

North Middleton Township Planning Commission

Township Building
2051 Spring Road
Carlisle, PA 17013

Minutes of the Planning Commission Tuesday, February 3, 2009

The meeting was held at the North Middleton Township building on Spring Road, in Carlisle, PA.

Attendance

Board Members-**Harry Kelso** (Chairman), **Bradley Mitchell** (Vice-Chairman), **Pat McDowell** (Secretary), **Ronald Anderson**, and **Clifford Wolaver**

Codes Enforcement Officer-**Paul Fegley**

Solicitor Mark Allshouse and Engineer Doug Brehm were not present this evening. Jim Bennett of the Cumberland County Planning Department also was not present.

Visitors

John Madden-246 Arch Street

Call to Order

Chairman Harry Kelso called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Public Input (non-agenda items)

Chairman Kelso asked for any public input. No member of the public came forward at this time.

Approval of the Minutes for Tuesday, January 6 2009

Chairman Kelso asked for any changes, corrections, or additions to the minutes for the Tuesday, January 6, 2009 Planning Commission meeting. None were requested.

Ronald Anderson moved to approve the January 6, 2009 minutes as presented. Clifford Wolaver seconded. All votes were in favor, and the minutes were approved as written.

Pending Applications

#08-09: Hurley (West) Preliminary/Final Subdivision, Zoned Agricultural, Total Acreage 43 Acres +/-, Expiration Date: March 8, 2009

From the agenda:

This project is located south of Route 944 and west of Route 74. The Applicant wishes to create four (4) new lots (Lot numbers 32, 33, 34, and 35).

The Planning Commission will need to act on the following:

- Section 180-15.A-Preliminary/Final Plan Review
 - Section 180-32.V(1)-Private Right-of-Way
 - Section 180-24.D-Stormwater Management Plan
 - The Plan itself.
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John Madden came forward to represent this matter. He stated that the big question last time had been the private right-of-way and the driveway not being centered. He noted that the Plan now shows a 70-foot wide right-of-way to accommodate the centering. Mr. Kelso asked Mr. Madden if there is a Highway Occupancy Permit for the centered driveway. Mr. Madden responded that Mr. Hurley had obtained an H.O.P. when he built it originally. Mr. Kelso asked if the permit is for where it is shown on the Plan. Mr. Madden indicated that it is. He stated, "That was kind of the reason why we didn't want to move it. We didn't want to have to go back to PennD.O.T."

Mr. Madden noted that Mr. Brehm had asked for detail showing that the driveway within the right-of-way is to be 20 feet. Mr. Madden mentioned that this had been shown on the Plan at one time, and that he didn't know why this had been taken off. Mr. Kelso asked which page Mr. Madden was talking about. Mr. Madden referred Mr. Kelso to page 5. Mr. Madden explained that there are no dimensions shown on the driveway. He stated, "In the event that it's not 20 feet out there, it needs to be built to 20." He noted that Mr. Brehm had requested a "typical section." Mr. Madden stated that he didn't have any problem adding that. Mr. Kelso referred to the road that will be brought in. He asked if this will service Lot 1 and Lot 35. Mr. Madden replied, "That's correct."

Mr. Kelso then referred to the wetlands that are on the property. He asked how these will be crossed and if there will have to be pipe installed. Mr. Madden indicated that this was correct. He stated, "We did get a general permit for that." He noted that one of Mr. Brehm's comments was to provide this permit to the Township. Mr. Madden said he believed that there are about 80 acres of tributary to that point there. He then said that he wasn't sure if it was a 2-foot or 3-foot pipe there, but that all of this had to be shown. Mr. Kelso pointed out that the proposed house location on Lot 35 will be way in the back. He asked if it was correct that the proposed location for the house on residual Lot 1 won't be that far toward the back and will be just to the right of the driveway. Mr. Madden responded to this:

Well, we talked about that last month. At the top of your sheet there is a nice knob up there. Somebody can build up there. This is the lot that if Denny would cut the bank back and relocate that underground utility in there, he might be able to get sight distance on here, and it could have its own driveway, but this was to avoid doing all that. We showed that the closest point kind of to the right-of-way would be right off of it, but if somebody wants a five or six hundred foot-long driveway, there is a nice hill way up here...you know...that you can get a better view and a little better location for a dwelling.

Mr. Fegley asked if it is a phone line there in the bank. Mr. Madden acknowledged that this was correct. Mr. Kelso referred to the location of where the driveway is shown going back in. He asked Mr. Madden to point out the approved septic areas. Mr. Madden came forward and pointed out the areas that failed. Mr. Kelso asked if it was correct that it will be necessary to pump everything the whole up to the drain field. Mr. Madden acknowledged that this was correct. He explained that the bad part about putting a house on the higher part of the lot is the close proximity to the drain field. Mr. Fegley identified the failed probe sites as 9, 9A, 2, 2A, 10, 10A, 1, and 1A. He asked if this was correct. Mr. Madden acknowledged that this was correct. Mr. Fegley pointed out that the probes that passed were 3 and 3A. Mr. Madden added that probes 8 and 8A also passed.

Mr. Madden briefly noted that Mr. Hurley had originally started with about eight lots in here. He explained that due to the location of the good sites, it became difficult to try to configure the lots, and that the lots were "ugly" and "just weren't marketable." Mr. Madden added that Mr. Hurley realized that it was better just to chop this property into four lots than to try to get six or eight "really ugly things."

Mr. Madden then explained that there was a comment from D.E.P. about the location of the Township line. He pointed out the location of the Township line on Eric Diffenbaugh's adjacent plan and noted that it is off the property. He stated that on the actual property there is a marker on one of the neighboring properties. He

explained that it is not clear where the Township line is. Mr. Madden then noted that one of the four septic sites may be in Lower Frankford Township, depending on where the line is. Mr. Mitchell clarified that these are probes 13 and 13A. Mr. Madden stated that from the standpoint of the module, this site is not being used, and that the three other sites are in North Middleton Township.

Mr. Madden said he agreed that if the residual is going to be called Lot 1, then the other lots should be 32, 33, and 34 instead of 33, 34, and 35. Mr. Madden referred to a comment last time from Mr. Brehm about the proposed driveway for Lot 33 possibly crossing a wetland area. He said that Mr. Brehm had gone out and looked at this. Mr. Kelso pointed out that there are two driveways coming out there. Mr. Madden responded that this hollow is the only place where it was possible to get sight distance. Mr. Kelso asked Mr. Madden if PennD.O.T. did not have a problem with two roads coming out almost side-by-side. Mr. Madden responded that the problem with PennD.O.T. is that it is not possible to apply to PennD.O.T. for a driveway permit until there is a deed. He stated, "I can't go and apply for two driveways on Denny's overall tract of land until this is parceled out." Mr. Fegley noted that this is a "catch-22." Mr. Madden explained that what he does is place a note on the plan which says that prior to issuance of a building permit, a driveway permit from PennD.O.T. must be obtained. He added, "And if they can't get one, then there's an issue." Mr. Kelso asked if this is the way it has always been. Mr. Fegley stated that this has happened before and has happened recently. Mr. Madden noted that within about the last year this has popped up.

Mr. Kelso asked if it was correct that the Supervisors may be asked to approve this plan without knowing for sure if Mr. Hurley will be able to get the Highway Occupancy Permit. Mr. Fegley acknowledged that this was correct and also noted that the Highway Occupancy Permit can't be obtained until the Plan is approved. Mr. Mitchell asked if the Highway Occupancy Permit would be more likely to be approved if there was a single driveway serving both lots. Mr. Madden responded that sight distance is met for both of the driveways and that a single driveway would lead to the catch-22 of needing a right-of-way agreement. Mr. Fegley asked Mr. Madden how PennD.O.T. will look at this. Mr. Madden responded that PennD.O.T. will consider it a "minimum use" and that three or less driveways is the same permit. Mr. Wolaver referred to Mr. Madden's comment that there could be in issue if PennD.O.T. doesn't approve the driveways. Mr. Wolaver asked how this issue is usually dealt with. Mr. Madden explained that on minimum uses PennD.O.T. really only checks sight distances. He pointed out that it has been shown that there is adequate sight distance. Mr. Madden spoke further:

If you have to move 30 feet because they come out and measure it differently than we do, then it would have to end up being a shared driveway. But then we would have to really come back here because then it becomes a private right-of-way issue I think.

Mr. Kelso pointed out that the driveway back to Lot 35 is very long. Mr. Madden acknowledged that this was correct. At this point Mr. Kelso asked for any questions before moving on to the comments from Engineering. Mr. Wolaver questioned the numbering of the lots. He asked for some clarification. Mr. Madden explained that normally Lot 1, or the main tract of land, is always kept as a residual lot. He noted that over time it has been Lot 2, 3, 4, 5, 6, 7, 8...up to Lot 30 across the road. Mr. Fegley noted that Mr. Hurley has been subdividing a parent tract of land for the last 25 years up here, starting out with Lot 2, 3, 4, etc. Mr. Wolaver asked what happened to Lot 32. Mr. Madden pointed out that Mr. Kelso had brought this up before the start of the meeting. Mr. Madden explained that Lot 1 was Lot 32, and that Mr. Hurley wanted Lot 32 to remain as residual Lot 1. Mr. Madden further explained that the other lots did not get renumbered, as 32, 33, and 34. He stated that this should be a comment that the lots should be renumbered if Lot 1 is going to be used as residual Lot 1. Mr. Madden added that he did agree with that.

Mr. Mitchell asked Mr. Madden why Mr. Hurley is hanging on to residual Lot 1. Mr. Madden responded to Mr. Mitchell:

Denny says it's for assessment purposes, which I haven't verified with the Assessment Office, but he says if we call this Lot 32, they will assess that differently than if we leave it as Lot 1 residual. Normally, when you start with a tract of land with a house, and you keep ownership of that house, and what was really the residual to me, but I really believe this is still Lot 32.

Mr. Kelso said he was thinking that Mr. Hurley probably has a Lot 1. Mr. Fegley noted that Mr. Hurley has always kept this as Lot 1. He explained that everything he hasn't sold up to this point has been Lot 1. He added that the actual piece of property with his house on it has a number of what he believed to be Lot 7. Mr. Fegley pointed out that the whole property of several hundred acres was Lot 1. He spoke on this:

And you know, it almost makes sense. If you use the logic because...let's say that hundred acres was valued at 50 bucks an acre, but as it gets needled down, each new lot has a higher value because market brought the value up. So, if you're doing that basis, if you're showing all new lots like Dennis is trying to avoid, these newer lots are probably assessed at the current value, whatever that might be; \$2,000 an acre, whereas the residual Lot 1 is still on the books for \$100 an acre, and that's probably what he's trying to drive home with the assessor here.

Mr. Wolaver asked if the sequence will follow if this change is made. Mr. Kelso acknowledged that this was correct and that there will be Lots 32, 33, and 34, but no Lot 35.

Mr. Kelso suggested that the Brehm-Lebo comments be looked at. Mr. Kelso pointed out that Mr. Madden had basically been discussing these already. Mr. Fegley highlighted some of the comments from the Brehm-Lebo memo of January 28, 2009.

Comment #16 mentions that a copy of all permits obtained should be provided to the Township. Mr. Fegley said he believed that the copy has been received from the water people. Comment #17 has to do with the centering of the driveway within the right-of-way. Mr. Fegley noted that this had been addressed by widening the dimension there. Comment #26 states that each Stormwater Management Plan shall contain provisions which clearly set forth the ownership and maintenance responsibility of all permanent stormwater management facilities as outlined in Section 180-82 of the Ordinance. Mr. Fegley noted that Mr. Brehm had this as "comment satisfactorily addressed."

Mr. Fegley stated that the only thing the Codes Department has at this point is calculating out the recreation fees. He noted that this will be done prior to recording of the print. Mr. Fegley mentioned that the tabulation has been corrected. Mr. Kelso asked if there had been an issue with the agreement for the joint road going in. Mr. Fegley stated that there is an agreement that has been reviewed by Solicitor Allshouse. Mr. Fegley said that Mr. Allshouse seemed to think that this was fine. Mr. Fegley then mentioned that a response from D.E.P. has not been received yet. Mr. Madden stated that the module has been submitted for all four lots but that he is still waiting to hear from D.E.P. Mr. Fegley mentioned that an item or two had been missing from the package that had been sent in and that an associate of Mr. Madden's had been in about a week and a half ago to redo the package. Mr. Fegley stated that he does have a current copy and that this is the reason that the final response hasn't been received from D.E.P. yet. Mr. Fegley added that he expects to hear from D.E.P. in the next week or two.

Mr. Kelso noted that it is pretty well cleaned up other than the few things left to do. Mr. Fegley said that other than the signing and the reduction of the plan, and a copy of all the permits, he is okay with it as far as the Codes Department is concerned.

Mr. Kelso asked about the waivers. Mr. Fegley listed the following three waivers:

- Section 180-15.A-Preliminary/Final Plan Review
- Section 180-32.V.(1)-Private Right-of-Way
- Section 180-24.D-Stormwater Management Plan

Mr. Kelso asked if the private right-of-way waiver is marked on the Plan. Mr. Fegley responded that this is one of the items that Mr. Madden needs to add. Mr. Madden referred to Item #16 under "General Notes." Mr. Fegley noted that this is the one item of the three that is missing and that he has been in contact with Mr. Madden about adding this. Mr. Fegley added that a line stating when the waivers were granted also has to be added. Mr. Kelso asked if the section numbers being cited are the correct numbers. Mr. Fegley stated that the section numbers in the agenda are correct. Mr. Wolaver mentioned the references to Lots 32 and 35 in the Brehm-Lebo memo. He asked what Lot 32 is now. Mr. Madden stated that Lot 32 is Lot 1. Mr. Fegley

pointed out that the print had originally come in showing it as Lot 32, and that it is now back to Lot 1. Mr. Fegley asked Mr. Madden if he will resequence the remainder. Mr. Madden indicated that he will.

Mr. Kelso stated that he had nothing else. He asked for anything else from the other Commission members. Mr. Fegley mentioned that he had heard from Jim Bennett and that Mr. Bennett had asked to forward to the Commission that there was no comment from the County. Mr. Kelso pointed out that the County comments had been discussed last time. Mr. Fegley acknowledged that this was correct and that there has been no change. Mr. Kelso asked for any other questions. None were offered.

The waivers were considered at this point. Regarding the requested waiver of the Preliminary Plan review, Section 180-15.A, Mr. Kelso asked for a motion.

Pat McDowell moved to recommend approval of the waiver of the Preliminary Plan review, and to allow the Plan to be considered as a Final Plan, Section 180-15.A. Ronald Anderson seconded. All votes were in favor, and the motion carried.

Regarding the requested waiver for the private right-of-way, Section 180-32.V.(1), Mr. Kelso asked for a motion.

Pat McDowell moved to recommend approval of the waiver for the private right-of-way, Section 180-32.V.(1). Bradley Mitchell seconded. All votes were in favor, and the motion carried.

Regarding the requested waiver of the requirement for a Stormwater Management Plan, Section 180-24.D, Mr. Kelso asked for a motion.

Ronald Anderson moved to recommend approval of the waiver for the Stormwater Management Plan, Section 180-24.D. Clifford Wolaver seconded. All votes were in favor, and the motion carried.

Regarding the Preliminary/Final Subdivision Plan itself, Mr. Kelso suggested a recommendation for approval, based upon compliance with all comments from Brehm-Lebo Engineering, and also the renumbering of the lots to allow residual Lot #1 and to have the remaining lots numbered as #32, #33, and #34.

Pat McDowell moved to recommend approval of the Preliminary/Final Subdivision Plan itself, based upon compliance with all comments from Brehm-Lebo Engineering, and also the renumbering of the lots to allow residual Lot #1 and to have the remaining lots numbered as #32, #33, and #34. Ronald Anderson seconded. All votes were in favor, and the motion carried.

Mr. Madden initiated some discussion regarding whether or not this plan can go to the February workshop meeting without D.E.P. approval of the module. Mr. Madden asked if he should hurry up and get the revisions made by Tuesday of next week. Mr. Fegley suggested that he could bring it before the Board of Supervisors at the February workshop meeting for possible approval on the condition that the sewer module is approved. He pointed out that if it does not go to the workshop meeting this month, it will be another seven weeks before it is considered. Mr. Fegley added that the odds are he will have the module in-hand within a few days after the workshop meeting or he will have it before the workshop meeting. Mr. Fegley suggested that he could talk to Mr. Reisinger to see if he is willing to entertain it. The expiration date was noted to be March 8, 2009. Mr. Madden pointed out that an extension will be needed. Mr. Fegley responded that he will have to have one in his "hip pocket" since the voting meeting is March 5, 2009. He asked Mr. Madden to submit this by Tuesday of next week.

Adjournment

Chairman Kelso asked for any further business. None was offered.

With no further business before the Commission at this time, Ronald Anderson made a motion to adjourn. This was seconded by Bradley Mitchell, and the meeting adjourned at 7:27p.m.

Respectfully Submitted,

Pat McDowell
Secretary
North Middleton Township
Planning Commission

Michael S. Medvid
Recording Secretary