

Upper Makefield *Township*

Planning Commission Meeting

Wednesday, February 25, 2015

(A workshop/information meeting for the White and Melsky subdivisions was held at 5:30 p.m. prior to the regularly scheduled Planning Commission meeting.)

The February 25, 2015 public meeting of the Upper Makefield Township Planning Commission was called to order by Chair Karin Traina at 7:00 p.m. In attendance were the following members of the Planning Commission: Chair Karin Traina, Vice-Chair Kathleen Pisauro, Member Ken Rubin, Member Walt Wydro, and new Members Phil Feig and Richard Latella. Also in attendance were Solicitor, Mary Eberle, Esq., Director of Planning and Zoning, Dave Kuhns, Engineer, Larry Young, Tri-State Engineers, and Supervisor, Mary Ryan.

- I. Call to Order: 7:00 p.m.**
- II. Public Comment:** Pam Fitzpatrick lives across from the Melsky farm. Wanted to know why they wanted to count detention basins as open space. Asked that there be buffers that complied with state law be planted on the tree line between Melsky and Gray.
- III. New Members Welcome:** Karin Traina welcomed the two new Planning Commission members Phil Feig and Richard Latella.
- IV. Approval of Meeting Minutes:**
 - A. October 22, 2014** – With minor changes, Kathleen Pisauro motioned to approve the minutes, Walt Wydro seconds. New members, Phil Feig and Richard Latella, abstained.
 - B. December 3, 2014** – With changes, Kathleen Pisauro motioned to approve the minutes, Walt Wydro seconds. New members, Phil Feig and Richard Latella, abstained.
- V. Planning Commission 2015 Reorganization:** Motion was made and second to reappoint Karin Traina as Chair. Motion passed 5:0. Motion was made and second to reappoint Kathleen Pisauro as Vice-Chair. Motion passed 5:0.
- VI. Zoning Matters:**
 - A. Reilly Request for Continuance of a Non-Conforming Use; Eating Place at 1253 River Road:**

The property is located where Francisco's Restaurant currently resides on River Road. Kevin Reilly was present and stated that the lease would be extended upon the application being approved by the Board of Supervisors for the non-conforming use. Kathleen Pisauro motioned for approval, Walt Wydro seconds. Motion passed 6:0.
 - B. McAllister Sign Review at 1098 Washington Crossing Road:**

Ed McAllister was present and stated that he wanted to freshen the existing sign to conform with the other buildings. Dave Kuhns stated that the Washington Crossing Overlay Ordinance requires recommendation for any signage. The application met all requirements of the ordinance. Kathleen Pisauro motioned for approval, Phil Feig seconds. Motion passed 6:0.

VII. Land Development:

A. Brownsburg West Land Partners Lot Line Change:

Betsy Falconi of 464 Brownsburg Road was present with her engineer, Ron Jackson, from Boucher & James, Inc. The partners of Brownsburg West Land Partners are Joseph and Elizabeth Falconi and Thomas L. Vogel, Jr. The proposed lot line change will make an old flag lot disappear. Proposed property would increase the Falconi property from 6.9 acres to 8.6 and the Vogel property from 1.7 acres to 3.5. The remaining lots will not be subdivided. The plan is to keep shrubs along the streams to avoid flooding in their area.

There are no restrictions of record on the property. As requested, the Applicant will install the concrete monuments.

A motion was made by Kathleen Pisauro and second by Ken Rubin for approval conditioned upon (i) compliance with the Township Engineer's letter, and (ii) the Applicant to provide the Deeds of consolidation and conveyance to the Township for review prior to being recorded. The application will be placed on the Agenda for the March 17, 2015 Board of Supervisors meeting.

B. White & Melsky Final Subdivision Plans:

Edward Murphy, Esq. was present on behalf of the Applicant, Toll Brothers.

Mary Eberle suggested to the Planning Commission to make a recommendation to the Board of Supervisors on items 1 and 2 of the Court Order dated December 8, 2009 issued by Judge Susan Devlin Scott. Motion was made and second that the proposed detention basins not be permitted within the open space due to the structures. It was also recommended that no further improvement, development or structure be permitted in open space. Motion passed: 4:0.

Mary Eberle informed Ed Murphy that during his absence the Planning Commission had discussed basins in the open space. Ed Murphy asked if it had been concluded that they somehow had violated the ordinance in the open space. Mary Eberle agreed and that a motion had been made.

With respect to the Stormwater Management Ordinance for the White application, it was Larry Young's opinion that at this time it did not comply with the stormwater specifically dealing with the minimum separation between limiting zone and the infiltration bottom and also the infiltration rates; many of the infiltration facilities did not have passing rates or did not have rates taken at the bottom of the infiltration facilities and stated that as of now they do not have that information.

Larry Young clarified that the White plan did not comply with the Stormwater Management Ordinance because of items A-H outlined in his memorandum dated February 24, 2015; items A and B were the main two items and that more information was needed for the other items.

Karin Traina asked if Ed Murphy would like to respond. Ed Murphy replied that it was too premature to respond too much. With respect to the Ordinance, it was his interpretation that you are required to do whatever it takes no matter what it takes to comply with what the Ordinance says; make your best effort to comply.

There was discussion of what the Ordinance states with respect to reducing the density to reduce the stormwater effects. Ed Murphy commented that Larry Young's view was that no matter whether the infiltration rates were adequate or not you must continue to mitigate your post development flows for stormwater to match predevelopment construction flows. Larry Young agreed with the comment. Ed Murphy was not sure if the Ordinance required you to go that far.

Ken Rubin questioned Ed Murphy's interpretation of the Ordinance regarding best efforts to comply. Ed Murphy clarified that the Ordinance states that if you cannot meet the infiltration rates you are required to provide evidence as to why you cannot do that testing protocol. If you produce then you do not need to meet. Mary Eberle's interpretation of the Ordinance was similar to that of Larry Young. Ed Murphy stated that the soils do not permit much infiltration in both the White and Melsky plans due to their profiles.

Karin Traina asked if Toll had come up with alternatives over the past couple of years. Ed Murphy replied that the Act 167 Ordinance had a list of 9 or 10 different type of B&P's to mitigate the effect of the soil profiles and the ability to accept infiltration rates to meet preferred standards and went on further to state that they had incorporated into the plans 8 or 9 of the 10 of the listed B&P's; would have done them all but site conditions prohibited.

Ken Rubin motioned to move that based upon their counsel's interpretation of the Ordinance and the Township Engineer's analysis of the Stormwater Ordinance it was the Planning Commission's recommendation to the Board of Supervisors that the plans do not comply with the Upper Makefield Township's Stormwater Ordinance on both the Melsky and White tracts. Kathleen Pisauro second. Motion passed: 6-0.

VIII. Liaison Report:

Mary Ryan reported that the comment period for the 537 Plan had closed, the Plan had been completed and hard copies of the Plan were available at the Township.

Mary Ryan also reported that an application for a Plan B Building (Dunkin Donuts) was approved by Dave Kuhns as they had adequate parking and that the application would be coming to the Planning Commission soon.

Dave Kuhns reported that the Hess gas station withdrew their zoning hearing application.

IX. Adjournment. Kathleen Pisauro motioned to adjourn at 8:35 p.m. Motion seconded. All in favor.

Approved: 3-25-15