

**UPPER MORELAND TOWNSHIP
BOARD OF COMMISSIONERS**

**COMMUNITY DEVELOPMENT & PUBLIC WORKS
COMMITTEE MEETING MINUTES**

July 16, 2007

CALL TO ORDER: Commissioner Martin called the Community Development & Public Works Committee meeting to order at 8:45 p.m.

ROLL CALL: Commissioner Martin, Chairperson, took roll. Present: Commissioners James Hotchkiss, Jr. and Michael Crilly.

Others: David A. Dodies, Township Manager; John Chambers, Township Engineer; Richard S. Watt, Township Solicitor; Paul Purtell, Director of Code Enforcement, and Jack Snyder, Director of Public Works.

APPROVAL OF MINUTES:

The minutes were accepted into the record without comment.

REPORTS:

Code Enforcement Department Report – May 2007 and June 2007: Accepted into the record without comment.

Public Works Department Report – June and July 2007: Commissioner Martin commented that May 2007 was the fifth heaviest trash pick-up for any month in the history of the Township and for 2007 the highest level of trash pick-up ever. Manpower and equipment are being stressed to the maximum on a regular basis. Also, the electronic pick-up has been very high for the month of June and is on target to do about 8-10 tons of electronic items for the year. There were no further comments and the Reports were accepted into the record.

Public Works Recycling Report – May and June, 2007: Accepted into the record without comment.

LAND DEVELOPMENT APPLICATION:

2901 Blair Mill Road, Sabia Development Corporation:

Commissioner Martin noted that Sabia Development Corporation is proposing to construct 29 townhouses located at 2901 Blairmill Road. This is where the

Wehmeyer Plumbing Company was formerly located. Commissioner Martin welcomed Paul Sabia, the Applicant and Developer and Martin Eustace, the Applicant's engineer. Also, Kurt Shaffer, Esquire, introduced himself as the Applicant's attorney.

Commissioner Martin stated for the record that the Applicant is proposing to demolish all of the existing structures on the property. There is strong community support for this project and the Committee is also eager to see this project to its completion. The site is zoned multiple dwelling. The zoning was changed from R-3 to multiple dwelling in 2005. The Applicant then requested a variance from the Zoning Hearing Board which was granted in March 2006 to allow for a higher density. They went from 24 units up to 29 units. Three other variance requests were withdrawn and the Committee will now deal with some of the outstanding issues.

Kurt Shaffer, attorney for the Applicant, proceeded to add to Commissioner Martin's summary. He believes the plans are ready to go before the Commissioners for conditional final approval. They are still in need of a highway occupational permit from PennDOT and a commitment from Aqua Pa. for water service. The focal point of this meeting is the waiver requests.

Commissioner Martin would like to begin with the traffic concerns. In reference to the July 3, 2007 review letter from McMahon Associates, it should be noted that the Applicant met most of the conditions that were brought forth in the first review letter. Commissioner Martin mentioned that the letter from McMahon Associates was not signed nor was it on letterhead and he recommends that be done.

One of the concerns of the Fire Marshal and Code Enforcement Director is the length of the loop driveway. It was recommended that an emergency access be placed between lots 24 and 25. That concern has been resolved since the Applicant has agreed to install sprinkler systems in all of the units to fully address the access problem.

Another concern is the center green area not being large enough, which will be discussed later. The required open space of 1,000 square feet per unit totals 29,000 square feet as there are 29 units, however, the Applicant is falling short of that number.

Commissioner Martin spoke with some of the homeowners that live on Linden Avenue and Veser Lane and they are worried about the increase of traffic but they are very supportive of the project because of the increased property value potential and improvement for storm water in the area. Also, some of the residents were concerned about keeping as many trees as possible. Martin Eustace, the Applicant's engineer responded that the plans were modified to comply with the Code requirements. The trees along the rear of the property

on the south side are not encroaching beyond the property line and it is proposed the area be landscaped along the perimeter on all three sides of the property.

Commissioner Martin pointed out another concern as to the 30-40 year old metal chain link fence and wooden fence. The residents are requesting that both fences be taken down and replaced with new a one. The engineer replied that he believes one of the fences is Wehmeyer's and one is the residents and they will both be removed and replaced with one fence.

The residents also request that the lighting not be pointed in the direction of their back yards.

Commissioner Martin asked what the approximate selling price would be of each townhouse. The reply was more than likely in the upper \$300,000.

Waiver Requests:

Waiver No. 1

The Applicant is asking for a waiver from the requirement that intersections with secondary or primary highways be located at least eight hundred (800) feet apart. The proposed driveway access will only be 370 feet east of Gibraltar and only 450 west of Vesper Lane. Our traffic engineer has recommended that this waiver be approved since there will be a low volume of traffic coming in and out of the townhouse development, however, Commissioner Martin thinks there may be a problem during rush hour. Therefore, our traffic engineer recommends approval with a recommendation that the Township charge a fee of \$43,500 to be paid to the Township for any future roadway improvements that would need to be made in that area.

A discussion pursued on how the traffic impact was determined.

Richard Watt, Township Solicitor, stated that under the Code, developers cannot be required to make offsite improvements or contributions to offsite improvements.

Paul Sabia, the Developer, stated he spent \$35,000 investigating the water problems. He proposes to install underground storm water management to capture the offsite flooding which could exceed \$50,000. In addition, he has agreed to install sprinkler systems, which will cost over \$150,000. Since the real estate market is not what it was in 2005, any additional major expenditures could keep this project from going forward.

Commissioner Crilly asked Mr. Sabia why the project was not started after the application was originally approved. Mr. Sabia replied that the design differs in that the entrance now is reversed to the right hand side, due to an error on their

traffic engineer's part, and the redesign took over six months and also, they scaled back on some of the storm water management but stayed within Code.

Commissioner Crilly also questioned why the plan could not comply with the 1,000 square feet of recreational space per unit. Was it because the Zoning Hearing Board increased the number of units and as a result of the increase, the plan cannot now comply with the 1,000 square feet of recreational space per unit on the property. Mr. Sabia responded that a unit would have to be removed from each of the four groupings and even at that it still would not give anymore recreational area but just more green space and would still fall short of the requirement.

Mr. Sabia also stated that the storm water management would take care of 13 other adjacent properties that have flooding in their back yards.

Commissioner McKenna commented that he voted on the project but was uncomfortable with the project at 24 units and now the project has increased by 17.3% and the storm water, traffic and parking issues will also increase. He also reminds everyone that the APA voted against this project at the time when there were only 24 units and now there are 29 units.

Mr. Sabia responded that the original plan that the APA reviewed illustrated 33 units and in consideration of their comments reduced it to 29 units. Twenty-four units were never brought to the Township.

Public Comments:

Kevin Spearing, resident, questioned whether the property was originally zoned commercial and Commissioner Martin responded that it was originally zoned R-3 and changed to multi-dwelling in 2005. Mr. Spearing also questioned whether there was a pipe from the rear of the yards to Vesper. Mr. Sabia explained their proposed design for storm water. Mr. Spearing also wanted to know what the difference was between the impervious ground before and now. Commissioner Martin said he would get an answer to him later tonight or tomorrow.

Resident, Chris Heywood, Willow Avenue, asked whether there would be a fence installed between Concord Apartments and the new townhouses. Mr. Sabia responded that there would be a vegetative screening. Mr. Heywood is concerned with traffic coming out of the driveway for Concord Apartments. It was confirmed that the new townhouses will only have access by-way-of Blair Mill Road.

Commissioner Martin commented that there is a lot of wisdom in having 800 feet between intersections, especially on Blair Mill Road. There are two options, on-site traffic improvements or off-site traffic improvements. Commissioner Martin

suggests that a turning lane be added at the intersection of Blair Mill and 611 and recommends instead of the initial determination of \$43,500 a compromise of approximately one-half that number, \$20,000, be put into escrow until the time the lane is widened. After much discussion, the Committee members agree and Commissioner Martin recommends this waiver request to be moved for action at the next Regular Meeting on August 6, 2007.

Waiver No. 2:

Applicant is requesting a waiver from the requirement to have a plan profile sheet submitted for the new loop driveway. The loop driveway will be a private roadway. McMahon has no problem with this waiver since the driveway will be a private roadway. The Committee members agree and Commissioner Martin recommends this waiver request to be moved for action at the next Regular Meeting on August 6, 2007.

Waiver No. 3:

Applicant is asking for a waiver not to allow any perpendicular parking along curbs on the access loop driveway. Our traffic engineer has no objections to this waiver as long as it remains a non-dedicated private road. The Committee members agree and Commissioner Martin recommends this waiver request to be moved for action at the next Regular Meeting on August 6, 2007.

Waiver No. 4:

Applicant is seeking a waiver from the requirement to have a minimum of 1,000 square feet of recreational green open space for each and every dwelling unit. This means that the Applicant is required to keep 29,000 square feet as open space. The Applicant is short by 46%. The APA and the Montgomery County Planning Commission came up with a recommendation to enhance the center green area with benches and landscaping. Also suggested was a fee in-lieu-of in the amount of \$7,000 along with the above beautification. The Committee members agree. The Applicant agreed to pay the \$7,000 and use the recommendation of the APA and the Montgomery County Planning Commission to improve the site.

Commissioner Efkwitz remarked that even though the plan currently stands short of the recreational green open space, the site, after redevelopment, will be much more attractive than it is now.

Commissioner Martin recommends this waiver request to be moved for action at the next Regular Meeting on August 6, 2007.

Waiver No. 5:

Applicant is seeking a waiver from the requirement to plant one shade or ornamental tree for every existing evergreen tree to improve the softening buffer along the northeast property line. The Township's landscape architects, McCloskey & Faber, do not object to this waiver request. McCloskey & Faber, however, would like the guarantee for the arborvitae extended for a six month period to 24 months rather than 18 months. The developer, as well as the Committee members agree, and Commissioner Martin recommends this waiver request to be moved for action at the next Regular Meeting on August 6, 2007.

Waiver No. 6:

Applicant is seeking a waiver from planting two (2) evergreen trees per one (1) shade tree for up to 50% of the required replacement trees and ten (10) evergreen or deciduous shrubs per one (1) shade tree for up to 20% of the required replacement trees. McCloskey & Faber do not object, however, they do recommend that the Applicant simply use shrubs to replace the 20% of the new trees required to be installed to replace those destroyed by the development.

Commissioner Efkwitz suggests that if there are pools in the back yard, Applicant should avoid planting pine trees along the property line because the pine needles clog up pool filters.

Commissioner Martin recommends this waiver request to be moved for action at the next Regular Meeting on August 6, 2007.

Waiver No. 7:

Applicant is requesting a waiver from the requirement to show the existing conditions within 400 feet of any part of the land being subdivided. Commissioner Martin sees no reason not to waive this request as the properties around the project site are very well developed so there is no need for this amount of detail. All of the Committee members agree.

Commissioner Martin asked that the Township Manager move all of the above Waivers for action at the August 6, 2007 meeting.

Commissioner Comments:

Commissioner Efkwitz wanted confirmation that the only reason the plans were being brought back today was the relocation of the driveway. Commissioner Martin stated that he checked his notes and there was no prior land development meeting in reference to this project. Mr. Sabia stated that the project had stalled and he had never gotten this far with the project beforehand. Mr. Sabia confirmed that Commissioner Efkwitz is correct that the location of the driveway

was changed and that was the only difference. Commissioner Efkwitz appreciates the willingness of the developer to go above and beyond his responsibilities to correct the offsite drainage improvements that have plagued the residents on Vesper Lane and Linden Avenue.

Commissioner McKenna commented that earlier, when we changed the zoning to multi-dwelling, the zoning was originally for 24 units and not 29. Commissioner Martin stated that subsequently they went to the Zoning Hearing Board to get the variance.

Commissioner Efkwitz also commented that the property currently has a commercial-use component and in her discussions with some of the neighbors, they would rather have homes built there. If the project was abandoned, it could be used commercially.

Public Comments:

Chris Heywood, resident, commented that he lives there and every resident that he has spoken to is very excited to have the townhouses going in there. Commissioner Martin concurs.

Commissioner Martin would like to reiterate to what was agreed to tonight: the fee in-lieu-of agreement in the amount of \$20,000 for traffic improvements; \$7,000 fee in-lieu-of the open green space and the Montgomery County Planning Commission's suggestion to improve the green space; and storm water improvements costing in excess of \$50,000.

Commissioner Efkwitz questioned when would ground be broken and was answered "in spring."

New Business:

Report prepared by John Chambers re 602, 604 and 606 Beechwood Road (drainage problem) dated June 12, 2007 that was previously brought up by Commissioner Efkwitz was introduced. John Chambers examined the drainage issues and determined that no Code violations were present involving the construction of 607 Beechwood Road and that in his opinion it is a private matter between the adjoining property owners.

Commissioner Comments: There were no Commissioner comments.

Public Comments: There were no public comments.

Commissioner Martin suggests removing this item from the agenda.

Unfinished Business: Acme Corrugated Box Company – The Township Solicitor, Richard Watt, stated that this matter is in Commonwealth Court on appeal. Acme Corrugated Box Company has to file a brief by the end of July following which the solicitor will respond.

Commissioner Comments:

Commissioner Romaniello asked the status of the Drake Medical Building. Commissioner Martin spoke to the McMonagles and is working on getting the leases signed by the various doctors and is still in the process of getting investors for funding for the project. It could take a year to obtain funding. The Township Manager, David A. Dodies, stated that the Solicitor's office will prepare the Resolution for the Townhouses for action at the August 6, 2007 Regular Meeting. Secondly, the Commissioners received a request from the School District regarding a waiver of permit fees for renovations at the high school.

Commissioner Martin responded that he received a letter from Mr. Braun, Business Manager, Upper Moreland School District, requesting a waiver for all fees for the Township permits on the high school renovation project. Mr. Braun has calculated the fees to be approximately \$500,000. Commissioner Martin believes this should be granted as it would recognize that the Township would not profit from the improvements at the high school. He would like to direct the Township Solicitor to draft a resolution granting a waiver for all permit fees with the stipulation that the high school be responsible for all actual costs incurred for inspections and reviews by the Director of Code Enforcement and/or his staff. The Committee agrees to move this item for action at the August 6, 2007 Regular Meeting.

Public Comments:

Jonathan deJonge asked that the fees be waived for permits for the War Memorial and that this be done at cost, the same as the high school renovations, since the money must be raised from private sources. Commissioner Martin requested the Township Solicitor to draft a resolution similar to the high school resolution. The Committee agrees and Commissioner Martin recommended to move this item for action at the August 6, 2007 Regular Meeting.

Kevin Spearing, resident, is speaking for the residents of Elm and Mill Road, specifically about the property at 3705 Mill Road. Recently, there has been a lot of activity at this property, particularly, tree removal, excavation, structural changes, etc. All of this was done without permits. Permits were eventually achieved but not posted. Paul Purtell, Director of Code Enforcement, has identified this as a non-conforming use that is to be determined. He trusts that our Code Enforcement Office will make a proper decision based on the historical use of this property. He would like to know what a resident should do if work

persists after the Township instructs the owner to stop. The property was subdivided in 1988 and there is speculation that the nonconforming use predates that subdivision and that it should have been revisited at that time.

Roger Sacks, resident, 1614 Elm Avenue, commented that the house at 3705 Mill Road is at the corner of Mill and Elm and is very visible. He watched a dozen trees come down, new roof installed and a new concrete foundation poured into the garage, etc. with no permits. He also comments that when a permit was granted to change the house to gas, bells and whistles should have went off that major work was being done without permits. This should not be up to residents to report these things to the Township.

Paul Purtell stated that the work was started without permits and our office went out and confirmed that the work was being done illegally and issued a stop order. The permits have now been applied for and are currently under review.

Roger Sacks stated that the person that bought the property is a builder who knows the rules. He'd like to know what happens to the plumber, electrician and everyone else that was working there and what about all of the work that was done before the permits were applied for?

Commissioner Hotchkiss commented that this is a very common problem within Townships. He said the problem will be discussed in Committee as to whether there should be a double penalty imposed for those who do not follow the rules. Commissioner Crilly agrees and does not think we should be lenient with the parties that are knowingly working without permits.

Commissioner Crilly does not describe a good faith effort as obtaining permits after being caught.

Commissioner Martin would like to put it on the agenda and have Paul Purtell follow up to see where it stands in a month at the next meeting on August 20, 2007.

Deborah Shubert, resident, 3655 Mill Road, had a comment that the work has continued to go forward even after the stop order was given. Every house on the block is an R-3 (single dwelling) except 3705 Mill Road and she believes the work was not reported because he was making this building a duplex.

Commissioner Crilly questioned Paul Purtell as to whether the modifications being made to the property were consistent with its zoning use. Mr. Purtell responded that if there were not, they would have to be corrected. If they are not corrected, it will become a legal issue.

Commissioner Romaniello asked Paul Purtell what the process was after a cease and desist order was issued. Paul Purtell answered that if the order is not

complied with, then a citation is issued through District Court, then the matter is referred to the Solicitor to get an injunction from the County court.

Commissioner Comments:

Commissioner Crilly asked if Paul Purtell could go to Mill and Easton Roads to see if they are selling vehicles at the former gas station.

ADJOURNMENT: Meeting adjourned at 10:10 p.m.

Respectfully submitted,

Cynthia Heinemann