

WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING MINUTES

Stokes Assembly Hall
1039 Wilmington Pike, Westtown Township
Wednesday May 8, 2019 – 7:30PM

Present

Commissioners – All Planning Commission (PC) members were present (7-0). Also present was Township Planning Director Will Ethridge.

Call to Order and Pledge of Allegiance

Mr. Pomerantz called the meeting to order at 7:30 PM, Mr. Rodia led those present in the Pledge of Allegiance.

Adoption of Agenda (JL/RH) 7-0

The order of New Business items was changed.

Approval of Minutes

Planning Commission Meeting minutes for 04/17/2019 were approved. **(KF/RH) 6-0**

Announcements

1. Comprehensive Plan Implementation webinar on 5/2 was attended by two PC members and two BOS members.
2. Will Ethridge summarized that the Zoning Hearing Board voted unanimously to deny Mr. Italiano's request for a variance. He added that the Board allowed Mr. Italiano to keep his gates, but the fence would have to be removed from the right of way within the next 30 days. Mr. Italiano has the right to appeal that decision.

Public Comment – Non Agenda Items

None

New Business

1. **Snyder Zoning Hearing Board application for an Accessory Dwelling unit at 620 Oakbourne Rd** - Mr. Ethridge noted that Mr. Snyder's special exception for an accessory dwelling unit application was complete and summarized the application. He also included printouts of both the Special Exception as well as Variance standards. Mimi Snyder and Rob Snyder of 620 Oakbourne Rd and Justin Brewer of D.L. Howell and Associates were present. Mr. Brewer recapped that the applicants wanted to construct an accessory dwelling unit to the existing single-family home. He noted that MLS listing indicated the house was 2,352 sq. ft., and the ordinance allowed an accessory dwelling unit to be of either 1,200 sq. ft. or 35% of the gross habitable area of the existing dwelling, whichever is less. Mr. Brewer made calculations that a total habitable area of the house was equal to 3,450 sq. ft. with 2,352 sq. ft. previously mentions and additional 1,100 sq. ft. of finished basement area that was completed about 7 years ago. He noted that by those calculations, 35% of gross habitable area was

1,208 sq. ft. Mr. Lees raised the question whether basements were considered part of a square footage of the house. Mr. Ethridge responded that when a basement area was finished, he considered that to be a livable area. Mr. Brewer indicated that Mr. and Mrs. Snyder would occupy the accessory dwelling unit and their daughter would occupy the existing home. He reiterated that the applicants were looking for a special exception to construct the accessory dwelling unit. Mr. Pomerantz asked Mr. Brewer to recap the list of criteria. Mr. Brewer summarized that the applicants had the single family home and the existing outbuilding, the horse barn, and they were proposing sewer connection to the existing gravity main across Oakbourne Rd via grinder pump. He added that the applicants would comply with all area and bulk calculations for the lot. Mr. Brewer also noted that the accessory dwelling unit would be setback further than the front of the existing dwelling as recommended by the Township upon initial application review.

PC had a brief discussion on the definition of a gross habitable area. Mr. Ethridge explained that in his understanding it meant all livable spaces, such as bedrooms, kitchens, bathrooms, no closets, no storage, and finished basement. Mr. Ethridge looked into the zoning chapter and confirmed that there was no definition of gross habitable area in the Code. Mr. Flynn also posed a question about the size of the proposed garage and the fact that it was not included in the calculations. Mr. Brewer stated the garage would be 20X20 or 400 sqft. Ms. Snyder responded that the signs were posted at their property. Mr. Ethridge reminded the PC that the notices were sent out to all property owners within 500 feet of the applicants' house. Mr. Embick raised a question regarding the location of the property in relevance to the floodplain. Mr. Brewer elaborated that there was a floodplain on the property; however, the proposed accessory dwelling unit would not be located within the floodplain. Mr. Embick asked the applicants to go over how the proposed project met the specific standards for special exception application: relationship to the comprehensive plan, suitability of the tract, impact on existing neighborhood character, impact on circulation and economic impact. Mr. Brewer responded that the proposed dwelling unit would be designed with best engineering practices and it would not affect the health, safety and welfare of the public and Westtown Township. He continued that the applicants were aware of environmental conditions, floodplain and buffers and environmental resources that would be addressed and protected. He further elaborated that the existing lot was primarily agricultural with horse pasture, and there was availability of public sewer connection across the street. Mr. Brewer addressed the impact on neighborhood character stating that the architectural renderings of the proposed dwelling was consistent with other dwellings in the neighborhood and similar in style to the existing house on the property. In response to impact on circulation, Mr. Brewer recapped that it was a single-family dwelling with two occupants with no significant impact on traffic. He further added that there was a minimum economic impact. Mr. Ethridge added that the Comprehensive Plan generally recommends affordable housing, and accessory dwelling units were recognized as being compatible with that policy. One of PC members brought up a question about the certainty of public sewer connection. Rob Pingar elaborated that by good fortune there was a short segment of the gravity main that drains all of Wild Goose Farm subdivision into the pump station where the applicant would be able to connect. He noted that the applicant would need to use a grinder pump and that was certainly allowed by ordinance. Mr. Hatton asked the applicants what the plan was for that dwelling unit in the future. The applicants responded that they would turn it over to their children. Kevin Flynn expressed his concern that it would be incredibly easy to construct the accessory dwelling unit and then apply for a subdivision permit next day. He noted that the current permitting process

would allow the applicants to create a subdivision by going through approval for an accessory dwelling unit, which he thought would be inappropriate. He suggested the scenario where the owners would decide to move to a retirement facility, and the new owners could apply for subdivision getting two properties for the price of one. Mr. Ethridge agreed that the proposed scenario would be indeed possible. Mr. Embick reminded that there were requirements for how accessory dwelling units were used, and there was a new provision dealing with the standards for converting an accessory dwelling unit into a rental. Mr. Flynn suggested that the applicant would be better off to create a subdivision with two lots and building the unit on one lot without having any issues in the future regarding the use of the proposed dwelling unit. Mr. Brewer explained that it would take less time to get a special exception and a grading permit to get an accessory dwelling unit built. Elaine Adler agreed with Mr. Flynn's suggestion that it would be simpler and cleaner for the applicant to do a subdivision. Mr. Hatton suggested that the applicant looked into the requirements for subdivision in case they would want to go through that process at some point. Mr. Snyder brought up a point that if he intended to subdivide the lot, he would not built a 1,200 sq. ft. house. Elaine Adler asked if the Zoning Hearing Board could put a condition on its special exception decision that the property must be subdivided should it no longer be used in accordance with the ordinance requirements. Mr. Ethridge responded that while the Zoning Hearing Board could do so, it wouldn't be appropriate.

After a prolong discussion, PC recommended to the Zoning Hearing Board the approval of the application for an accessory dwelling unit, but brought up some questions about the size and the appropriateness of the structure, and the definition of the gross habitable area.

2. Nancy Harkins, 1521 Woodland Rd, was present to provide an update on the status of Sunoco pipeline and to answer any questions regarding various initiatives her group was undertaking. Mr. Flynn commented that he would like to hear some of the ideas or thoughts on what the Township should be doing or could be doing in terms of ordinances or regulations to protect residents if the pipelines were to fail. Mr. Embick added that it was his understanding that the use of pipelines to transport various materials, including gas, oil and shale gas product, was deemed statistically safer than various other modes of transport, including rail and highway transportation. However, he recapped those serious accidents involving pipelines had occurred, making scrutiny of pipeline projects important, especially for municipalities through which pipelines were routed and explained that in the case of the Mariner 1 and Mariner 2 projects, they were plagued with problems. He expressed his interest in hearing about the ability of municipalities to control and address various issues and any recommendations on safety evaluations, monitoring measures that could be employed to evaluate the performance of the pipeline and leaks, and development and implementation of emergency response plans. Mr. Pingar brought to the PC's attention that he had been at the site several times in the last two months since the pipeline construction started in Westtown. He also had several meetings with Energy Transfer Partners, the parent company of Sunoco. Mr. Pingar summarized his knowledge of two drill rigs operating on Cavanaugh Ct, primarily a private road that is owned by the Archdiocese of Philadelphia: one (about 1,400 ft. in length) was being drilled to the south toward Thornbury Township, Delaware County, and one, located just north of Duffer's, was directed to the north. Those two drills were meant to meet somewhere in the middle underneath Route 352. At the same time, there was a separate rig (about 1,100 ft. in length and 12 inches in diameter) being drilled to

the north toward the Matlack florist area where the operators were assembling the pipes and pulling them in the southern direction back toward Cavanaugh Ct. It was the first stage of operation with the operator drilling the pilot holes, then pulling the whole thing back, and actually auger out a larger hole to pull the pipes through it. He noted that in Westtown, that was all happening under Route 352, and the operators would likely have to pull both the 16-inch pipe and the 20-inch pipe back together, so they would not have to do two separate operations for each pipeline. Mr. Pingar made the PC aware that the Township received several complaints regarding noise and vibrations at the initial stages of the project, when the operators were driving a 16-inch solid steel pipe sleeve through soil and rock for a couple of weeks. Mr. Rodia raised a question about any pending mandates by the regulatory agencies to address safety inspections. Nancy Harkins mentioned that the Public Utility Commission (PUC) filed a complaint against Sunoco a few months ago in response to a leak that occurred in Morgantown over a year prior. She emphasized that despite Sunoco stating they were utilizing high tech monitoring technology, all known leaks were reported by landowners or by other observers. Rose Marie Fuller, 226 Valley Road, Middletown Township, brought up to PC attention that they had been dealing with pipeline issues for years. She noted that she utilized Freedom of Information Act to find out everything she could about specific pipelines maintenance and operation. Ms. Fuller shared that she looked into four leaks of the 12-inch 87 year old pipeline, Point Breeze to Montello pipeline, where the hydrostatic testing had been done the year before. She made a point that the pipeline was under cathodic protection, so it should not have leaked; however, it was 87 years old and it was corroded causing 33,000 gallons to leak into Darby Creek. She emphasized that a letter from The Pipeline and Hazardous Materials Safety Administration (PHMSA) stated that the pipeline was compromised, and Ms. Fuller questioned the definition of "compromised". She received a verbal confirmation from the PHMSA that "compromised" was used in reference to that pipeline being corroded. Mr. Fuller also stated that in the UK, a pipeline was put out of commission if it was 80 years old and expressed her frustration that the operators were able to proceed with Mariner pipelines. Ms. Fuller also noted that Sunoco had the worst records with leaks happening every two to three years. Mr. Pingar shared her concerns and added that the Board had been frustrated with the regulatory agencies and their boundaries of oversight. He also agreed with Ms. Fuller that Sunoco had not been forthcoming with information and failed in lot of ways being responsive. Mr. Pingar recapped that the Township had the Emergency Response Plan that was updated every two years. He shared that it was his understanding that Sunoco provided the Emergency Response Plan to the police department who would now have a better ability to respond to a pipeline emergency. Mr. Pingar recapped that Bill Turner from the Chester County Emergency Department testified before the Board that he felt confident that they had the training, equipment, and manpower to respond as best as they could. Ms. Harkins summarized that she, Ms. Fuller, and five other residents from Chester and Delaware Counties were parties to a formal complaint (the Safety Seven Complaint) before the PUC regarding pipeline safety issues, including that there was no credible response plan and the public did not have information they needed to protect themselves. She noted that they had had a great amount of support, including from Senator Killian, four school districts, multiple townships, and Andover Homeowners Associations. Ms. Harkins emphasized that there was no agency that had a citing authority on this type of pipeline in Pennsylvania. She further explained that PHMSA had only two engineers and two inspectors for all of Pennsylvania, which was insufficient to the amount of oversight those projects needed. Laura Snyder of Grady Hill Rd, Edgmont

Township, noted that Edgmont Township intervened in two processes, the Safety Seven and the BNI case, where the BNI case was settled. She shared that Edgmont had experienced three leaks involving 12-inch and 8-inch pipelines that were now being repurposed for the NGLs. Fortunately, those leaks involved diesel fuel, and the homeowner was able to smell it and report it. She made a point that if it were a NGLs leak, it would not have been easily detected and remediated. Ms. Harkins brought up the discussion regarding the ability of monitoring systems to detect NGLs leaks. Ms. Fuller expanded on that stating that Sunoco claimed to have leak detection equipment installed, however, in her understanding it had not detected any leaks so far. Ms. Harkins recapped that in her knowledge there were three homeowners in Exton whose homes were bought by Sunoco due to having sinkholes caused by pipeline construction activities. Ms. Harkins also noted that people did not want to buy houses near pipelines or start businesses in fear of being negatively impacted in the future. She made a point that the townships should work together to continue to educate the public and raise awareness. Rob Pingar confirmed that Sunoco had all permits in place and all easements needed to complete the construction. He also confirmed that Sunoco did not buy any easements from Westtown. Ms. Harkins shared that DEP had issued air quality permits for Marcus Hook; however, Clean Air Council appealed one of those permits because Sunoco's application had significantly understated emissions from the new facility. As a result, a couple of months ago the Environmental Hearing Board judge ruled in favor of the Council, which meant that Sunoco would have to reapply for those permits and were not able to do construction in West Whiteland and in that entire geographic area that is under Senator Dinniman's complaint. Sunoco challenged that standing, and the case would be heard before the Commonwealth Court in June. In the meantime, the PUC is not able to rule on any decisions related to that construction. Ms. Fuller stated that their group would like to provide a community presentation and/or complete a specific risk assessment for Westtown with the Board's approval. She shared knowledge of several ongoing lawsuits involving pipeline operators and different agencies.

Old Business

Public Comment

- Mr. McFadden summarized to PC the Crebilly Farm Hearing that he attended in Pittsburgh.
- Mr. Pomerantz brought to the PC's attention that there were coyotes reported in the area.

Reports

Mr. Lees summarized his observations of the BOS meeting for 05/06/2019

Adjournment (EA/RH) 7-0

Meeting was adjourned at 8:35 pm.

Next PC Meeting – May 22, 2019, 7:30 pm – Township Building

PC Representative at next Board of Supervisors Meeting: May 20, 2019 – Russ Hatton/Jack Embick

Respectfully submitted,
William Ethridge, Planning Commission Secretary