

Town of Tyrone
Planning Commission Minutes
January, 24 2013

Present: Gordon Shenkle, Chairman
David Nebergall, Vice Chairman
Michael Sanak, Commissioner
Judy Jefferson, Commissioner
Chris Wigginton, Commissioner
Kyle Hood, Town Manager
Patrick Stough, Town Attorney
Dina Rimi, Zoning and Development Coordinator

Call to Order

Chairman Shenkle called the meeting to order at 7:00 pm.

Approval of Agenda

Commissioner Sanak made a motion to approve the agenda as written. Vice Chairman Nebergall seconded the motion; approved 4-0.

Approval of Minutes – January 10, 2013

Commissioner Sanak made a motion to approve the minutes as amended from the January 10, 2013 meeting. Commissioner Jefferson seconded the motion approved 4-0.

Old Business

- 1. Consideration and Recommendation of variance V-2013-1 to allow a seven (7) foot tall fence that has less than 50% visibility to be located in the front yard of the property owned by the applicant, John and Heather Russell. Mr. and Mrs. Russell's property is located at 140 Ridge Road, property tax ID number 074301003 and is currently zoned Residential 12.**

Mr. Russell addressed the Planning Commission by explaining that in order to protect his vegetable garden he built a lovely bamboo fence around the area. This fence is to protect his garden from deer. If a deer can see through or over something they can jump up to fifteen (15) feet. Mr. Russell explained that he built a 7 ft. fence after he had tried other methods to deter to deer from eating his garden. Mr. Russell explained that his interpretation of the fence height requirement in the zoning ordinance was so that it would not impede the view for cars that are driving past. Mr. Russell explained that his fence is set back thirty (30) feet back from the property line. Since the last time Mr.

Russell was at a Planning Commission Meeting he went to the majority of homes in the subdivision and put together a petition the neighbors to see if they minded the fence. Mr. Russell stated that out of the 20 homes in the subdivision 2/3 of the homes are represented, while conducting this survey not one of the home owners that he asked disapproved of the fence.

Chairman Shenkle opened the Public Hearing for all in favor.

Steven Chontos, 170 Ridge Road addressed the Planning Commission that he tried to find a problem with the zoning ordinance, but was unable to. Mr. Chontos stated that he stands before the Planning Commission asking for his neighbor, Mr. and Mrs. Russell. Mr. Russell is a marine that served his country in Vietnam, he is a gardener and he has created a work of art in this fence. Mr. Chontos stated that he has driven by the fence many times and it has not impeded his vision of the area. Mr. Chontos closed with requesting that the variance for the fence be approved.

Renee Chontos, 170 Ridge Road, stated that she finds the fence appealing and it does not interfere with traffic. Ms. Chontos stated that she feels the fence is in the side yard and she has never heard anyone complain about it. Ms. Chontos closed by stating that she would like for him to build one for her.

Tim Dooling, 205 Ridge Road, stated that he has lived at this location for some time and am blessed to have them as neighbors. Mr. Dooling explained that he feels that Mr. Russell created a piece of art. Mr. Dooling stated that the fence looks nice, is not a hazard and also gives everyone a treasure to look at. Mr. Dooling feels that if twenty-three neighbors feel the fence is fine the town cannot give one person the power to have the fence removed.

Jolana Anderson Dooling 205, Ridge Road, stated that she has known the Russells for over twenty-three (23) years and they are very good neighbors. Ms. Dooling explained that this fence was not just thrown together it was built with a special tool and is typical of the Japanese culture.

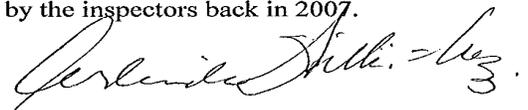
Steve Byrd, 100 Ridge Road, stood before the Planning Commission and asked the audience "How many people are here against the variance?" – None came forward. Mr. Byrd then asked "How many people are in favor of the variance?" thirteen people stood in favor. Mr. Byrd then asked to have the Russell's money that they paid for the variance to be heard returned to them.

Chairman Shenkle opened the Public Hearing for parties in opposition of the variance;

AR Linda Willis –Cruz, 135 Ridge Rd, read the following letter to the Planning Commission.

Arlinda Willis-Cruz
135 Ridge Rd
Tyronne Ga. 30290

To the members of the committee thank you for letting me speak. I have been a resident of Tyronne and lived on Ridge Road for approximately 26 years. I did the unthinkable and asked what the ordinances were for Ridge Road. I was never aware it was perceived as putting a complaint against anyone until I read the minutes. It is in my opinion that we do not and have we ever lived in a community that there was a live and let live policy. We actually live in a community that more of a cross between Payton Place and the Shark Tank. As far as being mean spirited I think it should have been Mr. Russells responsibility to approach me and ask if there was a problem instead of bad mouthing me to all the neighbors while getting his petition signed. I would like to ask why if this is a family tradition did he not come forward sooner since he has lived here since 1989. They claim they are on a fixed income however Mrs. Russell has her own business as a speech therapist which she works out of her house and has for years. She makes her own hours and her own schedule. With her experience and degrees her starting salary is approximately at least \$60.00 dollars per hour. So apparently this fixed income is by choice. Mr. Russell is retired from delta and has since received his captains license. The starting salary with no experience starts him with approximately \$85,000 per year. Just to run a tug boat. I am asking for the town to do their job and enforce the law that governs us all. We have no right to break the law and when we get caught to cry foul The Russells have the same amount of land as most of us that live on ridge road. I would like for the Town to request soil samples from the extension service since Mrs. Russell claims to have medical problems. It is the least someone would do is to have their soil tested to secure their health. I am asking for the town of Tyronne to do their job and enforce the law that should be respected instead of allowing anyone to do as they please. These pictures were taken this week. It is my opinion that we should never just do as we wish and try to act like a victim when we are caught doing something wrong. While I was trying to rebuild my home after a fire destroyed it in 2005 Mr. Russell called the building inspectors on 7 different occasions and demanded that the building materials I had secured on the property be removed immediately. When the building inspectors told Mr. Russell I was within my rights and if he continued to behave like this they were going to fine him. This was told to me by the inspectors back in 2007.



Chairman Shenkle closed the Public Hearing to anyone in opposition.

Mr. Russell addressed the comments made by Ms. Willis-Cruz. Mr. Russell stated that he felt her opposition to the fence was based more on personal matters than actually the fence. Mr. Russell went on to explain that yes, he does have a captains license for boating. He does only a very few jobs and does not see how this has anything to do with the fence.

Commission Discussion

Commissioner Jefferson asked Mr. Russell when he began construction on the fence. Mr. Russell stated one year ago and he stopped construction when asked to by council.

Commissioner Jefferson asked Ms. Rimi when the zoning ordinance was adopted

Ms. Rimi stated that the new zoning ordinance was adopted on October. 20, 2011

Chairman Shenkle addressed that the Planning Commission were the authors of the zoning ordinance.

Commissioner Jefferson stated that the zoning ordinance is based on the long range plan and that the Planning Commission took into consideration where the leadership should take the town and move it forward in the vision of the long range plan. There is a vision for the town and what is our job is to work towards that vision. Commissioner Jefferson stated this plan is based on what the Town citizen's voiced as their desire for the Town.

Commissioner Wigginton recommended approval of variance. Chairman Nebergall seconded the motion; approved 4-0.

2. Consideration and Recommendation of Text Amendment to the Tyrone Zoning Ordinance Articles I§ 1-2 item 61, Article VI § 6-17 and Article VII § 7-1 B item 40 regarding Livestock.

Ms. Rimi explained that over the past four months the Planning Commission has been reviewing the definitions, supplemental regulations and conditions that would apply to the keeping of livestock in the Town Limits.

Chairman Shenkle opened the Public Hearing for anyone in favor- none

Chairman Shenkle opened the Public Hearing for anyone in opposition – none

Commissioner Jefferson made a motion to recommend approval to the Mayor and Council. Commissioner Wigginton seconded the motion; approved 3-1, Commissioner Sanak voted in opposition.

3. Consideration and Recommendation of Text Amendment to the Tyrone Zoning Ordinance Articles V § 5-16 to include Upholstery stores as a permitted use.

Ms. Rimi explained that currently there is an Upholstery store that is located in the M-2 zoning district. This store was grandfathered in after the current revision was done to the Tyrone Zoning Ordinance. Ms. Rimi went on to explain that recently a business owner had requested to locate an upholstery store in an M-1 zoning category. In reviewing this

request Ms. Rimi explains that it has been discovered that this is no longer a permitted use. Ms. Rimi explained that the Text Amendment is being requested to allow Upholstery stores in M-1 zoning which will also permit them to be located in M-2 zoning.

Chairman Shenkle opened the Public Hearing for anyone in favor- none

Chairman Shenkle opened the Public Hearing for anyone opposition- none

Vice Chairman Nebergall made a motion to recommend approval to the Mayor and Council. Commissioner Wigginton seconded the motion; approved 4-0.

4. Consideration and Recommendation of Text Amendment to Exhibit B from Article V § 5-20 Town Center Architectural Design Considerations.

Ms. Rimi explained that in the process of amending the Zoning Ordinance it was brought to her attention that in Article V § 5-20 Town Center Architectural Design Considerations an Exhibit B is referenced. When searching for exhibit B the town Staff was not able to locate this item. The staff is requesting that the Town approves a text amendment to strike the language of Exhibit B from this section of the zoning ordinance.

Chairman Shenkle opened the Public Hearing for anyone in favor- none

Chairman Shenkle opened the Public Hearing for anyone in opposition- none

Commissioner Wigginton made a motion to recommend to the Mayor and Council that any reference to exhibit B be stricken from Article V § 5-20 Town Center Architectural Design Considerations. Commissioner Sanak seconded the motion; approved 4-0.

5. Consideration and Recommendation of Text Amendment to the Tyrone Sign Ordinance.

In favor- none

In opposition none

Chairman Shenkle made a motion to recommend approval to the Mayor and Council. Commissioner Wigginton seconded the motion; approved 4-0.

Public Comments

Arlinda Willis Cruz stated that she would like the Planning Commission to reconsider their decision on the variance. She stated that Chief Perkins stated that this was a done deal and the variance would be approved. She stated that the applicant's yard is a snake pit. Ms. Cruz also stated that she would like to see the fence in the backyard. She feels also that the town should not have a live and let live attitude and if the applicant wants privacy he can put two chairs in his backyard.

Staff Comments

Ms. Rimi informed the Planning Commission of the items that will be on the January 24, 2013 Planning Commission Meeting. Ms. Rimi also gave a brief summary of the items that she will be bringing to the Planning Commission over the next year.

Commissioner Comments

Commissioner Jefferson would like to see better communication with the citizens regarding the zoning ordinance. Commissioner Jefferson stated that there is good information in the ordinance. The Town just needs to get that information to the people.

Chairman Shenkle stated that the legal burden is on the homeowner however he is not against finding a way to increase the public's knowledge as long as it doesn't cause an increase in cost to the town.

Chairman Wigginton suggested putting information on the web site, television and newsletter. Commissioner Wigginton also suggested putting information that applies to the seasons in the seasonal newsletters.

Mr. Hood stated that he would offer administrative assistance to help in this matter.

Commissioner Jefferson offered to speak on the Planning Commission's behalf at a Council Meeting with any suggestions the Planning Commission has regarding communication with the public about zoning issues. Commissioner Jefferson asked Mr. Hood how she can go about getting on the agenda. Mr. Hood suggested that she email Mayor Dial.

Commissioner Sanak stated that he read in the newspaper that apparently the school board has made a decision to close Tyrone elementary and to see leadership there about the closing of the school.

M. Willis-Cruz asked why they are closing the school.

Commissioner Sanak explained it is due to budget cuts, but the school is the best performing in the district.

Adjournment

Commissioner Sanak made a motion to adjourn the meeting at 8:15 P.M. Commissioner Wigginton seconded the motion; approved 4-0.

Gordon Shenkle- Chairman

Attest:

Dina Rimi- Zoning and Development Coordinator