

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
APRIL 1, 2019**

The regular meeting of the Board of Supervisors was called to order at 7:30 PM in the Township Building by Chairman Boorse with the pledge of allegiance. A quorum of Supervisors was declared.

Scott Boorse	-	Chairman,
Michael Shiring	-	Vice-Chairman
J. Daniel Hill	-	Supervisor
Kristin Camp	-	Township Solicitor

Chairman Boorse announced the passing of long-time Office Assistant Gail Ayers on March 21<sup>st</sup>. Gail had worked for the Township for 21 ½ years, from September 2, 1997 until January 28, 2019. Her presence in the office will be sorely missed.

Vice-Chairman Shiring moved to approve the March 4, 2019 minutes as written. Supervisor Hill seconded the motion and the minutes were unanimously approved.

Vice-Chairman Shiring moved to approve the bills submitted for payment since the March 4<sup>th</sup> meeting. General Fund bills totaled \$66,590.66. Sewer Fund bills totaled \$24,737.35 State Fund Check #188 for \$795.85 was approved for payment to East Bradford Township for the annual liquid fuels payment for the maintenance of .12 miles of East Regimental Drive. Chairman Boorse seconded the motion and the bills were unanimously approved.

**HAMILTON PLACE – CHANGE TO NUMBER OF BOARD DIRECTORS IN  
DECLARATION OF COVENANT, RESTRICION AND EASEMENT**

David Halm, Cedar Mill Lane, President of the Hamilton Place HOA, and Pat Smith, Little Ridge Drive, Past President of the Hamilton Place HOA (HPOHA), were present to discuss a proposed change to the Declaration of Covenant, Restriction and Easement for the Hamilton Place development.

Mr. Halm informed the Board that the HPOHA had put together an amendment in 2001 reducing the number on the Board of Directors from five to three. Article 11, Section 3 of the Declaration of Covenant, Restriction and Easement requires five members. However, Article VII, Section 2 says that 90% of the total members must approve the change but no amendment shall be recorded without the text being submitted to the Township and allowing thirty days for comment. The process was followed to obtain 90% approval for the amendment by the HPOHA, but the text change was never submitted to the Township.

Mr. Halm was also uncertain as to the steps required to legally change the Declaration of Covenant, Restriction and Easement.

The Board of Supervisors accepted the text change from the HPHOA. Solicitor Camp will help the HPHOA with the steps for recording the change to the Declaration of Covenant, Restriction and Easement.

### **ZONING HEARING BOARD APPLICATIONS**

The Zoning Hearing Board is meeting on Wednesday, April 17<sup>th</sup> @ 7:30 PM to consider two applications.

#### **SONTAGH/1105 DORSET DRIVE/GARAGE ADDITION**

Todd Sontagh, 1105 Dorset Drive, is requesting variances with respect to his non-conforming lot in order to construct a two-car garage. The requested variances are:

1. From the 10% maximum lot coverage requirement in Section 122-24.C of the Zoning Chapter of the Township Code in order to increase the existing lot coverage to 10.5%;
2. From the minimum 90% green space requirement of Section 122-24.1 of the Code in order to decrease the existing green space to 89.5%;
3. From the non-conforming lot requirements of Section 122.109 of the Code;
4. From the twenty foot side yard setback requirement of Section 122-24.G to permit a decreased setback.

Mr. Sontagh stated that his property became a non-conforming lot with a change to the law for lot size requirements. The impervious cover calculation includes a credit for the existing deck area, which is not considered impervious for stormwater management purposes. This will increase the impervious coverage to less than 10%.

Solicitor Camp noted that the existing side yard setback is shown as 3 ½ feet for the shed. She said that the plans should be changed to show the existing and proposed side yard setback for the garage addition. She also added that letters of support from neighbors are helpful.

Mr. Sontagh noted that the adjacent property at 1103 Dorset Drive is vacant and up for sale.

Vice-Chairman Shiring moved to take a non-position on the Sontagh application for a garage addition and to defer to the expertise of the Zoning Hearing Board. Supervisor Hill seconded the motion which was unanimously approved.

#### **O'NEILL/625 GENERAL WEEDON DRIVE/STORAGE SHED**

Stephen and Michelle O'Neill are requesting variances with respect to their non-conforming lot in order to construct a shed. The requested variances are:

1. From the 10% maximum lot coverage requirement in Section 122-24.C of the Zoning Chapter of the Township Code in order to increase the existing lot coverage to 10.54%;
2. From the minimum 90% green space requirement of Section 122-24.1 of the Code in order to decrease the existing green space to 89.46%.

Mr. O'Neill said that there is a discrepancy between the calculations of the Township Building Inspector and the Township Engineer on the total amount of impervious coverage to be disturbed. Solicitor Camp said that the three need to confer so that they are all in agreement.

Vice-Chairman Shiring noted that work was started on the shed without a permit being obtained.

Solicitor Camp confirmed with Mr. O'Neill that the stone access construction driveway installed from South New Street Road will be removed.

Vice-Chairman Shiring moved to take a non-position on the O'Neill application for a shed and to defer to the expertise of the Zoning Hearing Board. Supervisor Hill seconded the motion which was unanimously approved.

### **VERIZON FRANCHISE RENEWAL**

Sect./Treas. Nelling said she had received an e-mail from Casey LaLonde, Township Manager for West Goshen Township, informing her of a proposal from the Chester County Consortium with Cohen Law Group to perform cable franchise renewal services with Verizon Cable. Birmingham Township's twelve year contract with Verizon expired in September 2018. The Township has been operating under the terms of that contract. The fee from Cohen Law Group is based on population and the number of participating municipalities. To date, six municipalities have contracted with Cohen Law Group, but more than 19 have committed to participate. The current cost for Birmingham Township to participate would be \$5,525. If more than 19 participate, the cost will decrease to \$4,550.

Solicitor Camp stated that Cohen Law Group is the expert in the field of franchise negotiations and they will actually audit Verizon's paperwork to ensure that the fee we are receiving agrees with the contract and Cohen Law Group has recouped money for municipalities. They will often negotiate a renewal fee. Mrs. Nelling said that the Township received a \$5,000. renewal fee in 2006.

Vice-Chairman Shiring moved to engage Cohen Law Group for cable franchise renewal negotiations with Verizon per the flat fee schedule on page 12 of the February 12, 2019 Cohen Law Group proposal with a cost to Birmingham Township between \$4,550. and \$5,525. Chairman Boorse seconded the motion which was unanimously approved.

### **ZONING HEARING BOARD APPOINTMENT**

Chairman Boorse moved to appoint Greg Kurey of Wes Moore Drive as an alternate to the Zoning Hearing Board for a three year term expiring the end of 2021. Vice-Chairman Shiring seconded the motion which was unanimously approved.

### **WAGE RECOMMENDATION FOR POLICE OFFICER WILLIAM BEHRNDT**

Chief Nelling said that part-time Police Officer William Behrndt has completed his training. He recommended that his wage be increased from the training rate of \$19.00/hr. to \$22.00/hr., effective with the pay period starting on April 8<sup>th</sup>.

Vice-Chairman Shiring moved to approve the wage increase for William Behrndt to \$22.00/hr. effective with the April 8<sup>th</sup> pay period. Supervisor Hill seconded the motion which was unanimously approved.

## **PUBLIC COMMENT**

Tom Martin, President of the Radley Run III HOA (RRHOA), complimented the Board on the work they do. However, on a recent HARB approval for a shed at 1014 Radley Drive, Mr. Martin felt the Township had acted on mis-information and there should have been more deliberation on the review. Mr. Stanislawczyk, homeowner, had obtained township approvals prior to obtaining approval from the RRHOA for the installation of the shed, which created more work for the RRHOA. The shed was installed in the open space of the rear of the property.

Vice-Chairman Shiring replied that he understands that Mr. Stanislawczyk is moving the location of the shed and he disagreed with Mr. Martin's comment that the Township is "the first line of defense". The Township does not require lots to be fully surveyed on building permit applications which would cost the residents thousands of dollars to do so. The Supervisors reviewed and approved the architecture of the shed being compliant with HARB guidelines and the shed being located in the rear of the property.

Chairman Boorse added that the Building Inspector, Rich Jensen, will certify that the location of the shed complies with setback requirements, but that requirement doesn't come before the Supervisors for HARB approval.

Mr. Martin didn't understand why HARB had approved a shed with vinyl siding as he didn't think vinyl was permitted in the HARB district.

Cynthia Dufour, Radley Drive, was also confused about the HARB guidelines on wall material.

Solicitor Camp explained that the wall material referenced by Mrs. Dufor was for the primary structure and the shed is similar in form for compliance with requirements for out buildings and the architecture of the existing structures on the property. Mr. Stanislawczyk should have gone to the RRHOA first for approval and then the adjacent property owners would have been aware of the shed proposal.

Harry Miller, Bottom Lane, asked about the process for a zoning violation? He has filed a complaint about the shed with the Township office. There may also be a law suit filed with the Court of Common Pleas for violation of the RRHOA Declaration of Covenants and Restrictions.

Mr. Stanislawczyk said he plans on moving the location of the shed to a location that is approved by Rich Jensen and meets the setback requirements of the ordinance.

Pratap Kesarkar, 1370 Old Wilmington Pike, asked the Board if they respected Historic Resource Preservation? He said he moved to Birmingham Township because of its historic nature. He has an historic resource house that is adjacent to the historic resource located at 1360 Old Wilmington Pike, which is under subdivision approval. He didn't think the ordinance is applied consistently to all applicants and he was only made aware of the demolition, not of the subdivision. He felt the notification guidelines by certified mail were insufficient.

Vice-Chairman Shiring said that the ordinance was followed with regards to notice of the Historical Commission and Planning Commission meetings by certified letters being sent to the

surrounding property owners and Mr. Kesarkar's notice was returned unclaimed. He also understand that part of the Historical Commission review process for the historical impact on 1370 Old Wilmington Pike and the accompanying landscape plan had been missed. The applicant for the 1360 Old Wilmington Pike Subdivision will need to go back to the Historical Commission with a proposal to protect Mr. Kesarkar's resource by presenting a landscape plan which shows screening and buffering. Mr. Shiring noted that the house being demolished at 1360 Old Wilmington Pike was actually closer to Mr. Kesarkar's property than the single family dwelling being proposed for the lot. The applicant will need to return to the Historical Commission and a proposal will have to be agreed upon that will satisfy both parties.

Mr. Kesarkar was looking to blame the party responsible for non-compliance with the ordinance.

Vice-Chairman Shiring explained that the submission from the applicant should have complied with all township ordinances. During the review, the township engineer should confirm compliance with the ordinances.

Mr. Kesarkar was upset that the driveway cut for the new house was closer to his property. Solicitor Camp said that the driveway location will not change. The additional reviews required are limited to a landscape plan and the distance of the new structure to Mr. Kesarkar's house.

Mr. Kesarkar was also upset that a tree line on his property was now located behind a fence installed on the adjacent property and a survey will need to be done.

Mr. Kesarkar was relentless in stating that there should be a better way of notifying surrounding property owners of applications. Both Solicitor Camp and Vice-Chairman Shiring said that notices are done by property addresses as shown on the tax records. Supervisor Hill said that if his notification was unclaimed that Mr. Kesarkar might want to take up his concerns over not being served notice with the U.S. Postal Service.

Mr. Kesarkar also questioned the approval of the house being demolished since the Historical Commission minutes state that the Building Inspector had said the house was OK. With regards to the demolition of the house on 1360 Old Wilmington Pike, Vice-Chairman Shiring said that the applicant had submitted a report on the changes that had been made to the original house over the years as well as the condition of the house being in disrepair.

In summary, Vice-Chairman Shiring stated that the proper notification on the meetings had been done by the applicant. Because the applicant and the township engineer missed the requirement for the review on the impact on Mr. Kesarkar's property, the applicant will need to return to the Historical Commission for review of the Historical Resource Impact on Mr. Kesarkar's property, which will include a landscape plan.

Peter Anastasiadis, 1360 Old Wilmington Pike, noted he had received slightly different direction from his lawyer and engineer and he will e-mail Solicitor Camp rather than taking up meeting time to discuss procedure.

Marie Dye, Whitetail Lane resident, said she and her husband are looking to purchase the Borer property at 1175 Birmingham Road and to change it into a bed and breakfast. She asked if a zoning change would be required or possibly conditional use approval in order to allow the use? Solicitor Camp said that there are a lot of components involved and Mrs. Dye would be best served by hiring a land use lawyer to review her options as the property is affected by many requirements such as the Declaration of Covenants and Restrictions; the recorded Subdivision Plan; the Township Code; as well as HARB and the Historical Commission.

Harry Miller felt that the Township should consider letting the property be subdivided rather than having vagabonds come into the township

Mrs. Dye also asked if the Township is responsible for cleaning the trash on the roads and she expressed concern over the enormity of the problem. Chairman Boorse replied that the trash was a pet peeve of a previous Supervisor. The Township has contracted for trash removal services in the past for Birmingham Road and Brinton's Bridge Road. Often the trash is from the township's residents. Mrs. Dye said that trash also flies out the back of trucks. She was extremely concerned about handling all the trash on Rt. 202 and I-95.

Solicitor Camp provided information on PennDOT's "Adopt a Highway" Program but said that PennDOT used to be more pro-active in this area.

Supervisor Hill said that the Brandywine Conservancy spear heads "Spring Clean-Ups".

Ditish Patel, Garnet Valley, said he is looking to purchase the Panarello property at 1325 Wilmington Pike and he would like to erect a Dunkin' Donuts on the property.

Chairman Boorse said that the Supervisors can't provide input on the proposal without a submission for review.

Vice-Chairman Shiring said that Mr. Patel needs to engage the services of a land use lawyer to analyze and interpret the ordinances and render an opinion on the property being able to be used as an eating and drinking establishment and the implications of a multiple use property and the requirements for conditional use approval.

The meeting was adjourned at 9:14 PM. (MTS:JDH)

Respectfully submitted,

Quina Nelling  
Secretary/Treasurer

**Check Register****BIRMINGHAM TOWNSHIP**

11-Mar-19

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>TRUMARK GENERAL FUND</b>				
19762	3/11/2019	776	ALCOPRO	\$657.00
19763	3/11/2019	80	AQUA PENNSYLVANIA	\$2,348.25
19764	3/11/2019	422	HARRY TILLMAN AUTOMOTIVE L	\$82.99
19765	3/11/2019	517	INDEPENDENCE BLUE CROSS	\$6,904.37
19766	3/11/2019	205	PARKWAY DRY CLEANERS, INC.	\$175.26
19767	3/11/2019	29	PECO ENERGY	\$708.20
19768	3/11/2019	554	RED THE UNIFORM TAILOR	\$117.50
19769	3/11/2019	171	REILLY & SONS INC.	\$553.30
19770	3/11/2019	75	RJCRAIG GRAPHICS & DESIGN	\$332.90
19771	3/11/2019	507	ROTHWELL DOCUMENT SOLUTI	\$99.00
19772	3/11/2019	811	S & S CLEANING SERVICE	\$388.00
19773	3/11/2019	226	SIRCHIE FINGER PRINT LABORA	\$58.62
19774	3/11/2019	1001833	STAPLES BUSINESS ADVANTAG	\$415.13
<b>Bank Totals:</b>				<b>\$12,840.52</b>
<b>Total Of Checks:</b>				<b>\$12,840.52</b>

# Check Register

BIRMINGHAM TOWNSHIP

11-Mar-19

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>TRUMARK SEWER FUND</b>				
9791	3/11/2019	1002509	AQUA PA WW	\$77.17
9792	3/11/2019	29	PECO ENERGY	\$2,906.23
9793	3/11/2019	164	PENNSYLVANIA ONE CALL SYST	\$28.86
9794	3/11/2019	586	VERIZON 450-748-892-0001-25	\$59.49
<b>Bank Totals:</b>				<b>\$3,071.75</b>
<b>Total Of Checks:</b>				<b>\$3,071.75</b>

# Check Register

BIRMINGHAM TOWNSHIP

14-Mar-19

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>TRUMARK GENERAL FUND</b>				
19776	3/14/2019	30	PECO ENERGY (TRAFFIC LIGHT)	\$12.88
<b>Bank Totals:</b>				<b>\$12.88</b>
<b>Total Of Checks:</b>				<b>\$12.88</b>

# Check Register

BIRMINGHAM TOWNSHIP

25-Mar-19

From: 25-Mar-19 To: 25-Mar-19

Check No	Check Date	VendorNo	Vendor	Check Amount	Status
<b>Bank Account: 11 TRUMARK GENERAL FUND</b>					
19777	3/25/2019	1002154	VERIZON 250-441-074-0001-	\$58.51	O
<b>Bank Total:</b>				<b>\$58.51</b>	
<b>Total Of Checks:</b>				<b>\$58.51</b>	

**Check Register****BIRMINGHAM TOWNSHIP**

01-Apr-19

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>TRUMARK SEWER FUND</b>				
9795	4/1/2019	149	AECOM	\$3,220.24
9796	4/1/2019	1001859	COYNE CHEMICAL	\$3,768.29
9797	4/1/2019	1002290	DELAWARE RIVER BASIN COMM	\$626.00
9798	4/1/2019	780	GUMBALL MEDIA,LLC\LAND ART	\$1,975.00
9799	4/1/2019	1002493	VERIZON 350-442-985-0001-57	\$39.83
9800	4/1/2019	1002401	WALTON WATER SERVICES	\$11,309.35
9801	4/1/2019	574	WASTE MANAGEMENT OF SOUT	\$47.89
9802	4/1/2019	1001834	WM P MCGOVERN INC	\$679.00
<b>Bank Totals:</b>				<b>\$21,665.60</b>
<b>Total Of Checks:</b>				<b>\$21,665.60</b>

**Check Register****BIRMINGHAM TOWNSHIP**

01-Apr-19

Check No	Check Date	Vendor No	Vendor Name	Check Amount
<b>TRUMARK GENERAL FUND</b>				
19778	4/1/2019	8	10-8 EMERGENCY VEHICLE SER	\$85.00
19779	4/1/2019	43	A & D ELECTRIC INC.	\$250.00
19780	4/1/2019	1001926	AJ BLOSENSKI, INC.	\$161.00
19781	4/1/2019	776	ALCOPRO	\$321.50
19782	4/1/2019	1002400	AXON ENTERPRISE, INC.	\$1,324.00
19783	4/1/2019	1002091	BBD, LLP	\$5,000.00
19784	4/1/2019	366	BUCKLEY,BRION,MCGUIRE ATTY	\$884.60
19785	4/1/2019	873	CARDMEMBER SERVICE	\$331.58
19786	4/1/2019	529	CHRISTY MOBILE	\$100.00
19787	4/1/2019	1001902	COMCAST CABLE	\$106.85
19788	4/1/2019	775	CONVENIENT CAR CARE CORPO	\$359.40
19789	4/1/2019	560	DRUGSCAN, INC.	\$336.00
19790	4/1/2019	1002258	EASTERN SALT COMPANY INC	\$4,440.19
19791	4/1/2019	2	FREEDOM SYSTEMS	\$149.00
19792	4/1/2019	114	FRONEFIELD CRAWFORD. JR. LL	\$60.00
19793	4/1/2019	1002182	GALE M FITZPATRICK	\$125.00
19794	4/1/2019	780	GUMBALL MEDIA,LLC\LAND ART	\$4,075.00
19795	4/1/2019	21	H. A. THOMSON	\$8,025.49
19796	4/1/2019	517	INDEPENDENCE BLUE CROSS	\$5,321.51
19797	4/1/2019	1002052	JENNIFER A BOORSE	\$500.00
19798	4/1/2019	711	JUDY JENSEN	\$930.00
19799	4/1/2019	1001755	MAJIC LANDSCAPES	\$2,660.00
19800	4/1/2019	1002053	MICHAEL J HOCHHAUS	\$250.00
19801	4/1/2019	178	PAGE EXCAVATING COMPANY,I	\$9,990.00
19802	4/1/2019	30	PECO ENERGY (TRAFFIC LIGHT)	\$50.69
19803	4/1/2019	554	RED THE UNIFORM TAILOR	\$301.02
19804	4/1/2019	171	REILLY & SONS INC.	\$1,339.36
19805	4/1/2019	507	ROTHWELL DOCUMENT SOLUTI	\$168.98
19806	4/1/2019	26	SIGNAL SERVICE INC.	\$2,137.50
19807	4/1/2019	226	SIRCHIE FINGER PRINT LABORA	\$58.62
19808	4/1/2019	1001833	STAPLES BUSINESS ADVANTAG	\$23.89
19809	4/1/2019	426	THE WATER GUY	\$2.84
19810	4/1/2019	278	UNRUH, TURNER, BURKE & FRE	\$1,900.30
19811	4/1/2019	23	VANDEMARK & LYNCH, INC.	\$1,720.03
19812	4/1/2019	1001913	VERIZON WIRELESS 722423083	\$189.40
<b>Bank Totals:</b>				<b>\$53,678.75</b>
<b>Total Of Checks:</b>				<b>\$53,678.75</b>