but now that recreational marijuana use is a thing. There has been a radical decrease in the number of patients getting medical marijuana. It's easier to just go to the store and buy it now.

Erickson said that they did have a public hearing specific to this issue. They had deleted all the text in one aspect of it. Elliott said they deleted references to patients. Growing by patients is completely irrelevant because every citizen can grow what medical marijuana patients used to grow so we can't regulate it. He recalls going through the document and making the revisions to make it specific to caregivers. The reasons to have it are pretty slim, but it probably doesn't do any harm by having it.

Stickel asked that given that we have had a public hearing recently is their next step if they choose to do so, to send this out to the board? Elliot said they make a recommendation to the board, and then Nicholson will send it to the county planning before the board takes it up. Stickel asked if Elliott was saying we're regulating an obsolete thing. Elliott said yes, pretty much. Stickel asked Nicholson if all these notes were based on all their past meetings. Nicholson said he needed to verify if this was the most recent document. He said he thinks that former Planning Commission Chairman Mark Meisel may have made some changes and not sent them since the public hearing discussion.

Stickel said they shouldn't move forward without having the most recent revisions which were made as a result of a public hearing.

Stickel said he spoke with Mark Meisel last week and he may send over his latest revisions at some time. He recommended they table this pending the receipt of the most recent revision. Schulze motioned to table MMMA Caregiver Regulations. Erickson seconded. The motion carried by unanimous vote.

The item was closed at 6:39 pm

OLD BUSINESS #3 (6:39 pm): PC Action List:

Stickel said they should add Pool Covers and MMMA Caregiver Regulations to "in progress, near completion". He asked what other priorities the board wants to take on in the next six months. Schulze stated that accessory structures have become a hot issue as far as size and limitations that currently exist. Nicholson stated that there is a plan to set up a joint meeting with the township board in November and that will be a good opportunity to get some direction and input from them as well. He said he wants to rewrite the list and discuss what they can remove to be prepared for the joint meeting. Stickel asked if animal units ordinance was done. Nicholson said that depends on whether revisions have been made. There was a public hearing, it was sent to the county, and comments were received from them, and it went to the board. The board had some issues with it. We didn't receive clear enough recommendations from the board. He and Schulze plan to work with Mike Cunningham to put their notes together and come up with an answer.

Erickson said he felt that we could put pool covers and accessory structures in the “in progress” list. He said it seems that many of their applications are talking about sightlines and accessory structures. Stickel agreed that those three items (accessory structures, sightlines, and pool covers) should be their top priority items.

Stickel said they went through this list at the last meeting but he would go through it again so that the new member can catch up and also for Bill Wood who was absent at the last meeting.

He touched on each item and they worked together to clean up the list and prioritize topics.

NEW BUSINESS:

None.

CALL TO THE PUBLIC:

No comments were received.

MISCELLANEOUS BUSINESS:

None.

ADJOURNMENT:

The meeting was adjourned at 7:08 pm.