

TOBYHANNA TOWNSHIP PLANNING COMMISSION  
REGULAR BUSINESS MEETING  
MARCH 4, 2021

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The March 2021 Regular Business Meeting of the Tobyhanna Township Planning Commission (“Commission”) was held on March 4, 2021, via the platform GoToMeeting due to the COVID-19 pandemic.

Present are Michelle Bisbing, Marlin “Sam” Keiper, Rachel Schickling, Alfred Kerrick and Edwin Miller. Also Present is Solicitor Jonathan Reiss and Township Engineer Bob McHale.

1. Sam Keiper calls the meeting to order at 5:30PM. A quorum is present.
2. The Pledge of Allegiance is recited.
3. Public comment on agenda items: none
4. Minutes
  - a. Consider the minutes of the November 5, 2020 Planning Commission Regular Business meeting: Ms. Schickling motions to approve the November 5, 2020 Regular Business Meeting minutes. Ms. Bisbing seconds. Vote carries 3-0. Mr. Miller and Mr. Kerrick abstain as they were not members of the commission at the time.
  - b. Consider the Minutes of the February 4, 2021 Planning Commission Regular Business meeting: Mr. Miller motions to approve the February 4, 2021 Regular Business Meeting minutes with correction to section 7 stating Mr. Schickling should be changed to Ms. Schickling. Ms. Bisbing seconds. Vote carries 3-0, with Mr. Kerrick and Ms. Schickling abstaining due to absence.
5. Old Business
  - a. Active Plans
    - i. Tobyhanna Site LLC revised plan and planning module-

Ms. Schmoyer and Mr. Matergia are present to represent. Ms. Schmoyer requests action on the planning module. The Planning Module has been reviewed and signed by the Sewage Enforcement Officer. The document was distributed in February.

Ms. Schickling motions to approve the planning module and recommends to forward to the Supervisors. Mr. Miller seconds. All in favor. Motion carries 5-0.

Mr. Sal Caiazzo, Hanover Engineering, is attending as a representative for Mr. Possinger. He states they are staying up to date on this project as his client owns a property adjacent to the area.

Ms. Lamberton indicates the Board is amenable to the three access plans due to some changes made to the plan. There was a call with the traffic engineer and the entrance off of 940 on Harvest was moved further down the road. She feels the concerns of the Planning Commission have been met at this point.

Mr. Keiper states the traffic engineer is requesting further information, which Ms. Lamberton confirms and informs the Commission that an independent traffic engineer has been retained for a traffic study.

Mr. Keiper still expresses concern over the access off of Harvest with close proximity to 940.

Mr. McHale asks for an update related to the UGI gas main, utilities, PennDOT coordination, access to the septic bed, and the status of the new and vacated portions of road.

Ms. Lamberton explains they are working with UGI who is coordinating elevating the main. Once UGI finishes with their work, PennDOT will be addressed. At this time, nothing is submitted to PennDOT.

Mr. Matergia comments that the road vacation and relocation will be tied into the Subdivision process and the agreement has been drafted and sent to Jonathan for comment. He requests the plan be moved forward to the Supervisors conditioned upon the engineering review letter comments being addressed.

Mr. Keiper is dubious due to the number of outstanding comments/concerns.

Mr. McHale comments that issues raised some time ago are just now being addressed. There are numerous others that still need to be addressed. The Zoning Officer is still in the process of reviewing the plan. There has not been an International Fire Code review which could cause a change in layout. He believes more progress needs to be made before the plan is recommended to the Supervisors.

Tobyhanna Site LLC representatives request again that the plan be considered for recommendation to the Supervisors citing their efforts to comply and well planned path forward.

Mr. Keiper asks Mr. Reiss if this sets a precedent. Mr. Reiss states it does not necessarily as each plan rests on its own merits.

Ms. Bisbing states she is okay recommending it with conditions.

Mr. Kerrick is concerned as he feels the plan should be nearly complete prior to forwarding to the Board of Supervisors.

Mr. Miller states he is okay moving forward if all conditions are met.

Mr. Reiss asks if the Commission is okay with providing a recommendation for approval for preliminary and final land development approval. If yes, is the Commission okay with moving it forward to the Board or would they like to see the plan again with comments addressed.

Mr. Caiazzo requests the plan remains with the Planning Commission as his client has concerns related to proposed right of way, local road requirements, request for waiver regarding proximity of a swale, change to road frontage, turn radius, and others.

It is stated that there is a procedure for raising objections, and legal issues should be worked out on the Supervisors level with their solitor.

Ms. Schmoyer responds to some of the comments from Mr. Caiazzo.

Mr Keiper states it is preferential for an easement to be worked out due to the increased maintenance and cost of a cul de sac. There is a suggestion for the property owners to work together for an amicable resolve.

Ms. Bisbing motions to recommend to the Board of Supervisors preliminary and final approval of Subdivision plan and Land Development plan subject to the conditions of Bob McHale's letter dated February 26, 2021, and recommendation of approval of waivers as outlined in the review letter. Ms. Schickling seconds. Vote 4-1, with Mr. Kerrick dissenting. Motion Carries. Mr. Kerrick clarifies he is not against the project itself.

ii. Keswick Pointe revised plan –

Mr. McHale states a response letter and revised plans were received from Reilly with legal descriptions and deeds. He states all documents appear to be in order and there are no outstanding issues.

Mr. McHale references the plan with the possible issue of the fence line being built in the buffer and states there should be consideration of how to handle a one-time waiver, not permitting any other improvement or building within the buffer or requiring the structures within the buffer be torn down.

Mr. Keiper believes there should be a modification and asks if the PUC has any concerns?

Mr. McHale states there should be consideration that the lots in the PRD were set up for Single Family Dwellings of 12,000 sq. ft. and the utility lot does not comply. It is not residential. There should be a modification for it.

Jonathan will be drafting amendments/ modification to the approval of the Final PRD issued by the Board of Supervisors.

Mr. Keiper references number 7 in the engineer's review letter and suggests including approval in compliance with requirements of PRD and MPC modifications.

Mr. Keiper motions to forward plan to the Board of Supervisors subject to addressing comments/ concerns in the engineer's review letter dated February 26, 2021; and that the applicant considers a permanent easement in lieu of a subdivision; and recommends approval in compliance with MPC and PRD requirements in modifications sections. Mr. Kerrick seconds. Vote: All in favor. Motion carries 5-0.

iii. No update for LIVIC CIVIL, Dollar General, at this time.

b. By-Laws Amendment Discussion –

Ms. Bisbing has not had the opportunity to review.

Mr. Keiper states the primary change is in regards to the meetings. He explains he took the MPC requirements for purpose/duties as a complete article and put it in the by-laws in its entirety rather than in pieces. He suggests changing Chairman to Chair or Chairperson as well as reconfiguration of section 4 regarding secretary duties. He suggests section 3 article 3 should be changed so it's clear the Board is authorizing staff to assist the Planning Commission.

Ms. Schickling is okay with the suggestions.

Ms. Schickling motions to send to Jonatan for review. Mr. Kerrick seconds. Vote: All in favor; Motion carries 5-0.

The consideration of approval for the revisions will be placed on the April 1<sup>st</sup> agenda. Ms. Canfield and Mr. Reiss will work together for formatting of changes.

c. Zoning Amendment Discussion –

Ms. Schickling discusses the nature of the Poconos and how the area was built on short term rentals and that we should not touch it. Mr. Kerrick agrees and believes the communities should regulate.

Ms. Bisbing has concerns as not all homes are in communities and believes there should be regulation and references need for control for hotel tax.

Ms. Schickling believes the control should come from the police and other resources such as the SEO based on the issue.

Ms. Canfield clarifies that based on the decision in the slice of life case, our current zoning ordinance prohibits short term rentals. Mr. Reiss clarifies the legal backing of this decision and the implications for the Township Zoning Ordinance.

Mr. Keiper states this is only in regards to short term rentals, not long term rentals. He questions the interpretation section as it relates the powers of a planned community. Mr. Reiss explains the ordinance applies but communities may have stricter requirements.

Mr. Reiss explains the three options as presented to the Supervisors.

1. Leave the Zoning Ordinance as it is currently written, prohibiting short term rentals
2. Change the Zoning Ordinance to allow for the use
3. Change the Zoning Ordinance to allow for the use and regulate with the stand alone ordinance

Mr. Keiper agrees with Ms. Schickling and Mr. Kerrick that the Poconos were built on rentals. He discusses the definition of transient and how any home rented prior to the inclusion of the definition in the Zoning Ordinance would be considered a non-conforming use.

Mr. Reiss explains the Slice of Life case is not based on the definition of transient, it is based on the definitions of single family dwelling unit and dwelling unit which have been in the Zoning Ordinance since potentially it was originally adopted. He agrees if a home owner can prove that their rental use preceded the inclusion of single family dwelling and dwelling unit in the Zoning Ordinance, then it may be a non-conforming use. The applicant would have to prove the prior use.

Mr. Keiper questions the lack of time requirement in the definitions.

Mr. Spector cited the International Building Code and the potential implications to short term rentals based on the use. This raises concerns as it would put hardship on the rental owners.

Mr. Reiss summarizes the conversation and states that it appears three members want to allow the use without regulation. In this case, the Zoning Ordinance Amendment should be recommended to the Board of Supervisors for adoption but not the stand alone ordinance. He states the Monroe County Planning Commission provided comments regarding the table in the ordinance needing to be updated. There were a few comments on standalone ordinance.

There is discussion regarding the use of the word hotel in the definition.

It is questioned how complaints are handled now, how many calls are received by the police? Discussion of calling the development, or the neighbor, or the police.

Mr. Kerrick discusses the positive economic impact of the rentals for the community.

Mr. Keiper states he is not in favor of the ordinance. He cites the number of requirements. There is confusion on the process. Mr. Keiper feels there are issues and feels it should be reviewed further.

Ms. Bisbing states the first issue is that the use is not currently permitted. Step one is to recommend the Ordinance Amendment to allow for the use.

Mr. Keiper feels there are very few people outside of communities that would be affected. If they are disturbed, they should call the police.

Mr. Bruce Freedman discusses his experience as a rental owner in the community. He considers himself a responsible owner. He cites statistics regarding Lake Naomi ranger calls and how a small amount are related to short term rentals. He wants the Township to appropriately regulate rentals and believes the stand alone ordinance is generally a reasonable document. He cites the positive economic impact of rentals in the area.

Mr. Keiper states he is not in favor with the amount of requirements.

Ms. Chris Chaisson, actually in Coolbaugh Township, discusses her discomfort with her actions being considered illegal. She would welcome appropriate rules. She sympathizes with people living next to irresponsible owners.

Mr. Cortez discusses his involvement with this process and how he has worked with the Township for some time. He is in favor of sensible regulation as he feels it also protects his home. Economic benefit is listed again.

Mr. Anthony Rollow echoes previous comments as a rental owner. He would like the Commission to pass the ordinance and legitimize the use.

Ms. Wendy Manley asks what owners can do to move the process forward?

Mr. Keiper states again he does not like the regulations. He does not have a problem with having Short Term Rentals as a permitted use.

Ms. Schickling believes the zoning ordinance amendment should move forward to allow use.

Question regarding the building code are raised. Ms. Canfield asks Mr. Reiss to confirm that having the use alone subjects the rentals to building codes. Mr. Reiss confirms.

Mr. Keiper raises concern over the max number of people. If there is a number, it should be limited more.

Ms. Bisbing motions to approve and recommend approval to the Board of Supervisors the Zoning Ordinance Amendment. Rachel seconds. Vote: All in favor; motion carries 5-0.

In regards to the short term rental standalone ordinance, comments are made by owners regarding the number of people allowed and cite what has worked in Coolbaugh.

Ms. Schickling asks how much it will cost the tax payer and if there is increased liability?

It is discussed that there could be significant staff time spent on the matter. In theory, the cost should be covered through permit fees.

Building Code concerns are raised again. The short term rental standalone ordinance does not have any bearing on the building codes. By approving the zoning ordinance amendment, allowing the use, the properties are already subject to building code requirements.

Ms. Bisbing motions to approve with a correction to the typo on page two from short term renal to short term rental. Mr. Miller seconds. Vote: Mr. Miller – yes; Ms. Bisbing – yes; Mr. Kerrick – no; Mr. Keiper – no; Ms. Schickling – no; Motion fails 2-3.

6. New Business

a. none

7. Open Discussion: none

8. Public Comment: none

9. Ms. Schickling motions to adjourn, Mr. Keiper seconds. Meeting adjourned at 8:00PM.

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Minutes recorded by Autumn Canfield