

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
JULY 19, 2010**

The regular meeting of the Board of Supervisors was called to order at 7:32 PM in the Township Building by Chairman Conklin with a moment of silence and the pledge of allegiance. A quorum of Supervisors was declared. The following Township Officials were in attendance:

|                     |   |                                                                 |
|---------------------|---|-----------------------------------------------------------------|
| John Conklin        | - | Chairman, Board of Supervisors                                  |
| William Kirkpatrick | - | Vice-Chairman, Board of Supervisors                             |
| Al Bush             | - | Member, Board of Supervisors                                    |
| Thomas Nelling      | - | Chief of Police                                                 |
| Richard Jensen      | - | Zoning Officer and Building Inspector                           |
| Lloyd Roach         | - | Emergency Management Coordinator and Historic Commission Member |
| Jacquie Roach       | - | Secretary for the Planning Commission and Historic Commission   |
| Quina Nelling       | - | Secretary/Treasurer                                             |

Chairman Conklin moved to approve the July 6, 2010 minutes as written. Mr. Bush seconded the motion and it was unanimously carried.

Mr. Bush moved to approve the bills submitted for payment. Chairman Conklin seconded the motion and the bills were unanimously approved. General Fund bills totaled \$32,537.63. Sewer Fund bills totaled \$11,399.89.

**PUBLIC COMMENT**

The Commonwealth of PA Sunshine Law Act 93(as amended in 1998) requires public comment to be held before official action is taken. There was no public comment.

**BOOR FINAL SUBDIVISION PLAN**

At its meeting on July 13, 2010, the Planning Commission voted against the final subdivision plan for Barbara Boor. The Plan proposes a two lot subdivision on eight acres located at 1128 Dorset Drive in the Spring Meadows Subdivision. The Plan, dated December 15, 2009, last revised March 22, 2010, was drawn by Regester Associates and consists of seven sheets. Lot 1 will contain the existing house, pool and detached garage on 6+ acres. Lot 2 will contain an existing shed on 2+ acres. Barbara Boor, Art Sagnor, legal counsel, and Jim Fritsch, engineer with Regester Associates, were present for the application. Preliminary Plan approval was granted at the March 15, 2010 Township meeting.

The existing dwelling on Lot 1 is a Class II Historic Resource, referred to as the Samuel Painter House. The Applicant appeared before the Township Historic Commission on April 27, 2010. The Historic Commission voted to approve the Plan with conditions. Mr. Fritsch indicated that a landscape plan, as required by the Historic Commission, was

included with the subdivision plan as sheet 8. The landscape plan details the location and types of plantings proposed.

Mr. Sagnor said that there is still one paragraph on insurance amounts that is needed for the shared driveway easement and maintenance agreement which should be completed by the end of the week. Mr. Carr, legal counsel for the Emlets, adjacent neighbor, indicated that he is in agreement, in principal, with the document. Mrs. Camp said that the driveway easement and maintenance agreement will be recorded simultaneously with the restrictive covenant agreement.

Mr. Fritsch says that the applicant is requesting two waivers.

1. Section 122-36.8.A.1 – In lieu of completing a formal Historic Resource Impact Study the applicant is offering a compilation of historical information that has been compiled by Barbara Boor. The historical data dates back to 1757.
2. Section 122-36.6.B - The ordinance requires that the new house proposed on lot 2 be 200 feet from the property line. The applicant is requesting a waiver to allow the building setback to be 195 feet. The reason for the request is to minimize the impact on surrounding neighbors.

Mr. Sagnor said that there are no public improvements which will require an escrow

Jacquie Roach said that the Historic Commission recommended that the new house be reviewed by HARB in lieu of the Historic Resource Impact Study. Mrs. Camp said that HARB doesn't have jurisdiction and she wouldn't recommend that the Supervisors impose a condition that isn't required by ordinance. There would be no purpose in having a Historic Resource Impact Study at this time. It would be prudent to have the Historic Commission review the proposal for lot 2 to evaluate the proposed impact of the new dwelling on the existing dwelling on lot 1.

Chairman Conklin said that the subdivision is an unfortunate outcome to a well thought out development that was built years ago. Due to an error in the recordation of the documents for that subdivision this two lot subdivision is before the Supervisors. The neighbors and the Homeowners' Association have their rights to object to the subdivision. The Supervisors represent all the residents of the Township and their decision has to reflect on how the funds should best be spent and he doesn't believe that spending funds on legal expense to fight this subdivision is the best use of the taxpayers' monies. He said for that reason he will vote for the subdivision; not because he wants to or because it's the best outcome for the neighborhood.

Mr. Kirkpatrick concurred with Chairman Conklin and added that the Supervisors have to deal with what is presented before them. The Township Solicitor has advised the Supervisors that the subdivision would be upheld in court. Unfortunately there will be five or six homes adjacent to this property that will be impacted by this subdivision but the Supervisors have to follow the ordinances on the book and be judicious in spending the residents' money. Mr. Kirkpatrick noted that Mrs. Boor has been flexible in working with the Township on this application and reduced the number of lots from three to two.

Mr. Bush concurred with the comments made.

Chairman Conklin moved to approve the two lot subdivision for the Boor property with the following conditions:

1. Recordation simultaneously of the shared Driveway Easement and Maintenance Agreement and the Amendment to the Restrictive Covenant Agreement.
2. Barbara Boor shall submit the historical documentation on the Samuel Painter House in lieu of completing a formal Historic Resource Impact Study. Prior to the issuance of a building permit for lot 2; and a Historic Resource Impact Study shall be submitted to mitigate the harmful effects that the new house will have on the Samuel Painter House. A Memorandum of Declaration of this condition shall be recorded simultaneously with the approved plans to serve as public notice of this condition.
3. Waiver of the minimum building setback of 200' to allow the new house on lot #2 to build a minimum of 195' from the existing Samuel Painter house.
4. Reimbursement of all consultants' fees incurred by the Township.

Mr. Kirkpatrick seconded the motion of Chairman Conklin and it was unanimously approved.

Chairman Conklin stated that the Supervisors have taken steps to ensure that this incident wouldn't occur again in the Township by having the Township Solicitor do a title search on all the open spaces in the Township. This information is available at the Township.

#### **ARDEN FORGE LAND DEVELOPMENT PLAN**

At its meeting on July 13<sup>th</sup>, the Planning Commission voted to approve the Final Land Development Plan for the Arden Forge property subject to the conditions in the review letter from the Township Engineer, dated June 2, 2010. The Plan, consisting of 9 sheets, was drawn by Stantec Consulting, Inc. and is dated May 20, 2009, last revised May 13, 2010. The Plan proposes the demolition of an existing building addition; the construction of a new building addition; the construction of associated parking improvements and the related grading, stormwater management, and landscaping improvements. Item #1 in the Township Engineer's letter of June 2<sup>nd</sup> states the Historic Commission requirement to review the plans for alteration and modification of the historic buildings on the site. The Historic Commission will meet on the application on July 27<sup>th</sup>. Stantec Consulting was under the impression that this requirement had been met according to Anthony Diver, owner. Since the Historic Commission has not made a formal recommendation on the application Mr. Diver suggested that he return to the August 2<sup>nd</sup> Township meeting for a recommendation from the Supervisors, therefore action on the application was deferred.

#### **RESOLUTION TO APPOINT AUDITOR FOR 2010 AUDIT**

It was duly advertised in the Daily Local News on June 10<sup>th</sup> that the Supervisors would be considering the certified public accounting firm of Umbreit, Korengel & Associates, P.C. of Kennett Square, PA to make an examination of all Township accounts for the fiscal year 2010 at a cost of \$3,100.00. The cost is a \$150.00 increase over last year's fee. Mrs. Nelling feels that the incremental costs for the audit each year are due to the

fact that the original quote for the Township audit was the only one received under \$3,000.00 and that the price is being slightly adjusted annually to get to where the audit cost should be as compared to other townships. Chairman Conklin moved to adopt Resolution #101719 to appoint Umbreit, Korengel & Associates, P.C. to examine the Township books for 2010. Mr. Bush seconded the motion and it was carried.

Mr. Roach confirmed with the Board that the audit performed by Umbreit, Korengel and Associates is a review of the controls and procedures of the Township. Chairman Conklin informed Mr. Roach that the Supervisors met with Mr. Umbreit in 2009 to assure that a true audit of the accounts was taking place, especially with the concern over some mishandling of funds in adjacent townships. Mr. Bush noted that the Township is provided with a very detailed audit report by Mr. Umbreit.

### **TEMPORARY SIGN ORDINANCE HEARING**

At the July 13<sup>th</sup> meeting, the Planning Commission discussed an ordinance regulating temporary signs, including regulating real estate open house signs. The Planning Commission voted not to include permits for off-site real estate open house signs. Chairman Conklin moved to authorize advertising for a hearing to consider the ordinance proposal for Tuesday, September 7<sup>th</sup> @ 7:15 PM. Mr. Bush seconded the motion and it was carried.

Evelyn Bertinatti, Radley Drive, asked for more information on the Planning Commission recommendation. Mr. Bush said that there is an ordinance on the books (Chapter 82) that requires a permit fee for an off-site real estate sign. The zoning ordinance doesn't address on-site temporary signs very well. The intent of the proposed ordinance is to "beef up" the on-site temporary sign regulations. In the zoning ordinance amendment proposal the permit requirement for off-site sign permits as required in Chapter 82 is being referenced. The ordinance proposal for on-site signs allows signage for open house events 72 hours prior to and removal within one hour after the open house. The Planning Commission members, for individual reasons, suggested that the permit requirement for off-site signs be eliminated. Chairman Conklin indicated that this discussion will be expounded upon at the hearing.

### **OTHER BUSINESS**

#### **SEWER PLANT**

Mr. Kirkpatrick reported on an on-going, irregular odor problem near the Comfort Inn on Rt. 202. URS Corporation, the Township Sewer Engineer, did a follow up odor inspection and has concluded that it is likely that hydrogen sulfide, a gas that has a rotten egg odor, is causing the odor problem when the Shoppes pump station is turned on. The threshold odor for hydrogen sulfide is very low. URS Corporation is proposing additional manhole inserts with activated carbon canisters for the stretch of sewer beginning at the Comfort Inn and running behind the office building. The carbon canisters need to be changed every 12 – 18 months. If this doesn't resolve the problem the next step would be chemical addition in the pump station with a chemical tank and metering pump at a cost of \$2,000. - \$4,000.

Mr. Jensen said that it is common for smaller pump systems to create gas in the end of the dry line. Adding air to the pump station can relieve the pressure in the line.

#### PUBLIC COMMENT

John Abramson, Brinton's Bridge Road, said that the house at the five points intersection in Dilworthtown sustained car damage several months back. The outside siding has never been installed on the house. Ty-veck paper is tacked on the outside walls and he asked how long the house would remain in this condition? Mr. Jensen responded that the permit for that repair was handled by the prior building inspector with Yerkes. Yerkes will be contacted regarding the status of the permit and the repair. Mr. Bush questioned how many permits were still open with Yerkes and that maybe it was time "to pull the plug" and have Mr. Jensen take over any open permits still being handled by Yerkes.

Solicitor Camp said that all permits or approvals issued after December 31, 2008 and expiring prior to July 2, 2013 will automatically be extended until July 2, 2013 by virtue of the enactment of Act 46 of 2010. DCED will be publishing a notice in the PA Bulletin on behalf of all affected local governments.

Pete Gangel, Brinton's Bridge Road resident, said that he understands from his neighbor Victor Leonhard that he will be building a 5000 sq. ft. pole barn on his property at 700 Brinton's Bridge Road. The building permit process was explained to Mr. Gangel. At this time no plans have been received from Mr. Leonhard. Mr. Gangel talked to the Conservation District about a permit Mr. Leonhard would need to cross the stream on the property. Mr. Jensen advised that a permit from the Conservation District would need to be in place prior to work starting under a Township issued permit. Mr. Gangel asked about notification procedures. Mrs. Nelling advised that no notification is necessary for a building permit, only if a variance is required. Mr. Jensen said that the issue with this application will be the use of the structure. Mr. Leonhard indicated that he will not submit a building plan that requires a variance. The use of the building will be the same use that has been on the property since 1985 with the inception of the landscape business during the Knolls of Birmingham development construction. Mr. Gangel asked if the barn would be for commercial or residential use? Mr. Leonhard responded that the barn will be used for equipment and hay storage and for the keeping of his RV home. Mrs. Camp said that this is all speculation since a plan has not been submitted.

The meeting was adjourned at 8:31 PM. (JLC)

Respectfully submitted,

Quina Nelling  
Secretary/Treasurer