

TOWNSHIP OF SOUTH WHITEHALL
LEHIGH COUNTY, PENNSYLVANIA
PLANNING COMMISSION

REGULAR SESSION

MINUTES

MARCH 18, 2021

The Regular Session of the South Whitehall Township Planning Commission was held on the above date in a virtual meeting held on GoToMeeting.com.

Members in attendance:

William H. MacNair, Chairman
Brian Hite, Vice-Chairman
Alan Tope, Secretary
Diane E. Kelly
Matthew Mulqueen
David Wilson

Staff members in attendance:

Gregg Adams, Planner
Laura Harrier, Zoning Officer
David Manhardt, Director of Community Development
Anthony Tallarida, Assistant Township Engineer
Jennifer Alderfer, Assistant Township Solicitor

AGENDA ITEM #1 – CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chairman MacNair called the meeting to order at 7:30 p.m. He announced that all meetings are electronically monitored. He then led the assembled in the Pledge of Allegiance.

AGENDA ITEM #2 – APPROVAL OF MINUTES

Chairman MacNair announced that the minutes of the February 18, 2021 meeting were distributed prior to this evening's meeting for review and comment. Chairman MacNair asked the members if they had any changes to the minutes. Mr. Tope pointed out three typographical errors on pages 3, 4 and 6. Mr. Tope made a motion to approve the minutes as submitted. Mrs. Kelly seconded the motion and it passed unanimously, 6-0.

AGENDA ITEM #3 – BOARD OPENINGS/COMP PLAN UPDATE SUMMARY

Chairman MacNair stated that interviews to fill the vacant Planning Commission position were completed and the name of the recommended individual would be forwarded to the Board of Commissioners by April 7th.

Mr. Manhardt stated that the Comprehensive Plan Phase IV Kick-Off meeting would be held on March 31st between 6 and 8 p.m.. He stated that it would be an introduction to the Working Groups and the opening of the volunteer sign-up.

AGENDA ITEM #4 – SUBDIVISION REVIEW

**A. MOTOR VEHICLE SERVICE FACILITY TEXT AMENDMENT
ZONING ORDINANCE AMENDMENT 2020-503
REQUEST FOR ZONING ORDINANCE AMENDMENT REVIEW**

Chairman MacNair polled the audience for interested parties other than the developer regarding the application to amend the Zoning Ordinance to permit one Motor Vehicle Service Facility within 1,500 feet of another. There was no response.

At the request of Chairman MacNair, Mr. Adams read the Community Development Department’s memorandum into the record.

Attorney Erich Schock, Engineer Jeff Beavan and Mr. Mike Spiegel were present to present the amendment and answer questions. Attorney Schock started by agreeing with the Township Engineer that the method of measurement between Uses should be retained. He suggested that a period be inserted after the words “Public Use”. He stated that he believed that the genesis of the original Ordinance was with the Petroleum Act in the 1960’s. He noted that there was a concern at the time regarding the safety of gas stations that no longer exists. He noted that there are no Federal or State regulations mandating a separation of such facilities. He stated that he is not aware of any safety concerns with the operation of gas stations today and noted that there are gas stations within the Township that are currently less than 1,500 feet from another gas station. He also noted that the separation distance is not a traffic issue, as there are no separation requirements for other large traffic generators.

Mr. Wilson inquired as to whether there were any air emission requirements for gas stations.

Mr. Spiegel stated that the current gas pumps generate little in the way of emissions.

Mr. Wilson inquired as to whether there would be requirements to reduce emissions if there are elevated emissions already in the area.

Mr. Spiegel stated that all apparatus now includes safety measures to prevent liquid or gaseous emissions and monitoring to alert the operator if additional emissions occur. He noted that he could bring in additional options.

Mr. Hite suggested that the reference to sales to the general public should be retained.

Attorney Schock agreed.

Mrs. Kelly suggested that the 1,500-foot separation may not have been intended for safety concerns, rather as a design standard for the Township. She inquired as to why the applicant had not considered obtaining a variance.

Attorney Schock noted that the applicant would still require a Special Exception review and approval. He stated that the appropriate relief is through a text amendment, as experience shows that the Zoning Hearing Board would likely determine that the request constitutes a legislative decision. He noted that the issue is not simply one of two gas stations on opposite corners of an intersection.

Mrs. Kelly noted that the existing Motor Vehicle Service Facility on the corner of Pope Road and PA Route 309 received a variance.

Attorney Schock acknowledged the fact but opined that the text amendment was the appropriate path to approval.

Mr. Wilson opined that the amendment would be appropriate if the second Motor Vehicle Service Facility were on the opposite side of the road.

Mrs. Kelly agreed, but noted that the Sunoco was on the same side of the road at Lime Kiln Road.

Mr. Adams suggested that the Facility be on the opposite side of the higher classification road.

Mr. Mulqueen stated his preference to look Township-wide before looking at any particular site.

Mr. Adams referred to page 17 of the packet showing the applicant's map of the Township showing all of the Motor Vehicle Service Facilities and their distances from other Facilities.

Mr. Wilson opined that a limit of 2 Facilities with 1,500 feet is reasonable.

Mr. Hite stated that the Facility shown on the applicant's exhibit as located at 15th Street is actually within the City of Allentown.

Mr. Adams noted that the setback is not applicable to Facilities outside of the Township.

Mr. Wilson reiterated his preference to limit the Facilities to two within 1,500 feet.

Mr. Manhardt stated his preference for the requirement to be on the opposite side of the higher classification road.

Mr. Hite made a motion to recommend approval of the proposed amendment to the Board of Commissioners, conditioned upon the revisions to the language of the proposed amendment discussed at the meeting being satisfactory to the Community Development Department.

Mr. Wilson seconded and the motion passed 5-1, with Mrs. Kelly dissenting.

Mr. Tallarida stated that he didn't have the Potential ROW plan handy. He stated that if the applicant were to generate a proposal he would review it. He stated that there many options available to improve the intersection.

Mr. Wilson opined that the applicant should coordinate more with the Township. He inquired as to whether the applicant had seen the Potential ROW plan.

Mr. Molchany stated that he had discussed the Potential ROW plan.

Mr. Wilson stated his preference for a roundabout. He also stated his preference to move the right-in/right-out driveway to an existing driveway on the adjoining Cedarview property through internal driveways.

Chairman MacNair opined that either option would be agreeable.

Mr. Hite agreed, noting that staff is aware of the Planning Commission's preferences.

Mrs. Kelly noted a significant increase of traffic along the Cedarbrook Road corridor and the challenging intersection at the Cedarbrook entrance.

Engineer Whalen stated that he was unsure of where the LVPC traffic numbers came from, as there are no new residents of employees.

Mrs. Kelly opined that the Township Engineer should get involved in the safety issue at that intersection.

Mr. Molchany stated that the current emphasis at the Cedarbrook Facility is on maintaining the current population. He stated that Phase I is proposed to create the new wing and close B and C Wings. He stated that Phase II proposes to renovate D Wing. He stated that the Facility will have fewer beds in the future and would concentrate on investing in staff, training and storage.

Mr. Mulqueen stated his agreement to the consensus to optimize safety at the intersection.

Chairman MacNair inquired as to whether PennDOT is involved.

Mr. Tallarida stated that the work proposed at the driveway does not require an HOP.

Engineer Whalen stated that a roundabout would likely require an HOP and that reducing the number of legs to three would be the best option. He stated that the right-in/right-out driveway would still be necessary.

Mr. Wilson inquired as to whether it would be possible to move the driveway further from the intersection.

Engineer Whalen opined that it could be angled more to gain additional distance.

Mr. Molchany inquired as to a possible Township contribution to a roundabout.

Mr. Mulqueen stated that a roundabout should be examined in detail.

Mr. Molchany inquired as to who would be responsible for the engineering costs of a roundabout.

Solicitor Alderfer suggested that the waiver of the driveway offset was on the table but not acceptable with the current design. She stated that it is up to the applicant to submit an acceptable design.

Mr. Molchany pointed out that there is no legal reason to change the design, other than the driveway offset. He stated that he can propose a safer design for the intersection.

Mr. Wilson opined that if the intersection is improved the right-in/right-out driveway issue may also be improved.

Mr. Molchany stated his appreciation for the input and stated that he may be able to provide improvements acceptable to the Planning Commission.

Mrs. Kelly asked for clarification with regard to the waiver request for the driveway offset.

Engineer Whalen stated that the waiver request is only for the required offset of the right-in/right-out driveway from the Dorney Park Road/Cedarbrook Road intersection.

Mr. Molchany stated that his team will work on the issue and is committed to calming the traffic at the intersection and increasing the sight distance at the right-in/right-out driveway. He noted that the design must consider the basin design with regard to the NPDES permit application.

Chairman MacNair inquired as to the proposed frontage improvements.

Mr. Tallarida stated that SALDO requires full frontage improvements and the County has long frontages on both side of the roads. He stated that the applicant should decide on whether to request waivers or deferrals.

Engineer Whalen stated that the Community Development review stated that deferrals of ROW improvements would no longer generally be accepted.

Mr. Adams confirmed the statement.

Mr. Molchany stated that his team is looking at the engineering for curbing and sidewalk along the west side of Dorney Park Road. He stated that the extent of the improvements is being discussed.

Engineer Whalen stated that the property includes Cedarview but no improvements are proposed east of Cedarbrook.

Mr. Adams reviewed his review letter with regard to ROW improvements and stated that the applicant could begin a discussion with regard to phasing of ROW improvements for current and future projects.

Mr. Molchany agreed.

Mr. Lee Solt of 3731 Manchester Road inquired as to Mr. Tope's opinion on the matter.

Mr. Tope stated that there has been a good discussion with regard to the need for improvements and at least two options are available. He stated that he will leave the details to the Township Engineer and staff. He inquired as to the Waiver from the Tome Limitation to Review the Plan.

Mr. Adams stated that it appears that a Waiver will be needed as there seems to be little likelihood that a favorable recommendation will be secured this evening.

Mr. Molchany stated that he would grant the waiver and inquired as to where there would be another fee.

Mr. Adams stated that there would be but that the applicant could approach the Township Manager and request a reduction or elimination of the resubmission fee.

Mr. Molchany stated that he had no problems playing by the rules.

Mr. Solt inquired as to why the Cedarview Village exits could not be utilized and the right-in/right-out driveway eliminated.

Mr. Molchany stated that there is a significant slope between the properties but that his team will examine the possibility. He also stated that he has found no history with regard to the site subdivision and that the Solicitor's suggestion makes sense.

Solicitor Alderfer stated that the plan shows a lot line that separates two parcels with the same PIN. She did not know why the line was there and inquired as to whether it was the County's assessment to file a consolidation deed.

Mr. Tallarida stated that he did not believe that it would matter, as there are no bulk criteria issues with either lot.

Mr. Molchany stated that his team must look at the NPDES permit and could clean up the lot line issue with this project. He noted that the issue may not be cleaned up if it would cause a resubmission of the NPDES permit application. He stated that he wants to clean up the undocumented issues related to the property and will create supporting documentation as much as possible.

Mr. Tope made a motion to take the plan under advisement to afford the developer the time necessary to address the reviewing agencies' comments, contingent upon the applicant granting the Township a waiver to the timeframe in which to act upon the plan.

Mr. Molchany stated that he would grant the waiver.

Mrs. Kelly seconded and the motion passed unanimously. 6-0.

AGENDA ITEM #5 – DRAFT ORDINANCE AMENDMENTS

Mr. Adams reviewed a draft Ordinance amendment that proposed amending the No-Impact Home-Based Business Section of the Zoning Ordinance to allow a small expansion of Service Business-type Home-Based Businesses by right and allow a single employee onsite with Special Exception review and approval.

Mr. Manhardt stated that this was an effort to allow small home-based businesses to have limited numbers of customers onsite, similar to those permitted by music teachers. He provided the example of a one-chair hairdresser with customers by appointment only.

Mr. Wilson noted that some home-based businesses have issues with parking.

Mr. Mulqueen opined that he is not in favor of sweeping changes to Zoning ordinance.

Mr. Adams pointed out that the No-Impact Home-Based Business provisions already permit similar businesses.

Mr. Manhardt pointed out that the COVID pandemic created some home-based business practices that will remain commonplace.

Mr. Harrier stated that other Township make home-based businesses Special Exception reviews to allow the Zoning Hearing Board to review each project in context with the neighborhood and add additional conditions as needed. She suggested that this is an opportunity to allow the Zoning Hearing Board to impose limits on each home-based business.

Mrs. Kelly inquired as to how many requests the Township has received for such businesses.

Mr. Harrier stated thirty or more since 2020.

Mrs. Kelly inquired as to why the matter had not been addressed in 2009 rather than now in 2021.

Mrs. Adams stated that the Zoning ordinance amendments stemming from the 2009 Comprehensive plan addressed consistency with the new Comprehensive Plan, repairs to the outdated sections of the Zoning Ordinance and improvements that were suggested by staff. He stated that, compared with the many other issues, this particular issue simply hadn't garnered enough attention at that point in time to push an amendment forward.

Mr. Mulqueen stated his preference for Zoning Hearing Board review.

Mr. Hite noted that a Zoning Hearing Board review allows the Township to put the property on notice for businesses and to provide public notice to the neighborhood.

Mr. Manhardt inquired as to whether there is any threshold for by-right approvals.

Mr. Mulqueen noted that some places can allow additional parking and some cannot. He inquired as to residential rental units.

Mr. Adams stated that the Township does not differentiate between owner-occupied homes and rental units.

Ms. Harrier noted that Special Exception approval allows a resident a fair public hearing.

Mr. Manhardt stated that the parking could be required to be onsite.

Mrs. Kelly noted that the existing No-Impact Home-Based Business regulations require a \$50 Zoning Permit.

Mr. Harrier noted that the \$50 fee applies to the Zoning application. She stated that, under the new rules, if the permit is denied a residential Zoning Appeal application would cost \$250. She noted that the property owner may do their due diligence and go directly to the Zoning Hearing Board without submitting a Zoning permit application. She noted that the \$250 fee is minimal compared to surrounding municipalities and reflects a subsidy for residents over businesses.

Mr. Manhardt stated that he is looking for a minimum threshold for a by-right approval, with regard to such attributes as single family dwellings, driveway and onsite parking, one-on-one services, etc.

Mr. Hite opined that there should be no overlap of clients.

Mrs. Kelly stated her preference for a minimum expense for minor-impact businesses and for no customer visibility.

Mr. Manhardt stated that finding the balance is the trick.

Mr. MacNair inquired as to whether a single engineer, working from home and visiting clients off-site, is currently illegal.

Mr. Adams opined that it is not, provided that the engineer applies for a Zoning permit and a Business Privilege License.

Ms. Harrier stated that it would be legal if he has no customers visiting the dwelling.

Mr. Manhardt inquired as to a minimum threshold for Special Exception review or would the Planning Commission prefer that all home-based businesses be Special Exception reviews.

Mr. Hite suggested that staff present both options.

Mr. Manhardt stated that staff could do that and the Planning Commission could review them and tweak them as necessary.

Mr. Lee Solt of 3731 Manchester Road inquired as to whether the home-based businesses would be required to give public notice.

Ms. Harrier stated that they would, if a Special Exception review were required.

Mr. Manhardt noted that staff is reviewing Public Notice options as directed by the Board of Commissioners.

Mr. Tope suggested including the potential costs.

Mr. Manhardt stated that staff is reviewing increasing the advertising radius based on either the size of the property under application or the Uses proposed.

AGENDA ITEM #6 – PLANNING COMMISSION ANNUAL REPORT

Mr. Adams reviewed the draft Annual Report for the year 2020. He requested that the Planning Commission members submit suggestions for their 2021 Goals.

Mr. MacNair suggested the Completion of the Comprehensive Plan, the start of the Zoning ordinance review, at start of the Official Map review, updating the Sidewalk Inventory and more education.

Mrs. Kelly suggested that the late submission of critical portions of the Planning Commission packet be addressed.

Mr. Manhardt noted that the sidewalk inventory of the whole Lehigh Valley was done by the LVPC, but it was based on centerlines of roads. South Whitehall's inventory identifies the side of the road and includes a list of deferrals by Resolution. He inquired as to whether the Planning Commission was interested in sharing the data or making it available to the public.

Mr. Hite inquired as to when it was last updated.

Mr. Manhardt stated that if approved by the Board of Commissioners, it could be updated when built into the website.

Mr. Wilson opined that ArcGIS would be needed.

Mr. Manhardt stated that the Township uses ArcGIS online and free web viewers are available.

Mr. Hite made a motion to present the 2020 Annual Report to the Board of Commissioners.

Mrs. Kelly seconded and the motion passed unanimously, 6-0.

AGENDA ITEM #7 – TRANSPORTATION INFRASTRUCTURE UPDATE

Mr. Tallarida reported that a Pre-Application meeting for the PA Route 309/Tilghman Street interchange Project at the LCCD was scheduled for next week..

Mr. Hite reported that PennDOT 2023 comment period is now open until April 14th and that he would send out the link to all Planning Commission members and staff.

AGENDA ITEM #8 – COMPREHENSIVE PLAN UPDATE

Mr. Manhardt stated that the meeting is shaping up to be a good one.

Mr. Wilson inquired as to the Working Group sign-up.

Mr. Manhardt stated that the sign-up will be available online after the meeting.

AGENDA ITEM #9 – COURTESY OF THE FLOOR

Mr. Hite presented information on the Airport Hazard Zoning Law. He noted that it is referenced in Zoning ordinance Section 350-42(h)(3) but should be updated.

Mr. Manhardt stated that staff could do some 3D GIS analysis to support the Zoning ordinance.

Mr. Wilson inquired as to High-Cube Warehouses.

Ms. Kelly opined that High-Cube Warehouses should be reviewed sooner rather than later.

AGENDA ITEM #10 – ADJOURNMENT

Chairman MacNair requested a motion to adjourn at 10:48 p.m. Mrs. Kelly made the motion, Mr. Wilson seconded the motion and it passed unanimously.

ADOPTED THIS DATE: May 20, 2021

ATTEST:

Secretary

Chairman