

WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING AGENDA

Wednesday, September 6, 2023 – 7:00 pm

Stokes Assembly Hall – Township Administration Building
1039 Wilmington Pike, West Chester, PA

For general inquiries or questions about any of the items on this agenda, please contact the Township office either by phone (610) 692-1930 or via e-mail at administration@westtown.org.

Call to Order and Pledge of Allegiance

Adoption of Agenda

Approval of Minutes

Planning Commission Meeting August 23, 2023

Announcements

1. The ZHB application for 1115 Butternut Road to construct garage within the front yard setback has been denied.
2. The ZHB application for Crebilly Lot #4 to convert existing barn into an accessory dwelling unit has been approved with conditions.
3. Applicant has granted the extension on the application for Visual Arts Center at 1632 West Chester Pike until December 29, 2023.

Public Comment – Non-Agenda Items

Old Business

1. Conditional Use Application – Stokes Estate Flexible Development

The applicant, Fox Clearing LLC, proposes to construct a residential development of 85 single-family detached homes and associated improvements pursuant to the Flexible Development Procedure as permitted within R-1 Residential Zoning District by conditional use under Section 170-601.C of the Westtown Township Zoning Ordinance. The initial Conditional Use Hearing has occurred on August 14, 2023. The next hearing is scheduled for September 11, 2023.

New Business

1. Land Development Application – Westtown School

The applicant, Westtown School, has submitted a land development application for number of improvements to the athletic fields located on the school's campus within the A/C Agricultural/Cluster Zoning District. Proposed improvements include: athletic fields support building, conversion of grass fields into synthetic turf, installation of bleachers, benches and scoreboards, permanent lighting for one athletic field, conversion of gravel/grass parking area into paved 93 parking spaces, walkways, associated stormwater management facilities and landscaping. The approval for permanent lighting of one athletic field has been granted via conditional use under Section 170-1514.D(5) of the Zoning Ordinance.

Public Comment

Reports

Board of Supervisors Meeting September 5, 2023 – Jim Lees/Russ Hatton

Adjournment

Next PC Meeting: **September 20, 2023, 7:00 PM**

PC Representative at next Board of Supervisors Meeting:

- **Tuesday September 18, 2023, 7:30 PM** – Brian Knaub/Joe Frisco

WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING MINUTES

Stokes Assembly Hall, 1039 Wilmington Pike
Wednesday, August 23, 2023 – 7:00 PM

Present

Commissioners – Russ Hatton (RH), Jim Lees (JL), Brian Knaub (BK), Joseph Frisco (JF) and Kevin Flynn (KF) were present. Absent was Tom Sennett (TS). Jack Embick (JE) participated via Zoom. Also present was Michael Gill, Planning Commission Solicitor.

Call to Order and Pledge of Allegiance

Mr. Hatton called the meeting to order at 7:02 PM.

Adoption of Agenda (JL/JF) 5-0

Mr. Lees made a motion to adopt the agenda. Mr. Frisco seconded. All were in favor of the motion.

Approval of Minutes (JL/RH) 4-0-1

1. Mr. Lees made a motion to adopt the meeting minutes from July 19, 2023. Mr. Hatton seconded. Mr. Flynn abstained. All were in favor of the motion.

Announcements

1. Ms. Carter announced that the land development application for the Westtown School Oak Lane (Athletic Fields) Project was received on August 3, 2023 and is expected to be discussed at the next PC meeting.
2. Ms. Carter also announced that the ZHB decision for 811 E Sage Road for the retention of the 8-foot fence has been appealed by the applicant to the Chester County Court of Common Pleas.

Public Comment – Non Agenda Items

1. Robert Pingar, 1003 Russell Lane, asked about the PC's executive session and argued that the PC has no authority to conduct such meetings. Mr. Hatton and Mr. Gill disagreed with Mr. Pingar on this matter.

Old Business

1. Conditional Use Application – Stokes Estate Flexible Development

Michael Gill initiated the discussion on Planning Commission's (PC) recommendations on the application to develop 85 single family residential homes. He summarized that the PC has voiced several concerns with the application which were incorporated in the draft recommendation letter to the Board of Supervisors (BOS) that called for denial based on several items or approval with a list of conditions. He suggested discussing each one in greater detail. There was an extensive discussion on the subject of the Environmental Rights Amendment and its applicability to the conditional use review process. Mr. Gill stated that if the PC recommends denial of the application based on its compliance with the Environmental Rights Amendment, it shall detail to the BOS how this application deprives the citizens of Westtown of these rights, specifically a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Mr. Flynn asked whether it was something that the applicant shall prove. Mr. Gill referred to the court case that ruled that in the context of zoning this is not something that the applicant is required to do. Mr. Embick argued that the Environment Rights Amendment stands on its own and strongly believed that the applicant shall demonstrate how the proposed development

impacts these rights. Mr. Gill agreed with Mr. Embick that it is insufficient for the applicant to simply state that the development is compliant with the requirements, but argued that the PC shall outline how they want the applicant to demonstrate compliance with the Environmental Rights Amendment. Mr. Embick felt that the applicant shall complete an environmental site assessment to show how the proposed development impacts protected values. He pointed out that such assessments are very common. Mr. Gill then suggested including a condition for the applicant to conduct an environmental site assessment.

Robert Pingar, 1003 Russell Lane, believed that the Township solicitor does not agree with Mr. Embick on this subject matter and argued that to follow Mr. Embick's logic, all land development applications shall be required to complete an environmental assessment, which was not done for most recent proposals, including for Westtown School. He felt that PC shall take a poll on this matter. Mr. Pingar further pointed out that as a party, the PC can hire experts to serve as witnesses at the hearing.

Mr. Hatton polled the PC members on the inclusion of a recommendation for an environmental assessment. Mr. Lees wanted to know how other municipalities handle this issue. Mr. Gill explained that some require the applicant to conduct assessments on a case by case basis, but reminded the PC that Westtown does not have such provision in place. Mr. Lees agreed to include such recommendation. Mr. Frisco was in favor as well, because he felt that taking these cautionary steps before moving forward provided comfort to residents in affirming development will not harm the earth. Mr. Flynn agreed with other members and felt there will be a clear visible impact on scenic views. Mr. Knaub felt that such a recommendation was in contradiction with the right to develop the property and decided to abstain. Mr. Hatton expressed his support, because he was concerned with the impact of the development on critical natural and historical resources that currently exist on site. Mr. Gill affirmed that the recommendation to require the applicant to conduct an environmental site assessment will be included in the recommendation letter to the BOS.

Mr. Gill asked to confirm the PC's position that the applicant did not present sufficient information to demonstrate the development will not result in or substantially add to a significant traffic hazard. The PC agreed. Mr. Gill asked for confirmation on the PC's position that the applicant did not demonstrate compliance with the steep slopes conservation district. He noted that the applicant submitted revised site plans pertaining to location of steep slopes, associated lot calculations and a response letter prior to the PC meeting, but acknowledged that the PC did not have time to review it to definitely conclude that the revised submission is consistent with the Code. PC members confirmed their position. Mr. Gill further asked to confirm the PC's position on the inclusion of stormwater management facilities into open space calculations. He expressed his opinion that the PC members are not experts, and thus, are not in the position to conclude one way or another based on the application materials. The PC agreed. Mr. Gill asked to confirm the PC finds that the proposed development will cause a substantial threat to the community on the basis of the development's proximity to pipelines and road configuration. The PC agreed.

Mr. Gill recapped that the PC was requesting party status at the conditional use hearing and expected to engage experts, including Bob Flinchbaugh, Township engineer, and Albert Federico, Township traffic consultant, and potentially a pipeline safety professional to testify. He felt the need for experts was warranted. Mr. Gill pointed out that obtaining services of a pipeline safety expert would require approval for funding from the BOS. PC members expressed support in engaging such experts.

Mr. Flynn raised concerns that the applicant provided materials at the hearing that were not presented to the PC and asked whether the BOS was presented with revised materials pertaining to steep slopes. Ms. Carter confirmed that they were not provided as exhibits by the applicant yet. Mr. Gill pointed out that numbering of lots referenced in the PC

recommendations letter needs to be revised to reflect applicant's revisions. Ms. Carter noted that lot numbering is inconsistent among various submissions and suggested including references to specific plan sheets in the recommendations to avoid any confusion.

Mr. Flynn asked whether providing details on suitable improvements for active recreation areas shall be recommended as a condition. Mr. Gill explained that the applicant testified at the hearing that 10% will be dedicated for active recreation areas, which include the proposed trails, and it is the BOS decision whether to require the applicant to provide additional details. Mr. Gill also verified that it is included as a condition in the PC recommendations.

Pamela Boulos, Historical Commission Chair, expressed her support to require an environmental assessment and reminded the PC of two historical resources on the Stokes property that are proposed to be demolished. Ms. Boulos felt their demolition will diminish the historical significance of the site and asked the PC to include condition pertaining to their preservation. Ms. Carter confirmed that the PC included a condition that the applicant shall preserve the existing historic farmhouse known as the Stokes Farmhouse and the Miles House as residential dwellings or some adaptive reuse approved by the Township in consultation with the Historical Commission. Mr. Gill asked Ms. Boulos to confirm that these resources are designated by the Township, which she did. Ms. Boulos wanted to know whether revised materials show demolition of the historic resources. Ms. Carter explained that the site plan provided at the conditional use hearing proposed demolition of both the Stokes and Miles houses.

Ms. Carter noted she received communication from Mr. Federico where he wanted PC to be aware that his traffic review letter has not been addressed. Mr. Gill confirmed that one of the PC's recommended conditions is to require the applicant to comply with Mr. Federico's review letter.

Mr. Frisco referred to the PC's condition to require the applicant to provide immediate notification to the Township and the emergency responders if any damage to the pipelines occurs, and asked what kind of penalty or actions can be taken if they will not do so. Mr. Gill explained that if the BOS approved this as a condition of approval, these conditions will be enforced as per zoning ordinance enforcement procedures in addition to any enforcement actions of the land development agreement. Ms. Carter added that a stop work order will be issued, and the applicant cannot commence any work until the situation is remediated. Mr. Frisco suggested to require the applicant notify the Chester County Emergency Services.

Mr. Gill suggested a motion to authorize Mr. Gill to revise the PC recommendations as discussed at the meeting and to issue the letter to the BOS at the hearing and a motion to authorize Buckley Brion McGuire & Morris LLP to engage with, in consultation with the Township staff, experts that they think would be appropriate to support the PC's case to the BOS. Mr. Hatton invited public comment.

Mr. Pingar asked whether the Township completed an environmental assessment on the Oakbourne Park improvement project and argued it was unfair to require the developer to do so if the Township did not do it for public land. He further cited the subdivision and land development ordinance pertaining to the length of cul-de-sac and asked whether the Township engineer raised a concern with its proposed length that he believed did not meet that requirement. Mr. Gill confirmed it was included in the engineer's review letter and recapped the applicant's response who disagreed with the engineer's interpretation. Mr. Pingar felt that it was a great public safety concern. He requested the PC consider amending its recommendations to include denial on the basis of a failure to comply with the subdivision ordinance. Mr. Gill asked the PC to confirm if they would like to add the reference to the specific ordinance section on cul-de-sacs as an independent basis for denial. Mr. Lees asked whether it would come up during the land development process. Mr. Pingar expressed his

concern that at that time it would be too late. The PC agreed.

Kathy Adams-House, 1012 Russell Lane, raised concern with the length of cul-de-sac and emergency access and asked whether any sidewalks are proposed for students to use to get to school. Mr. Hatton believed that students are expected to be bused to school as they do now. Ms. Adams-House also was concerned with speeding and additional traffic on Shiloh Road.

Leverth Hans, 904 Shiloh Hill Drive, recapped materials he provided to the PC, including a sample of pipeline ordinance developed by the Chester County Planning Commission and best practices for pipeline safety guidelines, including setbacks and signage. He recommended that the PC works on incorporating these requirements in the Code. The PC members agreed that this is something to explore in the future.

Mr. Flynn felt that changes to the PC recommendations are pretty substantial and suggested a follow up discussion at the next PC meeting, which will occur prior to the next conditional use hearing. PC agreed.

Mr. Embick made a motion to authorize Buckley Brion McGuire & Morris LLP to contact experts and discuss issues related to testimony and to present it at the conditional use hearing for Fox Clearing, subject to discussions with the Township staff about costs and any other considerations as appropriate. Mr. Lees seconded. All were in favor of the motion. (JE/JL) 5-0

New Business

1. ZHB Application – 1131 S Chester Road

Charles Proctor, legal counsel on behalf of the applicant, summarized the application for major home occupation for a sole practitioner's medical office at the property located at the intersection of two arterial streets. He described the property as an older home that has been used as a photography studio and residence since the time it was purchased by the previous property owner in 1983. Mr. Proctor explained that the previous owners applied for special exception for major home occupation which was granted by the Zoning Hearing Board at that time, and used the lower level of the home as a photography studio, while renting out the upper level. He noted the applicants would continue a similar use of the property, except that they will be living upstairs while utilizing the lower level as medical office with no employees. Mr. Proctor explained that the applicant will see one patient at one time in that office with 7 to 9 people per day. He believed that the proposed use will not create an additional traffic burden on the property, there will be no need for additional parking, no delivery trucks for medical purposes, no surgeries or onsite medical procedures, except for examining the clients and some cosmetic and Botox type injections. He also noted that no alterations to the house are proposed at this time except minor cosmetic changes, including painting and landscaping.

Mr. Lees asked to verify whether the property served by public or on-lot sewage system. Mr. Proctor confirmed the property was on on-lot sewage system and private wall. Mr. Frisco asked about the location of properties whose owners provided support letters for this application. Mr. Proctor responded that they were within the vicinity. Mr. Lees asked about the existing parking situation at the property. Ms. Proctor noted that parking area can accommodate 6 to 8 cars, but there are no plans to use this capacity.

Mr. Flynn made a motion to recommend approval of the ZHB application for a major home occupation for a sole practitioner's medical office at 1131 S Chester Road. Mr. Knaub seconded. All were in favor of the motion. (KF/BK) 5-0

Public Comment

None

Reports

1. Mr. Embick gave the BOS report from the August 21 meeting.
2. Mr. Hatton provided the EAC report from the July 25, 2023 and August 22, 2023 meetings.

Adjournment (RH/JL) 5-0

The meeting was adjourned at 9:25 PM.

Respectfully submitted,
Mila Carter
Planning Commission Secretary

DRAFT