

UPPER MAKEFIELD TWP. PLANNING COMMISSION
Tuesday, December 6, 2011 – 7:00 p.m. Meeting
Municipal Complex, 1076 Eagle Road.

Present: Walt Wydro, Chair; Greg Pitonak, Hank Lieberman, Kathleen Pisauro, Ken Rubin, Mary Eberle, Solicitor, Grim, Biehn & Thatcher, Dave Kuhns, Director, Planning & Zoning, Mary Ryan, Liaison, Larry Young, Township Engineer

I. PUBLIC COMMENT SESSION:

Mr. Lieberman, as a member of the public, commented on a recent visit to friends who live in the Traditions subdivision and noted that it was not handicapped accessible. He thought that this was wrong, Traditions being a 55 and older community. He further stated that he realizes that nothing can be done about Traditions now but thought that in the future, if another such community was being built, the Township should consider introducing legislation mandating these types of communities be handicapped accessible. Mr. Wydro explained that those laws are currently in effect so that, in the future, a new community would have to make public buildings handicapped accessible. This would only apply to public buildings such as a community center and not private residences.

Ms. Eberle explained that Pennsylvania is a “Dillon State” (generally, the Dillon Rule is regarding state preeminence over local government) and those regulations are therefore, incorporated into our regulations, not the zoning regulations, but the building regulations and the Township would be preempted from enacting regulations in the same class. However, private residences are still excluded.

Mr. Lieberman had a second comment regarding this year’s storms and the loss of power experienced by many residents. He asked if there was anything the Township could do to place pressure on PECO. He referenced the recent meeting held at the Township attended by PECO representatives and residents of Sycamore Farms. He stated that PECO basically told them to “go away”. Mr. Wydro interjected that he was not aware of the meeting but that most of the problems are occurring in the older developments as new ones have underground wiring, but the roads do not. In general he thought PECO was being pretty diligent and that this was an unusual year for tree falls. Ms. Eberle, having experience with this issue offered to speak to Mr. Lieberman further after the meeting. Mr. Lieberman stated that he has seen proposals in the city of Philadelphia for from 1 million to 5 million dollars per mile to run wires underground. He felt that running wires underground was the ultimate solution. Ms. Eberle noted that she has been asking PECO for years to allow the municipalities to compel the developers to put underground wiring along state highways to prevent the power outages and stated that PECO refuses to allow that. Finally, Mr. Wydro stated that underground plants are not fool proof because of the potential for flood damage.

II. APPROVAL OF MEETING MINUTES:

Mr. Rubin made a motion to approve the minutes of the April 27, 2011 meeting. Mr. Lieberman seconded the motion. All were in favor and the motion passed. Regarding the minutes from the meeting held on May 25, 2011, Mr. Rubin had specifically asked Mr. Zarko if any of the firm's options would involve the use of taxpayer monies. Mr. Rubin said that Mr. Zarko responded that he did not think so. Mr. Rubin felt this should be reflected in the minutes. Following his comment, Mr. Pitonak made a motion to approve the minutes subject to Mr. Rubin's comment. Mr. Lieberman seconded the motion. All were in favor and the motion passed.

III. LIAISON REPORT:

Ms. Ryan provided a summary of the Board's activity for the last several months. There are currently two capital improvement projects in the works. One is in the Mt. Eyre Manor neighborhood within which there are stormwater management issues the Township is trying to help the neighbors solve. The other is on Aqueduct Road where the Township is replacing a headwall also for the purposes of helping to correct stormwater issues.

There has been a request for installation of a solar panel array on the front roof of a home in Buckland Valley Farms. As such it is required that the Board of Supervisors consider the request. The Board asked Mr. Kuhns to obtain neighbor feedback. No decisions have been made yet regarding the proposed project.

Phase 2 of Streetscape has just been completed with the exception of the Welcome signs. The Board has been investigating doing some work on the wells at Brownsburg Park. The sports teams continue to complain that the fields are very rocky and feel very strongly that nothing will improve until the fields are watered. The Board is conducting the investigation for that purpose.

The 2012 budget was approved resulting in a ½ mil decrease to residents. This was due primarily to the refinancing of the Open Space Loan as well as unexpected revenues and a decrease in spending which is now at a seven year low.

The Board is negotiating a new police contract which the Board hopes will be completed by the end of the year.

There were two Township sponsored meetings with PECO recently regarding the problem of power outages. The meetings were held with the residents of Sycamore Farms, including Beaumont Drive, Shannon Road and Lafayette Place. PECO did not have much to say regarding infrastructure improvements. They did report that they had done some tree cutting in the area of Sycamore Farms which they felt was successful. The Board asked them to look into more tree cutting and the Board is also discussing what type of pressure can be put on PECO as a result of the extended outages.

IV. DEVELOPMENT ISSUES:

A. Seasonal Accessory Structure Ordinance: Ms. Eberle explained that this issue is coming to the Planning Commission from the Board of Supervisors. The Winery, the Washington Crossing Inn and the Jericho Golf Club have been using tents for outdoor events and while our ordinance allows Temporary Structures, those structures are supposed to be of a non-recurring nature. That is not the case with respect to these three establishments. While the Board understands that these tent functions are essential to the sustainability of the businesses it also understands that the Zoning Officer is issuing permits under the Temporary Structure section of the JMZO. Therefore, the Board is asking the Planning Commission to develop an ordinance that would allow these structures to be erected and then taken down at the end of every season. To give the Planning Commission a place to start, Ms. Eberle drafted a skeleton ordinance to begin the discussion.

The current temporary structure permits are issued for six months. The dates in the ordinance drafted by Ms. Eberle are from April 15 to November 15. Mr. Wydro thought the group should consider extending that through the thanksgiving season to December 1. Mrs. Pisaurio asked if a yearly permit could be issued and allow the establishment to dismantle the tent when the weather no longer permits. Ms. Eberle responded that situation has potential for abuse. For example, if snow is hindering the use of the tent but it is allowed to stay erected, an owner may say well let's put a floor in, etc. leading possibly to a building that has not gone through the Land Development process. Regarding the extension to December 1st, no one objected. Mr. Wydro asked if Bed & Breakfast establishments held a banquet, could that use also lead to erection of tents for other uses besides the Winery, the Inn and the Golf Club. Ms. Eberle said she wouldn't know how to begin to define banquet facility and suggested instead that the ordinance limit the erection of a tent to just those uses. After discussion, however, it was agreed that "banquet facility" should be defined. Ms. Eberle is going to work on that definition. Mr. Lieberman asked about seating within the tents and whether or not that would affect parking ratios and impervious surface issues. Ms. Eberle thought that parking ratios should be considered but that tying the ordinance to impervious surface would defeat the purpose of an accessory structure that is going to be taken down at some point. Mr. Kuhns stated that currently, the Township does not take seating capacity into consideration with respect to parking. Ms. Eberle asked if there had been parking issues outside of the tent issues at any of the three establishments currently using tents. Mr. Kuhns stated that there had been, both at Crossing Vineyards and the Washington Crossing Inn. During the discussion, it was agreed that the ordinance should prohibit erection of a tent on land otherwise used for parking.

No. 4 in the sample ordinance states that "A Seasonal Temporary Structure shall comply with all dimensional requirements for the principal use and zoning district in which the use is located". Ms. Eberle asked Mr. Kuhns if the three establishments now using the tents can comply with that language. Mr. Kuhns said that the Inn could not. Ms. Eberle

opined that perhaps the Inn could pursue a variance from the Zoning Hearing Board for the first year.

Mrs. Pisauro asked for clarification of the reason for the ordinance. Ms. Eberle stated that the current JMZO does not address this issue of businesses erecting tents every year and that the closest thing to it states that tents are for events of a non-recurring nature. This is the section of the ordinance under which Dave is currently issuing permits. The strict reading of the ordinance would make these businesses ineligible to erect the tents.

There was a suggestion that the ordinance include language prohibiting advertising on the tent and a question as to whether the ordinance can address the issue of aging tents and aesthetics. There was also a suggestion that disc jockeys should be added to item 6 which states that the use shall not include live music and no activities conducted after 10 pm. As the winery has music in its tent, this will probably be eliminated. For the courtesy of the neighbors, Ms. Eberle asked the Planning Commission what time in the evening the events should conclude. Mr. Pitonak asked if it could be tied to the Township Noise Ordinance. With respect to Agricultural Facilities and hayrides for example, events must end by 11:00 p.m. but the standard in the Township has always been 10 p.m. The Township does not want to prohibit live music but the events must be over by 10:00 p.m.

With respect to parking issues and the addition of seats, Ms. Eberle asked the Commission how they felt that should be incorporated into the ordinance. During discussions with respect to parking, it was concluded that the Inn has no more room for additional parking and there is no way to impose the parking on the Inn because they are not able to comply with the present ordinance. Ms. Eberle stated that if the Planning Commission does not want to address parking issues, the ordinance will not be approved by the Jointure.

Ms. Eberle asked if the Planning Commission wanted to provide direction on minimum lot size. A ten acre minimum would fit for the Golf Club and Winery but not the Inn. Ms. Eberle, thinking out loud, suggested that perhaps the size of the tent could be tied into the size of the principal structure and added that she was just trying to think of a way the Inn could comply. Another suggestion she made was to have the Inn obtain a variance the first year following adoption of the ordinance because an ordinance accommodating the Inn's situation will never make it through the Jointure.

The group discussed the fact that this ordinance could end up excluding the Inn, which is the property that has always had a tent and that the proprietors may consider this an attempt to thwart their business even with the suggestion of a variance, when that is definitely not the intent. Another problem with having them get a variance is that anyone who lives close enough to be aggrieved could file an appeal of the variance and the Inn could end up losing. Everyone was concerned that the ordinance could end up a detriment to the Inn.

Mr. Pitonak asked whether or not the Planning Commission should consider the portable toilets facilities. Although Ms. Eberle pointed out that the Township was pre-empted by the County from regulating septic issues, she will research the issue and the group can discuss it at the next meeting. She will also have a revised draft for consideration.

B. Edward Jones Business Sign Review, 1099 General Knox Road: This is a proposal for two building fascia signs. After a brief discussion, Mr. _____ made a motion to approve the proposed signs. Mrs. Pisauro seconded the motion. All were in favor and the motion passed.

C. Calkins Planning Module: This Planning Module is submitted for the conversion of an existing commercial office building into a single family dwelling and it will have a new sewage disposal system. Two lots have been consolidated into one. After a brief discussion, Mr. Rubin made a motion to approve the Planning Module. Mrs. Pisauro seconded the motion. All were in favor and the motion passed.

V. CURRENT AND NEW BUSINESS:

A. Holiday Meeting Schedule: Mr. Wydro stated that the agenda for the December meeting is very light and therefore, there is no need for a meeting later in the month. The Planning Commission will meet again in January.

The meeting was adjourned.

Submitted by: Phyllis Mehler

Approved: January 25, 2012