

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
JULY 10, 2023**

The regular meeting of the Board of Supervisors was called to order at 7:01 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

Also present were Tom Oeste, Esq., Township Solicitor, and Greg Richardson, P.E., Township Traffic Engineer.

Vice-Chairman Shiring moved to approve the June 5, 2023 minutes as written. Supervisor Hill seconded the motion. Chairman Boorse abstained as he was not in attendance. The minutes were approved with two in favor and one abstention.

Supervisor Hill moved to approve the bills submitted from June 6 – July 10, 2023. General Fund Checks totaled \$228,892.93. Electronic payments from the General Fund totaled \$12,194.17. Capital Reserve Fund Check #103 for \$1,396.00 was approved for transfer to the General Fund for Arro Consulting Invoice #81713 for the garage addition. Vice-Chairman Shiring seconded the motion and the bills were unanimously approved.

**HARB REPORT**

HARB met on June 20<sup>th</sup> and considered four applications.

**McKee/Hay/1010 Revolutionary Drive**

HARB recommended that a Certificate of Appropriateness be issued to Frank McKee and J. Hay, 1010 Revolutionary Drive, for exterior renovations. Mr. McKee said that the cedar siding on the house was going to be replaced with James Hardie white siding. The roof color is being changed from brown to charcoal. There will be black standing seam metal roof where there have been issues with leakage above the front door and a pitch on the back center.

HARB approved the application for the exterior renovations with the materials/colors:

- GAF shingles in “Charcoal”
- James Hardie Siding in Artic White
- Shutters in Mid America “Black”

Vice-Chairman Shiring moved to approve the Certificate of Appropriateness as recommended by HARB. Supervisor Hill seconded the motion which was unanimously approved.

**Matyok/1005 Radley Drive**

HARB recommended that a Certificate of Appropriateness be issued to Anthony Matyok, 1005 Radley Drive, to replace/relocate two windows of the rear of the house. Mr. Matyok said that the

kitchen is being renovated and window locations are being adjusted. The kitchen window will be a larger double hung 36” six over six paned window and the bay window is being removed and replaced with a smaller 36” six over six paned window. The existing James Hardie siding that is being removed is being replaced with the same siding so HARB approval wasn’t required.

HARB approved the application for the window replacement/relocation with the windows to be 36”, six over six panes.

Vice-Chairman Shiring moved to approve the Certificate of Appropriateness as recommended by HARB. Supervisor Hill seconded the motion which was unanimously approved.

#### Lorenz/1101 Daniel Davis Ln

HARB recommended that a Certificate of Appropriateness be approved for Keenan Lorenz, 1101 Daniel Davis Lane, for the installation of a shed in the backyard with the following materials/colors:

- Wooden Shed 16’ x 10’
- Shakeswood Roof
- Beige Siding
- Black Shutters

Vice-Chairman Shiring moved to approve the Certificate of Appropriateness as recommended by HARB. Supervisor Hill seconded the motion and it was unanimously approved.

HARB had also considered an application from Mr. Lorenz for a 4’x4’ chicken coop to match the home and the shed. HARB members do not remember approving a chicken coop and wanted to do more research in the HARB guidelines and deferred action on this application.

#### McDermott/750 Birmingham Rd

HARB recommended that a Certificate of Appropriateness be issued to Neil and Karin McDermott, 750 Birmingham Road, for the replacement of their wooden deck with composite material. The materials/colors are as follows:

- Brown composite decking
- Almond railing
- Black spindles

Vice-Chairman Shiring moved to approve the Certificate of Appropriateness as recommended by HARB. Supervisor Hill seconded the motion which was unanimously approved.

#### 1305 Wilmington Pike Land Development Plan

Penn Oaks Enterprises, L.P is proposing a three story office building on 3.099 acres at 1305 Wilmington Pike. The first floor will be a restaurant and retail. The top two floors will be office buildings. The corporate office will be relocated to this site but there will also be additional office space for lease. The plan has received conditional use approval June 2022; zoning hearing board approval for the building permit to be issued through July 19, 2024; and planning commission approval at their February 14, 2023 meeting. The NPDES permit was received March 2023. Alyson Zarro, Esq.; Steve Sauselein, P.E. and Chris Walsh, P.E. were present for

the applicant.

Ms. Zarro said that the project had been delayed due to an overload issue at the sewer plant. A study was done and Bucks County Water and Sewer Authority approved a connection management plan for the site in May 2023. The Township PC has executed Component A for the Sewage Facilities Planning Module and Component B has been sent to the CCHD who has twenty days to process it. The Supervisors will need to consider approving the resolution for the Sewage Facilities Planning Module at its August meeting for forwarding to DEP who has ninety days for action.

Ms. Zarro reviewed a few outstanding issues with the Board.

The Planning Commission (PC) discussed safety concerns and the need for a pedestrian walkway. Several residents had attended the PC meeting and expressed the need for a walkway. The island parcel with the sign for Penn Oaks in the middle of Penn Oaks Drive is owned by the Penn Oaks Country Club. Ms. Zarro has a verbal commitment from Steve DiMarco of Penn Oaks Country Club for an easement for a sidewalk as well as an easement for a tie-in location for the public sewer at the southeast corner of the intersection of Penn Oaks and Rt. 202.

The Arro Engineering review letter of February 10, 2023 identifies three waivers needed.

- Relief from Section 122-102.D requiring a minimum twenty-foot planting strip along the property lines abutting adjacent commercial uses.
- Relief from Sections 103-6; 103-22.B(1)(b)(6) and 103-41.C to allow 64 replacement trees where 75 are required and to pay fee-in-lieu of planting the additional eleven replacement trees.
- Relief from Section 103-41.E(2) to allow 2:1 slopes in the rear of the lot. Proposed slopes will be up to 24 feet in height.

Arro Engineering had no objections to the waiver requests.

Steve Sauselein reviewed the waiver requests.

Regarding the twenty-foot planting strip, there is a buffer planting strip along the entire southern portion of the property with the exception of a 168 lineal feet strip of land that abuts CJ Tires. This strip of the buffer will only be between 11.8' and 17.2' instead of the 20' requirement because of the parking area encroachment. There will be a single row instead of a double row of trees. A significant amount of landscaping has been provided on the property in excess of the minimum requirement to supplement the reduced planting strip depth.

Solicitor Oeste said that the ordinance requires plantings somewhere else. The planting numbers are adequate.

Chairman Boorse asked for the elevation in the waiver area. Mr. Sauselein indicated that it was 430'.

Mr. Sauselein said that 40% of the western boundary of the property is wooded. A total of 75

trees having a DBH of six inches or greater are proposed for removal that are in excess of the suggested 25% threshold. A mixture of 64 hardwood specimen trees is proposed for planting within the pervious areas of the development. Originally a fee in lieu of planting the eleven remaining trees was going to be offered by the developer but the applicant is able to locate the trees elsewhere on the property so the waiver will not be needed.

The ordinance requires that grading or earth moving on all sloping lands exceeding 15% shall not result in earth cuts or fills whose highest vertical dimensions exceed ten feet. Finished slopes of all cuts and fills shall not exceed 3:1, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately. In the rear of the property, 2:1 slopes are being proposed. The slopes are proposed within areas of cut excavation which does not require backfill operations where compaction is critical for full stabilization. The finished grade will be stabilized using erosion control blankets and the graded embankment shall be planted with a mixture of hardwood specimen trees to supplement stability. Stormwater runoff above the 2:1 slope area will be collected and conveyed within a stabilized channel before reaching the 2:1 slope area.

Ms. Zarro said that the applicant will be able to comply with all other conditions in the Arro review letter of February 10, 2023, with the exception of the two waiver requests.

Discussion ensued onto the traffic impact study prepared by Chris Williams, PE of McMahon which measures current and future traffic conditions as a result of the development of the property. The recommendations are:

- Provide one ingress and one egress lane for the low volume driveway.
- Provide stop control on the egress approach.
- Provide an internal pedestrian connection from the site to the southeast corner of the intersection.
- Upgrade the pedestrian accommodations on the southeast corner of the intersection to include an ADA compliant curb ramp and pedestrian pushbutton to cross Penn Oaks Drive to the northeast corner of the intersection, which from there a pedestrian crossing is provided across Rt. 202. The applicant does not own the property on the southeast corner so construction of these improvements is contingent on the ability to obtain easements or right-of-way from the property owner.

Mr. Williams said that the intersection at Rt. 202 and Penn Oaks Drive works reasonably well today. Traffic counts were conducted during the Saturday midday peak period from 11 AM – 2 PM and weekday peak periods from 7 AM – 9 AM and 4 PM – 6 PM. The measured delays are assigned a letter grade. Current conditions are a level C for the weekday peak periods and a level B for Saturday midday peak periods. With the study for future conditions, the weekday peak period remained at a level C and the Saturday midday peak periods were also assigned a level C.

Responses to the traffic impact study from Greg Richardson, PE of Traffic, Planning & Design (TP&D):

- Recommendation that a sidewalk be provided along the Penn Oaks Drive property frontage and the proposed site driveway to connect to the new ADA compliant curb

ramp. An alternative, or in conjunction with the sidewalk along Penn Oaks Drive would be to provide an internal sidewalk connection from the parking lot to the new ramp.

- Recommendation that the existing curb on Penn Oaks Drive along the property frontage be connected with the proposed driveway curb.
- Revise the proposed driveway painted stop bar to a single perpendicular line in lieu of the broken design.

Mr. Richardson noted that the provision of the ADA ramp will require modification of the Traffic Signal Permit plant for the intersection which is subject to PennDOT approval. This should be coordinated through the Township and TP&D as the Township is responsible for the maintenance and operation of the traffic signal.

Chairman Boorse asked if the green light time is currently adequate for pedestrians to cross. Mr. Richardson replied that thirty seconds is provided for pedestrian crossing.

The PC had recommended that the possibility for the need of a deceleration lane should be considered because of speed concerns and the downhill grade approaching the intersection. Mr. Williams indicated that the Penn Oaks development does not trigger a need for a deceleration lane. Also another easement would be needed from the Penn Oaks Country Club for a deceleration lane. It would also require the relocation of the traffic signal pole and box. The applicant did not feel the traffic generated by the development would be creating a negative impact that would require a deceleration lane, which would not be an easy thing to build.

Chairman Boorse said that the sentiment from the public is that it is a horrible intersection just asking for more accidents with more right turns onto Penn Oaks Drive and that a deceleration lane might be needed. It was noted that accident history had not been obtained for the traffic impact study and review. Chief Nelling noted that the accident history is for the turn lanes and southbound on Rt. 202, not northbound. Mr. Williams said that a deceleration lane might actually increase speeding. PennDOT has not been approached with the proposed traffic improvements. Mr. Richardson said that a condition of approval should be securing the easement from Penn Oaks Country Club and approval from PennDOT. Mr. Richardson said that further review would be needed by TP&D after submission to PennDOT.

The Supervisors were not in a position to vote on the plan. Bucks County Water and Sewer Authority has sent an agreement to the applicant to purchase sewer capacity with the completion of the connection management plan. The PC has signed off on Component A for the Sewage Facilities Planning Module; Component B has been sent to the Chester County Health Department and they have twenty days to respond. The Supervisors will then need to pass a Sewage Facilities Planning Module Resolution at their August 7<sup>th</sup> meeting and then the Sewage Facilities Planning Module Package will be forwarded to DEP who has ninety days to respond. The applicant is hopeful the approvals will be received in order for action at the September 5<sup>th</sup> meeting.

### **Commercial Building Permit Fee**

At the June 5<sup>th</sup> Township meeting the Supervisors discussed a commercial permit application for an HVAC that would require a \$1,500. minimum fee for a job costing \$9,500. The Board asked

the Township Solicitor and Building Inspector to review the fees resolution for a recommendation. The Building Inspector has recommended a \$500. minimum fee.

Chairman Boorse moved to adopt Resolution #2023-0710 to amend the fees resolution to reduce to the minimum commercial permit fee from \$1,500. to \$500. Supervisor Hill seconded the motion which was unanimously approved.

### **Resignation of EMC/Appointment of Thomas Nelling as Temporary EMC**

Due to job requirements, EMC Michael Hochhaus has resigned as the Township EMC effective June 30, 2023. Chief Nelling has a potential candidate for the position. Chairman Boorse moved to appoint Chief Thomas Nelling as temporary EMC at no compensation until a replacement can be appointed. Supervisor Hill seconded the motion. The motion was unanimously approved.

### **Codification Update Ordinance Hearing**

The Township has been working with General Code and Solicitor Kim Venzie on a comprehensive update of its ordinances to comply with current laws and to identify typos and inconsistencies.

Solicitor Oeste presented the exhibits for the hearing.

B-1 - Proof of publication that the ordinance hearing was duly advertised in the Daily Local News on June 26, 2023.

B-2 – E-mail from Buckley, Brion, McGuire & Morris to the Chester County Law Library with a copy of the ordinance proposal.

B-3 – Draft minutes from the Planning Commission meeting of June 13, 2023 and the Planning Commission recommendation letter of approval dated June 20, 2023.

B-4 – July 5, 2023 review letter from the CCPC. The CCPC recommended approval after noting one typo, which Solicitor Oeste said has been corrected.

Chairman Boorse acknowledged the hard work of General Code and Solicitor Kim Venzie in identifying updates that were needed and ensuring that the Township is lawful with its ordinances.

Chairman Boorse moved to adopt Ordinance 2023-01 for the comprehensive update to the codified ordinances. Supervisor Hill seconded the motion which was unanimously approved.

### **Public Comment**

Peter and Kathleen Shea, Wylie Road, asked the Board for an update on the status of the adoption of the revision to the Historical Commission (HC) Ordinance. They explained that they were doing an interior bathroom project. The intent of the ordinance was not for it to affect interior projects. They are looking for a date for adoption of the ordinance which will eliminate this provision so they can avoid the historical commission review process.

Vice-Chairman Shiring said that the HC Ordinance was discussed at the June 5<sup>th</sup> meeting. He needs to compile his notes/comments from the meeting and forward them to Solicitor Kristin Camp to revise the ordinance proposal. It will then be put on the Township web site and

forwarded to the PC and CCPC for review and comment. It was thought that the ordinance hearing would be, at the earliest, the September meeting and the latest at the November meeting.

The meeting was adjourned at 8:22 PM. SCB:JDH

Respectfully submitted,

Quina Nelling  
Secretary/Treasurer

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

08-Aug-23

From: 06-Jun-23 To: 10-Jul-23

Check No	Check Date	VendorNo	Vendor	Check Amount	Status
<b>Bank Account: 11 TRUMARK GENERAL FUND</b>					
22125	6/12/2023	557	ALL SEASONS LANDSCAPIN	\$993.98	O
22126	6/12/2023	366	BUCKLEY,BRION,MCGUIRE	\$5,541.01	O
22127	6/12/2023	1002011	FP FINANCE PROGRAM	\$174.37	O
22128	6/12/2023	1002864	MILESTONE PLANNING AND	\$850.00	O
22129	6/12/2023	171	REILLY & SONS INC.	\$1,029.11	O
22130	6/26/2023	11	21ST CENTURY MEDIA - PHI	\$345.62	O
22131	6/26/2023	366	BUCKLEY,BRION,MCGUIRE	\$172.00	O
22132	6/26/2023	1002121	CLEVENS K-9 SCOOP	\$228.00	O
22133	6/26/2023	46	GALLS, LLC	\$76.10	O
22134	6/26/2023	422	HARRY TILLMAN AUTOMOTI	\$343.99	O
22135	6/26/2023	1002864	MILESTONE PLANNING AND	\$875.00	O
22136	6/26/2023	205	PARKWAY DRY CLEANERS,	\$13.75	O
22137	6/26/2023	171	REILLY & SONS INC.	\$1,085.73	O
22138	6/26/2023	507	ROTHWELL DOCUMENT SO	\$325.06	O
22139	7/10/2023	8	10-8 EMERGENCY VEHICLE	\$15,887.78	O
22140	7/10/2023	811	S&S CLEANING SERVICE	\$388.00	O
22141	7/10/2023	1002659	ARRO CONSULTING, INC	\$23,275.23	O
22142	7/10/2023	1002659	ARRO CONSULTING, INC	\$4,154.75	O
22143	7/10/2023	1001950	CARA M FITZPATRICK	\$330.00	O
22144	7/10/2023	1002782	CELS LANDSCAPE & TREET	\$895.00	O
22145	7/10/2023	1001861	CHRISTOPHER A URBANY	\$202.20	O
22146	7/10/2023	1002121	CLEVENS K-9 SCOOP	\$228.00	O
22147	7/10/2023	775	CONVENIENT CAR CARE C	\$479.40	O
22148	7/10/2023	2	FREEDOM SYSTEMS	\$950.00	O
22149	7/10/2023	46	GALLS, LLC	\$267.48	O
22150	7/10/2023	21	H A THOMSON	\$5,034.50	O
22151	7/10/2023	422	HARRY TILLMAN AUTOMOTI	\$295.98	O
22152	7/10/2023	6	INNOVATIVE CONSTRUCTI	\$5,500.00	O
22153	7/10/2023	1002865	JOSEPH & JANINE MARSINI	\$1,489.00	O
22154	7/10/2023	1001755	MAJIC LANDSCAPES	\$2,365.00	O
22155	7/10/2023	1002864	MILESTONE PLANNING AND	\$650.00	O
22156	7/10/2023	798	PA ONE CALL SYSTEM,INC.	\$32.46	O
22157	7/10/2023	205	PARKWAY DRY CLEANERS,	\$101.40	O
22158	7/10/2023	171	REILLY & SONS INC.	\$979.49	O
22159	7/10/2023	1001833	STAPLES BUSINESS ADVAN	\$132.46	O
22160	7/10/2023	1002822	THOMPSON HOMES	\$1,148.37	O
22161	7/10/2023	1001834	WM P MCGOVERN INC	\$354.25	O
22162	7/10/2023	2	FREEDOM SYSTEMS	\$799.00	O



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

08-Aug-23

From: 06-Jun-23 To: 10-Jul-23

Check No	Check Date	VendorNo	Vendor	Check Amount	Status
22163	7/10/2023	422	HARRY TILLMAN AUTOMOTI	\$118.99	O
22164	7/10/2023	6	INNOVATIVE CONSTRUCTI	\$146,432.30	O
22165	7/10/2023	1002866	KEITH & LINDY JACKSON	\$472.76	O
22166	7/10/2023	278	UNRUH, TURNER, BURKE &	\$1,268.00	O
22167	7/10/2023	746	V.E. RALPH & SON, INC.	\$186.00	O
22168	7/10/2023	917	WITMER PUBLIC SAFETY G	\$2,421.41	O
<b>Bank Total:</b>				<b>\$228,892.93</b>	
<b>Bank Account: 22 GF - Electronic Payments</b>					
100131	6/12/2023	80	AQUA PENNSYLVANIA	\$2,679.67	O
100132	6/12/2023	1002798	TRUMARK FINANCIAL CRED	\$233.47	O
100133	7/10/2023	80	AQUA PENNSYLVANIA	\$128.16	O
100134	7/10/2023	1001902	COMCAST BUSINESS	\$174.89	O
100135	7/10/2023	1002011	FP FINANCE PROGRAM	\$65.00	O
100136	7/10/2023	517	INDEPENDENCE BLUE CRO	\$7,812.56	O
100137	7/10/2023	29	PECO ENERGY	\$289.49	O
100138	7/10/2023	30	PECO ENERGY (TRAFFIC LI	\$118.29	O
100139	7/10/2023	61	VERIZON 753-804-167-0001-	\$361.96	O
100140	7/10/2023	1001913	VERIZON WIRELESS 722423	\$159.88	O
100141	7/10/2023	1001926	AJ BLOSENSKI, INC.	\$170.80	O
<b>Bank Total:</b>				<b>\$12,194.17</b>	
<b>Bank Account: 30 Capital Reserve Fund</b>					
103	6/26/2023	483	BIRMINGHAM TWP TRUMAR	\$1,396.00	O
<b>Bank Total:</b>				<b>\$1,396.00</b>	
<b>Total Of Checks:</b>				<b>\$242,483.10</b>	