

BIRMINGHAM TOWNSHIP PLANNING COMMISSION
Minutes of the Meeting of February 9, 2010

The regular February meeting of the Birmingham Township Planning Commission came to order with a quorum declared by Chairman Nick DiMarino at 7:30 p.m. on February 9, 2010 in the Township Building. Members present were Debbie Hineman, Mary Pat McCarthy, Scott Boorse, Doug Marshall, and Eric Hawkins. Also present were Solicitor Fronfield Crawford and Township Engineer Jim Hatfield. Janet DeCaestecker was absent.

Minutes of the January 12 meeting were corrected as follows:

Page 2: the correct spelling is Eric Pavilonis

Page 5: the correct name is Grace Kaminstein

With these corrections, the minutes were approved. (Marshall, Boorse, all in favor)

East Bradford Township Official Map Amendment: The consensus of the Planning Commission was that the map was fine as amended.

Boor Subdivision: Jim Fritsch of Register Associates was present to represent Barbara Boor, as was attorney Art Sagnor. Mr. Fritsch said he was not requesting preliminary plan approval at this meeting, but hoped to have the plan ready for preliminary plan approval at the next PC meeting. Mr. Fritsch responded to the January 25 letter from Jim Hatfield as follows:

1. ZO Section 122-24.A The plan will be revised to deduct all features specified in the definition of net lot area.
2. ZO Section 122-24.C To comply with the maximum allowable coverage, the plan will be revised to reflect removal of 780 square feet of impervious coverage from a parking area and possibly from a driveway pull-off.
3. SLDO Section 103-20.B(10) The existing water service for Lot 1 will be added to the plans.
4. SLDO Section 103-20.B(15) A note will be added to the plan to show the existing cesspool currently being used on Lot 1.
5. SLDO Section 103-22.B(1)(b)(6) The drip lines of the trees will be shown on the plan.
6. SLDO Section 103-22.B(3)
 - a.:SLDO Section 103-22.B(3)(b) A tabulation of all impervious surfaces will be added to Sheet #1
 - b.: SLDO Section 103-22.B(3)(c) The PC members agreed that the removal of the driveway passing area would lessen the impact on the trees. Alternatives were discussed. Representing the Emlets, attorney John Carr stated the Emlets' preference that the trees not be disturbed.
 - c.: SLDO Section 103-22.B(4)(b) Mr. Fritsch presented 13 pictures taken from the proposed site of the house showing the views from that point and said he didn't think any type of buffering should be required. Mr. Boorse asked the difference in elevation (new house to surrounding houses). Mr. Hatfield said the ordinance just requires an analysis. Mr. DiMarino said the pictures do not show the view from the surrounding houses.

7. SLDO Section 103-23.G Mr. Fritsch presented the Pennsylvania Department of Environmental Resources letter of February 2, 2010 granting exemption from Sewage Facilities Planning.
8. SLDO Section 103-28.B(2)(b) (See Art Sagnor's reply below)
9. SLDO Section 103-35 Mr. Fritsch presented the Aqua Pennsylvania letter of December 28, 2010 stating that the property is within Aqua's service area.
10. SLDO Section 103-36 A note will be added to sheet #1 specifying that all utilities will be underground.
11. SLDO Section 103-48.A(1) The plans will be revised to show orange construction fencing along the new driveway to Lot 2.
12. SWMO Mr. Hatfield had no objection to a waiver from the required stormwater management Section 101-9.C(4). Mr. Fritsch requested the PC's recommendation of the waiver. (The issue is land disturbance of the orchard area south of the old house on Lot 1.) Discussion revealed that any future increase in impervious coverage would require application to the ZHB. Mr. Hatfield suggested as an alternative a contribution to the Stream Team's riparian buffer program. Mrs. Emler said the Stream Team is not allowed on Spring Meadows property. Mr. Fritsch said he would revise the calculations to reflect the PC's recommendation.
13. In response to the question of whether the overall Spring Meadows subdivision could be approved under the current zoning ordinance, Mr. Hatfield concluded that it could be approved and would permit more lots beyond the current 76-plus-one. This assumes a portion of "restricted" open space fulfilling the common open space requirement. Mr. Hawkins asked what the conclusion would be without "restricted" open space fulfilling the common open space requirement. Mr. Hatfield said, "With the current language, it wouldn't work, but with the current language the *existing* subdivision wouldn't work." This is because "so much of the open space is held on private lots." Mr. Boorse explained that, since the approval of the Spring Meadows subdivision, the ordinance calculations have changed for open space. Mr. Crawford said that, under current regulations, there would be more lots and more common open space and less restricted open space.

In response to an issue discussed at the last PC meeting, Mr. Fritsch said the lot line between Lots 1 and 2 will be moved to give both lots access to the common open space. Addressing the issue of whether or not the garage is historic, Mr. Fritsch reported that Mrs. Boor said the old garage had been replaced after the 1998 tornado. Mr. DiMarino asked if the garage is a dwelling unit. Mr. Fritsch said it is not, and stated that he had spoken to Mrs. Boor and to the real estate agent who has now changed his flier.

Mr. Sagnor proposed to deed-restrict Lot 1 from any further subdivision. Mr. Sagnor also asked that the Spring Meadows Homeowners Association ask their attorney to prepare an amendment to the declaration that would bring both Lots 1 and 2 into the association, thereby "cleaning up" past omissions. Dr. Robert Schwan, President of the Spring Meadows HOA, said he felt the Township should have the document prepared, since it was their mistake that created the problem. Mr. Sagnor said "we're willing to correct it." Mr. Sagnor distributed an undated Memo to the PC from Barbara Boor showing an easement agreement for the driveway to Lot 59 (Emlet) and a (pond) right-of-way maintenance agreement for the access road to 1104, 1106, 1108, 1110, and 1128 Dorset Drive. The second memo also shows the nullity of another driveway agreement.

Mr. Sagnor proposed several options for an agreement for the shared drive to Lots 1 and 2 and the Emlet property.

Mr. Sagnor also distributed the revised real estate flier and declared that the garage had been approved as an office, but has no kitchen and is not a dwelling unit and can not be rented as an apartment.

Mr. DiMarino asked about the drive that has been used for heavy equipment access to the pond. Mr. Sagnor said that there is no document giving any access. He said there's a 20-foot wide easement across grass leading into the open space but he does not think Spring Meadows HOA has any rights to it. Mr. Fritsch said the path across the pond culvert is presently only adequate for foot traffic to the shared drive on the south. Mr. Hawkins asked that Mr. Sagnor find out if there's any documentation for the apparent (on the plan) drive along the north side of the pond from Dorset Drive to the Boor property.

Mr. Boorse asked if there had been a soil analysis of the orchard soil. Mr. Fritsch said Mrs. Boor has a \$1975.00 proposal from Brickhouse Environmental for soil sampling but analysis should not be required if the Township does not require a stormwater management operation for the orchard area. Mrs. Hineman asked about the trees along the proposed drive to Lot 1. Mr. Fritsch said he believed the trees would not be disturbed. Mr. Carr pointed out an area on the plan that appeared to show a number of trees being removed. Mr. Fritsch explained that none of those trees would be removed. Mr. Marshall questioned the authority of the real estate listing. Mr. Boorse asked where the new house would face. Mr. Fritsch said it would face the Tupper property with one side facing the Schwan property. Mrs. Hineman asked if anyone actually knew whether or not there is a kitchen in the garage. Mr. Fritsch welcomed an inspection appointment. Mr. Marshall questioned the funding issues regarding the drive shared by 1104, 1106, 1108, 1110, and 1128 Dorset Drive. Mr. Crawford said that that is not a Township issue. Mr. Marshall asked if, since the existing Spring Meadows subdivision is in non-compliance with the current ordinance, would the proposed subdivision increase the non-compliance. Mr. Crawford replied that the change in definition of open space does not change the density issue. Mr. Crawford asked if an extension of time was required. Mr. DiMarino said the PC deadline is March 12 – after the next PC meeting.

Dr. Robert Schwan, 1114 Dorset Drive, emphasized that the Township should be responsible for straightening out the HOA membership issue. With regard to the pond, Dr. Schwan said it is imperative to have access for heavy equipment to maintain it, about once every ten years. Both Mr. Haines and Dr. Boor granted permission for use of their driveway because barriers had been placed preventing any other access. Dr. Schwan requested written permission for access via the northwest driveway. Dr. Schwan also expressed concern about Lot 2 construction runoff to the pond and requested a berm or something better than a plastic barrier for protection.

Mr. Hawkins asked Mr. Crawford if the Township is a party to the HOA agreement. Mr. Crawford said the Township is not a party but the agreement was a condition of approval and a similar condition could be part of the current approval. Mr. Sagnor said it could be a note on the plan; Mr. Crawford said there should also be a written amendment to the Spring Meadows declaration of restrictions.

Eric Pavilonis, 1104 Dorset Drive, said that, when he purchased his house five years ago, he inherited the job of collecting the fees for the maintenance of the drive shared by 1104, 1106, 1108, 1110, and 1128 Dorset Drive. Mr. Pavilonis said no fees had been received from the Boors, that the Boors do not use the drive, that he feels the Boor property has no rights to the easement, and that the stub from the Boor property to the drive is useless because it is not adequate for vehicles. Mr. Pavilonis described the soil on the other sides of the pond and said the only realistically possible way for heavy equipment to get to the pond is via the northwest driveway.

Cindy Emlet asked why the new Lot 2 drive goes through trees instead of coming in from the cleared area in front of the Boor garage. Mrs. Emlet showed some snapshots of the treed area, declaring that she thinks it would be impossible to put a drive through the treed area without destroying the trees. Mr. Fritsch said Mrs. Boor did not want the Lot 2 drive to come close to the Lot 1 garage area for the sake of safety and privacy. Mr. Fritsch said they may trim the trees but not remove them; trees showing on the plan are 8 inches in diameter or larger; smaller ones may be removed. Mr. DiMarino said the trees are likely to be damaged or killed if the driveway is snaked through them and that the engineers should consider alternatives.

Mr. Fritsch said he hoped the preliminary plan, incorporating the changes discussed, will be approved at the next PC meeting. Mr. DiMarino said the PC can recommend the plan with conditions or it can recommend against approval with reasons; weighing in favor of “against” is the original intent of the Spring Meadows subdivision; weighing in favor of approval is the compliance with the current rules; it certainly appears to fracture a beautiful community, as evidenced by Mr. Fritsch’s pictures.

Mr. Carr asked what sewage system services the garage. Mr. Fritsch said it ties into the house’s system.

Mary Pat McCarthy reported on the Scenic Byways Commission meeting she had attended with John Conklin and Jay Monteith (from RPOS). Ms. McCarthy said the Commission members were very surprised to learn that SKS had made a presentation to Birmingham without being asked to and that the matrix had been presented as it was. The study is funded by a PennDOT grant and may start over with a new consultant. Ms. McCarthy said Birmingham had contributed \$500.00 to the Commission and that the project is a ten-year plan.

Mr. DiMarino said the sign ordinance will be discussed at the next meeting.

The meeting was adjourned at 9:03. (Marshall, McCarthy, all in favor)

Respectfully submitted,

Jacquie Roach

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