

PENN TOWNSHIP PLANNING COMMISSION
SEPTEMBER 6, 2012

Chairman Ray Van de Castle called to order a meeting of the Penn Township Planning Commission at 7:00 P.M. on September 6, 2012 at the Penn Township Municipal Building. Also present were planning members Joseph Klunk, Wendell Felix, Stephen Roth, David Quinn, David Baker along with Zoning Officer John Menges and Township Engineer Bortner.

Reviewing the minutes from the meeting on August 2, 2012, Planner Van de Castle noted that the vote on plan P12-10, The Marital Trust for the Benefit of Rita M. Neiderer should be changed to 3-1 with Planner Felix casting the dissenting vote. The minutes were approved as corrected.

Zoning Officer Menges noted that he has received Act 537 Sewer Planning Modules for the Rita M. Neiderer subdivision plan, the Matthew S. Dietrich (MEM) land development plan, and the Horak - Yorlets plan. He will complete the modules and forward to the appropriate parties.

The Planners received the following zoning appeals and made the following recommendations to the Zoning Hearing Board:

Z12-07 – E. BLAKE LIPPY, 248 Glenville Road, Hanover, PA 17331. Applicant is requesting a variance to Section 306.3 (Non Residential Access Driveway) b2) setbacks, all access drives shall be located at least ten (10) feet from any side and/or property lines; a variance to Section 306.3 d) access drive width, in no case shall any access drive cartway be less than eighteen (18) feet wide; a special exception to Section 311 (Street Access) the lot of any dwelling hereafter erected shall abut a public street unless otherwise authorized by Special Exception. The property is located at the rear of 903 Baltimore Street in the Shopping/Commercial zone.

Attorney Arthur Becker and E. Blake Lippy represented this request. The existing property at 903 rear Baltimore Street is a parking lot which is a permitted use in the shopping commercial zone. The applicant is requesting a dimensional variance for the property. Attorney Becker referenced Hirtzburg versus the zoning hearing board of Pittsburgh. He referenced this case so that the planners would know that they could consider multiple factors in deciding unnecessary hardship of the property owner regarding a variance request. There is a 14' wide alley that leads to the parking lot from Baltimore St.. There are two other properties within ten feet of the entrance to this property. He stated that this lot has unique physical characteristics that were not caused by the applicant. Attorney Becker provided a packet of information for the planners to review. Mr. Lippy confirmed that the application was the one he had submitted for the variance requests and that the information is true and correct. There is a settlement agreement for the property between the church and Mr. Lippy. Attorney Becker provided the background information with regards to the lot. Mr. Lippy confirmed that he purchased two parcels of land from the church, which are identified on exhibit A of the settlement agreement. Mr. Lippy paid approximately \$25,000 for both lots even though they were not subdivided from the main parcel. He will not receive the deed for the property until the zoning hearing board case is approved. He would like to record the deed to complete the sale. Exhibit 5 is the plan showing the perimeter of the property Mr. Lippy is to purchase if zoning approval is granted. Attorney Becker provided a copy of the approved 1991 permit for the existing parking lot. The parking lot is accessed from the adjacent alley. The alley is 14' wide but the ordinance requires an 18' access, which creates the first variance request. The entrance is within 8' and 3' of the adjacent property, which creates the second variance request because the ordinance requires the

entrance to be at least ten feet from the property line. Mr. Lippy stated that there is not a problem with reducing this distance because the property has been in operation, as it exists since 1991. There have been no accidents at this site per Mr. Lippy. The property will be used as a parking lot if the request is approved. Mr. Blake stated that the denial of the application would reduce the number of parking spaces for his business by seven. Mr. Blake described the properties that surround the parking lot.

At this point Attorney Becker pointed out the lot on a pictometry picture and explained the variance requests again. Attorney Becker stated that there was a land swap between Mr. Lippy and the church to clean up the deeds. The Eunique Hair Studio uses the parking lot, which is located in the house that fronts Baltimore Street. There are several paper streets in this area that have never been constructed over which fences have been installed. Mr. Lippy has an equitable interest in the land but does not have ownership until the deed is recorded. Attorney Becker stated that in two separate land purchases from the church in the 1990's Mr. Blake did not receive a deed. These were lease agreements that were not legal documents. Attorney Becker explained the lot swap between the property owners but according to York County the Church owns all the land. A settlement agreement was reached, however, and is contained in the packet.

Engineer Bortner stated that the issue in 1990, and still the issue today, is the access. He wanted to make sure the planners understood the request because a lot will be created that does not abut a public street. Engineer Bortner is also concerned because the plan presented as an exhibit for the zoning request is not the same plan formally filed and under review with the Penn Township Board of Commissioners as a subdivision request. The plan that has been filed is P12-05 Hanover Bible Baptist Plan, which is the one currently being reviewed by the Township. Zoning Officer Menges stated that there was no plan in the 1990's and that the deal was done on a handshake. Attorney Becker stated that the attorney who prepared the agreement at that time is no longer in practice and that lease agreements were signed for the property that Mr. Blake is purchasing. Attorney Becker stated that they had to clarify the agreements with the church and then get approval from the Township for the requested subdivision. He stated that the filed subdivision plan is not relevant and will be replaced by this plan if approved. Engineer Bortner is concerned about a plan being formally filed, reviewed and possibly approved while another plan, which is completely different, is going through the zoning approval process. Attorney Becker stated that if a variance is approved it cannot be modified. The settlement agreement requires that the church sign off on the deed if the variance is approved. Zoning Officer Menges stated that all the planners are discussing are the zoning requests. Another subdivision plan will need to be filed if the ZHB give their approval. The plan submitted with the zoning application is the plan they are asking to have reviewed. The storage shed may be removed.

According to Attorney Becker, the church is selling the property and is no longer in operation. They are waiting for the resolution to this problem before they can sell off their remaining land. The new property will have no road frontage to a public street. Mr. Becker stated that the application and exhibits outlined the reasons why the special exception is needed for the property. The property cannot be connected to the existing property with the hair salon. The option of Quiet Title was considered in order to obtain ownership of the alley but was rejected as the adjoining neighbors also use the alley to access their properties. There was discussion about creating an irregularly shaped building lot. Attorney Becker stated that anyone wanting to build on the lot would have to come back before the ZHB for a variance because there is no utility access. There was some concern about a developer purchasing the adjoining property and developing it and this property. Zoning Officer stated that the developer would have to reverse subdivide the property to develop with the adjoining lot. Township Engineer Bortner

asked the Zoning Officer how the Township would be able to deny a building permit if the case is approved?

Attorney Becker stated he would assume the Township would deny a building permit if Mr. Lippy applied for one after the lot is approved. Engineer Bortner again inquired as to what grounds we could deny the permit because the Township created the non-conforming lot with variance and special exception approval. Attorney Becker stated that a restriction could be placed on the lot that it be used for a parking lot only.

Zoning Officer Menges stated that in his opinion one plan has nothing to do with the other plan. Township Engineer Bortner recommended that if this happens in the future an amended subdivision land development plan should be submitted before a conflict like this occurs.

Planners Klunk/Baker moved for a favorable recommendation to the Penn Township Zoning Hearing Board on case Z12-07 E. Blake Lippy requesting a variance to Section 306.3 (Non Residential Access Driveway, Section 306.3 d access drive width, and a special exception to Section 311 (Street Access) as it meets the requirements for a variance as set forth in Section 502.3 a) thru f) and the requirements for a special exception as set forth in Section 503.3 a) thru e) with the stipulation that any approval by the Zoning Hearing Board be conditioned with a restriction that lot number two be used for parking only. Motion carried 5-1 with Planner Felix casting the dissenting vote.

Z12-08 – CHRISTOPHER TRONE, 350 Third Street, Hanover, PA 17331. Applicant is requesting a special exception to Section 202.2 (Uses by Special Exception) in order to construct townhouse rentals. The property is located at 96-100 Bowman Road in R-8 zone.

Christopher Trone, Trone Rental Properties, represented the request. He would like to construct multi-family townhouses at 96-100 Bowman Road. Mr. Trone provided subdivision plans and construction plans for the planners. He is looking to do a reverse subdivision of three parcels into one to construct 31 townhouse units that would be rental properties. Mr. Trone reviewed the requirements of the special exception and how he meets those requirements. The lot coverage is 22%. He is at 9.58 units per acre, which is below the ten units per acre allowed by the ordinance. There will be an entrance off of Bowman road and the road through the complex will be a one-way that will exit out onto Bowman Road. The road was changed from the initial design and they felt that a one-way would help control traffic flow and be safer due to the vicinity of the development to the school district. There will be signs as well as pavement marking to notify residents of the traffic flow. There is a 24' cartway within the complex but this will be discussed more during the land development process. Engineer Bortner stated that that one-way traffic flow is beneficial due to the 'S' turn in the direction of the school property, which makes it difficult to enter Bowman Road.

Planners Quinn/Roth moved for a favorable recommendation to the Penn Township Zoning Hearing Board on case Z12-08 Christopher Trone, requesting a special exception to Section 202.2 (Uses by Special Exception in order to construct townhouse rentals as it meets requirements for a special exception as set forth in Section 503.3 a) thru e). Motion carried on a 5-0-1 vote with Planner Felix abstaining.

Z12-09 – BROOKS RANKIN c/o R & R Fitness LLC, 1665 Broadway, Hanover, PA 17331. Applicant is requesting a variance to Section 303 (Off-Street Parking – Case #Z07 -08) in order to conduct outdoor activities. The property is located at 1665 Broadway in the S/C Zone.

Brooks Rankin represented this request. He is requesting a variance to conduct activities in the parking lot of Gold's Gym. He stated that the facility opened two years ago and they had an initial variance for parking and a special exception for use. He stated that a small portion of the parking lot is used for outdoor activities including small boot camps. These activities occur on Saturdays and there have been complaints by the neighbor about noise. He would like a variance to continue the outdoor activities with some restrictions. The initial variance was for a reduction in the number of parking spaces and included a condition of "no outdoor activities". He stated that the variance requirement had slipped their minds and they were only complying with what the clients were requesting. The outside activities occur between 8 AM to 8 PM. The outside exercise groups can consist of as many as ten individuals but usually it is just an individual with a trainer. The tractor tires are stored out side. Mr. Rankin stated this was not originally planned for the facility but they were able to acquire the equipment. The number of parking spaces required by ordinance is 600 but the number actually provided is 276, which was approved by the variance. The outside activities are conducted in the corner of the property closest to the Hickory Hills residential development. Mr. Rankin has not received complaints from the clients regarding a shortage of parking. Planner Felix read the letter sent from the zoning hearing board stating that the variance was approved with the condition of "no outdoor activities".

Planners Felix/Klunk moved for an unfavorable recommendation to the Penn Township Zoning Hearing Board on case Z12-09 Brooks Rankin requesting a variance to Section 303 (Off-Street Parking – Case #Z07-08) in order to conduct outdoor activities because it does not meet the requirements for a variance as set forth in Section 502.3 a) thru f). Motion carried on a 5-1 vote with Planner Roth casting the dissenting vote.

The Planners received the following waiver or exoneration requests:

Johnston and Associates, Inc. on behalf of Crosswinds Development Company Inc., is requesting a waiver from Section 505.k.1 and 603 (Sidewalks) of Penn Township Subdivision and Land Development Ordinance in regards to the Breezewood Drive Final Subdivision Plan.

Eric Johnston, Johnston and Associates, Inc., represented this request. A final land development plan has been submitted to the Township but they would like to modify the construction of the sidewalks for their plan. There are existing utility poles along Breezewood Drive that they are designing around. They are proposing to locate the new sidewalks behind the telephone poles on private property adding a note to the plan to alert the property owners that there is a pedestrian right-of-way or easement. The sidewalk would be constructed out of the right-of-way on lots 1 through 12. The front setback would be pushed back if the sidewalk is constructed outside the normal right-of-way. The width of the grass strip will be 7 ½'. There was some discussion on when the sidewalk would be installed and whether it will be constructed the same as other sidewalks within the Township. Township Engineer Bortner stated that the sidewalk has to be in prior to the issuance of the Use and Occupancy permit.

Planners Quinn/Baker moved for a favorable recommendation to the Penn Township Board of Commissioners on this request. Motion carried 6-0.

The Planners reviewed the following Subdivision/Land Development plans and made the following recommendations:

P01-28 – HIGH POINTE @ ROJEN FARMS, 751 Frederick Street, Hanover, PA 17331. A preliminary two hundred twenty-seven (227) lot subdivision located on Grandview Road in the R-22 and R-40 zones. (SOUTH). There was no action taken on this plan.

P03-30 – MUSTANG POINTE, Mummert Enterprises, 8 Stuart Avenue, Hanover, PA 17331. A preliminary subdivision plan to create 190 new residential building lots. The property is located between Breezewood and Bowman Road in the R-8 zone. There was no action taken on this plan.

P04-25 – SOUTH HEIGHTS, J. A. Myers Building & Development, 160 Ram Drive, Hanover, PA 17331. A preliminary subdivision plan submitted to create fifty-nine (59) single-family building lots. The property is located within the southeast intersection of Cooper Road and Westminster Avenue, in the R-22 zone. There was no action taken on this plan.

P04-26 –STONEWICKE, J.A. Myers Building Development, 160 Ram Drive Hanover, PA 17331. A preliminary subdivision plan submitted to create one hundred ninety-five (195) single-family residential building lots and one (1) shopping/commercial lot. The property is located west of Baltimore Street between Clover Lane and Grandview Road, in the R-15 zone. There was no action taken on this plan.

P06-23 -BROOKSIDE AVENUE TOWNSHOUSES, Mummert Enterprises, Inc. 8 Stuart Avenue, Hanover, PA 17331. A preliminary land development plan submitted to construct a seventeen (17) single family attached townhouse unit. The property is located on Brookside Avenue in the R-8 zone. There was no action taken on this plan.

P07-27 – STERLING BROWN, 200 High Rock Road, Hanover, PA 17331. A final subdivision plan submitted to create two (2) residential lots. The property is located on Youngs Road in the R/C zone. There was no action taken on this plan.

P08-14 – NATIONAL BARN COMPANY, 316 Juniper Lane, Hanover, PA 17331. A final land development plan submitted to construct an office building. The property is located at the northwest corner of Industrial Drive and Gitts Run Road in the Industrial Zone. There was no action taken on this plan.

P08-20 – PARK HILLS MANOR, N.W. corner of Manor Street and Hammond Avenue, Hanover, PA, 17331. A preliminary subdivision/land development for 9 townhouse units in the R-8 zone. There was no action taken on this plan.

P09-10 - AMERICAN HOME CONTRACTORS LLC, Patrick Buhl, P.O. Box #132, Glenville, PA 17329. A final subdivision plan submitted in order to create two (2) residential lots. The property is located at 792-792 Baltimore Street in the Highway/Business Zone. There was no action taken on this plan.

P10 – 12 – YORK VILLAGE APARTMENTS, LCL – York Village Associates, L.P., 199 Baldwin Road, Suite 140, Parsippany, NJ 07054. A preliminary/final reverse subdivision and land development plan submitted in order to construct two (2) multi-family dwellings consisting of 15 units total and office building. The property is located on West Alvin Avenue in the A/O zone. There is no action taken on this plan.

P12-05 – HANOVER BIBLE BAPTIST, GHI Engineers & Surveyors, 213 Carlisle Street, Hanover, PA 17731. A final subdivision plan submitted in order to create two (2) commercial lots. The property is located at 897 ½ Baltimore Street in the Shopping/Commercial zone. No action was taken on this plan.

P12-07- MEM AUTOMOTIVE, Matthew S. Dietrich, 936 York Street, Hanover, PA 17331. A final land development plan submitted in order to construct a building. The property is located at the rear of 936 York Street in the Highway/Business zone. There was no action taken on this plan.

P12-10- THE MARITAL TRUST FOR THE BENEFIT OF RITA M. NEIDERER, 30 Radio Road, Hanover, PA 17331. A final subdivision plan submitted in order to divide commercial lot from the residential lots. The property is located at 30 Radio Road in the R-15 and Highway/Business zone. There was no action taken on this plan.

P12-11 – HAROLD G. & ANNA M. SHAFER SUBDIVISION, 1750 Youngs Road, Hanover, PA 17331. A final subdivision plan submitted in order to create an add-on lot to adjoining lands. The property is located at Youngs Road in the R-40 zone.

Ted Decker, Group Hanover, Inc., represented this plan. York County Planning Commission comments have been received and will be addressed. The plan will subdivide one piece of land from one property owner and be added on to the neighboring property. It is eight acres net. There was some discussion about the zoning on the property and if would remain the same. One owner will own the pond when the subdivision is completed.

Planners Quinn/Baker moved for a favorable recommendation on this plan to the Penn Township Board of Commissioners. Motion carried on a 6-0 vote.

P12-12 – BREEZEWOOD DRIVE, Crosswinds Associates Development Company Inc., 336 West King Street, Hanover, PA 17331. A final subdivision plan submitted in order to create twelve (12) lots to construct a single-family detached dwellings. The property is located on east side of Breezewood Drive approximately .5 mile south of York Street in the R-8 zone.

The meeting adjourned at approximately 8:47 PM.

Respectfully submitted,
Kristina Rodgers, Recording Secretary