

WARWICK TOWNSHIP BOARD OF SUPERVISORS

July 21, 2021

7:00 p.m.

Warwick Township Municipal Building

Chairman Kenneth Eshleman convened the July 21, 2021 meeting of the Warwick Township Board of Supervisors at 7:00 p.m. In attendance were Supervisors Kenneth Eshleman, Herbert Flosdorf, Logan Myers, Jeffrey Tennis, and Kelly Gutshall. Also in attendance were Daniel Zimmerman, Township Manager; Patrick Barrett, Assistant Township Manager; Chuck Haley with ELA, William Croswell, Township Solicitor, Jon Andrews, David Schreder, Barb Emmerich, Jen Piersol, John Schick, Tara Love, Bill Gretton, Pam Wise, T. Carter, Tom Caracio, Tony DeNunzio, Randy and Julie Knauer, Connie Drake, Randy and Sandy Wisler, Stewart and Nadine Abowitz, Diane Buchkoski, J. Kings, D. Freeman, Michelle Bingham, Rick Rittler, Michael and Dale Keeney, Donald Mason, Irene Garipoli, Joe and Natalie Bennett, Hayden McDevitt, Carol and Bill Murphy, Kevin Ember, and a court reporter.

GUEST RECOGNITION: Joe Bennett 1313 Bunny View Drive, was at last month's meeting to discuss issues relating to the constitution and requested the Boards response. K. Eshleman read the following public statement on behalf of the Board of Supervisors: I would like to make the following statement pertaining to the expression of your opinion during public comment. Under the Sunshine Act, the Board of Supervisors is required to give you an opportunity to be heard, and we have done that during at least two prior meetings. Public participation is not the time to question the Board on its political beliefs or on its view or interpretation of the United States Constitution. Discussion during public comment should be focused on current business and issues impacting the community and not matters of Constitutional interpretation.

Rick Rittler representing Traditions of America Home Owners Association thanked the Board for their continued support. He expressed concern over remaining outstanding construction issues and requested the Board to continue to retain funds for completion of any projects that the developer does not finish. Rittler stated that they submitted a copy of the trail deficiency report. He added that they also have a copy of a report relating to the concrete and said that the Board could review that as well. Zimmerman explained that the Township received a work completion schedule and the developer intends to have 90% of the outstanding work completed by the end of the year. He added that the Township did receive as-builts for Phases 1-4 and the developers agreement indicates that Phase 5 should be completed by June 2022. Zimmerman stated that PPL is working on the outstanding issues relating to the streetlights. He said that he would make the trail deficiency report available to representatives of TOA for their review and response. He mentioned that the developer signed a trail agreement to ensure that the surface meets the requirements of the ordinance.

Pam Wise is present to share a safety concern. She states that three weeks ago she almost hit a bicyclist coming off of the rail trail from the Ephrata side to the Lititz side on Newport Road. There has been discussions on signage and that the lights are confusing. She is asking how this concern should be addressed. D. Zimmerman states that a complete evaluation had to be done of the potential connection from the Township office to Ephrata Borough. All the crossings were evaluated and had to meet Penn Dot standards. Zimmerman states that there is a difference between the cross walks you see in Lititz Borough and any street that has a speed of 35 MPH or less. A speed limit of 35 MPH or less is considered a cross walk. Penn Dot considers any crossing on a road with a speed limit of 45 MPH or more to be a trail crossing. The difference is that at a cross walk the pedestrian has the right of way and at a trail crossing, the motorist has the right of way. Pedestrians using the trails see three separate stop signs and a

gate that they must go around. You are going to have a combination of cross walks and trail crossings when you have a suburban trail that connects five municipalities, including Lititz Borough, and you are in different settings. When you are in the rural you are at a higher speed on the road and in the suburban areas the roads are slower speeds. Education has been provided on rail trail brochures, maps, and on the Warwick Township web site. He noted that the Township is a member of the National Rail to Trail Association. Two specialists who specialize in rail to trail creation were brought in. They made the same recommendations. One of the many considerations looked at was the large population of older individuals and those with a handicap that use the trails. That was a large motivator in making sure there was lighting at crossings. The lighting adds the extra security of people realizing there is someone possibly in the trail crossing and you should exercise caution as a motorist. Another attendee shared that they were on the trail crossing Newport Road. He witnessed a bicyclist stop at the road, look both ways and proceed to cross the road even though there was a tractor trailer approaching. The truck had to cross into the opposite lane of traffic to avoid hitting the bicyclist.

Tom Caracio with Lititz Reserve HOA wanted to thank the Board for all the support and help that the Board has given them. Lititz Reserve has had a problem with the new development that is going in across the street creating a lot of silt and run-off on the roads and flooding on their streets. He was happy to report that with rain that fell today, the streets did not flood, so some of the mitigation techniques that were employed are in fact working. Mr. Caracio did ask when the streets will be paved and the final dedication occur. D. Zimmerman stated that the Township just received as-builts for phases 1-7 of the development, and the Township is completing the review of the documents. He explained that Caracio has been invited to a walkthrough of the development. The tentative schedule is that they would pave in mid-August. Mr. Caracio also asked if there is a solicitation license or permit required for the Township. He states that there have been several people riding through the community on hover craft boards trying to sell pest protection plans. D. Zimmerman confirmed that there is an ordinance requiring any individual that wants to solicit must go through the police department and receive a solicitation permit. Chief Steffen confirmed that solicitors are given an identification card that contains the information from the permit. Chief Steffen suggested possibly posting a list of solicitors with current permits be listed on the website for residents to refer to. He will check on the privacy part of that and get back to the Board. Individuals can request to see the solicitation permit.

PUBLIC HEARING TO CONSIDER THE APPLICATION RECEIVED FROM LANDMARK HOMES FOR 369 WEST WOODS DRIVE, LITITZ. APPLICANT IS SEEKING CONDITIONAL APPROVAL UNDER SECTION 340-14 D(1) OF THE ZONING ORDINANCE PERTAINING TO CLUSTER DEVELOPMENT IN THE R-1 ZONE. APPLICANT PROPOSES TO DEVELOP THE PROPERTY WITH A CLUSTER DEVELOPMENT OF 42 SINGLE FAMILY DETACHED DWELLINGS. K. Eshleman reviewed a few of the protocols for holding a public hearing. D. Zimmerman confirmed that the hearing was advertised and properly posted. W. Crosswell, Solicitor, explained that you can participate in the hearing and express your opinion, but if you want to protect a right to be able to appeal an adverse decision or participate and intervene in an unfavorable decision you have to become a party. W. Crosswell asks if there is anyone present who wishes to become legally a party to the hearing.

Jon Andrews, land use attorney with McNees Wallace & Nurick out of Harrisburg, is here tonight on behalf of Landmark Homes. Joining Andrews is David Schreder from Landmark Homes, Kevin Ember, civil site consultant with Rettew, and John Schick from Rettew who is the traffic consultant. Andrews states they are here with a conditional use application for a conservation cluster development. It is a new form of development that the Township added in their zoning ordinance in the recent years. It will be referred to as the Walton farm because the current owner is George and Gertrude Walton. A sketch plan was presented to the Board in December 2020. What is being presented tonight is largely the same design that was in that sketch plan from December 2020, with three to four adjustments. The Planning Commission unanimously recommended approval of the conditional use application at their meeting on June 23, 2021. Andrews explained that after conditional use we would have to submit a Subdivision and Land Development Plan for review by the Planning Commission and Board of Supervisors, which could take several months.

Exhibit packets were distributed to those in attendance. Andrews outlined the location of the property. He explained that the property contains just over 25 acres. To the northeast is Tupelo Street, which ends in a cul-de-sac. Down to the southwest is Hillcrest Avenue which also terminates at the property. This is in the R-1 zoning district. The application is for a conservation cluster development where the unit density is on one part of the tract so that natural resources can be protected on the property. This property was one of the tracts under consideration when the Township added this form of development to the R-1 zone. The property is unique in that it is very irregularly shaped and has an existing pond which is situated in the middle of the tract; wetlands are located to the southeast of the pond and further southeast on the property. Bachman run bisects the eastern part of the property. There is also a thirty-five foot wide sanitary sewer easement that bisects the eastern part of the property.

Donald Mason, 22 Heron Road, asked what exactly is an R-1 zone. J. Andrews explained that R-1 is the Township's designation for low density residential zoning. D. Zimmerman confirmed that the property is currently zoned R-1.

J. Andrews was sworn in. He stated that the conservation cluster regulations would allow townhomes or duplexes; however, the applicant is proposing 42 single family detached units. One unit is going to be for the current property owner. The owner will keep one of their existing barns, and the rest of their structures will be demolished as part of the construction. In addition to 42 residential unit lots, there are also three open space lots. Those lots contain stormwater management basins as well as a trail that will extend to Bachman Run within the sanitary sewer easement area. The open space lots would be owned and maintained by a Home Owners Association (HOA); the HOA would maintain the stormwater basins and the open space.

Road A indicated on the plan would connect Hillcrest Avenue to Tupelo Street. The applicant will coordinate with the Township on the name for the road, whether it becomes Hillcrest or Tupelo. The road will have a 28' cartway with parking on one side, and sidewalks on both sides of the street. There are also two cul-de-sacs, currently referred to as Road B and Road C. Road B has nine units on it and Road C has sixteen units on it.

The lots will be served with public water & public sewer. The new Walton home would be connected temporarily to the public system because the home would be built prior to the rest of the units.

Two car garages and driveways to fit at least two cars are proposed for each unit; this will provide for four off-street parking spaces, which is two more than the ordinance requires.

J. Andrews mentioned that the original Sketch Plan indicated 51 units; however only 42 units are now proposed. The lots are slightly larger than originally proposed, and one of the originally proposed cul-de-sacs was eliminated.

Staff provided proposed conditions of approval to the applicant in a memo dated July 14, 2021. The applicant indicated their agreement with the proposed conditions. The applicant submitted an application and associated documents that address the ordinance requirements.

D. Zimmerman explained that the density of a cluster cannot be any higher than an R-1 zone allows. Some flexibility has been allowed of the housing prototypes. J. Andrews states that the maximum density that is allowed is 3 units per acre, and the proposed density is 2.53.

D. Schreder, K. Ember, and J. Schick were sworn in by the court reporter.

K. Ember from Rettew Associates stated that gross tract area proposes 40% open space and with the net developable area, 61% will be open space.

A Supervisor questioned whether any traffic projections have been calculated for the proposed development. J. Schick with Rettew Associates explained that the applicant met with Township staff and also the Township Engineer

to discuss the project scope. They studied traffic patterns at four intersections surrounding the site, West Woods Drive & Woodcrest Avenue, West Woods Drive & Highlands Drive, West Woods Drive & Hillcrest Avenue and Tupelo Street & Crosswinds Drive. Schick explained that traffic counts indicated an even distribution of trips with about 20% traveling in each direction. Schick explained that the counts include other developments that were approved yet undeveloped within the Township. The remaining units of the Buckwalter Tract and in the West Woods development there are six single family lots that have not been developed. Traffic projections were done out to 2027 to look at roadway capacities. All the intersections that were looked at were level of service A and the maximum delays were 3 seconds. Schick outlined the traffic impact study for the benefit of those present.

L. Myers asked if the proposed trail system could be connected to the trail system down to the south. J. Andrews responded that the trail system would be within the easement and parallels the stream, and a trail connection could be provided if feasible.

D. Zimmerman inquired how stormwater would be handled. J. Andrews explained that the design is conceptual at this point and would be more detailed during the subdivision and land development process. K. Ember explained that there are two stormwater basins and ultimately those would discharge down through some width of riparian buffer that would be planted and expanded along Bachman Run.

K. Gutshall inquired how much of the open space will be disturbed with the grading. K. Ember states that the property does slope down to Bachman Run; earth work will be needed where the homes & basins are proposed. On the opposite side of the creek where no homes are proposed, they are potentially looking at that as a fill area. Along the creek corridor there are certain areas that cannot be disturbed within the wetlands and although the stream does not have a FEMA flood plain associated with it, an engineered flood plain study was done. This information can restrict what they are allowed to grade within that area. Andrews confirmed that the HOA will be responsible for maintenance and upkeep of the open space. D. Zimmerman stated that the open space area will be within a conservation easement, so it cannot be changed. Andrews stated that a conceptual open space management narrative was provided; but the cost to maintain the area by the HOA is unknown at this time.

Flondorf questions how steep the main road is through the development. K. Embers estimated that the main road slope is 8% and noted that all road grades would be within the ordinance requirement.

D. Zimmerman explained that the Township contracted with Brandywine Conservancy to assist with the development of the ordinance and added that this project is the first development to go through the conservation development zoning. Other conservation developments have been done, but this project is the first through this ordinance.

D. Schreder from Landmark Homes explained that construction would be done in one phase, and they will have a staging area for topsoil; he added that staging for construction purposes has not been determined at this time. D. Zimmerman suggested that the construction entrance be along West Woods Drive which and might be the least impactful.

D. Zimmerman mentions the historic assessment for the farmhouse to be razed was a class III structure. The farmhouse is not on the national register and is not eligible for the register.

D. Schreder stated that with the current fluctuation in materials, they are looking at a range of the high \$300,000 to high \$400,000 for home prices. The floorplans submitted range from 1,800 square feet to 3,500 square feet.

K. Eshleman opens the floor to public comments.

Don Mason asks if the project can be done without connecting to Tupelo Street. D. Zimmerman responds that Tupelo Street has been on the official map since 1998 as a future roadway connection. He noted that Warwick

Township is one of the few municipalities that planned 20 years ahead and identified future street connections. Mr. Mason is concerned that Tupelo will be used as a short cut. D. Zimmerman expressed the opinion that motorists will use Highlands Drive rather than driving through the development.

Randy Knauer questioned if concrete trucks and other construction vehicles will be coming in on Tupelo Street. D. Zimmerman stated that has not been determined, although he recommends construction vehicles access the site through West Woods Drive. Mr. Knauer has concerns that there may be issues with construction trucks and work crew trucks parking on Tupelo and tying up an already small, congested street. J. Andrews stated the developer does not want to be bad a neighbor, and confirmed that they will work residents and make sure they are being the least impactful as possible. Mr. Knauer asked about the construction start time and end time. D. Zimmerman responds that typically construction can start at 7:00 a.m. J. Andrews stated they will comply with Township ordinances and that includes requiring our contractor and their subcontractors to comply.

Barb Emmerich is very concerned about this project. She stated the she currently sees wildlife in the field. She added that she anticipates more traffic through the development than 2 vehicles per hour as previously indicated. The also shared concerns regarding where the drain from the pond goes under the street and the heavy equipment driving over that area. She asks if there will be a stop sign at Tupelo into the new neighborhood and asked if a speed bump could be constructed on the roadway. J. Andrews responds that the road system is intended to be dedicated to the Township, so the roads will be designed to Township standards.

Brian Munro is sworn in. Munro testified that he lives at 380 Crosswinds Drive. A month ago a car came past his residence at 50-60 mph and hit a van in front. He added that there was almost an accident on the road more recently and offered to provide a video of the incident. He explained that motorist speed through the development and expressed the opinion that larger construction equipment could not use the road since there is only one lane due to vehicles parking along the roadway.

W. Croswell reiterates that since no one decided to become a party, whatever decision and conditions are approved, no one would be legally able to challenge that in court because they didn't become party to the hearing. No one has indicated a desire to become a party.

With no further comments, and on a motion made by L. Myers and seconded by J. Tennis, the Board unanimously voted to close the public hearing on the Walton Hill subdivision. J. Andrews stated that he would like his exhibits entered into the record for the hearing.

SUBDIVISION/RELATED BUSINESS:

Consider a time extension request for the Orchard Road project for 90 days - With a motion made by L. Myers, seconded by H. Flosdorf, the Board unanimously voted to grant the extension of time for the Orchard Road project.

Consider request for relief for designation of replacement for 203 Weaver Drive – D. Zimmerman states that this is an old, pre-existing lot that is non-conforming, which cannot provide the 100 foot separation from the well to the secondary system and also the primary system. He states that the lot is of record at this point. He states that typically the Board considers approval. There is a testament from SEO that is the situation we are in. He had to spot the secondary and primary fields in the areas where he had. He had limited choice where he could put that so it fell within that 100 foot radius. We do have an indemnification if the Board does consider favorable review of this that one of the conditions would be that the property owner executes this indemnification clause which then is put into the title search so everybody knows where their well is located. It was asked what kind of septic system it is. It was confirmed that it is a sand mound. A supervisor asked if it was true that a pressure dosed system will tend to last longer than a gravity flow system. He points out that the design be as conservative as possible, rather than just meet the minimum design requirements, since this is one and it has to last. The buyer of the lot will have full knowledge of

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the fact that if there is a failure and they have to construct the secondary location that it would be within the 100 foot radius.

With a motion made by H. Flosdorf, and seconded by L. Myers, the Board unanimously approved the request for relief of designation of replacement for 203 Weaver Drive contingent upon signing the indemnification clause.

OLD BUSINESS:

Consider Resolution 07-21-21-01 to amend the 2021 fiscal budget to transfer funds to the capital reserve and storm water funds – With a motion by J. Tennis, seconded by L. Myers, the Board unanimously approved the adoption of Resolution 07-21-21-01 to amend the 2021 fiscal budget to transfer funds to the capital reserve and storm water funds.

Consider the approval of the sale of the 1995 Mobark wood chipper – With a motion by J. Tennis, seconded by H. Flosdorf, the Board unanimously approved the sale of the 1995 Mobark wood chipper.

NEW BUSINESS:

Consider request by Lancaster Bicycle Club to host Covered Bridge Classic on 08/15/2021 – With a motion by H. Flosdorf, seconded by K. Gutshall, the Board unanimously approved the request by Lancaster Bicycle Club to host the Covered Bridge Classic on 08/15/2021.

Consider request by Hartz Physical Therapy to host the Fall Blast on 10/02/2021 – With a motion by H. Flosdorf, seconded by K. Gutshall, the Board unanimously approved the request by Hartz Physical Therapy to host the Fall Blast on 10/02/2021.

Consider request by Johnson/Johnson to host the annual Fresh Burst 5 Mile on 10/23/2021 – With a motion by H. Flosdorf, seconded by K. Gutshall, the Board unanimously approved the request by Johnson/Johnson to host the Fresh Burst 5 Mile on 10/23/2021.

COMMUNICATIONS:

PSATS

Farmland Trust

APPROVAL OF MINUTES: June 2, 2021 and June 16, 2021 – With a motion by H. Flosdorf, seconded by K. Gutshall, the Board unanimously approved the minutes of June 2, 2021 and June 16, 2021.

TREASURERS REPORT: With a motion by J. Tennis, seconded by L. Myers, the Board unanimously approved the treasurer's report as presented.

PAYMENT OF BILLS: With a motion by J. Tennis, seconded by L. Myers, the Board unanimously approved the payment of bills.

MANAGERS REPORT: Under the American Rescue Plan, the Township did receive its first installment last week. That had to be set up in a separate account. We will get back to you in upcoming months on some recommendations. The second installment in June of 2022. You do not have to expend these, you have till October 2024. Rigid requirements, reporting requirements, and what you do with it, each has to be verified and has to be incorporated into your audit. It is very rigid on what you can utilize these funds for. In August/September we will come back to you with recommendations. As D. Zimmerman indicated earlier, we did get the as built for TOA, which was just a few days late. Those are under review with ELA. As far as staffing, everybody knew that Jenni, who was the receptionist did relocate to Delaware. We were fortunate enough to hire a new person who is also a resident of Warwick Township, and she is doing very well. Act 65 – the state is always busy regulating local

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government. We have a new Act that modifies the Sunshine Act. We were complying with these regulations prior as far as posting the agenda. If it is not on the agenda, you cannot add it. In a memo from Josele Cleary dated 07/15/2021 does define what is agency. The one thing that we weren't doing is the strategic plan committees which only have one elected representative on them. It is basically a citizen advisory committee. We had an agenda and it was on the website, but it wasn't officially posted, so we will do that now. That is the requirement now. K. Gutshall did ask what the Liquid Fuels Tax is. We get part of the excise tax that the state collects on a gallon of gas based on our road mileage and population.

TAX COLLECTORS REPORT: With a motion by L. Myers, seconded by K. Gutshall, the Board unanimously approved the tax collectors report as submitted.

POLICE DEPARTMENT REPORT: Chief Steffen states that they are re-examining a couple of things and looking at a resource analysis and patrol allocations study. We are applying the formulas that they used 10 years ago to our existing situation now and looking to determine what our unit costs are and if they are reflective of what we wanted that to look like when we started. He thinks what they are going to find is that they are. With their budget, they have managed to have a relatively stable budget without jeopardizing new advancements in technology and other things. He cannot express enough the value of their interoperability with all of our body worn cameras, our MVR's in the cars, their smart weapons systems and their interview rooms. These things are all things that will become the industry standard. Fortunately for us, we were ahead of the curve and we are using the technologies in place as much as anybody can. Our fleet was featured on the floor of Pennsylvania Chiefs Convention and there was a lot of emphasis on the hybrid vehicles and the savings that we are having from using those vehicles. We are very diligent in the data collection associated with that to see what our fuel economy truly is for the vehicle. Overall, we have saved approximately \$34,000 just this fiscal year with that. That is a significant savings for the tax payer. With their fleet plan, they have enjoyed a reduction in their maintenance costs for two reasons, the vehicles are new and that they have a bumper to bumper warranty for 150,000 miles leaving only replacing of brake pads, tires, and windshield wipers. D. Zimmerman reports that Chief Steffen was installed as the President of the Pennsylvania Association of Police Chiefs. The Board shared their congratulations.

EXECUTIVE SESSION:

The Board of Supervisors will now hold an executive session to consult with the Township Solicitor concerning information or strategy in connection with land use litigation relating to the property located at 500 Becker Road owned by Blessings of Hope. The Land Use Appeal pertaining to this matter is docketed to Case No. CI-21-02031 in the Court of Common Pleas of Lancaster County.

The Board of Supervisors will now hold an executive session to consult with the Township Solicitor concerning information or strategy in connection with building code issues relating to the Traditions of America development upon which identifiable complaints have been made.

The Board adjourned at 8:45 p.m. for their executive sessions and reconvened at 9:50 p.m.

ADJOURNMENT: With a motion from L. Myers, seconded by J. Tennis, the Board unanimously, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Daniel L. Zimmerman
Township Manager