

MINUTES
WEST MANHEIM TOWNSHIP
REGULAR PLANNING COMMISSION MEETING
THURSDAY, SEPTEMBER 17, 2009
6:00 PM

ITEM NO. 1 Meeting Called to Order

The regular meeting of the West Manheim Township Planning Commission was called to order at 6:00 p.m., by Chairman Jim Myers, followed by the Pledge of Allegiance.

ITEM NO. 2 Roll Call

The roll was called, and the following Commission Members were present: Chairman, Jim Myers, Darrell Raubenstine, Andrew Hoffman, and Duane Diehl. The following Commission members were absent: Grant Reichart. Also present was Mike Knouse, C.S. Davidson and Harold Coldren, Interim Zoning Officer.

ITEM NO. 3 Approval of Minutes

Andy Hoffman made a motion to approve the minutes from the August 20, 2009 Planning Commission meeting, seconded by Duane Diehl. ***The motion carried.***

ITEM NO. 4 Correspondence

Jim Myers, Chairman reported that the following correspondences were received:

- 1). Correspondence to James & Brenda Cornbower from Woodhaven Building & Development dated September 9, 2009 regarding the Acquisition of a Portion of 2876 Pleasant Hill Road for a Public Road Right-of- Way.
- 2). Correspondence from Woodhaven Building & Development dated September 14, 2009 requesting an extension request of review time for The Warner Farm Preliminary Plan, Joshua Hill Farm Preliminary Plan, and Marlee Hill Farm (Preserve at Codorus Creek IV) to January 8, 2010.
- 3). Correspondence from Hanover Land Services, Inc. dated September 17, 2009 requesting an extension request of review time for New Age Associates, Benrus L. Stambaugh II, et al and James E. Horak & Donald L. Yorlets to January 4, 2010.

ITEM NO. 5 Visitors

Chairman Jim Myers asked if there were any visitors present that wished to address the Commission, and received no reply.

ITEM NO. 6 Public Comment – Items Not Listed on Agenda

Chairman Jim Myers asked if there were any visitors present that wished to discuss anything specific not on the agenda, and received no reply.

ITEM NO. 7 Emergency Services Group Report

Mike Hampton said so far to date for this year Emergency Services has reviewed 9 subdivision plans, including the AT&T communications tower plan. He just received last week the plans for Marlee Hill Farm (Preserve at Codorus Creek IV). They have not had a chance to review the plans. Emergency Services would review the plans and submit comments to the Planning Commission.

ITEM NO. 8 Report from Zoning/Hearing Board

- A. Application: Case – VA - #04 - 06/29/09 – 545 Frogtown Road
Applicant: Theresa M. Noel – 615 Frogtown Road- Application for a Variance to replace a single wide trailer with a double wide trailer.

Harold Coldren reported that the application was approved at the August 25, 2009 Zoning Hearing Board meeting.

- B. Application: Case – VA - #05 – 08/07/09 – 41 Bonnie Court
Applicant: James C. & Catherine M. Reiblich – Application for a Variance to install a 24' x 24' 2-car attached garage on the east end of the house.

Harold Coldren reported that the application would be presented to the Zoning Hearing Board meeting on September 22, 2009 at 7:00 pm.

- C. Application: Case – VA/SE - #06-09/04/09 – 590 Impounding Dam Rd
Applicant: Carl & Brenda Grubb –
(1). Application for a Variance from Article 7, Section 2.18 – Subsection 2 that requires that a rural occupation not exceed 1000 square feet, and Subsection 3(b) that requires that such a building be located in the rear yard of the principal residence and be set back at least 100 feet from the side or rear lot lines.
(2). Application for a Special Exception from Article 7, Section 2.18, Rural Occupation to use 4 storage units as rental space in conjunction with farm operations.

Chairman Jim Myers said that this item would be moved on the agenda to Item 10: New Business.

ITEM NO. 9 Old Business

- A. Orchard Estates – Gobrecht – Shorbs Hill Rd. – 56 Lot Preliminary Plan

Chairman Jim Myers asked if there were any visitors present that wished to address the Commission regarding the plan. There was no one present from the public to address the Commission. He asked for a motion to table the plan.

Andy Hoffman made a motion to table the Plan, seconded by Darrell Raubenstine. ***The motion carried.***

- B. Marlee Hill Farm (Preserve at Codorus Creek IV) – Baltimore Pike – 79 Lot Preliminary Plan

Chairman Jim Myers asked if there were any visitors present that wished to address the Commission regarding the plan. There was no one present from the public to address the Commission. He asked for a motion to table the plan.

Andy Hoffman made a motion to table the Plan, seconded by Darrell Raubenstine. ***The motion carried.***

- C. Homestead Acres – J.A. Myers – Oakwood Dr. & Valley View Dr. – 134 Lot Preliminary Plan

Chairman Jim Myers asked if there were any visitors present that wished to address the Commission regarding the plan. There was no one present from the public to address the Commission. He asked for a motion to table the plan.

Andy Hoffman made a motion to table the Plan, seconded by Darrell Raubenstine. ***The motion carried.***

D. Northfield Joint Venture c/o Michael Roepcke – Phase II – Pumping Station Rd. & East of Baltimore Pike – 52 Lot Preliminary Subdivision Plan

Chairman Jim Myers asked if there were any visitors present that wished to address the Commission regarding the plan. There was no one present from the public to address the Commission. He asked for a motion to table the plan.

Darrell Raubenstine made a motion to table the Plan, seconded by Andy Hoffman. ***The motion carried.***

E. Benrus L. Stambaugh II, et al – 1 Lot Land Development Plan – Brunswick Dr. & Oak Hills Dr.

Chairman Jim Myers asked if there were any visitors present that wished to address the Commission regarding the plan. There was no one present from the public to address the Commission. He asked for a motion to table the plan.

Darrell Raubenstine made a motion to table the Plan, seconded by Andy Hoffman. ***The motion carried.***

F. James E. Horak & Donald L. Yorlets – Fairview Dr. – 6 Lots Preliminary Subdivision Plan

Chairman Jim Myers asked if there were any visitors present that wished to address the Commission regarding the plan. There was no one present from the public to address the Commission. He asked for a motion to table the plan.

Duane Diehl made a motion to table the Plan, seconded by Andy Hoffman. ***The motion carried.***

ITEM NO. 10 New Business

C. Application: Case – VA/SE - #06-09/04/09 – 590 Impounding Dam Rd
Applicant: Carl & Brenda Grubb –

- (1). Application for a Variance from Article 7, Section 2.18 – Subsection 2 that requires that a rural occupation not exceed 1000 square feet, and Subsection 3(b) that requires that such a building be located in the rear yard of the principal residence and be set back at least 100 feet from the side or rear lot lines.
- (2). Application for a Special Exception from Article 7, Section 2.18, Rural Occupation to use 4 storage units as rental space in conjunction with farm operations.

Christopher Restak, Attorney was present to represent the applicant. He said this particular project was previously submitted in November of 2008 and was recommended for approval by the Planning Commission to the Zoning Hearing Board. The application was not approved by the Zoning Hearing Board and it was ultimately appealed. He said there was public record of this activity. He said that Mr. Grubb has scaled down the project. The buildings are preexisting that were previously permitted for farm use and because of changed conditions in the community and the applicants' activities, the applicant had periodic tenants. There were general storage activities in seven storage units that included general storage and cars. This was part of the original 2008 application. Mr. Grubb has voluntarily removed the tenants and the remaining is on a month-to-month basis. The applicant is now applying to use four of the seven bays which total approximately 1,130 square feet. A rural occupation allows 1,000 square feet which is the reason the applicant is requesting a variance. He understands the issue of dominimus and if 10%-11% would be considered dominimus although the standard is a matter of debate, however; particularly in light of the fact that the buildings have been in existence and have been used for sometime the only area of noncompliance that the applicant has with the particular project is the actual location of the buildings. The code states the buildings are required to be set back 100 feet from the roadway and behind the primary residence. The applicant does have a home occupation which consists of a collectable business in the primary residence. He said included with the application are photographs and a plan showing the location of the units in relationship to the other units. The photographs were numbered to indicate which bays the applicant is proposing to use. He said the 1,130 square feet is not a magic number it is just a

subdivision total of the particular four bays and he feels it would be impractical to require the applicant to reduce the square footage to 1,000 square feet. He would like the board to consider approval for 1,130 square feet as opposed to 1,000 square feet. He said everything else that was outlined under the requirements for a special exception the applicant satisfies. He said he would like to bring up the issue about the roadway and regarding an accident that occurred approximately 2 years ago where a driver ran off the road and damaged where the well was located. Due to the accident the applicant had to relocate the well in the area where the driveway was previously. Visitors coming in and out of the property are using the adjoining driveway to access the buildings. He said there always was a driveway, because there was originally a garage located there previously, prior to the Grubb's purchasing the property in 1993. Mr. and Mrs. Grubb have owned the property since 1993. They had the buildings permitted and inspected between the time of 1997 to 1998 and until recently were used for farming purposes. He is asking the board's consideration for allowing the limit of the four bays that total 1,130 square feet and allow the applicant to rent the spaces as noted in the previous application as dead storage. The applicant would be amenable to limited storage so the units could be rented to generate income to use to support his farm operations. He said he would be happy to answer any questions.

Darrell Raubenstine asked how many home occupations the applicant was operating.

Mr. Restak said one CB Collectibles.

Darrell Raubenstine asked Mr. Grubb if he was using the other building.

Mr. Grubb said they use it for storage. He said they have no hours because they sell everything on the road.

Mr. Restak said the place of business is the applicant's home and some of the residual storage takes place in the other buildings. The bay spaces the applicant is interested in renting are the four that are demarcated in the photographs.

Mike Knouse, C.S. Davidson said as defined by the zoning ordinance it sets forth special exception uses that the applicant is requesting. He said for each use there are listed conditions which has been included with the application and if the condition has been addressed and met. In order to meet the criteria they are in addition requesting two variances. There are three separate items to vote on for the Zoning Hearing Board.

Darrell Raubenstine said the application was turned down previously.

Mike Knouse said the application is exactly the same as the legal proceeding. The township has reviewed the application previously. Included with the application was information from the township solicitor that indicated the decision that was upheld by the Zoning Hearing Board and the courts.

Darrell Raubenstine said he would recommend that they application be moved on to the Zoning Hearing Board with no recommendation.

Mr. Restak said one distinguishing characteristic that has changed is that it is significantly less than 50% of the square footage that was included with the original application. This is the reason they felt there was merit to bring the application request before the board again.

Darrell Raubenstine asked if two home occupations were allowed.

Mike Knouse said the applicant has a permitted home occupation. The request is defined as a rural occupation. There is no more than one rural occupation allowed.

Andy Hoffman said that he feels they need to make an unfavorable recommendation to the Zoning Hearing Board.

Duane Diehl asked if they have talked with any of the neighbors.

Carl Grubb said the neighbors have lived there for eleven years. There have never been any complaints filed, or any police filings. He said the only neighbors that have complained were the Horaks' and another neighbor they complained about that was shooting across his fields. He said they have been there since 1998. He came to the township at that time about it and they said it was alright. He said they are fighting an issue that was back in 1989 that the Township new about.

Andy Hoffman said he is requesting the change the use of the buildings.

Mr. Grubb said he asked back in 1998 if he needed anything and he was informed by Mr. Hempfing that he didn't need anything to rent a house or a garage. He did what the township told him to do back in 1998. He said they wrote permits on things that did not meet the township ordinance. He said Mr. Hempfing told him not to worry about it because he was the boss and they do things the way they want. There are things that were done that apparently were not right and he said they are trying to fix the problems that he was allowed to do back in 1998.

Mr. Restak said they recognize that what someone else might have told him in the past whether it was accurate or erroneous is not really the issue today.

Mr. Grubb said to address the question on whether he has spoken to the neighbors. He said there was seventeen letters sent out to adjoining property owners and if everyone was always complaining that things were being done wrong there was only neighbor that showed up to the meeting. He said if this was an issue out of seventeen letters he thought there would have been more than one person show up.

Darrell Raubenstine asked about the hours of operation.

Mike Knouse said to address the question regarding hours of operation. He believes during the last meeting he presented a copy of the lease agreement that stated the hours of operation being 6:00 am-9:00 pm.

Mr. Grubb said this is all together a whole new case which is why they did it different.

Mike Knouse said the application shows 6:00 am – 9:00 pm and if he would be willing to present a copy of the lease agreement.

Mr. Grubb said he thinks what they need to do is make a new one. He doesn't remember what the agreement said.

Duane Diehl said there would not be anyone there after dark.

Mr. Restak said that would be the intention.

Carl Grubb said in the winter it gets dark at 5:00pm which is the reason they put in a time because it gets dark earlier.

Darrell Raubenstine said he is still of the intent to pass this on without a recommendation.

Duane Diehl said the application is the same that was recommended by this board except with less footage. He said the request is with less square footage than the previous application that was recommended. He said he understands it was turned down by the higher courts and maybe for something big, but this board recommended approval for 2,200 square feet and now the applicant is asking approval for 1,100 square feet.

Chairman Jim Myers said he also would agree to move the application on to the Zoning Hearing Board with no recommendation.

Andy Hoffman said this is creating a second rural occupation.

Mr. Restak said it is the first rural and currently there is a home occupation.

Andy Hoffman said the buildings were built for the farm and now they are no longer meeting the 100 foot setback for commercial warehousing that worked for farming use.

Andy Hoffman made a motion for an unfavorable recommendation to the Zoning Hearing Board.

Andy Hoffman amended his motion to include an unfavorable recommendation due to not meeting the 100 foot setback, exceeding the 1,000 square foot for a commercial warehousing operation. There was no Second. ***The motion died.***

Darrell Raubenstine made a motion to send the application to the Zoning Hearing Board with no recommendation.

Darrell Raubenstine amended his motion to include no recommendation for the special exception and both variances indicated in the application for the setback and the size of the area, seconded by Duane Diehl. ***The motion carried.***

ITEM NO. 11 Signing of Approved Plans

There was no new business to discuss.

ITEM NO. 12 Zoning Officer

Harold Coldren, Interim Zoning Officer said there was no new business to discuss.

ITEM NO. 13 Sketch Plans and Other Business

A. Subdivision and Land Development Ordinance (SALDO) Review

Mike Knouse said he apologizes but he does not have anything to present tonight on the SALDO. He would like to make the commission aware that the Board of Supervisors has approved the Zoning Ordinance as well as the amendments to the Comprehensive Plan. He said they also passed the Resolution for Historic Resources.

ITEM NO. 14 Public Comment

Chairman Jim Myers asked if there were any visitors present that wished to address the Commission. There was no one present from the public to address the Commission.

ITEM NO. 15 Next Meeting

The next Planning Commission meeting is scheduled for Thursday, October 15, 2009 at 6:00 pm.

ITEM NO. 16 Adjournment

Adjournment was at 6:45 p.m. in a motion by Andy Hoffman, and seconded by Duane Diehl. ***The motion carried.***

RESPECTFULLY SUBMITTED,

LAURA GATELY
RECORDING SECRETARY