

East Whiteland Township

Planning Commission
Wednesday – May 22, 2019

Minutes

Members Present: Deb Abel, Chair; Jeff Broadbelt, Vice Chair; Dante Bradley; Peter Fixler; Tim Kelly; John Laumer; and Todd Asousa.

Staff & Consultants Present: Zachary Barner, Director Planning & Development; Brittany Bulger, Planning Coordinator; Joe McGrory, Township Solicitor; and Darrell Becker, Township Engineer.

Call to Order:

Ms. Abel called the meeting to order at 7:03 p.m. and led the pledge of allegiance.

Minutes:

Approval of the April 24, 2019 meeting minutes.

Action: Mr. Broadbelt made a motion, seconded by Mr. Fixler, to approve the minutes as drafted. The motion carried unanimously **(7-0)**

1. [2019-10-CU for “400 Three Tun Road”](#) (DeMarco Real Estate Holding, LLC) – Conditional Use application pursuant to §200-57.f.(3) and §200-57.f.(4) to allow stormwater management facilities, roads, and parking lots within areas of steep and very steep slopes. This proposal is associated Subdivision application 2019-09-SD as well as a pending Land Development application to construct a new flex / warehouse building. The property, located at 400 Three Tun Road, is within the I (Industrial District).

Charlie Gerbron, attorney for the Applicant, introduced the project engineer, Chris Daily, and the Owner/Applicant, Steve DeMarco. Mr. Gerbron presented the application explaining that the Applicant received a variance from the Zoning Hearing Board for an encroachment into the perimeter yard setback due to the odd shape of the lot. The Applicant is currently seeking a recommendation to the Board of Supervisors with respect to the Conditional Use application for disturbance of steep and very steep slopes.

Mr. Fixler asked the Applicant’s engineer how many trees would be removed as a result of the grading and construction. Mr. Daily stated that a tree survey had not yet been completed but that Staff and the Township Engineer had suggested building a retaining wall to minimize the disturbance of the (natural) steep slopes, which would also reduce the number of trees that would be removed.

Mr. Becker and Mr. Daily discussed retaining wall heights (vertically) with respect to how much land would be disturbed (horizontally) in order to construct the wall.

Mr. McGrory suggested that the Mr. Daily meet with Mr. Becker to discuss the retaining wall prior to the Conditional Use hearing so that the specific impacts and mitigation measures could be understood by the Board as part of their consideration.

Mr. Laumer asked where the applicant was proposing a drainage system. Mr. Becker and Mr. Daly explained that there is an underground drainage system that includes 3 filtration beds throughout the site. Mr. Daly acknowledged that a NPEDS permit will be needed.

Mr. Broadbelt asked if the applicant would need to address tree replacement during Land Development. Mr. Barner advised that tree replacement would be one of many aspects code compliance the Applicant would need to demonstrate during Land Development. What makes this application somewhat unique is that the Conditional Use approval is related to a technical site design issue, as opposed to a specific use of a property.

Mrs. Abel asked the Applicant if he had a tenant for the space. Mr. Demarco explained that he does not yet have a specific tenant. Mr. Becker asked the applicant to explain how the lower level would be utilized, specifically whether it would be used for habitable space vs. storage space. Mr. Daily advised that the basement access was included primarily because the grades allowed it but that a specific use hadn't been determined. He suggested that the plan could be modified if the use of that space would require additional parking.

Mr. Asousa stated he was not necessarily opposed to the request for disturbance of steep slopes but would like to understand the exact disturbance created by the grading and/or the retaining wall.

Action: Mr. Bradley made a motion, seconded by Mr. Broadbelt, to recommend Conditional Use approval to the board of Supervisors subject to approval of township engineer and completion of a tree survey. The motion carried **(5-2)** with Mr. Asousa and Mr. Fixler opposed, preferring that the Applicant return to the Planning Commission once the retaining wall had been designed.

Zoning Hearing Board Applications:

2. [2019-08-ZHB for "32 Bacton Hill Road"](#) (Bacton Hill Partners, LLC) – Sketch Plan application pursuant to §200-115.D(5), which states that the Planning Commission shall review all Zoning Hearing Board applications which are "...required in conjunction with applications for land development..." The Applicant seeks various forms of approval from the Zoning Hearing Board:
 - **Special Exception** pursuant to §200-41 to permit the property to be used as a contracting business and private fueling station
 - **Special Exception** pursuant to §200-93.2. E. to permit outdoor storage of vehicles, equipment and materials
 - **Variance** from §200-42 to permit encroachment of 5 feet into the required 20-foot setback

Gina Gerber, attorney for the Applicant, explained that the request for special exception is to permit the proposed use as an asphalt and paving business, which will be an expansion of the Applicant's business, currently located further down Bacton Hill Road. The use is consistent with surrounding properties and other uses permitted within the Industrial district. A special exception will also be needed for parking and storage of vehicles associated with the commercial operation. The Applicant would have diesel fuel tanks on the lot and store between 15 to 20 vehicles. Mrs. Gerber added the applicant will need a variance to permit a 5' encroachment into the setback. This needed in order to modify the driveway and enable wider access to the rear parking, fueling, and loading areas. This driveway will be 26-foot-wide to allow easy access for trucks.

Mrs. Gerber stated that the Applicant spoke to the neighbor, who had no objection to the proposed development.

Mrs. Abel added that the proposed use is exactly where it should be within the Township.

Action: Mr. Asousa made a motion, seconded by Mr. Fixler, to recommend approval Zoning Hearing Board. The motion carried unanimously **(7-0)**.

Ordinance Amendments:

3. The following [Zoning Ordinance Amendments](#) are proposed for review and recommendation by the Planning Commission in advance of a hearing with the Board of Supervisors. The hearing has been (*tentatively*) scheduled for the Board’s regularly scheduled meeting on **June 12, 2019**:

- a. New Definitions of Brewpub & Brewery – add Brewpub (not Brewery) as a permitted use in the FC District

Mr. Broadbelt questioned what the new definition of “restaurant” would mean for catering facilities. Mr. Barner advised that it would not preclude catering operations, which would already be permitted, but that it does help to distinguish between lunch trucks and other “in-between” uses. McGrory added that an additional definition for catering could be added later for catering. Mr. Barner agreed and stated that he would review the code for other potential conflicts, including those for home-based businesses that prepare food.

Action: Mr. Broadbelt made a motion, seconded by Mr. Laumer, to recommend approval of the proposed ordinance to the Board of Supervisors. The motion carried unanimously **(7-0)**.

- b. New Definition of Medical Office and Medical Related Uses – add as a permitted use in the FC District.

Mr. Barner explained that the intent of this amendment is to clarify existing uses permitted in the Township and to acknowledge some of the newer medical uses that have become increasingly popular in recent years – including specialized treatments, outpatient surgery, urgent care, and diagnostic facilities. Mr. Barner advised that he had received comments on the proposed draft and would request that the Planning Commission table this item until the comments can be reviewed in more detail.

No action was taken on this proposed ordinance amendment.

- c. Updated Definition of Assisted Living Facility – add as a permitted use in the FC District.

Mr. Barner explained to the Planning Commission that the current definitions provided in the zoning ordinance have become somewhat outdated and do not reflect the recent changes in the “senior living” industry.

Mr. Bradley asked if this ordinance would exclude assistant living facility as a use in other zoning districts. Mr. Barner responded that the use is currently permitted along with “nursing homes” and “continuing care retirement community,” in the Institution district (which permits a range of broadly defined uses) but that this ordinance would only allow “assisted living” facilities in a Frontage Commercial, not the other categories of senior living or institutional uses.

Mr. Broadbelt questioned the 3 acre minimum tract area, and asked whether 2 acres would be more appropriate. Mr. Barner advised that part of the intent was to limit such facilities to “medium-sized” properties (3 to 5 acres) and encourage parcel assemblage while not opening the door to massive, sprawling facilities. He also acknowledged that there seems to be a “sweet spot”

for these types of operations, where the size facility and scale of the operations have to match the needs of the residents.

Action: Mr. Bradley made a motion, seconded by Mr. Laumer, to recommend approval of the proposed ordinance to the Board of Supervisors. The motion carried unanimously **(7-0)**.

d. Updated Definition of Family, Group Home, and Housekeeping Unit

Mr. McGrory advised that the proposed ordinance was intended to bring the Township into alignment with Fair Housing Act.

Mr. Asousa asked whether it would affect apartment buildings with shared living facilities, which are becoming more popular. Mr. McGrory said it would not affect apartments with shared living areas.

Action: Mr. Fixler made a motion, seconded by Mr. Bradley, to recommend approval of the proposed ordinance to the Board of Supervisors. The motion carried unanimously **(7-0)**.

e. New Maximum Height of Signs in the FC (Frontage Commercial) District (currently unspecified)

Mr. McGrory explained that there are currently no specific height requirements for signage in the Frontage Commercial District, this new ordinance would add requirements.

Action: Mr. Laumer made a motion, seconded by Mr. Broadbelt, to recommend approval of the proposed ordinance to the Board of Supervisors. The motion carried unanimously **(7-0)**.

f. New Definition of In-Law Suite with Special Provisions and Performance Standards

Mr. Barner explained that the current ordinance does not specifically allow in-law suites or accessory dwelling units, even for family members. This ordinance would seek to allow such facilities but would add certain restrictions to prevent the units from being rented out as apartments to non-family members – including deed restrictions and interior access requirements.

Action: Mr. Bradley made a motion, seconded by Mr. Laumer, to recommend approval of the proposed ordinance to the Board of Supervisors. The motion carried unanimously **(7-0)**.

g. Accessory Uses in Residential Districts with Corresponding Guidelines and Setback Requirements

Mr. Broadbelt, asked how the size of a private garage would be measure relative to the primary structure – gross floor area or footprint. Mr. Barner advised that the intent was to correlate the footprint of the buildings, and that’s how it would be interpreted by the Zoning Officer, but agreed that it was not clear in the current version of the ordinance. Mr. Barner advised that he would revised the language to clarify.

No action was taken on this proposed ordinance amendment.

h. Footnote Clarification related to Drive-In Facilities in Mixed Use Districts

Mr. Barner explained that the added footnote would help to clarify some unclear language in the ordinance with respect to where certain drive-in facilities and non-drive-in facilities are permitted. He added that the current ordinance language is enforceable but should be outlined more clearly.

Action: Mr. Fixler made a motion, seconded by Mr. Bradley, to recommend approval of the proposed ordinance to the Board of Supervisors. The motion carried unanimously **(7-0)**.

i. Expiration of Zoning Hearing Board Decisions

Mr. Barner explained that, currently, Zoning Hearing Board decisions expire in six months unless the Board explicitly grants a longer period of time as part of the written decision. The new ordinance would extend that expiration period and require Zoning Hearing Board Applicants to file for building permits within one year, which is a more realistic timeline in the increasingly complicated development process. If the Applicant's project requires the applicant to file an application for subdivision or land development, they must do so within 2 years of receiving a variance or special exception. As it currently stands, Applicant's must return to the Zoning Hearing Board and request extensions.

Mr. McGrory stated he thought two years made sense and that most townships have begun revising these requirements. He also commented that Zoning Hearing Board decisions run with the land, not with the Applicant, and that the timelines are not connecting to the vesting period for land development approval – which creates challenges for both the Township and the Applicant.

Action: Mr. Asousa made a motion, seconded by Mr. Bradley, to recommend approval of the proposed ordinance to the Board of Supervisors. The motion carried unanimously **(7-0)**.

Other Business:

4. Chester County recently adopted an update to its Comprehensive Plan (known as "[Landscapes3](#)"). The purpose of the plan is to guide growth and preservation efforts throughout the County. The County Planning Commission has requested that the Township Planning Commission review and make a recommendation to the Board of Supervisors to *endorse* the Plan (via resolution).

Mr. Barner advised that the Landscapes3 document contains specific recommendations "Suburban" and "Suburban Center" landscapes – which apply to East Whiteland Township and other municipalities in its vicinity. Mr. Barner suggested that the Plan is generally consistent with the Township's own Comprehensive Plan.

Action: Mr. Fixler made a motion, seconded by Mr. Asousa, to recommend endorsement by the Board of Supervisors. The motion carried unanimously **(7-0)**.

5. The Township is in the process of applying for a series of grants to assist with the engineering and construction of the [Sidley Road - Chester Valley Trail Connection](#), as envisioned in the Township's Comprehensive Plan. The program guidelines for the DCED Greenways, Trails and Recreation Program (GTRP) require that a consistency letter from the Planning Commission be submitted along with grant application.

Public Comment:

Mr. Bradley made a comment that he believes the zoning density should be re-evaluated. He has spoken to residents who say the traffic is out of control and density in the township is becoming a problem. He suggested reviewing the ordinance provisions in the residential districts to determine whether there are ways to reduce the number of units permitted per acre.

Mr. Asousa commented that he believes this is a bad idea and will take away value from land owners.

Adjournment:

Mrs. Abel adjourned the meeting at 9:24 pm