

# MINUTES

## Franklin Township Planning Commission

June 19, 2019

### In attendance:

Dennis Robinson, Pat Schindel, Gary Deardorff, Bicky Redman, JR Crushong, James McDannell & Mary Lower  
Also present: Dominic Picarelli from KPI Technology Inc.

The meeting was called to order by Dennis Robinson at 7 pm.

### Approval of May 2019 Planning Commission Minutes

**MOTION** by McDannell, seconded by Redman to approve the May minutes. Motion carried.

### Plans:

#### Darren and Meagen Hartzell – (Preliminary/Final) - Church Rd. – Residential Zone

Subdivision of an 8.695 +/- acre parcel of land into two lots (Lot 5, 1.494 +/- acres & Lot 1, 3.259 +/- acres) and two lot additions (Parcel A, 2.938 +/- acres added to the Sanborn property and Parcel B, 1.004 +/- acres added to the Topper property).

We read Adams County comments dated

Dominic read an email dated 6/18/19 from our solicitor Bernard Yannetti to further clarify the situation regarding the zoning change and note on the plan. Excerpts are the following, *"What I do believe, and it is my strong opinion, is that if subdivision is permitted then it would be in accordance with the amended zoning ordinance that is currently in place today. Where there can be some disagreement is in regard to the note acting as a deed restriction. Any condition placed on a subdivision plan by a municipality is not a statute or an ordinance and it cannot provide a basis for rejecting a subsequent subdivision application. However, when the original subdivision plan was negotiated, that condition and restrictive covenant was placed on the plan and, in my opinion, can be equitably enforced by the Township and other lot owners from the 2005 subdivision, I believe their concurrence would reflect that the restriction can be waived and that further subdivision can take place. I believe that Mr. Hartzell and his counsel are attempting to obtain the approval of the other original lot owners; therefore, I would indicate if that approval is unanimous that Mr. Hartzell should be allowed to subdivide the property in accordance with the current zoning ordinance.*

We discussed this issue once again and a number of the planning members still have a concern about the original intention of the note that was to preserve the land against further development. They are concerned that allowing the restriction to be waived will have possible implications for other such restricted properties in the future. Hartzell has submitted a revised plan but our engineer has not reviewed it because he was waiting for the solicitor's opinion on this matter. The plan needs to be acted upon tonight, unless the planning commission considers going ahead and granting an extension, which will be needed. The Hartzells need additional time to ask the original lot owners (per township solicitor) to determine if they have unanimous approval to further subdivide. Their engineer would have to submit a formal extension letter to allow, but again, the Planning commission could take action tonight to approve an extension.

**MOTION** by Schindel, seconded by Crushong to recommend the Supervisors grant the extension to give the Hartzells more time to consult with the original lot owners and for KPI Technology to review the revised plan. The motion failed with 4 votes against, 2 votes in favor and Robinson abstaining.

**MOTION** by Redman, seconded by Deardorff to recommend denial of the plan based on the fact that KPI Technology has not reviewed the revised plan, but more importantly to honor the note that was placed on the prior plan regarding no further development for this plan or for any other plan that may come into the township under similar circumstances. The motion carried with 5 votes in favor, 1 vote against and Robinson abstaining.

**Kenneth & Marilyn Ketterman** – Preliminary/Final Subdivision – Cashtown Road – Ag Zone

The subdivision is for 13.119 +/- acres from an existing 84.24 +/- acre lot to be conveyed to an adjoining lot owner, Todd Ketterman. We reviewed KPI Technology's comments dated 6/14/19 and Adams County comments dated 5/17/19. Issues are the following:

- An owner's acknowledgment needs to be executed.
- The bearing and distances for the boundary lines for Lot 1 should be shown on the plan. The developer is requesting a modification of this requirement.
- A Wetland Delineation and Report is required for Lot 1, the developer is requesting a waiver of this requirement.
- The proposed lot arrangement gives us significant concerns. The proposal, as submitted, would result in the remainder parcel (Lot 1) having two portions which would be separated by the intervening and enlarged Todd Ketterman lot. It is our understanding, through discussion with staff of the Adams County Tax Services Office, that this arrangement, if approved, will result in the County assigning different parcel numbers for each of the two parts of the Lot 1. Essentially, from a tax assessment point of view, the two parts will be separate lots, have their own tax parcel numbers, and be assessed and taxed separately. Thus, for all intents and purposes, the two parts will become separate parcels. In essence, Lot 1 should be subdivided into Lot 1 and Lot 2, with each lot meeting the applicable requirements of the Township's ordinances. Alternatively, the lot addition plan could be revised to retain a physical connection between the two parts of Lot 1.

We should consult with our solicitor to see if we have two or three lots or whether the lot lines should be revised for the lot addition.

**MOTION** by Deardorff, seconded by Redman to recommend granting conditional approval pending the Solicitor's decision regarding the lot arrangement and based on KPI Technology's last letter dated 6/14/19. Motion carried.

**Twin Springs Fruit Farm Revised Landscape Plan**

Screening plantings were changed for one portion of the boundary along the Stambaugh property line, per the request of the Stambaughs to Twin Springs. The main change is removal of the white pine trees (meeting the Township's requirements) and replacing with crabapple trees (not meeting the Township's requirements). We need a recommendation from either the Zoning Hearing Board's solicitor or from the township's zoning officer to consider this change.

. We've received no Adams County comments. We reviewed KPI Technology's comments dated 6/14/19.

**MOTION** by Redman, seconded by McDannell to recommend tabling the plan. Motion carried.

**Old Business:**

**Alan Mahone** – Sewage Facilities Planning Module – 3465 Old Route 30 – Residential zone

The sewage planning module is for a single family residential land development on 6.18 +/- acres. A privately owned small flow treatment facility with stream discharge (Clear Creek) is proposed and consists of a dual chambered septic tank, Ax20RTUV with a UV disinfection unit. The plan proposes the construction of a 3-bedroom single family home and the removal of two (out of four) existing mobile homes. We reviewed KPI Technology's comments dated 6/18/19. One issue is: Mr. Mahone's engineer didn't print the revised plan correctly and it's missing some technical information. The main concerns are the following:

- Some form of documentation should be provided to ensure that the proposed system will be able to meet effluent criteria. This should, at a minimum, include the following:
  - Specifications for each unit of the system.
  - A hydraulic profile of the system.
  - Final discharge quality calculations
- The social and economic justification should be discussed. Mr. Mahone pointed out that this is already included in the materials he provided.
- The PA Historical and Museum Commission (PHMC) response has not been provided. Mr. Mahone said he has the response and will provide a copy.
- We understand that the new dwelling and 1 existing mobile home were to be connected to the proposed treatment facility; however, this is not clear from the provided narrative and other

module materials. The deed for the separate 0.51 acre lot with the existing mobile home should also be provided.

- We note that the previously shown SFTF tanks and discharge point were not shown on this submission. Also the module should contain a revision date.
- Correspondence indicates that a wetland study was performed by Environmental Design Inc. The study should be provided and reference to the study made on the plan.

Dominic has reviewed the revised plan and considers it still incomplete.

**New Business:**

**Jeffrey D. Richards** – Application for Special Exception Hearing – 2370 Chambersburg Rd.

Commercial roofing company expansion of existing non-conforming impervious coverage.

The impervious coverage that he is requesting has already been done by Mr. Richards.

**MOTION** by Schindel, seconded by Deardorff to recommend the Zoning Hearing Board deny the special exception due to the numerous issues that may need to be addressed on this property before they could make any kind of determination. Motion carried.

Meeting adjourned at 8:50 PM.

Respectfully submitted,  
Mary Lower  
Planning Commission Secretary