

**WHITEMARSH TOWNSHIP BOARD OF SUPERVISORS
PUBLIC MEETING MINUTES**

JULY 14, 2022

The Regular Monthly Meeting of the Whitemarsh Township Board of Supervisors was held on Thursday, July 14, 2022 at 7:00 PM, in the Whitemarsh Township Building, 616 Germantown Pike, Lafayette Hill, PA.

Supervisors Present: Laura Boyle Nester, Chair (Virtual); Fran McCusker, Vice-Chair; Vincent Manuele; Jacy Toll and Patrice Turenne

Also Present: Richard L. Mellor, Jr., Township Manager; David Sander, Township Solicitor; Krista Heinrich, P.E. Township Engineer

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS

Supervisor McCusker announced:

The closure on Butler Pike (between addresses 5160 and 5168) nearby LuLu Shrine, will begin July 25th. Local residents will have access via Campus Drive or Stenton Ave./Township Line Road.

Pre-Construction Work for Ridge Pike begins Monday. Single-Lane closures with flagging will be in effect between the hours of 9:00AM and 3:00PM.

Road Resurfacing began today on local roadways. See the full list on the Township website or today's edition of the Whitemarsh Weekly.

Movies in the Park continues on July 20th at Miles Park featuring, Field of Dreams. The showing will begin at dark and residents are reminded to bring their own lawn chairs or blankets for seating.

Whitemarsh Township is giving away FREE TREES! Don't miss out on your opportunity to receive one of seven native tree species being given away this September 24th. Trees are available on a first-come, first served basis. See the Township Website for the online application and details. Applications are also available at the Township Building.

Proclamation for Park and Recreation Month

Supervisor Toll read the proclamation: WHEREAS Parks and Recreation is an integral part of communities throughout this country, including Whitemarsh Township; and WHEREAS Parks and Recreation promotes health and wellness, improving the physical and mental health of people who live near parks; and WHEREAS Parks and Recreation promotes time spent in nature, which positively impacts mental health by increasing cognitive performance and well-being, and alleviating illnesses such as depression, attention deficit disorders, and Alzheimer's; and WHEREAS Parks and Recreation encourages physical activities by providing space for popular sports, hiking trails, swimming pools and

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many other activities designed to promote active lifestyles; and WHEREAS Parks and Recreation is a leading provider of healthy meals, nutrition services and education; and WHEREAS Parks and Recreation programming and education activities, such as out-of-school time programming, youth sports and environmental education, are critical to childhood development; and WHEREAS Parks and Recreation increases a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and WHEREAS Parks and Recreation is fundamental to the environmental well-being of our community; and WHEREAS Parks and Recreation is essential and adaptable infrastructure that makes our communities resilient in the face of natural disasters and climate change; and WHEREAS our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and WHEREAS the U.S. House of Representatives has designated July as Parks and Recreation Month; and WHEREAS Whitemarsh Township recognizes the benefits derived from Parks and Recreation resources. NOW THEREFORE, BE IT RESOLVED BY the Whitemarsh Township Board of Supervisors that July is recognized as Park and Recreation Month in Whitemarsh Township.

Supervisor Toll commended the Township Park and Recreation Director, Tom Blomstrom and his Staff. Chair Nester acknowledged the Park and Recreation Department has won many awards and praised the team for the amazing 4th of July parade, Township Day and all the programming they do.

PUBLIC HEARINGS

1. CU #02-22 Anne Judge, Anne Judge Aesthetics, LLC/454 Germantown Pike; Medical Office – Aesthetics Practice

On a motion by Supervisor Manuele, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors opened the public hearing for CU #02-22 Anne Judge, Anne Judge Aesthetics, LLC/454 Germantown Pike; Medical Office – Aesthetics Practice

A court reporter was present, and the notes of testimony are available for review at the Township Building. The following individuals presented information/testimony/comments/questions at the Public Hearing:

Dave Sander, Township Solicitor
 Scott Rothman, Attorney for the Applicant
 Anne Judge, Applicant

On a motion by Supervisor McCusker, seconded by Supervisor Toll (Vote 5-0) the Board of Supervisors closed the public hearing.

Motions

1. CU #02-22 Anne Judge, Anne Judge Aesthetics, LLC/454 Germantown Pike Medical Office – Aesthetics Practice

On a motion by Supervisor Manuele, seconded by Supervisor Turenne (Vote 5-0) the Board of Supervisors approved Conditional Use #02-22 Anne Judge, Anne Judge Aesthetics, LLC/454 Germantown Pike for a medical office in the VC-1 Village Commercial District.

APPROVAL OF MINUTES

1. June 9, 2022

On a motion by Supervisor Toll, seconded by Supervisor Turenne (Vote 5-0) the Board of Supervisors approved the June 9, 2022 meeting minutes.

BOARD PUBLIC DISCUSSION ITEMS

1. SLD #01-22 – 931 Spring Mill Avenue, LLC (“Westy Project”)/927-931 Spring Mill Avenue; Conditional Final Plan

Mr. Mellor explained SLD #01-22, Final Land Development application of 931 Spring Mill Avenue Associates, LLC, the 'Westy Project' at 927 - 931 Spring Mill Avenue. The Board granted Conditional Preliminary Plan approval on April 14, 2022. The applicant is proposing a 3-story, 20-unit apartment building with parking beneath; this proposal also includes one additional dwelling unit at 927 Spring Mill Avenue, one-half of a twin residence. The Final Plan is consistent with the Preliminary Plan. However, as a result of complying with review comments, two additional waivers are necessary (pertaining to showing existing features within 500 feet, and the width of the street tree planting zone; also as the result of refining the building design, one waiver requires modification (pertaining to drive aisle width adjacent to building columns). The Planning Commission reviewed this application at their June 14, 2022 meeting. After a brief presentation by the applicant and his engineer outlining the changes since the preliminary plan, there was considerable discussion, primarily concerning what plans the applicant has for a green roof amenity and if there would be tenant access to the roof. At the conclusion of the discussion, the Planning Commission unanimously passed two motions. The first was recommending approval of the two additional and one revised waiver. The second motion was a recommendation for approval of the final plan as presented, with a condition that the applicant present a description of the roof usage for a green roof to the Board as well as presenting his proposed bicycle-friendly accommodations (bike racks, etc.).

John Anderson, representing the applicant presented the updated plan. He explained they are providing 34 parking spaces, 32 are required by code, including 2 electrical vehicle parking. He explained there are 6 total stacking spaces and how the stacking spaces worked. He explained the landscaping of the property. He spoke about the green roof layout they will be providing.

Supervisor Manuele asked if they know what kind of plantings will be used in the green roof area. Mr. Anderson stated they don't know at this point, however, Mr. Borkowski has interviewed three different green roof designers. Chair Nester stated it looks like an exciting project with the electric car charging areas, the green roof and the stacking cars. Supervisor Toll asked now that you have 6 of the stacking cars will they be clustered together. Mr. Anderson explained the system would have to be laid out and typically he said they would consolidate them. Mr. Borkowski's son, Ty, was asked what he thought about it and he stated his dad will make the green roof a nice area.

Ava Borkowski (daughter) said she was asked by her parents to let the Board know how great Krista Heinrich and Charlie Guttenplan were in helping them throughout the process. She said this is something that has been in the works for years.

Resolutions

1. **SLD #01-22 – 931 Spring Mill Avenue, LLC (“Westy Project”)/927-931 Spring Mill Avenue; Conditional Final Plan**

On a motion by Supervisor McCusker, seconded by Supervisor Turenne (Vote 5-0) the Board of Supervisors adopted **Resolution #2022-19** granting Conditional Final Plan approval for SLD #01-22 – 931 Spring Mill Avenue, LLC (“Westy Project”)/927-931 Spring Mill Avenue for a 3-story, 20-unit Apartment Building.

BOARD PUBLIC DISCUSSION ITEMS (Continued)

2. **SLD #03-13; The Hill at Whitemarsh/4000 Fox Hound Drive; Phase 2 Request Extension due to Five-Year Vesting Period Expiring**

Mr. Sander stated before I outline what this agenda item involves, I would like to note what this agenda item does not involve: This agenda item is not about the TCAR. The Hill’s right to use the TCAR was memorialized in a settlement agreement between the Township and the Hill dated September 13, 2021. The agreement gives the Hill the right to use the TCAR for certain periods of time based on the issuance of building permits for the 2 remaining buildings in Phase II. The use of the TCAR is not at issue here. He continued in addition; the Board of Supervisors cannot stop the development from proceeding. The Hill has the right to proceed with its development according to its approved plan. Thus, the Board is not making a “build or don’t build” decision tonight. Rather, this agenda item concerns The Hill at Whitemarsh’s request for an indefinite extension of the 5-year vesting period imposed by Section 508(4) the Pennsylvania Municipalities Planning Code. That provision states that once a land development plan is approved, the developer has 5 years to build the development subject to the ordinances that were in place at the time of plan approval. The 5-year period is extended by the length of any litigation, including appeals, which prevent the commencement or completion of the development. Once the 5-year period or any extension thereof expires, that doesn’t mean that the plan “goes away” or that the project cannot be developed; it means that any amendments to the zoning, subdivision and land development, or other governing ordinance that occur after the 5-year period that adversely affect the right of the developer to commence and to complete any aspect of the development become applicable to the development and the developer must comply with any such ordinance amendment. He stated in this case, Phase II of the Hill was approved in 2016, but due to litigation and associated appeals, the 5-year period does not expire until December 5, 2022. The Hill has indicated that it will not be able to complete the Phase II improvements by December 5, 2022 and has thus requested that the Board of Supervisors grant an extension of the 5-year vesting period so that any applicable ordinance amendment does not adversely affect its ability to develop the property in accordance with its plan. Since the 2016 plan approval, the only ordinance amendment that has been enacted is the parking amendments to the zoning ordinance which do not adversely affect the Hill’s ability to commence or complete the project. It is possible that there will be no ordinance amendments that adversely affect the Hill’s ability to develop Phase II of the project. However, the Hill has requested that the Board grant an indefinite extension of the 5-year

period which, if granted, would mean that any ordinances that adversely affect the Hill's ability to commence or complete its project according to its approved plan would not be applicable to the plan. He stated this is not a public hearing. The Hill has chosen, at its expense, to bring a court reporter to this meeting. However, the matter will be handled by the Board of Supervisors asking questions of the Hill, followed by public comment, Board discussion, and, if the Board wishes, consideration of the adoption of a resolution. Madam Chair, I turn it back to you for Board questions for the Hill.

Ross Weiss, attorney for the Hill, stated the request for the extension does not involve the three multi-family buildings that have been built, the infrastructure improvements that have been installed in preparation for the construction of the two remaining multi-family buildings or the improvements to the Health Care Center. He said it only involves and asks the township to grant an extension of the vesting so the approved 2016 plan which has these remaining features to be completed will be able to be completed without the risk that there could be a future amendment to the zoning ordinance that would adversely affect the project. He stated in addition the community center has also been completed and all the public improvements have been made.

Mr. Weiss introduced Judy McGruther, President and CEO of the Hill at Whitemarsh. Ms. McGruther reiterated the work that has been done and the work that needs to be completed. She spoke about the timing of the project, including the time lost because of the pandemic. She said they are ready to move forward with the Health Care renovation, which she explained it is a four-phase project. She explained the building is 15 years old and is dated. Additionally, she explained they are looking to add 8 additional rooms to create a secured memory care unit, which they currently don't have. She explained the needs of the building. She explained the pre-construction process. She explained it is a 37 – 40 month time period they believe will be necessary for the completion. Mr. Weiss asked the time frame on the two multi-family buildings. Ms. McGruther explained the time frame is approximately a year to pre-sell and then 12 months to construct. Mr. Weiss asked her what the estimated cost of the Health Care Center improvements. She stated the Health Care Center improvements will come at a cost of approximately \$40 -45 million dollars and the multi-family buildings will be each \$7-8 million dollars. She stated it will all have to be financed.

Chair Nester questioned Ms. McGruther about her statement that the Health Care facility being available to the members of the community. Ms. McGruther explained there is a skilled nursing facility that has 60 private rooms and there is a very good rehab practice and usually have 15 – 20 people that are not residents of the Hill that come in to receive rehab. Mr. Weiss asked Ms. McGruther if she thought an extension would have been necessary had it not been for litigation and the pandemic. She stated she didn't believe an extension would have been necessary. Chair Nester asked if the two buildings recently built if they are at full capacity. Ms. McGruther stated there are 3 buildings at about 90%.

Mr. Weiss introduced Marc Silver, Finance Consultant from Piper Silver. Mr. Silver explained his background and he works with continuing care facilities assisting with their financing. He explained his responsibilities as far as this project is concerned. He explained in the process of financing banks and lending institutions will want to know that the zoning won't change during the project.

There was a discussion about the two open permits for the project at the Hill and their expiration dates, which would have to be extended. Mark Thompson, civil engineer explained the

permits they have are extendable. Mr. Weiss stated the township still is holding Financial Security for the Phase II project.

Chair Nester stated the Board is there for all residents of Whitemarsh. She said she understood it is a complex time for the Hill and said it is a complex and uncertain time for all residents. She said she feels having an indefinite extension is not something she is comfortable with but a compromise for a year is reasonable. Mr. Weiss spoke in rebuttal he asked for a longer extension than a year.

Resolutions (Continued)

2. SLD #03-13; The Hill at Whitemarsh/4000 Fox Hound Drive; Phase 2 Request Extension due to Five-Year Vesting Period Expiring

On a motion by Supervisor Manuele, seconded by Supervisor McCusker (Vote 4-1, Supervisor McCusker- Nay) the Board of Supervisors adopted **Resolution #2022-20** granted a one-year vesting rights extension for SLD #03-12; The Hill at Whitemarsh/4000 Fox Hound Drive; Phase 2 to December 31, 2023.

CONSIDER ACTION ITEMS

Ordinances

None

Resolutions

MOTIONS

1. Capital Improvement Purchase - Police Department Flooring

Mr. Mellor explained the flooring is in the approved 2022 – 2024 Capital Improvement Plan. He stated the budgeted amount was \$30,000. He explained the budgeted amount was a number obtained in 2021. He said costs have gone up. He stated in the police department it's a high traffic area that is used 24 hours a day, 7 days a week. He said they are looking for more durable type of flooring to withstand that type of usage. He explained when getting prices through CoStars the lowest cost was \$48,056.00. He said in working with Finance Director, Kevin Barron there is money the police department has in a fund they obtained from the Department of Justice, the financing comes from assets dispersed as the results of restitution. The fund can only be used for police items.

On a motion by Supervisor Turenne, seconded by Supervisor Toll (Vote (5-0) the Board of Supervisors approved the Capital Improvement Purchase for new flooring in the Police Department totaling \$48,056.00.

2. Hold Harmless Agreement - 516-518 Bethlehem Pike

Mr. Guttenplan explained the Hold Harmless Agreement is for a fence in the ultimate right-of-way at 516-518 Bethlehem Pike. The owners of this property are proposing to install a fence, a portion

of which is in the ultimate right-of-way of Bethlehem Pike. There is a fence currently closer to the cartway that would be removed, for which no existing Hold Harmless Agreement or Waiver of Damage Rights, exists. There are no safety or sight distance concerns with this fence; Krista Heinrich has done a sight distance assessment.

On a motion by Supervisor Manuele, seconded by Supervisor Turenne (Vote (5-0) the Board of Supervisors approved Hold Harmless Agreement for a fence in the ultimate right-of-way at 516-518 Bethlehem Pike.

3. June 2022 Expenditures and Payroll and Pension Plan Paid Costs

On a motion by Supervisor Toll, seconded by Supervisor McCusker (Vote (5-0) the Board of Supervisors approved expenditures totaling \$807,574.13; and payroll totaling \$689,738.33 pension paid costs totaling \$5,172.74 for June 2022.

4. Certificates of Appropriateness - 37 E. Germantown Pike

Mr. Guttenplan explained at the Jun meeting, the Board approved a Certificate of Appropriateness for new roofing and gutters for the three buildings in the complex at this location. The HARB had recommended the use of half-round gutters, instead of K-gutters as being more historically appropriate. As a result, the Certificate of Appropriateness was approved with that condition. Subsequent to the HARB meeting, the roofer recommended that the applicant use larger K-gutters on the two rear (non-historic) buildings for more efficient rainwater collection. The application is therefore to allow 7" K-gutters on those buildings, retaining the half-round gutters on the front, historic building. HARB members had no issue with this change and the members present at the meeting unanimously voted to recommend issuance of an Amended Certificate of Appropriateness based on the fact that the building cannot be seen from the road and they are replacing with same style as the existing gutters.

On a motion by Supervisor McCusker, seconded by Supervisor Toll (Vote (5-0) the Board of Supervisors approved the Certificate of Appropriateness to change the gutter configuration at 37 East Germantown Pike.

5. Certificates of Appropriateness - 49 E. Germantown Pike

Mr. Guttenplan explained the application is for the replacement of the existing fence. HARB members had no issue with this proposal and the members present at the meeting unanimously voted to recommend issuance of a Certificate of Appropriateness.

On a motion by Supervisor McCusker, seconded by Supervisor Manuele (Vote (5-0) the Board of Supervisors approve the Certificate of Appropriateness for replacing the existing fence at 49 East Germantown Pike.

PUBLIC COMMENT PERIOD

Kim Swider (Chestnut Street) stated she was following up on traffic safety on Chestnut Street, the louvers on the traffic lights and the status of the survey. She also asked about the additional signage that was suggested. Ms. Heinrich stated they had a contractor out to the site in advance of

installing the louvers and it was determined that larger ones needed to be ordered, they are being ordered. Mr. Mellor said he knows the police have looked at signed that was there and there was nothing that wasn't ordained as far as the signage that was there. Ms. Heinrich explained after the louvers go in the next step would be conducting a public survey of the residents and business along Chestnut Street. She explained that is a PennDOT process that the township has to follow.

Tim Garret (Chestnut Street) asked about the timeline of the survey process and he asked why the township has to follow the PennDOT process when it is not a PennDOT road. Ms. Heinrich stated the timeline she would expect within the month. She stated the township policy is to follow PennDOT regulations, it is a standard procedure. Mr. Garrett asked if there are any interim interventions that are possible to calm traffic. He spoke about the length of time it is taking to get things done. He stated it remains a dangerous situation. Ms. Heinrich stated the louvers are the interim solution, she said that from the survey they could find which traffic calming permanent solution would be put in place. She said she understands the police are out there regularly at that is another interim solution. There was a discussion regarding the availability of the police to police the street.

Debra Harris spoke about the business corridors and suggested one person be the contact point for businesses to coordinate amenities and improvements. She stated we need to make it a more vibrant business community.

BOARD MEMBER COMMENTS

None

EXECUTIVE SESSION

Chair Nester announced the Board of Supervisors held an Executive Session prior to the meeting to discussed litigation.

ADJOURNMENT

On a Motion by Supervisor Manuele, seconded by Supervisor Toll the meeting for July 14, 2022 was adjourned at 8:30 PM.

Respectfully Submitted,

Richard L. Mellor, Jr.
Township Manager