

**Birmingham Township Planning Commission (BTPC)**  
**Minutes of the meeting March 13, 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, Frone Crawford

ABSENT: Steven Johnsen

Also Present: Mike Shiring (BOS Liaison), Christopher Nash

A motion to approve the minutes of the February 13, 2018 meeting was made by Mr. Garrison and seconded by Ms. McCarthy. Motion carried with one abstention from Nick DiMarino who was not present at the February meeting.

**Thornbury Township, Chester County Comprehensive Plan:**

Mr. DiMarino reviewed the Thornbury Township (Chester County) Comprehensive Plan. It was prepared by the Chester County Planning Commission in conjunction with a panel of ten township residents. The primary goal of the Comprehensive Plan is to accommodate growth while preserving the character and resources of the township. The more specific goals listed deal with: land use, housing, transportation (still hoping for the rail line to West Chester). They are considering ways to educate their residents on the responsibility of maintaining septic systems. Of note, their existing ordinances require providing the zoning officer with a receipt for septic system pumping every three years. They are using Ready Chesco for emergency notification -- this is a county wide emergency notification system rather than township specific. Their overall strategy is to manage development using appropriate ordinances.

They have a nine-page implementation plan. They reference the impact on Birmingham Township in one paragraph -- basically stating no impact to Birmingham Township. They have two trails which extend into our township; one ends up at Sandy Hollow and one ends in an open lot on Thornbury Rd. The Spackman Farm is currently zoned agricultural and is next to an already developed portion of Birmingham Township. The CP notes one other place where the two townships abut -- Thornbury is zoned low density residential where it abuts our institutional zoning (the Birmingham-Lafayette Cemetery).

They have very similar issues as Birmingham Township. One interesting fact is that their township building is not located within their township. Thornbury Township is a slightly smaller township and is more densely populated. They have 3300 residents on 2300 acres.

Mr. DiMarino made a recommendation to the BOS recommending that they send a letter to Thornbury Township, Chester County indicating that Birmingham Township has reviewed their proposed Comprehensive Plan and has no objections to the adoption of it. Mr. Garrison seconded the motion and it was passed unanimously.

### **Review of the Solar Panel Ordinance:**

Mr. Crawford provided a list of five local townships and what their ordinances require. Mr. Crawford notes that before getting into the actual criteria which can apply either in the context of a by-right, special exception or conditional use; the fundamental question asked to be reviewed by the PC was should this continue to be sent to the Zoning Hearing Board for special exception for at least the accessory solar which would be located on the roof. Mr. Crawford presented various townships answers to this specific question.

Currently the BT ordinance allows only for accessory systems and they are all required to go through the special exception process. Mr. Crawford walks the PC through the various options that each of the townships allows either by right, by special exception or by conditional use.

Ms. McCarthy asked for a better understanding of what by-right means. Ms. McCarthy asked about what the fee is for a zoning hearing board application in our township. Mr. Shiring notes that it is currently \$1500; \$500 of which is non-refundable. Mr. Shiring also states that the request from the BOS was two-fold: (1) now that we are seven years into the current ordinance, it would behoove the township to review it and make sure it still is the best option for the residents and protects the township. Discussion ensues about whether the township should allow principal use in a specific area of the township; not that there are any large tracts of land on which a solar array could be built; but it might behoove the township to allow for such in a specific zoning area either by conditional use or special exception.

Mr. DiMarino states that the main reason they arrived at the current ordinance in BT was that they wanted neighbors to talk to one another prior to installing solar panels. They exhausted all other options and requiring the homeowner/applicant to go to the Zoning Hearing Board was the only option that required neighbors to be notified prior to the hearing. One other option would be to reduce the application fee.

Mr. Hawkins and Ms. McCarthy had a dialogue about the fire at the Dietz and Watson warehouse in NJ. The reason that the warehouse burned to the ground was because it was a roof fire and the firefighters were unable to fight the fire because the roof was still electrified - there is no ability to turn off the electricity generated by the solar panels.

Mr. Shiring asked Mr. Crawford if in his experience he has seen anywhere that solar panels were allowed by right and that one of the requirements to be met was notification of all neighbors within a certain area? Mr. Crawford stated that he has not seen this and also that in a context of a by right use, this would be incompatible. For instance, what would the forum if someone writes a letter and opposes the installation? This is the same issue that the PC had seven years ago and the answer they arrived at was the special exception rule requiring the applicant to go before the Zoning Hearing Board.

Mr. Garrison asked about the pros and cons of a different fee structure for different applications. Mr. DiMarino states that this was rejected by the BOS in 2011. It was thought to create an opening for a complicated collection of varying zoning application fees once one exception was made.

Mr. DiMarino asked Mr. Crawford if there are any new ways to accomplish the same goals that the PC/township had in 2011 and not require the special exception. Mr. Crawford states that if

the policies/goals are the same as they were seven years ago, then no there isn't a better way to accomplish that goal. You have to weigh the pros and cons -- to make it by right it's less expensive and promotes more people to be able to do it but at the expense of the impact on a neighbor; on the other hand to make it a special exception it's more expensive but doesn't prevent otherwise standard rooftop arrays from being installed, it makes them a little more expensive and allows a forum for neighbors to express their opinions. It's truly a policy decision that requires you to weigh those two sides and if the goal is still the same as it was seven years ago, then the recommendation to the BOS would be to leave the special exception requirement in place. You might want to also consider Mr. Shiring's question about adding a clause for principal use in a commercial district by special exception also.

Mr. DiMarino made a motion to the BOS recommending preserving the ordinance as it is currently written requiring accessory solar and wind with special exception only. The one change recommended to the ordinance is the addition of a special exception for sole principal use for solar or wind in the commercial area maintaining all of the current standards criteria. Motion seconded by Mr. Garrison and passed unanimously.

Mr. DiMarino made a second motion that if the BOS approves this recommendation from the Planning Commission, then the Planning Commission will have Mr. Crawford make the necessary changes to the ordinance for adoption by the BOS. Motion seconded by Mr. Garrison and passed unanimously.

#### **New Business:**

Ms. McCarthy announced that the newest member, Steven Johnsen has officially resigned, effectively immediately, due to work requirements that will preclude him from attending the monthly meetings. Mr. Johnsen will remain on the approved volunteer list for the township for future openings when his schedule will allow for consistent participation.

Mr. Hawkins made a recommendation to invite Mr. Nash to join the PC. Mr. DiMarino seconded the motion and it passed unanimously. Mr. Shiring notes that Mr. Nash does not need to come back to the BOS since he has already been approved by the BOS for a position on HARB.

Motion to adjourn the meeting was made at 8:47pm by Mr. Hawkins and seconded by Mr. Garrison and approved unanimously. Next meeting is scheduled for April 10, 2018.

Respectfully submitted,  
Jennifer A. Boorse  
PC Secretary