

MINUTES OF MEETING FOR TOWNSHIP OF PINE BOARD OF SUPERVISORS

MONDAY, SEPTEMBER 17, 2018

Mr. Michael J. Dennehy, Chair, called this meeting of the Township of Pine Board of Supervisors to order at 6:30 p.m.

ROLL CALL

Members in attendance were: Michael J. Dennehy, Chair; Edward J. Holdcroft, Vice-Chair; Pat Avolio and Frank Spagnolo. Also, in attendance were: Gary Gushard, Tucker Arensberg, P.C., Solicitor; Scott Anderson, Township Manager; Amy Pampiks, Director of Human Resources; Jan Kowalski, Director of Finance; Larry Kurpakus, Director of Code Administration and Land Development; Tony Barbarino, Director of Public Works; Joni Patsko, Director of Parks and Recreation; Kevin Brett, Lennon Smith Souleret Engineers; Diane Illis, Northern Tier Library; Tim Flaherty, Fire Marshal, Wexford Volunteer Fire Department; Chief T. Robert Amann, Northern Regional Police Department; Captain John Sicilia, Northern Regional Police Department.

There were 16 visitors present.

PLEDGE OF ALLEGIANCE

EXECUTIVE SESSION

An Executive Session was held at 5:45p.m. for the purpose of discussing real estate and personnel matters.

APPROVAL OF THE MINUTES FROM AUGUST 20th AND AUGUST 31st, 2018 BOARD OF SUPERVISORS MEETINGS

Motion was made by Pat Avolio and seconded by Ed Holdcroft to approve the minutes from the Board of Supervisor's meeting of August 20th, 2018. The aye vote on the motion was unanimous. Motion carried.

Motion was made by Pat Avolio and seconded by Ed Holdcroft to approve the minutes from the Board of Supervisor's meeting of August 31st, 2018 with amendment. The aye vote on the motion was unanimous. Motion carried.

CORRESPONDENCE FOR THE BOARD OF SUPERVISORS

Mr. Anderson reported there was no additional correspondence.

PUBLIC COMMENT

Mr. Dennehy asked if there was anyone present wishing to comment on an item not on the agenda. There were no requests to address the Board of Supervisors.

7 members of the public signed up to speak on agenda items.

OPEN PUBLIC HEARING- MADIA HOMES

Motion was made by Pat Avolio and seconded by Frank Spagnolo to open the public hearing for the application to modify the Heights of North Park, Phase 6 P.R.D. (Lot 616- Parcel# 1661-P-20) modification of the front building line setback. The aye vote on the motion was unanimous. Motion carried.

Luke Madia from Madia Homes reported that the home for this lot has been designed smaller because of the lot size and shape. Mr. Madia presented a photo of the site with the proposed building.

Mr. Spagnolo asked Mr. Madia if they have spoken to the neighbors and do they have any opposition to the plan. Mr. Kurpakus stated that the public had been notified and there has been no correspondence.

Mr. Avolio asked if there was a written document stating that the neighbors approve the proposed plan. Mr. Madia indicated that the neighbors have been spoken to however, he did not have anything in writing.

Mr. Avolio asked Mr. Madia to provide written testaments from the neighbors.

Resident Jackie Demetris, 520 Salem Heights, spoke to the Board thanking them for asking for input from the neighbors impacted by the proposed plan

Motion was made by Frank Spagnolo and seconded by Pat Avolio to close the public hearing for the application to modify the Heights of North Park, Phase 6 P.R.D. (Lot 616- Parcel# 1661-P-20) modification of the front building line setback. The aye vote on the motion was unanimous. Motion carried.

Motion was made by Frank Spagnolo and seconded by Pat Avolio to table the application to modify the Heights of North Park, Phase 6 P.R.D. (Lot 616- Parcel# 1661-P-20) modification of the front building line setback until there is written correspondence from the neighbors to Lot 616- Parcel# 1661-P-20. The aye vote on the motion was unanimous. Motion carried.

CONTINUATION OF PREVIOUSLY OPENED CONDITIONAL USE HEARING- CAVALIER LAND PARTNERS

Mr. Gushard explained the procedure of the Public Hearing and that there is a court reporter present and advised potential speakers to please state your name, address and speak one at a time so that everything can be captured by the reporter. Mr. Gushard asked that speakers be concise, brief and non-repetitive, and he explained that the Township code allows the Chairman to limit speakers. Mr. Gushard reported that this matter has been heard at several Planning Commission and Board of Supervisors meetings and all records have been provided to the Board of Supervisors. Mr. Gushard reported that the developer has requested that all the conditional use matters be heard together and that the Board of Supervisors has 60 days to render a decision once the Public Hearings are closed. Mr. Gushard reported that a "Finding of Fact" would be prepared at a future meeting.

Motion was made by Pat Avolio and seconded by Frank Spagnolo to continue the public hearing for the construction of Patio Homes as part of the Laurel Grove Development on property fronting along Warrendale Road and Babcock Boulevard in the R-3, Neighborhood Residence District; to open the conditional use public hearing for the inclusion of Carriage Homes on property fronting along Warrendale Road and Babcock Boulevard in the R-3, Neighborhood Residence District; to open the conditional use public hearing for the inclusion of Patio Homes on property fronting along Warrendale Road and Babcock Boulevard in the R-3, Neighborhood Residence District (*new application*). The aye vote on the motion was unanimous. Motion carried.

Jonathan Kamin, an attorney with Goldberg Kamin & Garvin representing Cavalier Land Partners stated an issue came up during the last discussion with the Planning Commission and they are here to eliminate ambiguity concerning the carriage homes as part of the Laurel Grove Development. Mr. Kamin explained both patio and carriage homes meet the conditional use criteria and cited the code sections to show patio and carriage homes satisfy specific and general criteria for conditional use.

Mr. Kamin gave the Board an overview of the plan, which now include; 16 single family lots, 30 patio home lots, 44 carriage home lots or single family attached lots. All in accordance with the Township ordinance. He explained there will be 37.15 acres of open space and an additional development/recreation plan including a clubhouse with a pool and fitness trails. He also presented sample photos of the amenities.

Mr. Kamin stated the application includes three written waiver requests: 1) A waiver of section §48-18A. to allow fill slopes to be constructed at 2:1; 2) A waiver of section §78-49C. to allow disturbance within 50' of a wetland; and 3) A waiver of section §84-124A. to allow disturbance of slopes in excess of 40%, Mr. Kamin added they will only disturb what must be disturbed and it will be changed to a less steep condition.

Mr. Kamin explained they have received the latest Township engineer's letter and all items have now been addressed.

Grant Shiring, PVE Engineering, the engineer for the applicant, showed the Board of Supervisors where the encroachments would be located.

Mr. Kamin explained they have received the joint permit from Department of Environmental Protection and have provided it to the Township. He added they have received confirmation from the traffic engineer that the Warrendale Road permit has been closed out since the work is done. They anticipate the Babcock Boulevard permit from PennDOT will be issued shortly and a bond will be posted as required.

Mr. Gushard asked the applicant about the lot line revisions.

Mr. Kamin and Mr. Shiring replied that it is part of the Forbes lot that was purchased. Mr. Kamin replied Code states lots must have frontage on a public road. Mr. Shiring added there will be a 100' buffer that will appear as open space and will be maintained by the homeowners' association according to the covenants. Mr. Shiring stated that it is a simple lot line adjustment.

Mr. Spagnolo asked if there would be any driveway access from Babcock Boulevard, Mr. Shiring reported that there would be no driveway access from Babcock Boulevard and that all driveways would be from the internal development streets.

Mr. Avolio asked that the plan showing the locations of the patio and carriage homes be entered as an exhibit to become part of the record. Mr. Avolio asked if the conditional use applications are for additional density. Mr. Kamin responded, no.

Chris Samios, Geotechnical Engineer, Project Manager, Penn Soil Rock, replied to Mr. Kamin when asked to state his background. Mr. Samios stated that he is a Registered Professional Engineer in the state of Pennsylvania, he is a partial owner of Pennsylvania Soil and Rock Incorporated and had been working in the field for 25 years.

Mr. Samios reported that he had done a 2-phase investigation at the Laurel Grove site including; stability and drainage. He stated that all his findings have been submitted and that everything was compliant. Mr. Samios reported that he had walked the site and could not report any signs of instability. He stated that the company had been on site while work was being done daily and that reports were submitted to the Township showing everything that was done was compliant.

Mr. Spagnolo asked about the condition of the pond areas. Mr. Samios responded that since the project was halted there has been some surface run off rivulets and that with approval to continue work the run off and any the erosion will be fixed, and remedial work will happen.

Mr. Avolio asked if the fitness trails will be paved, Mr. Kamin responded that the trails are not intended to be paved but will be mulched and will meet Township requirements. Mr. Avolio asked Mr. Kurpakus if that was acceptable. Mr. Kurpakus stated that pavement is standard detail for trails. Mr. Kamin responded that the Homeowners Association will maintain the trails and that they will work with the Township to meet all requirements.

Attorney Daniel Kunz spoke on behalf of various homeowners from Lake MacLeod. Mr. Gushard asked who the homeowners were that he currently represents. Mr. Kunz named the homeowners, including; Iams, Donahue, Jugan, Lamparski, Grilli, Rich, Kanter, Sharma, Novosel, Hoyland, Hoffman, Walker, Howe, Romano, Tucker, Karmanos, Fisher, Shearer. Mr. Gushard asked if the Lake MacLeod Homeowners Association is present, Mr. Kunz replied that the Homeowners Association is not a party to this action.

Mr. Kunz reminded the Board of the Commonwealth Court proceeding which discussed the risk that the slopes were not localized and that the area was environmentally unstable. Mr. Kunz requested that the waiver be denied, and the slopes be restored. Mr. Kunz stated that the waivers must show hardship and that there is no hardship. Mr. Kunz stated that the runoff to Lake MacLeod and public safety should be enough to deny the waivers.

Additionally, Mr. Kunz stated there are streets that don't have names and specified widths on the plan. Mr. Kunz explained he believes them to be nonpublic service streets since they do not have the minimum requirements for new roads. Referring to Township code Mr. Kunz explained that in no case should a service street provide the only access for more than three units.

Mr. Kunz stated he thought the Township engineer had misinterpreted the codes by giving the development plan approval to go to the Board of Supervisors. Mr. Kurpakus stated that the Township engineer does not review conditional use applications.

Mr. Kunz explained the application states the incorrect amount of acreage and it fails to indicate how many carriage homes are proposed. Mr. Kunz stated today is the first time he has heard there will be 44 homes. He added per Code there must be a minimum of 5 acres for carriage homes, but the plan shows only 3 plus acres are to have carriage homes. Mr. Kunz stated 15% of the developed site must be open space and must be within the general vicinity of the carriage homes. Mr. Kunz asked that the Supervisors suggest the area planned for patio homes be used for open space.

Mr. Kunz stated the Board of Supervisors should have the developer post a bond in the amount of \$250,000 to address any consequences of the patio homes and the E&S plan should be revised because of the failure of the current plan and require that the developer comply with the Township ordinances and requirements.

Mr. Gushard asked Mr. Kunz to clarify why the developer should post a bond to address consequences of the patio homes. Mr. Gushard referred to the Pennsylvania Municipal Planning Code and stated that there is no reason for the developer to post a bond.

Mr. Kunz indicated that Mr. Gillespie denied that any carriage homes were being proposed, now they have submitted a waiver for carriage homes. Mr. Kunz asked the Supervisors to take note of the number of carriage homes and stated that 15% of the developed site must be open space and must be within the general vicinity of the carriage homes.

Mr. Kunz introduced Robert Orchowski, Consulting Engineer from Hillcrest Consulting. Mr. Kunz asked Mr. Orchowski about his credentials and Mr. Orchowski responded that he is a Principle at Hillcrest and full owner with 3 other owners, he has a BS. In Civil Engineering with an MBA, he has worked in the field over 40 years.

Mr. Orchowski thanked the Board and proceeded with his presentation.

Mr. Orchowski stated that he was pleased to hear more information tonight to put some things to rest, however he stated he still has concerns regarding the determination of the open space, the failure to meet Township subdivision ordinances, failure to finalize placement of stormwater facilities and water basins. Mr. Orchowski reported that the trails are not feasible, and they are flagged as pending. He stated that this is a Conditional Use request after the fact.

Mr. Orchowski stated that he believes the 2.5-acre sloped area should be returned to the original condition and steeper slope. Mr. Orchowski stated that he believes that the developer has not met the burden for the waiver. Mr. Gushard pointed out that the size of the area in question is less than a fifth of an acre.

Mr. Orchowski reported that the applicant cannot assure it has an E&S plan that will adequately control E&S from the latest revised plan. Mr. Orchowski requested that they be able to see the E&S plan prior to the final decision.

Mr. Orchowski stated that the developer failed to provide a Project Completion Guarantee. Mr. Gushard explained that the Project Completion Guarantee is not issued until after the approval.

Mr. Orchowski reported that the developer has failed to show that undue hardship will occur if a waiver is not granted.

Mr. Orchowski requested that the developer provide assurances that the Conditional Use Applications meet all applicable Township code provisions and that they will comply with the minimum ½ acre lot sizes.

Mr. Orchowski stated that as Public Servants the Board should be concerned with providing public streets to provide safety to the dwellings. He stated that the burden is on the Township for safety of the residents.

Mr. Anderson clarified that all units have frontage along public roads as required by Township code.

Mr. Orchowski expressed concern regarding the approvals that the developer has and whether the Township has had adequate time to review the approvals. He stated that the Township could not have reviewed the Allegheny County Conservation District because they had just received it.

Mr. Orchowski stated that he has not seen a Stormwater Maintenance Plan and that it was a mistake for the Planning Commission to recommend approval with open items to the Board of Supervisors.

Mr. Orchowski handed out written copies of his comments

Mr. Avolio commented about the different interpretations of the Township code. Mr. Avolio asked who makes the determination for the Township. Mr. Gushard replied that the Township relies on the staff, the solicitor and the engineers to interpret the code. Mr. Gushard stated the items that are being discussed have been approved by Township staff, solicitor and engineer.

Jack Donahue, 548 MacLeod Drive, placed four pictures marked as exhibits in front of the Board of Supervisors. Mr. Donahue stated that a picture says a thousand words, the photos are of the lake before and after the beginning of the Laurel Grove Development. Mr. Donahue stated if development begins again one can presume that the damage will be worse. Mr. Donahue stated that in the past year there have been three, 100-year rains, putting the lake and homes at risk because of no upgrade with E&S controls. The developer stated that there would be no sediment, there is 2 years of sediment damage because of the Laurel Grove development. Mr. Donahue stated that when he came to the Planning Commission and the Board of Supervisors to ask for help to protect the sediments he was told the plan has already been approved. Mr. Donahue asked the Board to do something to protect the residents of Lake MacLeod. Mr. Donahue reported that he felt the slopes, which were approved, failed, and they are failing again. Mr. Donahue feels that relying on the so-called experts has failed. He questioned whether the Township is getting the right information. Mr. Donahue reported his concerns regarding the increase in traffic and the problems that it will create by having multiple residential units across from the Pine Richland High School and Middle School.

Jeffrey Romano, 543 MacLeod Dr, stated that he has spoken to many of the Board members and has seen many of the Board members numerous times. Mr. Romano stated that he is not an engineer or attorney, he is a concerned resident. He indicated his belief that the current E&S plan is not working. Mr. Romano stated that no modifications or changes to the Laurel Grove Plan is going to help fix the work that has been done on the slope. Mr. Romano stated that the Board of Supervisors are here to protect public interest and there should be

a revision to the Laurel Grove Development Plan. Mr. Romano stated that the land surrounding Lake McLeod has begun to erode, and the houses have begun to have water problems that can be attributed to the Laurel Grove Development. Mr. Romano stated he felt the Board of Supervisors should uphold the Commonwealth

Court decision, and the topography should go back to how it was. Mr. Romano wanted to know why the Board of Supervisors could ignore what the commonwealth court has decided.

Sherwood Johnson, 549 MacLeod Drive, reported that some people like to point out that the excessive rain could be the cause of the lake sediment. However, after tropical storm Ivan we did not have sediment in our lake, this current problem is not due to the rain. Mr. Johnson referred to his interpretation of code and stated a ruling by the Pennsylvania Supreme Court.

Mr. Gushard stated that there is no ruling by the Pennsylvania Supreme Court.

Mr. Kunz introduced Steve Farino, Attorney representing some of the residents of Lake MacLeod. Mr. Farino reported his interpretation of the waiver portion in the zoning ordinance stating that the waiver for the 40% slope is contained in the zoning ordinance and the Board of Supervisors is an unauthorized authority, the ordinance can only be authorized by the Zoning Hearing Board. Mr. Farino stated the ordinance is invalid and should not be used.

Mr. Gushard suggested that the record remain open while the parties consider the interpretation of the Township Code. Mr. Kamin and Mr. Kunz have different interpretations of the Township Code and Mr. Gushard suggested they submit their interpretations in writing for the record by September 30th, 2018. Mr. Gushard stated that the record will remain open but for written submissions only.

Mr. Avolio asked who has the jurisdiction over the erosion and sediment plans. Mr. Anderson reported that the Allegheny County Conservation District and the Department of Environmental Protection have jurisdiction.

Mr. Romano stated that they will reach out to the Allegheny County Conservation District and the Department of Environmental Protection. Mr. Romano asked what happens if it is approved, He asked what the Township will do for the safety of the residents. Mr. Romano stated that what is on the books is not working, what else can be done to potentially better the situation.

Mr. Gushard stated that the site has been monitored and when Mr. Kurpakus became aware of the issues he turned it over to the Allegheny County Conservation District. Correspondence has been on going between the Township, Lake McLeod residents and Allegheny County Conservation District. Mr. Gushard asked Mr. Kurpakus if there are any open items with the Allegheny County Conservation District or the Department of Environmental Protection. Mr. Kurpakus stated that there are no open items at this time.

Mr. Romano asked the Board if the controls in place are not working what do you do. Mr. Gushard responded that there is no evidence that the controls are not working.

Motion was made by Frank Spagnolo and seconded by Pat Avolio to close the continuation of public hearing for the construction of Patio Homes on property fronting along Warrendale Road and Babcock Boulevard in the R-3, Neighborhood Residence District; to close the conditional use public hearing for the construction of Carriage Homes on property fronting along Warrendale Road and Babcock Boulevard in the R-3, Neighborhood Residence District; to close the conditional use hearing for the construction of Patio Homes on property fronting along Warrendale Road and Babcock Boulevard in the R-3, Neighborhood Residence District. The aye vote on the motion was unanimous. Motion carried.

Motion was made by Frank Spagnolo and seconded by Pat Avolio to table preliminary and final approval for the Forbes-Cavalier lot line revision; preliminary and final approval of the proposed Laurel Grove Land Development with conditions to keep the record open for written comments due September 30th, 2018. The aye vote on the motion was unanimous. Motion carried.

PARKS AND RECREATION COMMISSION

Ms. Patsko stated she had nothing new to report.

NORTH HILLS COG

Mr. Spagnolo stated he had nothing new to report.

NORTHERN TIER LIBRARY

Ms. Illis reported that the written budget timeline review was in the Board packet. She also reported that the Northern Tier Library has been offering approximately \$4,000,000 in services for only \$755,000 according to her written report.

NORTHERN REGIONAL POLICE DEPARTMENT

Chief Amann indicated that the Northern Regional Police Department written report was in the Board packet and had nothing further to report.

Captain Sicilia reported that the Northern Regional Police Department has displayed a purple ribbon on their sign representing a Township of Pine resident 7-year-old Tessa who is fighting a rare pediatric brain tumor. Captain Sicilia stated that there are purple ribbons in support of the family all over the area. He asked the Board if there was anything they could do to recognize the family and show the support of the Township.

WEXFORD VOLUNTEER FIRE COMPANY

Mr. Flaherty indicated that the Wexford Volunteer Fire Company written report was in the Board packet and had nothing further to report.

SOLICITOR

Mr. Gushard indicated he had nothing further to report.

LENNON SMITH SOULERET ENGINEERS REPORT

Mr. Brett indicated that the Lennon Smith Souleret Engineers written report was in the Board packet and had nothing further to add.

CODE ADMINISTRATION AND LAND DEVELOPMENT

Mr. Kurpakus reported that JEA Senior Living is proposing a 1-story 55-unit, 66 bed Alzheimer special care center on property located at 250 Swinderman Road. The parcel is in the C-2 zoning district. The use would be defined as a "Nursing Home" per Section §84-10 of the Code and is a permitted use in the C-2 District subject to land development approval. Mr. Kurpakus explained the developer will need waivers of certain Code provisions for encroachment on the wetlands and wetland buffering to develop the property as intended.

Mr. Avolio recommended that the developer have the waivers approved prior to submission.

PUBLIC WORKS

Mr. Barbarino indicated that the Public Works written report was in the Board packet and had nothing further to add to the report.

Motion was made by Frank Spagnolo and seconded by Pat Avolio to approve the sale of the Public Works 2001 International Truck with snowplow on Municibid in the amount of \$13,000.00. The aye vote on the motion was unanimous. Motion carried.

TREASURER'S REPORT FOR AUGUST 2018

Motion was made by Frank Spagnolo and seconded by Pat Avolio to accept the Financial Report for the month of August 2018 and ratify the payment of bills to those vendors listed thereon. The aye vote on the motion was unanimous. Motion carried.

SECURITY DOORS

Mr. Anderson reported to the Board of Supervisors the recommendation the Township received regarding the security of the Township of Pine meeting room. The report recommends the addition of 2 exit doors behind the dais where the Board sits.

Motion was made by Pat Avolio and seconded by Ed Holdcroft to approve the installation of the 2 security doors and awarding the project to the lowest bidder, R.D. Stewart Company for the amount of \$13,800. The aye vote on the motion was unanimous. Motion carried.

2019 NON-UNIFORM PENSION PLAN MMO

Motion was made by Pat Avolio and seconded by Frank Spagnolo to authorize the Chief Administrative Officer to sign the Township's 2019 Non-Uniform Pension Plan MMO. The aye vote on the motion was unanimous. Motion carried.

CANCELLATION OF THE BOARD OF SUPERVISOR MEETING OCTOBER 1, 2018.

Motion was made by Frank Spagnolo and seconded by Pat Avolio to cancel the Board of Supervisors Meeting on October 1, 2018 for lack of agenda items. The aye vote on the motion was unanimous. Motion carried.

ADJOURNMENT

Motion was made by Frank Spagnolo and seconded by Pat Avolio to adjourn. The aye vote on the motion was unanimous. Motion carried.

The meeting adjourned at 8:28 p.m.



Recording Secretary



Township Manager