

**Tulpehocken Township Planning Commission Meeting
October 4, 2018**

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

The Planning Commission meeting began at 7:30 p.m. and continued with the pledge to the American Flag.

The minutes from the September 6, 2018 meeting were reviewed. The minutes were approved as written.

Public Comments: None.

Active Plans:

Mountain Meadows Phase II: Time expires March 11, 2019.

Camp Calvary: Time expires February 27, 2019

New Plans:

TW Construction-New Barn: Time expires December 5, 2018. The applicant's engineer, Steve Bensinger was present to discuss the Township Engineer's review letter. A note must be added to the plan and the zoning permit outlining the requirements necessary to comply with the zoning ordinance as it relates to the home occupation use. The Township Solicitor presented a note to add to the plan.

The applicant's engineer will add the following note to the plan:

The entirety of the existing detached structure adjacent to the residential dwelling shall be utilized solely as an accessory structure to the residential dwelling for storage of items from or utilized as part of the residential use of the property. The existing detached structure shall not be utilized in any manner in relation to the operation of TW Construction or any successor or related business, including but not limited to, storage of materials or administration or management or parking of TW Construction vehicles.

Utilization of the proposed barn for a home occupation use in an accessory structure for TW Construction shall be limited to a maximum of 1000 square feet of the barn and in accordance with the Tulpehocken Township Zoning Ordinance. At least 2,836 square feet of the proposed barn shall be utilized solely for agricultural purposes. Any increase in the assigned square footage for TW Construction to an amount in excess of 1000 square feet in the proposed barn shall require a variance from the Tulpehocken Township Zoning Hearing Board.

The Township Zoning Officer shall have the right to inspect the existing detached structured adjacent to the residential dwelling and the proposed barn at any time and from time to time to verify compliance with this note.

A copy of the approved conservation plan shall be submitted to the Township. The Berks County Conservation states that any farm that comes in for a zoning permit, the Township cannot

issue the zoning permit without a Conservation Plan. The applicant's engineer will address this comment.

The holding tank location and permit will need to be coordinated with the Township SEO. A maintenance agreement will need to also be provided for pumping. They have contacted the Township SEO and are in the process of obtaining this permit.

Section 303.1.I. All easements or right-of-way where provided for or owned by public services and any limitation on such easements or right-of-way. Easements shall either be shown or specifically described on the plan. The Township Solicitor would like to see the owner of the property provide a statement that they will maintain the right-of-way since they will be using the driveway the hardest.

Section 303.B. The Township Engineer would like to see closure of the new lot noted. The applicant's engineer will address.

Section 303.1.H. The location of all existing and proposed street monuments as required by Section 602.7. The Township Ordinance requires all corners to be set. There are three (3) pins and two (2) monuments on the plan. The Planning Commission is satisfied with the monuments that are depicted on the plan.

The Township Solicitor reviewed the blanket easement note (note #49) and is satisfied with the note.

Section 602.7E. Markers. Metal markers are to be accurately placed at all lot corners. The applicant's engineer requested a verbal waiver request for this section. The waiver request is to allow two monuments and three pins to be set on the adjoined lot to the proposed barn. A written waiver request will be submitted to the Township prior to the Board of Supervisors meeting on October 10, 2018. Laverne Frey made a motion to recommend to the Board of Supervisors to grant the waiver request for Section 602.7E. The motion was seconded by Scott Hetrick and approved unanimously.

The applicant needs to secure E&S and also an NPDES. They are still waiting for these approvals.

Section 602.11 Landscaping Plan. There are eight (8) trees between the barn and the property behind the barn. They are also proposing a fence around the dumpster. The Planning Commission is satisfied with the landscaping that has been presented on the plan.

The Township Engineer would like to see the calculations for all proposed swale and stormwater pipes. Also ensure that up to the 100 year flow can get into the basin. It appears that only the 25 year storm was utilized. All flows up to the 100 year flow must enter the basins.

The truck traffic is primarily pickup trucks and an occasional feed truck for the family farm. The Township Engineer would like a template on the plan to show that the feed trucks can make the turn with the existing radius.

The architectural plans were provided for review. The zoning application should denote what the actual storage is on the architectural plans. The same note on the plan regarding the use should be incorporated on the zoning permit application form.

A new consolidated legal description has been provided for the Township Solicitor to review. The Township Solicitor is satisfied with the legal description presented. The Township should receive evidence of the consolidation deed and because they are existing lots, the consolidation deed could be recorded prior to the land development plan being recorded. If this is done, it will eliminate the need to post the \$500 escrow to ensure that the deeds are consolidated.

Gary Deck made a motion to recommend to the Board of Supervisors to grant conditional preliminary/final plan approval with the following conditions. The motion was seconded by Ray Daub and approved unanimously.

- *Conditions listed in the Ludgate Engineering letter dated October 4, 2018*
- *E & S approval. If E & S changes the layout significantly, then the plan would need to be reviewed again by the Planning Commission.*

Scott Hetrick made a motion to recommend to the Board of Supervisors to grant the verbal 90 time extension request, which would extend the time to March 6, 2019. A written waiver request will be submitted to the Township prior to the Board of Supervisors meeting on October 10, 2018. The motion was seconded by Laverne Frey and approved unanimously.

Walk-in Discussions: None.

Other Business:

John Bicksler Land Development Plan: The applicant's engineer, Brian Boyer from Boyer Engineering LLC was present along with John R. Bicksler. The basin is a little smaller than the original design due to the septic system for the chicken house restroom and the berm was raised approximately one foot. The basin does meet the two (2), five (5) and ten (10) year storm requirements, however the twenty-five (25) year storm requirements are not met. They are requesting a waiver to leave the basin the way that it is. The Conservation District has performed an inspection and is satisfied with the way the berm is and stated that they could start the paperwork for their notice of termination.

The Township Solicitor stated that the Township has the authority to grant waivers as to the means of achieving the outcomes that are required by the Ordinance, however the Township doesn't have the authority to waive the outcomes that are required by the Ordinance. In this case, it goes beyond the means it goes to the outcomes required by the Ordinance.

There is a requirement for rate by DEP (Department of Environmental Protection) as part of the Stormwater Plan. It requires over controlling the 25 and the 10 year storm. So it is a twenty-five (25) year post develop and ten (10) year pre-develop, that this plan cannot meet. The Township cannot waive the rate because if someone downstream is flooded in the future, that could become an issue. There is a possibility to waive another requirement in the Ordinance that is not rate driven. Model the rate that is driven into the ground, what is found on site and raise the spillway

to show per the calculations that they are meeting the intent of the Ordinance. The applicant's engineer does believe that this can work. The only waiver needed then would be to not have the one foot freeboard for the spillway.

The Township Solicitor stated that if a waiver is required, it is prudent to require the downstream property owner to sign an agreement accepting this waiver.

Another option is to allow the spillway to have less than one feet of freeboard. They would raise the emergency spillway nice (9) inches and leave about three (3) inches from the top berm. There would be a reduction below the ten (10) year storm and the requirements for the twenty-five (25) year storm would be met. It would be up to the top of the berm per calculations. The applicant's engineer would prefer to keep the spillway and keep the water directed to where it is currently going instead of going over the top of the berm and going wherever.

There should be an easement per design and there should be revised easement agreements per the as built plan. This will need to be recorded.

The applicant's engineer requested a verbal waiver request for Section 304.B. Spillway Freeboard. The waiver request is to allow the spillway to have less than one (1) fee of freeboard. The existing spillway is proposed to be filled in to meet the required stormwater reduction for the twenty-five (25) year post-developed to the ten (10) year pre-developed rate. A spillway that is approximately three (3) inches deep is being proposed to remain. This will allow a location for larger storms to flow in a determined location and to meet the required rate reductions without having to disturb and revegetate the berm. A written waiver request will be submitted to the Township prior to the Board of Supervisors meeting on October 10, 2018. Scott Hetrick made a motion to recommend to the Board of Supervisors to grant the waiver request for Section 304.B. And to be sure that sealed stormwater calculations are provided and that a modified easement agreement is to be recorded with both John T. Bicksler and John R. Bicksler. The motion was seconded by Ray Daub and approved unanimously.

Lanita Specialized Land Development Plan: Scott Diller with Lanita was present to discuss this plan. The Township Engineer stated that the under drain has been closed. When the testing is performed, per the design, the hundred (100) year storm does not go up to the orifice. Anything that runs into the basin is supposed to infiltrate into the ground. The problem is when the water goes into the basin it is not draining. When the next storm comes in, the basin loses the two feet of volume, and goes out the outlet structure down onto the neighboring property. The basin only has an inch of topsoil in the bottom of it and there is a lot of sediment in it. Initial testing ran incredible rates and then when they went to convert there was 36 inches per hour. Even though the berms were put in and sat, they were never stabilized. That night it rained and all of the sediment washed into the basin and instead of the contractor scraping or tearing it up, they put topsoil directly on top with the water in there.

The Diller's need to discuss with their consultant. The Township Engineer stated that he has had this happen for basins that he designed for other plans. It is really not a difficult fix. What could be done is to get a tractor in and chisel plow, put sand down and then good topsoil. No matter

what the Township says, the Conservation District will not allow the NPDES to close out until there is a stabilized bottom in the basin. Unfortunately this will not happen with the rates that are currently being recorded. The topsoil is minimum and there are fines in the in soil. There is minor infiltration. The concern is to make sure that there is no seeping going under or through the berm. Since the Township Engineer and the design engineer were not present when the berm was installed, the contractor had to cut through sections of the berm to make sure that the core was there. The Township Engineer needs a report from the design engineer that it appears that the core was installed per the plan. There was question whether the pictures of the core were indeed pictures of the core installed at this site. It was stated that the excavator took the pictures. The design engineer was not present when they cut the sections through the berm.

The Township needs for the basin to drain and to verify that the berm is what it is intended to be. Plant trees to replace three (3) of the dead trees and close out the NPDES. There is currently not enough topsoil there now to grow grass and trees. The Township needs to continue to be updated with the status. Once the basin is functioning properly, the entire escrow could be released. Lanita needs to discuss with the design engineer, contractor and the company that performed the testing to come up with a solution to have the basin #2 functioning properly.

The Planning Commission discussed the Planning Commission meeting dates for 2019. July's meeting date will need to change. The first Thursday will be July 4. It was decided to change it to Monday, July 1, 2019. Ray Daub made a motion to recommend to the Board of Supervisors to advertise the meeting dates for 2019 with the only change being July's meeting date to be July 1, 2019. The motion was seconded by Laverne Frey and approved unanimously.

Chairman Sattazahn stated that when the minutes are written, it states that all members were in favor, motion carried. He states that he has yet to vote. He was always told that the Chairman determines a tie. Should he vote? The Township Solicitor stated that he does not see a problem with him voting. However it is really a decision on how the Chairman would want to run the meeting. Chairman Sattazahn would like it to be worded as it was approved unanimously. The Planning Commission Secretary will make note of this and have it worded as discussed.

Gary Deck would like to discuss an application for Chris Kauffman from Kauffman's Chicken BBQ on Gravel Pit Road. He would like to build a pavilion/covered seating area approximately 30 feet by 40 feet at the restaurant entrance area. The Township Solicitor and Township Engineer reviewed application briefly and he will need to submit a zoning permit application, building permit application and meet the intent of the Stormwater Ordinance. The Planning Commission does not need to address anything with this application at this time.

Ray Daub made a motion to adjourn the meeting at 9:00 p.m. The motion was seconded by Scott Hetrick and approved unanimously. The meeting was adjourned.

Respectfully submitted,

Heather Claman

Planning Commission Secretary