

Planning Commission

Wednesday, July 28, 2021 Meeting Minutes

The July 28, 2021 public meeting of the Upper Makefield Township Planning Commission was called to order by Chair Kathleen Pisauro at 7:00 p.m. In attendance were the following members of the Planning Commission: Chair Kathleen Pisauro, Vice Chair Phil Feig, Member Bud Baldwin, Member Harry Barfoot, Member Ken Rubin, and Member Jack Wiseman. Also in attendance were Resident Scott Wolfinger, Attorney for the Wolfingers John VanLuvanee, Township Solicitor William Oetinger, and Zoning Administrative Assistant Denise Burmester.

Public Comment: Susan Tew a resident of Upper Makefield Township at 385 Lurgan Road, New Hope offered the following public statement reading a written statement:

“Thank you for the opportunity to speak to the Township planning board.

As a public health nurse; the parent of an adult daughter with profound disabilities (including a neurological disease), a pet owner and the daughter of a 94-year-old mother who lives with us, I am here. to offer a strong request for the township planning board to consider the detrimental effects of randomly launched fireworks on the health and well-being of vulnerable Upper Makefield residents. And to do something about it.

I have lived @385 Lurgan Road between Eagle and Van Sant since August 2000. In recent years-this past year in particular-people in my neighborhood have been launching fireworks at random dates and times. It seems they feel the need to punctuate their events and parties with pyrotechnics but with disregard for other nearby residents. In the last month alone, fireworks went off several weekday nights after 9:30 pm and one night, members of my household woke up @2:50 am to explosive sounds resembling gunshots or a bomb.

There is clear data that for people (and pets) living with post-traumatic stress disorders (PTSD), fireworks can trigger serious mental health consequences. As we know, it is a condition that occurs after a major trauma like combat or interpersonal violence, such as domestic or child abuse, or a life-threatening accident. It affects some 8 million Americans each year-some estimates indicate up to 10% have experienced PTSD at some point. There is also clear data that fireworks cause extensive air and ground pollution by propelling metal, particles and dangerous toxins into our environment.

On 10/30/17, House Bill 542 was signed into law by the Pennsylvania General Assembly allowing consumers to purchase and use consumer grade/”Class C” fireworks. "Display fireworks" including salutes that contain more than two grams or 130 milligrams of explosive materials, and professional-grade aerial shells containing more than 60 grams of pyrotechnic compositions, are still only to be used by professionals with a permit from the municipality where the display will take place.

<https://www.psp.pa.gov/public-safety/Pages/fireworks-safety.aspx#.VYLED%20IViko>

In 2018, the townships of Newtown Township, UM and Wrightstown amended the Newtown Area Joint Municipal Zoning Ordinance of 1983, which further defined "fireworks" and its "use regulation" -which essentially pertained to sale and storage safety issues. Use is terms of when fireworks can be launched is not addressed.

The various factors prompting an increase in random fireworks do not matter-it has simply gotten out of hand and needs to be addressed as a public health issue.

Most certainly, I am not the only resident in the township that has these concerns and a desire to see some regulations put in place. And I am not opposed to fireworks. There are historically patriotic holidays-New Year's Eve/New Year's Day, Chinese New Year, Memorial Day, and the Fourth of July--when fireworks are expected, enjoyed and can be prepared for. People can ensure that house windows are closed, sound cancellation devices including earplugs utilized, and sedating medications administered. However, with no public ordinance governing days and times fireworks can be used anyone can launch fireworks any place and at any time. Residents are thereby unable to prepare and protect their health and wellness.

There is a good example of how a neighboring township in Bucks County has addressed this issue. Warrington passed a law in 2020 restricting fireworks to five holidays and certain times on those days:

<https://www.warringtontownship.org/2020/11/04/fireworks-law/>

There can be special dispensations put in place to require permitting on other days and a requirement for fireworks users to notify residents whose properties abuts theirs.

Tonight, I am asking the UM Township Planning to amend its ordinance addressing fireworks usage to include restrictions on the days and times they can be launched within residential areas, similar to that of Warrington Township. Thank you for your time and consideration.”

The Planning Commission discussed the following:

- Ms. Tew was asked if she had any communication with her neighbors who were setting off the fireworks. Ms. Tew explained that it is not a single neighbor, but several neighbors. She did contact one of the neighbors launching the fireworks because the debris was landing on her house and asked the neighbor to redirect, which they did accommodate. Ms. Tew further explained that she lives in a valley, where the sound carries far and the neighbor launching may not be an immediate neighbor. Ms. Tew is willing to ask the neighbors who launch the fireworks repetitively to give her notification prior to launch, but there are few neighbors who are willing to admit they had launched the fireworks.
- Ms. Tew was asked if she had called the police. Ms. Tew confirmed she had contacted the police. When the police came out the fireworks were no longer launching. No action was taken by the police, but a report was filed. The response she received from the police was that because there was no ordinance restricting fireworks, there was little they could do.
- Mr. Oetinger explained that the Planning Commission deals mostly with zoning, and the ordinances to support the zoning. He advised that there are a couple of ordinance types that should be evaluated for this request; a zoning ordinance or a general powers ordinance. There are differences in these ordinances in the way they are prepared and enforced. Mr. Oetinger recommended that this may be better placed as a general powers ordinance, which would be determined with a discussion at the Township level for advancement.

Confirmation of a Quorum: Chair Kathleen Pisauro confirmed a quorum.

Approval of Minutes:

A. April 28, 2021:

Mr. Baldwin made a motion to approve the minutes of April 28, 2021 as written. Mr. Feig seconded the motion. The motion carried by a unanimous vote.

Discussion Items:

I. Land Development

A. Wolfinger Final Subdivision Plan, 1410 Wrightstown Road:

Mr. VanLuvanee introduced the discussion with a history of the Wolfinger Subdivision Plan. On August 28, 2019 the Planning Commission approved a Preliminary and Final Subdivision with a vote of 5 to 1. On October 15, 2019 the Board of Supervisors granted Preliminary approval, but deferred Final due to the condition of a hydrological study, to be approved by the Township Hydrogeologist. Final plans were submitted in the same format as were submitted in 2019. In the last two years, Mr. and Mrs. Wolfinger have been pursuing the outside agency permits, which were conditions to the Final approval. EAC had granted plan approval in January 2018 with conditions that had been carried through, to include the no mow strip along the stream.

Mr. VanLuvanee commented on the Township Engineering letter dated July 26, 2021, addressing the bold-faced type items.

- Item #11 on page 3: The plan has been updated and a waiver granted that the trees to be planted are 2 to 3” caliber and the applicant will comply.
- Items #13 & 15, page 3: Applicant will comply.
- Item #18, page 3: EAC approval has been granted.
- Item #27, page 4: Mr. Young clarified that easement is to be shown on the plan to encompass the 50 foot no mow zone on each side of the stream. An existing easement of 100 foot no mow zone on each side has been replaced with the 50 foot no mow zone on each side of stream. Mr. VanLuvanee referenced the floodplain study supporting those changes.
- Item #30, page 5: Mr. VanLuvanee noted there was an approval in December 2020 by the Township Hydrogeologist.
- Item #31, page 5: Applicant will comply.
- Item #33, page 5: The floodplain permit has been issued.
- Item #35, page 6: Applicant will comply.
- Item #37, page 6: The Township Solicitor will prepare the well easement with a clause for Lot 1 if sold outside the family. Applicant will comply.

Mr. VanLuvanee requested the Planning Commission grant a recommendation of approval for the Final Subdivision of the Wolfinger property.

Members had the following questions and comments:

- A member asked if the aluminum corrugated culvert be strong enough for emergency vehicles. The Township Engineer confirmed that load of the culvert is the same caliber as a public road and will allow the vehicles access.
- A member asked if all variances, waivers and conditions are noted on the property deeds so that future buyers will be informed of these conditions. Mr. VanLuvanee noted that the buyer should review the title report before buying the property. There was disagreement that this disclosure would be easily discovered by some members.
- Concerns were raised by members and answered by Mr. VanLuvanee regarding the future use and potential expansion of the driveway. Mr. VanLuvanee noted that this has been considered and future expansion has been planned to account for bottleneck possibilities, though there would only be a single lot, Lot #3, using the driveway once over the stream.

Mr. Wiseman made a motion to approve the Wolfinger Final Subdivision with a condition of the satisfaction of all conditions from Preliminary and all conditions stated in the Township Engineering letter dated July 26, 2021. Mr. Barfoot seconded the motion. The motion passed with a vote 5 to 1.

II. Discussion Items:

A. JMZO, Conservation Management District Revisions:

Mr. Oetinger presented the members with the amendment to the Joint Municipal Zoning Ordinance for the Conservation Management (CM) zoning district. In 2008 the Conservation Management zoning district was amended to remove the Performance Subdivision Use. The Performance Subdivision was removed from the Permitted Use section for the CM zoning district. There was reference to the Performance Subdivision referenced in other sections of the CM zoning district, and this amendment is removing the additional references in the CM zoning district to remove any ambiguity.

Discussion was to clarify that there would not be any impact to the CM zoning district definitions or uses in the Ordinance. Mr. Oetinger clarified that there would not be any impact.

Mr. Baldwin made a motion to recommend the Board of Supervisors approve the amendment to the Zoning Ordinance. Mr. Feig seconded the motion. The motion carried by a unanimous vote.

Liaison Report:

No report.

Adjournment:

A motion was made by Mr. Baldwin to adjourn the meeting and was seconded by Mr. Barfoot. Motion carried by a unanimous vote. The meeting adjourned at 7:38 p.m.

Approved: August 25, 2021