

**MINUTES  
PLANNING COMMISSION  
ZOOM MEETING  
July 14, 2020**

**Attendees/Participants:** Dave Shula, Sherri Glantz Patchen, Bob Dambman, Peter Cornog, Scott Quitel, Charlie Guttenplan, AICP, Director of Planning and Zoning, Krista Heinrich (Township Engineer's office), Vince Manuele (BOS Liaison), and Dave Sander, Esq. (Township Solicitor's office)

**1. CALL TO ORDER:** 6:03 PM by Chair Dambman

**2. ANNOUNCEMENTS & CORRESPONDENCE**

**Announcements:**

- Act 15 requires advertising Zoom meetings 5 days in advance. This meeting was published in the Times Herald on July 9, 2020.

**3. APPROVAL OF MINUTES**

- On a motion by Mr. Shula seconded by Mr. Cornog, the Planning Commission moved to approve the May 26, 2020 meeting minutes as revised per comments from at June 23, 2020 meeting. Vote 5-0
- On a motion by Ms. Patchen, seconded by Mr. Shula, the Planning Commission moved to approve the June 23, 2020 meeting minutes as edited. Vote 5-0

**4. ZONING HEARING BOARD APPEALS:** None

**5. CONDITIONAL USE APPLICATIONS:** None

**6. SUBDIVISION &/OR LAND DEVELOPMENT APPLICATIONS:**

- Review SLD#01-20; Kevin and Donna McBurney/4013 Crescent Avenue Preliminary/Final Minor Subdivision Plan; Lot Line Change

Attendees: Robert Jordan, P.E. Woodrow & Associates, Project Manager and Kevin McBurney, Applicant.

The Applicant is proposing to shift the lot line with the neighboring property located at 4009 Crescent Avenue approximately 28 feet, resulting in an increase of slightly over 4,000 square feet with the commensurate decrease on the 4009 Crescent Avenue lot (Mr. Jordan showed the existing & proposed property line on the plan). No other changes are proposed. Review letters were received from the Zoning Officer, Township Engineer and Montgomery County Planning Commission. All comments in the letters are 'will comply' with the exception of the requested waivers related to street improvements; street trees, ones administrative in nature; and dedication of recreation land - Fee in Lieu.

Planning Commission Comments: a question was asked what the reason for doing the lot line change is and in response, the applicant wanted additional square footage and rear yard space. He only has a 12 foot backyard and the lot line change will give him closer to 40 feet which will benefit him in the future if he decides to sell his property.

On a motion by Ms Patchen, seconded by Mr. Shula, the Planning Commission recommended to approve the Preliminary/Final Subdivision Plan and requested waivers with the exception of waiver #9 (park-rec dedication or fee in lieu) which will be deferred to the Board of Supervisors. Vote 5-0

**7. OLD BUSINESS:** None

**8. NEW BUSINESS:** None

**9. PLANNING COMMISSION MEMBERS COMMENTS:** None

**10. PUBLIC COMMENT FOR NON AGENDA ITEMS**

Steve Kaufman, 644 Harts Ridge Road, commented that he doesn't understand why the Planning Commission cannot comment on a request for a waiver for fee in lieu. He doesn't think it is in the ordinance anywhere, it is just custom and it is very important that the Planning Commission be able to weigh in on such issues. He asked if there is anything in the code that prevents the Planning Commission from doing that. Mr. Guttenplan stated that it has been a policy of the Township that when it comes to fees that it is the purview of the Board and the Planning Commission traditionally doesn't make recommendations on fee waivers. Mr. Kaufman commented, so it is policy that the Planning Commission can still make recommendations and can still be within the purview of the Board anyway and thinks the fee in lieu tool is very important.

Mr. Kaufman commented that he believes the minutes as approved tonight for the June 23<sup>rd</sup> meeting omitted one of the items on the shopping list that the Planning Commission wanted the Longfield Farm applicant to consider which is the 10% fee of lieu discussion which was quite extensive and should have been in the minutes. Mr. Kaufman commented the minutes don't reflect the issue of the waivers requested that potentially contradict the Conditional Use conditions, which can potentially open up a possible challenge by the applicant.

Mr. Dambman asked how the Planning Commission comments and recommendations get to the Board of Supervisors. Mr. Guttenplan explained that the BOS receives the minutes of all meetings and in addition, a Board Member Liaison is in attendance as well, one of whose purposes is to bring back the dialogue that occurs to the BOS from each meeting. Mr. Kaufman commented that the minutes are critical and should be accurate and complete. Mr. Dambman suggested sending a letter to the BOS listing the 5 things the Planning Commission would like to see on the plan. Mr. Guttenplan commented sending a letter to the BOS would be premature not knowing what changes the applicant is going to bring back the next time they come in front of the Planning Commission. Mr. Sander commented the minutes are not a stenographic record and read what the Sunshine Act requires of the minutes. Mr. Sander stated that if observant members of the public raise a certain issue, that perhaps it should be repaired in a subsequent letter but he echoes Mr. Guttenplan's sentiments that that was just the minutes of a meeting discussing a review of a plan that is going to be revised and the applicant is coming back before the Planning Commission; no formal action was taken and therefore no formal recommendation was made to the BOS by the Planning Commission.

Mr. Dambman suggested that if a member of the public reviews draft minutes on the website and has a comment, that they should e-mail that to him before the meeting at which they will be considered.

Sydelle Zove, Harts Ridge Road, commented plans submitted as a basis for a conditional use application are predicated upon the issuance of certain waivers. So those plans were submitted and accepted by the Board of Supervisors with certain conditions and the assumption being the design required some waivers. Question is so what if those waivers upon which the design is predicated are not granted; Mr. Sander's statement in the June 23<sup>rd</sup> minutes did not fully reflect what he said. If the Board of Supervisors denies waivers and some of those waivers were implied by the conditional use plan, the preliminary plan would differ; what is the impact with condition #10 that states the preliminary plans have to be consistent with the Conditional Use plan.

Mr. Manuele commented that those waivers were not in front of the BOS and he can't contemplate any circumstance under which Conditional Use condition #10 would be interpreted as a granting of the waivers requested, which means to him that they have to comply with all the codes and regulations. Mr. Manuele reiterated that the language of condition #10 states that the preliminary plan must be substantially similar to the conditional use plan, or similar language to that effect. Mr. Sander concurred with Mr. Manuele's comments.

Mr. Cornog wanted feedback as to what the Planning Commission feels about the fee in lieu; yes they can weigh in on the issue but it is ultimately up to the BOS as to whether to grant the waiver. Mr. Quitel commented that in the spirit of how they are revising the Comprehensive Plan, that in general, land trumps a fee and they need to be strong proponents about any land decisions and that the first order of priority is that land gets preserved rather than having someone pay a fee. Mr. Cornog then provided some historical perspective about this issue; it stems from the 'Growing Greener' movement of the early 2000's; he wondered if what we want is an acre of land in a development for the exclusive use of its residents—is this how we want to interpret the ordinance?

Mr. Quitel commented that the last thing he would want is for the Planning Commission to regret something that happened because we are not detail-oriented with the minutes and hopes there is some way to get the minutes back if key details are missed, after the minutes have been voted on.

Mr. Cornog commented he was concerned about the minutes given the contentiousness of these developments, and referred to the 14 years of litigation on the DePaul/Highway Materials application. He stated the minutes are very important; you never know what is going to happen.

## 11. ADJOURNMENT

- On a motion by Mr. Cornog seconded by Mr. Quitel, the meeting was adjourned at 7:02 PM.

Respectfully submitted,

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Charles L. Guttenplan, AICP, Director of Planning & Zoning

The Planning Commission is appointed as an advisory group to the Board of Supervisors and the Zoning Hearing Board with respect to comprehensive land use planning, existing land use, and various land use and zoning applications in Whitemarsh Township. No formal decisions are rendered by the Planning Commission. Formal decisions are rendered by the Board of Supervisors or Zoning Hearing Board, as prescribed by law, based on the type of application.