

MINUTES
WEST MANCHESTER TOWNSHIP
PLANNING COMMISSION
DATE: August 10, 2021

The meeting was called to order by Ronald Ruman at 7:00 P.M. Members present: Richard Gordon, Patrick Hein, Fred Walters and David Beecher; Others present: Rachelle Sampere, Township Zoning Officer

Tonight's Planning Commission meeting was held in-person at the Township Building and broadcast on the West Manchester Township Parks & Recreation Facebook page for public viewing.

APPROVAL OF MINUTES

MOTION: by Richard Gordon to approve the July 13, 2021 meeting minutes.

SECOND: by David Beecher

MOTION PASSED: Unanimously (5-0)

ZONING HEARING BOARD CASES

ZHB #21-19 – Kristi & James Swartz – requests an Interpretation of §150-17 Lot Area Requirements and in the alternative a variance of §150-17 to allow one additional dwelling right to be located within the bounds of their existing 41-acre tract of land **located at 4730 Graybill Road** (Tax Map: HG; Parcel: 0106A) in the Agricultural Zone.

Attorney Robert Katherman presented the application on behalf of Kristi and James Swartz. Attorney Katherman explained that the property located at 4730 Graybill Road was originally part of a 109.558-acre tract that was subdivided through a plan approved by West Manchester Township entitled Final Subdivision Plan for Allfirst Bank recorded in the York County Recorder of Deeds office on December 17, 1999. Attorney Katherman explained that there were some inconsistencies on the recorded plan and there should have been four (4) building rights allotted with the subdivision. The engineer placed a note on the plan that the total number of dwelling rights for Lots 1 and 2 is two (2). Used with this subdivision Lot 1 – one, Lot 2 – one and Lot 4 – one. That means that there were three (3) building rights issued with this subdivision plan which contradicts the previous note of total number of dwelling rights as two (2). Attorney Katherman explained that Mr. and Mrs. Swartz purchased the property with the understanding that since their lot was forty (40) acres, they would be permitted to subdivide a one-acre lot from their parcel in the future. They consulted with a previous Township employee and felt that when the time was right, they would be able to provide a piece of land for their daughter to raise her family on. When Mrs. Swartz spoke with the Zoning Department about filing a subdivision plan to create a one-acre parcel for her daughter's family to build a home upon, it was brought to her attention that this lot was subdivided in 1999 which was after the date of the current zoning ordinance's adoption on March 31, 1987. A variance would be required. Attorney Katherman explained that the Township did not follow the recorded subdivision plan, as Lot 3 shown on the Allfirst Final Subdivision now has two residential dwellings on it. Lot 3 was further subdivided. Attorney Katherman asked the Planning Commission for a favorable recommendation to the Zoning Hearing Board so that his clients could submit a subdivision plan that will correct the latent problem created in 1999. Attorney Katherman offered that if his clients are able to submit a subdivision plan to create the lot for their daughter, the information on the plan will be correct and a statement could be placed upon the plan that no further building rights remain for lot 4 or lot 4A

so long as they remain zoned agricultural by West Manchester Township. Dr. Beecher stated that if we do not have enough factual evidence on the existing subdivision plan we can almost grant a variance since there should have been a total of 4 building rights when the parent tract was 109.558 acres and the Zoning Ordinance states that for each 25 acres of contiguous land in single ownership as of the effective date of this chapter, there may be one lot sold or utilized for a single-family detached dwelling, provided that the minimum lot area shall be 20,000 square feet and maximum lot area shall not exceed one acre. The Final Subdivision Plan for Allfirst Bank is inconsistent as it says there are 2 dwelling rights on one line and 3 dwelling rights on another line.

After Attorney Katherman's presentation, Richard Gordon asked for Zoning Officer Sampere's interpretation of Section 150-17. Ms. Sampere stated that the parent tract of land was 109.558 acres until it was subdivided by the Final Subdivision Plan for Allfirst Bank recorded in the York County Recorder of Deeds office on December 17, 1999 in Deed Book: QQ; Parcel: 531. This subdivision was after the effective date of the current Zoning Ordinance which was adopted on March 31, 1987. The subdivision that created the current Lot 4 owned by the Swartz family, and the associated Zoning Hearing Board Case 96-20, meets the intent of the Zoning Ordinance. Further subdividing the parcel will require a variance of §150-17.B.1.

The Planning Commission members discussed Zoning Officer Sampere's interpretation and agreed that the subdivision was done after the effective date of the Zoning Ordinance. Mr. Hein stated that he didn't believe a variance was necessary because the plan was not correct when it was recorded; and the Township did not adhere to the plan when Lot 3 was subdivided. The Swartz family has a 40-acre parcel, only twenty-five acres is required to be able to subdivide a one-acre parcel from it. Mr. Walters agreed with Mr. Hein. Mr. Gordon stated that he believed a variance was required because the original subdivision occurred after the effective date of the Zoning Ordinance.

MOTION: by Richard Gordon to recommend the Zoning Hearing Board uphold the Zoning Officer's Interpretation and recommend the Zoning Hearing Board grant a variance to allow a subdivision to create (1) one-acre lot with a dwelling right with the condition that there be a statement on the subdivision plan that prohibits further subdivision of Lot 4 and Lot 4A while they are still zoned agricultural.

SECOND: by David Beecher

MOTION PASSED: 3-0 (2 – Abstain – Hein and Walters)

ZHB #21-20 – Joseph DelGiudice, Sr. - requests a variance §150-51 Permitted Uses to allow a second dwelling on the lot above the attached garage **located at 2145 Derry Road** (Tax Map: 21; Parcel: 214) in the R-3 Residential Zone.

Mr. DelGiudice presented the variance request. Mr. DelGiudice explained that this property was formally a residential dwelling and Gentr-Kleen, a commercial use. When he purchased the property, the commercial aspect was abandoned. He also explained that when he purchased the property in 2017, the listing stated that it was a ranch house with a second dwelling unit. Nothing led him to believe that the second dwelling unit was illegal. The situation was brought to his attention when Mr. DelGiudice tried to refinance the mortgage for his property. The appraiser went into the second dwelling unit and said that Mr. DelGiudice installed a new kitchen. Mr. DelGiudice explained that he only relocated the existing second kitchen to the living room area within the second unit to create a bedroom area for his grandson. The appraiser assumed he added the kitchen after he purchased the property. The appraiser contacted the Township office to inquire whether in-laws quarters or second dwellings are a permitted use in the R-3 Residential

Zone. Ms. Sampere explained that only one single-family detached dwelling is permitted per lot in the R-3 Residential Zone. Dr. Beecher stated that regardless of whether the second kitchen was there or not, the Planning Commission must evaluate this with a clean slate. Two dwelling units are not permitted on one lot in the R-3 Residential Zone. While the Planning Commission members understand that the second dwelling unit may have existed for many years, the Township has no record of a permit to allow a second dwelling unit on the property. Mr. Gordon stated that the intent of the R-3 Residential Zone is limit the number of dwellings on one lot.

MOTION: by David Beecher to recommend the Zoning Hearing Board deny the variance of §150-51 to allow a second dwelling unit on the lot above the attached garage.

SECOND: by Richard Gordon

MOTION PASSED: Unanimously (5-0)

ZHB #21-21 – Michael Yeaple – requests a variance §150-231.F to allow a driveway with a curb cut exceeding 25 feet (requested 35 feet) and a variance §150-231.H to reduce the required side yard setback for a driveway from the required 2 feet (requested 0 feet) **located at 2340 Baker Road** (Tax Map: JG; Parcel: 0030) in the R-3 Residential Zone.

Mr. Yeaple explained the variance request to the Planning Commission member. He was unaware that a permit was required to expand his driveway. He contacted a contractor to perform the work and the contractor did what was requested of him. Mr. Yeaple stated that he expanded his driveway to prevent the water runoff from Baker Road from coming into his garage. He explained that each time it rains, the water runs off of Baker Road and into his garage, causing the floor to crack. He also stated that the existing storm drain in Baker Road is elevated above the road surface, preventing water to drain properly. The water goes around the inlet and continues down the street and into Mr. Yeaple's garage. Mr. Gordon asked if it the Township's responsibility to maintain the inlet. Ms. Sampere said that she would pass the information along to the Public Works department. Mr. Ruman asked if he spoke to his neighbor since the driveway expansion extends to the property line. Mr. Yeaple stated that his neighbor does not have a problem with the driveway expansion. Mr. Gordon said that he was in favor of the variance subject to the Township Engineer inspecting the work that was done and confirming that it will not have any adverse effect on the neighbors downstream from Mr. Yeaple's property.

MOTION: by Richard Gordon to recommend the Zoning Hearing Board grant the variances requested subject to the Township Engineer inspecting the work and confirming that the driveway expansion does not adversely affect the neighbors downstream.

SECOND: by Patrick Hein

MOTION PASSED: Unanimously (5-0)

ZHB #21-22 – Five Star International, LLC – requests a special exception §150-289 to expand the existing nonconforming use (truck sales, service and repairs) and a variance §150-289.A.2 to expand the existing nonconforming use by more than 25% (requested 40%) **located at 2818 West Market Street** (Tax Map: IH; Parcel: 0008A) in the I-2 Light Industrial Zone.

Attorney Seth Hiller of Blakinger Thomas Law Firm presented the request on behalf of Mr. Fred Scheler, Principal for Scheler Realty of Williamsport. Attorney Hiller reminded the Planning Commission members that they reviewed the land development plan for this property at their July 2021 meeting. Attorney Hiller explained that the existing nonconforming use, truck sales, service and repairs, has been on the property since 1991. The intent of the request is to upgrade the facility to commercial standards so they can build an addition to store larger truck parts and a

truck washing bay. The proposed building expansions are 1,879 sq. ft. and 1,773 sq. ft. The property is approximately four (4) acres. The impervious area on the property will be decreasing by design. Attorney Hiller explained in order to make reasonable use of the property, they expansion of the nonconformity is needed. The expansion is approximately a 40% increase.

MOTION: by Patrick Hein to recommend the Zoning Hearing Board grant the special exception and variance as requested.

SECOND: by Fred Walters

MOTION PASSED: Unanimously (5-0)

NEW BUSINESS

No new subdivision or land development plans were submitted this month for review at tonight's Planning Commission meeting.

DISCUSSION

There were no additional items discussed at tonight's meeting.

MOTION: by Richard Gordon to adjourn the meeting.

SECOND: by David Beecher

MOTION PASSED: Unanimously (5-0)

Meeting adjourned at 8:20 p.m.