

MINUTES
SOUTH MIDDLETON TOWNSHIP BOARD OF SUPERVISORS
520 PARK DRIVE
BOILING SPRINGS, PA. 17007

MARCH 31, 2005

PRESENT: TOM FALEY, PHYLLIS GIVLER, JIM BAKER, BRYAN GEMBUSIA, RON REEDER; – SUPERVISORS; Rich Mislitsky – Solicitor; Barbara Wilson – Manager; Brian O’Neill – Engineer; Tim Duerr – Zoning Officer; Sandy Quickel – Recording Secretary; Rick Reighard; Ron Hamilton; Doug George; Doug & Helen Gale; Mark Pennell; Pam Fisher; Bob Beers; Howard Phillips; Bob Geist; Frank Burrows; James Frey; Attorney Carl Risch; Mary Zeigler; Lyz Pfister; Brittany Weibley; Mike Knotwell; Mark & Doreen Mullen; George Stapleton; Bill Brown; James & Connie McHugh; Gerald Christopher; Steve Hanzlik; Jeff Lobac; Martha Green; Paul Slifko; Ken Stoltz; Jim Garling; Mike Hess; John Weidner; Bud Grove; John Bixler; Eric Harkreader – “The Sentinel”, Andrea Ciccocioppo – “The Patriot News”.

Chairman Tom Faley called the meeting to order at 6:00 pm.

PLEDGE OF ALLEGIANCE:

Chairman Tom Faley led the audience in the pledge of allegiance.

MOMENT OF SILENCE:

A moment of silence was observed.

OPENING ANNOUNCEMENTS:

The Board & staff members introduced themselves. Ron mentioned that former Township Supervisor Bill Murphy passed away in early March.

MINUTES: 03/10/05 – REGULAR MEETING:

Ron stated that on Page 6 (Recreation report), he did not state that dog events should be held on Super Saturday. This sentence will be removed. Phyllis made a motion to approve the minutes, as corrected. Bryan seconded, & the vote in favor was unanimous.

ORDINANCE #05-05 COMCAST CABLE FRANCHISE AGREEMENT – Public Hearing:

Mr. Mislitsky opened the hearing & stated the procedure. Barb explained that the Township has been working on a new Comcast cable franchise agreement for the past 2 years. She stated a few of the issues that are addressed in this agreement such as customer service standards, delivery & pickup of equipment, upgrade of services as necessary, & the length of term will be 12 years. There was no public input. Tom made a motion to approve Ordinance #05-05 & all accompanying agreements relative to the Cable Franchise Agreement for a 12-year period. Bryan seconded, & the vote in favor was unanimous. The hearing was closed.

LIQUOR LICENSE APPLICATION (Red Robin Restaurant) – Public Hearing:

Mr. Mislitsky opened the hearing & stated the procedure. He stated that the original liquor license request was rescinded. Red Robin is now applying for an Economic Development Liquor License. A new hearing will be held within 45 days. Attorney Jeff Lobach stated that there are benefits to this type of license. One is that the license is not transferable to another company, that there are limitations/restrictions on the type of businesses that can apply for this type of license & that the surrounding area will benefit from the business. He anticipates this restaurant will create 100 jobs (70 part-time & 30 full-time). Steve Hetzle handed out menus & presented a copy of the building's drawing. Jim made a motion to schedule a public hearing on April 14th. Tom seconded, & the vote in favor was unanimous. The hearing was closed.

#05-03C SHENANDOAH PERSONAL COMMUNICATIONS COMPANY – Conditional Use Public Hearing:

Mr. Mislitsky opened the hearing & stated the procedure. Attorney Carl Risch & Mike Knotwell were present. Mr. Risch stated that the applicant proposes to construct an antenna on an existing telecommunications tower located on Mill Street in the Industrial Zone. There was no public comment. Tom made a motion to approve #05-03C. Ron seconded. The vote in favor was unanimous. Jim asked if this antenna will cover the same coverage area as Shenandoah's proposed tower (Karns site). Mr. Knotwell said it will be contiguous coverage. The hearing was closed.

#05-01C DOUGLAS GEORGE – Conditional Use Public Hearing:

Mr. Mislitsky opened the hearing & stated the procedure. Mr. George was present. He is proposing a commercial/industrial center consisting of 32,300 s.f. of light industrial in an existing building to be leased & maintained by the owner. The building is located at 99 Garden Parkway & is located in the F1 District. Bryan asked Mr. George is he is agreeable to the restrictions as discussed at the Planning Commission meeting. Mr. George replied yes. There was no public input. Phyllis asked if there will be any changes/improvements to the rear borderline. Mr. George stated that he will be placing landscaping for a buffer in that area.

Bryan made a motion to approve #05-01C, subject to the applicant's acceptance of staff comments. Tom seconded. Jim mentioned complaints about lighting. Tim said that this was an issue with the use of the property in the past, but Mr. George will be screening the property. Ron commented that there are sheds intruding onto this property. Mr. George said that he found out about the sheds when the property was surveyed. He will ask the owner to remove them since the sheds will count towards the buildable area. He also said that an easement may be needed. Ron encouraged Mr. George to resolve the boundary line issue as soon as possible. The vote in favor was unanimous. The hearing was closed.

#05-02C DONALD DIEHL – Conditional Use Public Hearing:

Mr. Mislitsky opened the hearing & stated the procedure. Pam Fisher was present. The applicant is proposing to construct a commercial center of 11,550 s.f. of mixed business uses in the Commercial District on Commerce Drive. Ms. Fisher said that there will be 58 parking spaces & water/sewer services will be on site. The applicant will be asking for a modification

request for a second access. Phyllis expressed concern with emergency vehicles not having clearance to turn around & would have to back out of the site. She stated that Section 1612 requires 2 separate points of ingress & egress. Pam stated that a second access may be built on the curved section of the road, but it may hinder sight distance. She said that this access can be used as an emergency access & to install a knock-down gate at this access. She also feels that this can be accomplished on this plan, but it may not be able to be done on any future development. Ron thought this may cause more of a problem by creating a second driveway. It was decided that this access be used as an exit-only.

Bryan made a motion to approve #05-02C, subject to staff comments & subject to a second point of egress be used only for emergency use. Ron seconded, & the vote in favor was unanimous. The hearing was closed.

SOLICITOR REPORT:

Mr. Mislitsky received a letter from AFC Realty Inc.'s counsel regarding the Carlisle Crossing development, but he has not reviewed it yet.

Also, intervention status on the Keystone issue has been granted to Doug & Lisa Baker, the Yankowitz's, the Benjey's & Middlesex Township. The BS Civic Association was denied status, & a hearing will be held on April 26 at 10:00 a.m. to determine the status for the Mayapple Howowner's Association.

An injunction was filed against Capital Area Tax Collection Bureau. Five disks of information were received & copies were sent to CENTAX to review.

ENGINEER REPORT:

Inspection was done on the work performed by the Municipal Authority on Bonnybrook Road, Marsh Drive, & Adams Road. The trench restoration work was not performed to the Township roadway specifications, & was also done without securing permits from the Township. When the Township waived the fees for the permits, the Municipal Authority misunderstood that they did not have to obtain permits. The work was bid out based on inferior specifications. Ron felt that the Township could fine the Municipal Authority for this issue. Brian has drafted a letter to send to the Municipal Authority informing them that all future work will need to be in compliance with Township specifications & ordinances. It was suggested that the Municipal Authority overlay Bonnybrook Road with an additional wearing course to stabilize the pavement. Ron made a motion to direct the Municipal Authority to redo the trench repairs according to Township specifications and to be fined if they don't comply, to secure the required permits for any future work & if necessary, the Township will require financial security to make sure the work is done properly. Bryan seconded, & the vote in favor was unanimous.

Brian has been trying to negotiate a compromise between 2 residents that will be affected by the extension of Woodlawn Lane into Jefferson Court. One resident (Rick Smith) wants the roadway lowered to meet his property, & the other resident (Earl Warren) wants the roadway raised to meet his concrete driveway that he constructed within the right-of-way. The developer

has revised his design in this area twice & Brian presented both designs to the residents. Mr. Smith is opposed to any compromise other than a lower roadway. Brian recommended keeping the original design with the roadway lowered & 6 inches of curbing. Board consensus was given to keep the engineer's original design for the roadway.

Tom made a motion to advertise a public hearing on the Whitlinger Dam project for April 14th. Ron seconded, & the vote in favor was unanimous.

Jim made a motion to send in the application for a federal grant for removal of the dam. Ron seconded, & the vote in favor was unanimous.

Brian said that at the last meeting, Brian Evans was present for the McCoy Interstate Lot 3A plan. A modification was granted that the easement did not need to be shown on the plan with a condition that a note be placed on the plan. Mr. Evans said that the easement was removed & a note was placed on the plan. He asked if he could work with Brian & Mr. Mislitsky to work on this issue. Mr. Mislitsky said he will review the agreement & let Mr. Evans know if it is satisfactory.

(BREAK)

PUBLIC INPUT:

Doug Gale, Derbyshire Drive, asked about information from CENTAX. He was told that some people have just received the information today.

James McHugh, Annendale Drive, thanked the Board for their assistance with the burning of brush problem near him. The trees were chipped instead of burning them. Ron Hamilton agreed & stated that chipping is better than burning.

Marti Green stated that the Mayapple Homeowner's Association is in support of the Township reviewing the comprehensive plan. She offered the committee's assistance to work with the Township on this issue. Barb stated that the Open Space Committee will review this issue as far as preserving open space, and then work can begin on the comprehensive plan late in the year.

Jim Fry, 121 Petersburg Road, commented on the water problem near the gun club on Petersburg Road. Brian stated that he & the Roadmaster looked at this site & located an underground pipe. He said that the pipe outlet is clogged & needs to be exposed. Brian will investigate this problem.

Ken Stoltz, Race Street, commented on the issue of the dam. He feels the race should be saved.

Mary Zeigler, Allen Street, questioned the legality regarding receiving a letter from an unidentified source to pickup certain items for collection at resident's homes. Barb will check into this issue with the codes enforcement office.

PLANNING/ZONING/CODES ENFORCEMENT REPORT:

Consensus was given to advertise the following conditional uses (Global Renewal, West Shore Properties & Boiling Springs High School) for April 14th.

Consensus was given to advertise the Cox Development Zoning Amendment (Neighborhood Zoning District) for May 12th.

Ron made a motion to approve a 30-day time extension for the Carlisle Med I Final Land Development plan. Tom seconded, & the vote in favor was unanimous.

MANAGER REPORT:

Barb reported that Kristin Davis, P& R Department Supervisor, has resigned. Ron made a motion to accept Kristin Davis' resignation effective immediately. Bryan seconded, & the vote in favor was unanimous.

SUPERVISORS' DISCUSSION:

Phyllis stated that she attended the Act 72 meeting at the school. Another meeting will be held on April 6th from 7 to 9 p.m at the Swartz School building in Carlisle. She encouraged everyone to attend.

Jim said he attended a speaking engagement at Dickinson College. The speaker was Robert Kennedy, Jr.

#04-35 RED ROBIN RESTAURANT – Final Land Development:

This plan was tabled. A representative for Red Robin asked if this plan could be placed on the April 14th meeting to be discussed if the Carlisle Crossing plan gets recorded by then. Without recording the Carlisle Crossing plan, the restaurant can not proceed with their plan. Mr. Mislitsky commented to the representative that he would proceed at his own risk if they started any work at the site. The representative acknowledged in the affirmative.

(Jim Baker left the meeting at this time)

#05-01 CARLISLE MED II – Final Land Development:

Jim Garling was present for this plan. The applicant proposes to construct a 21,000 s.f. office building with 60 parking spaces. The site is on Jennifer Court. Tim said that the County comments are minor.

Modifications: Preliminary Plan; Stormwater Management Plan; Landscape Plan certified by a Landscape Architect; Islands in the parking area every 10 spaces; Sidewalks; Curbs & Gutters; Street Lighting; Street trees; Trees interior to the parking lot (the applicant proposes to plant them around the perimeter). Tom made a motion to approve the modifications. Ron seconded, & the vote in favor was 4 to 0. There was discussion on the issue of adding the sidewalk note – where the developer is to install sidewalks if the Board decides they are necessary.

Tom made a motion to approve #05-01, subject to the applicant's acceptance of staff comments & subject to adding sidewalks at the owner's expense if the Board decides they are needed. Bryan seconded, & the vote in favor was 4 to 0.

#05-05 S & A HOMES – Final Minor Subdivision:

Bud Grove was present for this plan. The applicant proposes to subdivide an area around Clifton Terrace in order to convey a portion of the open space to the Stonehedge Homeowner's Association. The Association will continue to maintain this parcel. Bob Beers stated that the Homeowner's Association supports this plan & thanked Bud for installing corner points & setting pins at the site.

Modifications: Preliminary Plan; LeTort Regional Authority Review; Stormwater Management Plan; Erosion & Sedimentation Plan; Grading Plan; Landscape Plan; Additional right-of-way & improvements; Sidewalks; Curbs & Gutters. Bryan made a motion to approve the modifications. Tom seconded, & the vote in favor was unanimous.

Bryan made a motion to approve #05-05, subject to the applicant's acceptance of staff comments. Phyllis seconded, & the vote in favor was 4 to 0.

#04-11 STONEHEDGE PRD, PHASE 2 – Final Subdivision & Land Development:

Bud Grove represented this plan. The applicant proposes to construct 49 townhouses in the last undeveloped parcel in the Stonehedge PRD plan. Ron asked for clarification of the modification request (Section 710c(13) – (1.5 feet per second minimum channel velocity). Brian stated that it refers to the swales behind the existing homes. Mr. Grove wants to use the swale to help with ponding of the stormwater & as an infiltration system.

Modification: 1.5 feet per second minimum channel velocity. Bryan made a motion to approve the modification. Tom seconded, & the vote in favor was unanimous.

Bob Beers conveyed the Stonehedge Board of Director's approval of this plan subject to the following: that plan #04-11 may not be recorded until & unless a deed has been executed & recorded conveying Lot 1-B (plan #05-05) to Stonehedge Homeowners Association Inc. Mr. Beers stated that in the past, the Association has experienced delays with receiving deeds for common ground.

Bryan made a motion to approve #04-11, subject to the applicant's acceptance of staff comments, & that counsel for S & A Homes, Inc. prepare a deed transferring the land free & clear to the Stonehedge Homeowner's Association & to record the deed contemporaneously with the recording of plan #04-11. Ron seconded, & the vote in favor was unanimous.

#04-36 INDIAN HILLS, SECTION 4 – Final Subdivision:

John Bixler was present for this plan. The applicant proposes to construct the last phase (Section 4) of the existing development. This phase consists of 28 lots. Bryan questioned the problem

with the silt fencing. He was told that the fencing has taken care of the problems. It was also noted that the builder should maintain the storm drains. There are no modifications.

Ron made a motion to approve #04-36, subject to the applicant's acceptance of staff comments, & that the developer agrees to pay all expenses in the alteration of the detention pond in Section 1 until the Township determines that the weir is working. Bryan seconded, & the vote in favor was 4 to 0.

BILLS FOR PAYMENT:

Phyllis made a motion to pay the bills, as submitted. Bryan seconded, & the vote in favor was 4 to 0.

ADJOURNMENT:

Phyllis made a motion to adjourn the meeting at 8:00 PM. Ron seconded, & the vote in favor was 4 to 0.

WITNESS:

**SOUTH MIDDLETON TOWNSHIP
BOARD OF SUPERVISORS:**

Thomas E. Faley, Chairman

Bryan A. Gembusia, Vice Chairman

James N. Baker

Phyllis W. Givler

Ronald L. Reeder