

Town of Tyrone
Planning Commission Minutes
June 27, 2013

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

Absent:
Chris Wigginton- Commissioner

Call to Order

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

Approval of Agenda

Vice Chairman Nebergall made a motion to approve the agenda. Commissioner Jefferson seconded the motion approved 3-0.

Approval of Minutes – May 9, 2013

Vice Chairman Nebergall made a motion to approve the minutes. Commissioner Jefferson seconded the motion; approved 3-0.

Public Hearing

- 1. Consideration of Variance V 2013-03. Mr. Steve Gulas and Mrs. Debra Gulas have applied for a variance for property tax ID# 0736038. The property located at tax ID# 0736038 is zoned Downtown Commercial (C-1). This Public Hearing is to consider a variance to have the 60' landscape buffer be allowed in the 80' front building setback at Highway 74 and that the 30' rear setback is allowed in the 75' AR Zoning buffer to allow a private drive to line up with the opposite drive.**

Ms. Dina Rimi introduced this item by reminding the Planning Commission that a variance for this property came before them at the March 28, 2013 Planning Commission meeting. She went on to explain that the applicant requested to have the variance application withdrawn by council and this request was granted. Ms. Rimi presented the staff report and reviewed the staffs finding for the five (5) different criteria's that must be considered when reviewing an application for a variance. Ms. Rimi finished her presentation by informing the Planning Commission that the staff is not in support of the variance and that staff recommends denial of the variance.

Mr. Gulas approached the Planning Commission and stated that he is asking for relief from the hardship that is caused by the zoning ordinance on this property. Mr. Gulas agreed that there are other properties that are zoned C-1 that is abutting residentially zoned property. Mr. Gulas argued that these properties were developed under the old zoning ordinance. Mr. Gulas explained that the property at the corner of Highway 74 and Tyrone Road where Subway is, this building is developed much closer than where he is requesting his buildings be developed and the property's buffer is located within the setbacks at this location.

Mr. Gulas addressed each of the five (5) criteria's that are listed when the Planning Commission considers a variance request.

1. Mr. Gulas explained that due to the constrictions on this property through the zoning ordinance only 5% of the property is developable. The section that he could develop is at the most remote corner of the property, which is illustrated in a dashed line on the attached drawings. The rectangular shape of the tract paralleling Hwy 74 results in most of the property being restricted by the 60' landscape buffer and supplemental 80' front building setback. This consumes 113,000 square feet of the tract that a building cannot be built on. Also the 75' rear AR zoning buffer adjacent to the isolated AR zoning property along with supplemental 30' rear building setback consumes 52,5000 square feet of the tract that on which the building cannot be built. There is 16,350 square feet of rear setback that borders E&I zoning. This totals 181, 350 of the 205,000 feet in which a building cannot be built, which is 12% however the shape of this property makes only the portion of property border E&I zoning deep enough to build anything. Mr. Gulas then explained that only 5% of the property is the realized buildable area.
2. Mr. Gulas explained that these regulations create economical difficulty because a 500' long drive would need to be built to serve a narrow building in a remote location of the site. Mr. Gulas also went on to explain that the tract can be divided into four or three lots per the ordinance, but current regulations would result in most of the lots being unbuildable. The majority of the tract Mr. Gulas stated would require buildings to be 15' deep, which is not deep enough to serve any purpose and corridor connecting rooms would consume 5' of the 15' deep building. The cost per square foot to build such a narrow building would be huge and nobody would be interested in occupying rooms that are 10' deep.
3. Mr. Gulas explained that the other C-1 tract that is located at the southeast corner of Hwy 74 and Tyrone Road has similar conditions. It fronts Hwy 74 and has AR zoned property to the rear. This property Mr. Gulas explained has already been developed under the old regulations and were not subjected to the new requirements. The other C-1 properties are not adjacent to Hwy 74 and do not have the extra requirement of the 60' landscape buffer preceding the front building setback. In order to keep the area safe Mr. Gulas expressed that he would like to see the location for the private drive and driveway to line up with the drive on the opposite side of Dogwood Trail.
4. Mr. Gulas requested relief would not impair the intent of the regulations and actually would put a new building 25' farther from Hwy 74 than the building at the northeast corner of the intersection. If relief is granted the buildings would be 80' from the property line instead of the 55' that the exiting building is currently positioned. Mr. Gulas stated that currently the ordinance does not require the trees that are currently in the 60' landscape buffer to be saved. Mr. Gulas proposes to designate the front 40' of the 60' buffer as undisturbed to create a line of trees and this would be an enhanced buffer that would not otherwise be required by the ordinance. Mr. Gulas went on to explain that the AR residential property is currently not occupied by the owner and it is a rental property. Mr. Gulas proposed to designate the back 45' of the 75'buffer as undisturbed, to create an enhanced buffer and a line of trees that would not otherwise be required to be saved per the ordinance. Mr. Gulas would like to see the 30' of the buffer used for the private drive to serve the buildings by doing this it will allow the driveways on either side of Dogwood Trail to line up.
5. Mr. Gulas questioned that if the buffers are not allowed in the setbacks, and the setbacks are not allowed in buffers as can be literally interpreted then cannot have the same rights that others in the C-1 zoning district are allowed. The only similar property is at the southeast corner of Hwy 74 and Tyrone Road which is already developed under the old zoning ordinance. Mr. Gulas stated that there is no

other property that fronts Hwy 74 and backs up to AR zoned land so they are not burdened with a 60' landscape buffer and a 75' zoning buffer.

Mr. Gulas went on to explain the eleven pictures that he supplied the Planning Commission with in his application packet. Mr. Gulas explained that the first picture is of Dogwood Trail. This picture displays where the trees would be saved, where the driveway would be, the building area and the front yard setback, where the trees would be saved. The second picture Mr. Gulas presented displayed the northern portion of property that would have the first 40' of 80' front yard as trees saved. The third picture showed the same area as the second picture except it was from across Hwy 74. The fourth picture Mr. Gulas showed was the trees that are located at the southern portion of the site that are in the Department of Transportation right of way and will remain. In the fifth, sixth and seventh picture Mr. Gulas explained that the Trees in the DOT right of way will remain and the southern portion of the property is on higher ground. In the final four pictures Mr. Gulas showed examples of what the surrounding buffers for Glendalough Manor and the south west corner of Dogwood Trail and Highway 74 look like. Mr. Gulas explained that these are tree lined which he will continue on his property, if he is granted this variance.

Chairman Shenkle opened the Public Hearing for anyone in favor of the variance to speak.

None

Chairman Shenkle closed the Public Hearing to anyone in favor.

Chairman Shenkle opened the Public Hearing to anyone in opposition of the variance to speak.

None

Chairman Shenkle closed the Public Hearing.

Chairman Shenkle asked for a motion.

Vice Chairman Nebergall made a motion to recommend denial to the Mayor and Council.

Commissioner Jefferson seconded the motion.

Chairman Shenkle then opened the Public Hearing for Commission Discussion.

Vice Chairman Nebergall stated that he did not see a difference from the variance request in March. Vice Chairman Nebergall stated that the property across the street was developed under a different zoning ordinance with different regulations. Vice Chairman Nebergall stated that he could not support this variance.

Commissioner Jefferson stated that she was thinking the same thing. Commissioner Jefferson stated that the town has a plan. Commissioner Jefferson stated that the town has a future plan and it needs to stick with that for the citizens.

Commissioner Sanak stated that the other areas were developed under a different zoning ordinance and it took the town two years to revamp the zoning ordinance and set up new standards.

Chairman Shenkle stated that even though he does not get to vote he agrees. Chairman Shenkle stated that there is already one building in the Highway 74 corridor that he feels is too close to Hwy 74 and if

this is approved he is fearful that the town will end up with five more buildings that close. Chairman Shenkle feels by approving this it would compromise the ordinance.

Commissioner Sanak stated that his biggest problem with approving this would be the AR property that is adjacent to the rear of the property.

Chairman Shenkle asked the Planning Commission for a vote. Vice Chairman Nebergall restated his motion of recommending denial of this variance to the Mayor and Council. The Planning Commission voted 3-0 in favor of recommending denial.

Staff Comments

Mrs. Rimi requested, due to lack of agenda items if the July 11, 2013 Planning Commission workshop could be cancelled. Planning Commission agreed and voted to cancel the July 11, 2013 meeting.

Ms. Rimi informed the Planning Commission that there will be an application for a text amendment at the July 25, 2013 meeting to allow mail order/catalog sales in the Downtown Commercial District.

Commission Comments

None

Adjournment

Vice Chairman Nebergall made a motion to adjourn the meeting; approved 3-0.

Gordon Shenkle- Chairman

Attest:

Dina Rimi- Zoning and Development Coordinator