

**Tulpehocken Township Planning Commission Meeting
April 5, 2018**

Present: Planning Commission Members: Laverne Frey, Ray Daub, Scott Hetrick, Gary Deck, Chris Hartman, Matt Mack and Heather Claman.

Absent: John Zimmerman and Robert Sattazahn.

The Planning Commission meeting began at 7:33 p.m. and continued with the pledge to the American Flag.

The minutes from the February 1, 2018 meeting were reviewed. Ray Daub made a motion to approve the minutes, seconded by Scott Hetrick. The minutes were approved as written. The March 1, 2018 Planning Commission meeting was cancelled due to lack of business and inclement weather.

Public Comments: None.

Active Plans:

Mountain Meadows Phase II: Time expires September 6, 2018

Camp Calvary: Time expires August 31, 2018.

Nelson Auker Poultry Final Plan: This plan is still waiting on the NPDES permit and HOP permit (PennDot was out today to measure the site distance for the driveway). The manure storage will be in the barns and the compost will be outside. The barns will be cleaned out once yearly.

This is an intensive agricultural production. It is the opinion of the Township Solicitor that the existing use is intensive agriculture and is a nonconforming use in the Rural Residential zoning district because intensive agriculture is not a permitted use in the Rural Residential zoning district.

The Township Solicitor recommended to the Planning Commission that the Township require that a shared driveway easement be executed and recorded and that it would be satisfactory to the Township Engineer and Township Solicitor. That way they can make sure that the contents of that agreement are satisfactory.

Mr. Brossman owns property to the East of this parcel and he is not interested in signing any formal documents. The Township Solicitor stated that he doesn't feel that an easement is needed since there not going to be stormwater going on there unless there is failure of the system. However, a commitment to Mr. Brossman through the plan approval by the Township should be documented. This would relieve the Township in the event that there would be damage to Mr. Brossman's property. This protects Mr. Brossman and the Township. The Township Solicitor recommends that this should be part of the plan approval.

Red Barn Consulting Inc. is requesting the following two waivers for this plan.

Section 302. This section pertains to the requirement of submitting a preliminary plan for approval ahead of submitting a final plan. A modification of this section is being requested to submit the plans as a combined preliminary/final plan due to the plan being minor in scope, no facilities are being offered for public dedication and by processing as a combined preliminary/final plan the intent of the ordinance is still met.

Section 307.B.1.a. This section pertains to the requirement of providing a minimum of 48 inch of separation between the bottom of the basin and the limiting zone. There was testing completed for the infiltration facility and the results provided a minimum of 24 inches of separation and the PA BMP Manual only requires a minimum of 24 inches of separation. And again, there are not facilities being offered for public dedication.

Gary Deck made a motion to recommend to the Board of Supervisors to grant the waiver requests for Section 302 and Section 307.B.1.a. Scott Hetrick seconded the motion. All in favor, motion carried.

Red Barn Consulting Inc. is asking for conditional preliminary/final plan approval. The Township Solicitor stated that he would be favorable of this as long as the NPDES permit doesn't trigger any change that the Township would care about in the plan.

Ray Daub made a motion to recommend to the Board of Supervisors to grant conditional preliminary/final plan approval with the following conditions. Gary Deck seconded the motion. All in favor, motion carried.

- *Ludgate Engineering review letter dated April 3, 2018.*
- *Shared driveway easement. The Township Solicitor will need to review this document.*
- *Drainage easement with Mr. Hoover.*
- *Indemnification with Mr. Brossman and relieves the Township if damage would occur on his property.*
- *Maintenance Agreements to be drafted by the Township Solicitor.*

New Plans:

Weaver Annexation: This property is located at 59 Witman Road and is located in the Rural Residential zoning district. The existing driveway for this property is located on a portion of the neighboring lot.

The Township Engineer would like a note added to the plan that states that this property is within the Environmental Protection overlay district and any new construction or uses will require review under this section.

Section 214.A. The landowner shall submit a copy of the proposed deed for the parcel being annexed. This deed shall include reference to the plan, the recording information and how the parcel is identified on the plan. Statements that the conveyance is for annexation purposes only and that the parcel is not a separate building lot shall also be added.

The Township Solicitor recommends that the Township adopt a policy to require an escrow of a couple hundred dollars for the recording of the annexation and consolidation dates because there are two different dates required. There will be a deed to convey Lot C to the owner of Lot D and then a deed from the Lot D owner to itself consolidating the deeds. The legal concern is that annexation parcels are being approved as annexation parcels and then are not being consolidated and later sold as a separate lot that was never intended to be a separate lot. The solution is that the Township would have a process in place that would monitor the recording of the deeds so that the process has been completed. The escrow would be held by the Township until proof of the recording of the two deeds that was made possible with the plan approval. The Township Solicitor stated that he doesn't want it to be burdensome to the applicant, however he would like to insure that the purpose of the plan has been carried out.

The monuments will be set before the plan is approved. It appears that a monument should be set at the east side of the residue lot also called Lot 1 along with two pins.

The applicant's Surveyor, DeVon Henne stated that in the past, the deeds were received by the applicant's attorney were reviewed by the Township prior to approving the plan. If someone goes to the trouble of having the deeds drawn up and reviewed prior to approving the plan, how are these deeds are not meeting the Township Solicitor's satisfaction? The Township Solicitor stated that it has been occurring on a frequent basis that annexation lots are being sold as a building lot and then that particular Township is put in a difficult position as to whether they are going to have to get into litigation with someone as to whether the lot can be developed or if zoning relief will be required. It could create a lot of bad circumstances, and the Township Solicitor would like to provide as much protection as possible for the Township and also for property owners from being stuck with the consequences of dealing with the result of a failed annexation. This is not necessarily an issue in Tulpehocken Township however it is worth the expense to require this as a condition of plan approval. The client will have their escrow returned once the process has been completed.

Gary Deck made a motion to recommend to the Board of Supervisors to establish a policy that when someone does an annexation plan that a \$500 escrow be required to insure the recording of the consolidation deed. Scott Hetrick seconded the motion. All in favor, motion carried.

The applicant's Surveyor will remove page one since there is some concern with the past subdivision information being confusing. The septic absorption areas for both lots should be shown as well as the full extent of the existing driveway on the reside lot. Revisions will be made to the plan and hopefully they will have a revised plan for next month.

Walk-In Discussions: Bert Nye with Red Barn Consulting Inc. was present to discuss the Earl Martin Poultry plan located at 20 Deck Road. In 2012 Rufus Martin built two chicken houses and now the son, Earl Martin would like to construction one new chicken house for now and eventually build a second new one. There would be a total of four potential chicken barns. The poultry operation will not have an infiltration system, they will be doing a detention basin which will be discharged into a riparian buffer. They will be using the existing manure storage which are hoop houses. Red Barn Consulting will be present next month for a formal review.

Other Business:

Glenn Auker is proposing a 6,000 sq. ft. workshop and paving area. He is requesting a waiver of land development due to the size of his building. Chrisland Engineering has prepared plans for his project. Based upon the lot area, the maximum amount of impervious surface that he is allowed to have is 15,000 sq. ft. to meet the exemption criteria. There is no plan that has to be reviewed however a stormwater facility needs to be prepared and it needs to meet the intent of the ordinance and certified by his engineer. In the future, Mr. Auker is looking to build a new house and tear down the existing house. Stormwater will need to be required for building the new house in the future and that is noted on the plan. E&S has been approved.

The applicant asked to add a small bakery which his daughters will run and have their products taken to market. The Township Solicitor has weighed in and states that the home-based business can be included in the building providing it uses less than 1,000 sq. ft. However, the building code official will need to review the revised plans showing this use being added. Mr. Auker's builder, Matthew Nolt was present and stated that revised plans have been submitted to the Township's building code official.

Based upon what is being proposed and with securing the E&S approval, preparing the stormwater design, and approval from the Township SEO (Sewage Enforcement Officer) the Township Engineer feels that it is reasonable to support the request for waiver of land development for this project.

The Planning Commission stated that landscaping will not be required for this project. This was discussed at the October 2017 meeting.

If the use changes, customer volume changes, etc., additional requirements and approvals may be needed.

Gary Deck made a motion to recommend to the Board of Supervisors to grant the waiver of land development. Scott Hetrick seconded the motion. All in favor, motion carried.

Alexander Elliker (attorney), Thomas Wise and Steve Bensinger (engineer) were present to discuss the proposed 4,400 sq. ft. bank barn for Thomas and Sylvia Wise. TW Construction LLC currently has three full time regular employees (excluding Mr. Wise) and five full time leased employees. The employees are not there every day on a regular basis. Mr. & Mrs. Wise would like to use approximately 30% (1320 sq. ft.) of the proposed barn to store TW Construction materials and equipment. The remaining 70% of the proposed barn would then be used for the Wise's farm to store farming materials and equipment.

Mr. & Mrs. Wise would be willing to combine the lots into one parcel. The proposed barn lot would be combined with the residential lot. For a home occupation, only 1,000 sq. ft. is allowed per the Township zoning ordinance. So that would only allow 23% of the proposed barn for TW Construction materials. Therefore, that would mean that the Wise's would need to limit the

commercial use to less than 1,000 sq. ft. or zoning relief would need be obtained to go over the 1,000 sq. ft.

There is a permit for the existing building on his property. The new permit would have to say that it replaces the permit that was granted for the home occupation use at the existing building.

There is a sizable amount of impervious surface for road improvements, driveway and a bathroom in the barn. E&S will be needed for this project.

The Township Solicitor would like a condition of the zoning permit be that the Township receives evidence of the recording of the consolidation of the deeds. It is material to comply with the zoning ordinance and that this step does occur.

According to the SALDO, due to the size of the proposed barn being 4,000 sq. ft. a land development plan will need to be submitted to the Township. The Planning Commission does not feel that landscaping is needed. Under the UCC, if the building is for agricultural use, no building permit is needed however he would still need to do land development.

Gary Deck made a motion to recommend to Thomas Wise and his attorney and engineer that he submit a land development plan for the bank barn, limit the business use in the barn up to 1,000 sq. ft., and annex this parcel with the residential farm parcel. Ray Daub seconded the motion. All in favor, motion carried. This motion does not need to go to the Board of Supervisors, this discussion is about the process on what would be expectable. They can proceed as described and will provide a land development plan for the Township to review.

The Township Engineer would like to discuss the process of waiver of land development. The Township currently does not have costs for review, engineer's time etc. This should added to the fee schedule for land development. An approximate cost could be \$500-\$600. The Township has the ability to impose a condition went granting a waiver of land development that the Township be reimbursed for out of pocket expenses for review of the waiver request. That does work if the person follows through, however the person could drop the project and then the Township would not be reimbursed the expenses.

Scott Hetrick made a motion to recommend to the Board of Supervisors to amend the comprehensive fee schedule for review of land development and subdivision to add an application fee of approximately \$500-\$600 for waiver of land development. Ray Daub seconded the motion. All in favor, motion carried.

Ray Daub made a motion to adjourn the meeting at 9:23 p.m., seconded by Scott Hetrick. All voted in favor. The meeting was adjourned.

Respectfully submitted,

Heather Claman

Planning Commission Secretary