

**Birmingham Township Planning Commission (BTPC)  
Minutes of the meeting September 11, 2018**

The regular meeting of the BTPC was called to order by Ms. McCarthy at 7:30pm in the township building.

PRESENT: Nick DiMarino, Scott Garrison, Eric Hawkins, MaryPat McCarthy, Christopher Nash, Frone Crawford, Esq.

ABSENT:

Also Present: James Hatfield

Peter Anastasiadis, Developer

Adam Brower, Project Engineer (Edward B. Walsh & Assocs., Inc)

A motion to approve the minutes of the May 8, 2018 meeting was made by Mr. DiMarino and seconded by Mr. Garrison. Motion carried unanimously.

**Final Minor Subdivision Plan- Steven A. Fanelli and Donna Marie Fanelli - 1200 W. Street Rd.**

Mr. James Hatfield is presenting this plan to the PC. The basic premise of this plan is that the owner has approximately 10 acres and is proposing a subdivision that will create two lots: Lot B will be approximately 4 acres and remain with the original owner. Lot A will be approximately 5.9 acres and the owner will sell that property to Birmingham Township for a significantly discounted price. This process was started over 3 years ago, it was then put on hold in order to not hold up the 926 Pocopson bridge project. Now that the bridge project is complete, the land transfer process can proceed again. Birmingham Township is handling the soft fees (surveying, engineering and legal fees), however Mr. Hatfield is not privy to the actual details of the deal.

The proposed plan does not include any proposed construction. This is simply a subdivision allowing the township to acquire the land. In the future, once the land is conveyed to the township, the township will possibly apply for grants to cover the costs for any minor improvements necessary to make the land usable. It is currently the plan of the BOS that the property be maintained as a very passive open space; similar to Birmingham Hill.

There are a couple of options for access to the property. They were initially looking at doing an easement allowing access to be through the current Fenceworks property, however there was no way to provide for any type of separation between the two properties thus creating security issues. After reviewing many options, the following appear to be the two most logical options: (1) have an access directly across from Creek Rd. This entrance would be wholly on the parcel of land in question. There are some significant issues with this option though. Because of the elevation of the new bridge structure the guardrail would have to be adjusted, there would be costs associated with this option - a PennDot application, FEMA application, and the cost of fill. This would be the first choice simply because it would not involve easements with adjacent properties. However, if option 1 is not feasible due to inability to obtain one of the necessary permits, or some other reason, another option is (2) an entrance halfway between Creek Rd and the current entrance to Fenceworks. This would be a reasonable location. However, it would still involve moving the guardrail. This option would require lesser fill and the Fenceworks property could be fenced off for security purposes.

There is one other minor issue with the subdivision plan with regard to the Historic Resource (Painter Barn) located across the street. The current township zoning ordinance requires landscape buffering for any proposed subdivision plan within 500 feet of an historic structure. After speaking with Kristin Camp (township solicitor), she suggested that a note be listed on the plan that this zoning issue will be addressed at such time in the future that any land improvements are proposed.

Ms. McCarthy stated that this property is located in the flood zone. How will this be addressed for a passive open space? Nick asked about how to prevent this subdivision becoming a boat launch area? Mr. Hatfield stated that this is simply a subdivision proposal with no improvements. The proposed use of the property would be for a future discussion.

There were questions about why the township wants to proceed with this subdivision in light of the fact that this property is located in the floodplain. Mr. Crawford asked what the semi-dash line is on the plan? Mr. Hatfield indicates it is the line that separates the flood way from the flood fringe.

Ms. Hineman asked why the township is interested in obtaining a piece of property located in a floodplain? Mr. Crawford notes that a benefit that he sees to this subdivision is that it will allow for the township to have more control in the flood fringe area. The two parcels will be smaller, thus there is less likelihood of any future expansion on these properties that would be more likely in terms of impervious coverage if the property remains a 10-acre parcel.

Mr. DiMarino asked what the waivers are that Chester County Planning Commission letter referenced. Mr. Hatfield notes they asked for the following waivers because there is not proposed construction with this final minor subdivision plan:

- (1) from the requirement to show contour lines on the plan because that requires a topographical survey;
- (2) from showing all existing buildings and structures. They are shown on the plan, but not from an official survey;
- (3) from the requirement to show description of the proposed method of sanitary sewer disposal.

There was discussion about how to limit future improvements that would allow for this property to be passive land in perpetuity. Mr. Hatfield stated that first, this is just a subdivision approval for land with no proposed use at this time. Secondly, he stated that the PC should be thoughtful about perpetual restrictions for this property as things change.

Mr. Hawkins asked about a stream that should be indicated on the plan at the south part of the two properties. Mr. Hatfield will add it to the drawing with a disclaimer that it may not be accurate due to not having a survey performed.

Discussion ensued about the pros and cons of the township acquiring this property and also what types of restrictions the PC should try to place on it. Mr. DiMarino states that the township owning this property is a liability and not an asset because it is in the floodplain. Ms. McCarthy agreed with Mr. Crawford in that there is an advantage to the township owning this piece of property. Mr. Garrison and Mr. Nash do not agree with Mr. DiMarino's proposal to limit the township from any future land improvements on this property. Mr. Hawkins stated that the plan is technically a sketch plan. Mr. Hatfield indicated that this is a subdivision plan - not a land development plan.

Throughout this discussion Mr. Crawford asked if the current agreement for this subdivision plan is exclusive to the township or can this property potentially be conveyed to another party once the PC votes on this subdivision. Based on the fact that Mr. Hatfield cannot answer this question, the PC decided to table any recommendation on this item until next month.

Mr. Crawford stated that he believes that the township needs to be an equitable owner/co-applicant in this subdivision plan.

### **1360 Old Wilmington Pike Sketch Plan Presentation**

Mr. Adam Brower, Engineer with the Anastasiadis's subdivision presented an updated sketch plan of the projected development of 1360 Old Wilmington Pike property. This is located in the R2 zoning area with one acre lots.

They are still proposing using the existing driveway and making that a shared driveway due to the steep banks along Old Wilmington Pike.

They have done substantial improvements in the utilities. They will be utilizing public sewer and on-lot wells. With respect to stormwater management, they will have individual on lot systems. For the most part underground stone beds; taking all the run-off from the driveways as well as the houses. Whether it be a swale in the backyard or a combination of a swale and roof drains. The systems themselves will be spreader system with the water seeping out through a perforated pipe attempting to maintain a consistent flow.

Mr. Brower has the township consultant letters (Mr. Hatfield the township engineer dated 8/8 and Ms. Sandy Morgan, dated 7/20) with him tonight and goes through the issues with the PC. He indicated that all the issues proposed in the consultant letters are "will comply".

With regard to Jim Hatfield's letter #9 - the applicant will provide a narrative regarding this item; there shouldn't be an impact to the community facilities as there was already an existing house on this lot and they are in essence only adding two additional houses. The second one is #10 the applicant is requesting a waiver to allow the subdivision without widening Old Wilmington Pike. Due to the steep bank, it is rather impossible to widen the road. Additionally, the narrowness of the road assists in limiting speeding traffic.

Mr. DiMarino asked about public water vs. wells as referenced in the Chester County Planning Commission letter #6 - there is no public water available. Mr. Brower, under the impression that public water was available, reached out to Aqua America. They were very thorough looking into the request and then in stating that there is no public water available. However, there is sewer available along Old Wilmington Pike however it will be challenging. Mr. Brower met with the Conservation District about accessing the sewer hook-ups. Lot 3 with the existing house has an existing lateral. Lots 1 and 2 will require new laterals and connections which will be accommodated by cutting through the bank in order to connect to the main that is located in the street.

Mr. DiMarino also asked a question about the flood control due to the slope of the property. Mr. Hatfield provided some input on the sizing of the stone beds and berms and the type of the discharges that should be used to control the water. The rate control is easily able to control the flow of a 10-year storm. The Conservation District will require an off-site discharge analysis

because the discharge is not going into an existing stream. Mr. Brower discussed the design of the system in detail.

Mr. DiMarino referenced the Chester County Planning Commission's letter that recommended an archaeological survey due to the fact that this property is located with the Brandywine Battlefield national landmark. Mr. Brower stated that they are willing to turn over anything they find during land disturbance to the township.

Mr. Bill Heyburn, 1342 Faucett Drive, asked for clarification on the preliminary/final wording for this subdivision. He wanted to know if the decision will be made on this item tonight or will there be another meeting?

Mr. Crawford reviews the timeline and indicates that the clock will run out if a preliminary decision is not made tonight. And the current plan is before the PC as a preliminary/final. The PC could limit their decision to preliminary or the request an extension from the applicant.

Mr. Heyburn has a number of other concerns: (1) everyone should be fully aware of where the property lines are located; (2) also about the demolition; and (3) when mailings are sent about a meeting they should be sent via regular mail.

Lian Hu, 1329 Crest Drive, asked for a copy of the proposed plan so that she can see how it relates to her as a neighbor. He indicated that the township has sets of the plans and they are available for public review during normal business hours at the township office. Mr. Brower stated that he can provide an aerial view plan to her to allow her to visually see the proposed location of the new houses versus where her house is located. She also asked if the new houses will be two story houses. Mr. Brower indicated they will probably be two story houses.

Brent McNight, 1327 Crest Drive, asked about the setbacks in terms of the houses and the various items on the plan. He is basically asking about the size of the building envelope and how it relates to him as a neighbor. Mr. Brower shows on the plan the 50-foot setback and the side setbacks of 20 feet.

Mr. Crawford again stated to the PC that they must make at least a preliminary decision tonight. They can make that preliminary decision with the contingency that they must resolve the outstanding issues in the township consultant letters. After discussion of these issues, the applicant is willing to grant the township an extension of 30 days in order to be able to provide preliminary/final approval.

Mr. DiMarino goes over the items that need to be verified and cleaned up in order to provide approval.

1. The Chester County Planning Commission item about public water connection. Mr. Anastasiadis has an email from Gary Horn at Aqua indicating that there is no public water main available. In light of the need for onsite wells, the Chester County Health Department needs to be involved too.
2. A resolution addressing the Chester County Planning Commission's issue of an archaeological survey due to the location of this property within the Brandywine Battlefield.
3. Ms. Morgan's issues about the connections for the sewer lines.
4. The outstanding issues in Mr. Hatfield's letter.

Ms. McCarthy reminded the applicant that the PC will need approximately two weeks prior to the October meeting to review any new letters from the township consultants on these outstanding issues.

**New Business:**

Motion to adjourn the meeting was made at 9:07pm by Ms. McCarthy and seconded by Mr. DiMarino and approved unanimously. Next meeting is scheduled for October 9, 2018.

Respectfully submitted,  
Jennifer A. Boorse  
PC Secretary