

The stated meeting of the Administrative Code and Land Use Committee of the Board of Commissioners of the Township of Abington was held on Wednesday, October 3, 2018 at the Township Administration Building, Abington, PA., with Commissioner Sanchez, Chairman presiding.

**CALL TO ORDER:** 7:21 p.m.

**ROLL CALL:** Present: Commissioners SANCHEZ, BRODSKY, GILLESPIE, THOMPSON, CARSWELL

Township Manager MANFREDI  
Assistant Township Manager WEHMEYER  
Township Solicitor CLARKE  
Director of Engineering/Code MONTGOMERY

Also Present: Commissioners LUKER, KLINE, ROTHMAN, ZAPPONE, BOWMAN, SCHREIBER, DiPLACIDO, VAHEY, SPIEGELMAN, MYERS

**APPROVAL OF MINUTES:**

Commissioner Sanchez made a MOTION, seconded by Commissioner Brodsky to approve the minutes of the September 5, 2018 Administrative Code and Land Use Committee Meeting.

MOTION was ADOPTED 5-0.

**PRESENTATION:** None.

**UNFINISHED BUSINESS:** None.

**NEW BUSINESS:**

Item ACL-01-101118:

Commissioner Sanchez asked the applicant to the present their plan.

Michael Yarnoff, Esquire, with Freidman and Shuster, LLP, 101 Greenwood Avenue, 5<sup>th</sup> Fl. Jenkintown, PA, 19046 representing the applicant, Mr. Osman Aydemir, and stated that this is a two-lot minor subdivision on 2219 Old Welsh Road and both lots conform to Township code.

Commissioner Sanchez asked for any comments from Commissioners or staff.

Commissioner Thompson referred to comments made by the County Planner regarding street trees and sidewalks.

Mr. Yarnoff replied that the applicant will work out the placement of street trees and comply with installation of sidewalks.

Commissioner Sanchez clarified that a waiver has been requested for sidewalks on the Parkview Avenue side; however, the applicant will install sidewalks on both street frontages. Is that correct?

Mr. Aydemir replied we were informed that the Township will be installing sidewalks on that entire block.

Ms. Montgomery clarified that there is a project planned through Community Director's Office, Mr. Van Strother for installation of curb only and not sidewalks.

Manager Manfredi added that Section 146.27 of staff review letter indicated there was no curb or sidewalks shown on Parkview, but it does show it on Old Welsh Road. The issue is will the applicant be required to install curbing rather than it being done through CDBG Program.

Commissioner Sanchez clarified that if the waiver is not granted for sidewalks or curbing then they will be installed either by the applicant or through CDBG program. Is that correct?

Manager Manfredi replied that is correct.

Vice President Kline questioned whether this is a qualified area for the CDBG Program.

Mr. Strother replied Parkview Avenue is a qualified area as well as frontage on Old Welsh Road.

Vice President Kline said then no waivers for curbing/sidewalks should be granted.

President Luker requested that the applicant coordinate their project with the CDBG funding project through Mr. Strother's office so there is no confusion with construction.

Mr. Yarnoff replied the applicant will comply as he does not have a problem with installation of curbing or sidewalks and this matter will be resolved.

Vice President Kline asked if the applicant installs curbing/sidewalks, could CDBG funds be used elsewhere.

Mr. Strother replied that might be problematic having two separate contractors as project through CDBG pays prevailing wage and he does not know the nature of the applicant's contractor. His preference would be to have one contractor do the work because it is 500 linear feet of curbing, so he recommends that the contractor through CDBG program do the entire area and design the curb depression consistent with proposed plan.

Vice President Kline questioned whether the applicant could contribute to that project to offset CDBG funds so they can be used for something else.

Solicitor Clarke replied there is no restriction from making an arrangement where a fee-in-lieu-of from doing the work themselves could be contributed to the Township although the CDBG grant should be reviewed making sure that is not a problem.

Commissioner Myers said property fronts on Old Welsh Road, and following subdivision the new building will be facing Parkview Avenue. Has it been considered how narrow the roadway is?

Mr. Aydemir replied widening is part of the project.

Mr. Strother said CDBG project includes widening the cartway as currently it is 17 feet wide and it will be Township compliant at 26-27 feet wide.

Commissioner Sanchez made a MOTION, seconded by Commissioner Thompson to approve Subdivision Application for a two-lot subdivision for property located at 2219 Old Welsh Road and Parkview Avenue, Willow Grove, PA., and **not** to grant waiver request for installation of sidewalks as well as subject to potential fee-in-lieu-of by the applicant for sidewalk/curbing work to be done at a future date.

Commissioner Sanchez asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, questioned whether Township's contractor is more expensive than the applicant's contractor.

Commissioner Bowman replied CDBG grant funding requires contractors to be paid prevailing wage, which is more expensive than what a private person would hire a contractor for.

MOTION was ADOPTED 5-0.

Item ACL-02-101118:

Commissioner Sanchez made a MOTION, seconded by Commissioner Brodsky to approve the Subdivision Application for a lot line change by Robert Razzi for properties located at 865 and 869 Jenkintown Road, Elkins Park, PA.

Commissioner Sanchez asked the applicant to present their plan.

Mr. Razzi stated nothing will change on the property. The lot line change is so he can use the property at the corner to store a car he hopes to get.

Commissioner Sanchez asked for any comments from Commissioners or staff.

Commissioner Thompson questioned waiver request to provide property identification plan.

Mr. Razzi replied the property is a foot off of his property line in the back of his parking lot in which he cannot use due to a right-of-way for the other property owner to get into the garage, and he does not know why anyone would have approved it, but it is being corrected. It will be deeded as one property.

Commissioner Thompson questioned whether the plans should be revised to show that.

Mr. Razzi replied he hired a surveyor so as to get it deeded as one property.

Vice President Kline commented that the property identification plan is for properties located outside of subdivision within 400 feet, which is a waiver often requested in minor subdivision plans.

Commissioner Sanchez asked for any public comments. There were none.

MOTION was ADOPTED 5-0.

Item ACL-03-101118:

Commissioner Sanchez asked the applicant to present their plan.

George W. Broseman, Attorney with Kaplin Stewart, 910 Harvest Drive, Suite 200, PO Box 3037, Blue Bell, PA 19422, introduced Chad Brensinger Project Engineer and the applicant, Greg Winans of Family Dining, Inc. (Burger King), and said this is an existing developed site and the plan is to improve the appearance of the building and expand the building for a playground and second drive-thru lane. There will be additional landscaping provide that will result in less impervious coverage. Waivers are requested including a waiver for installation of sidewalk and widening of Bradfield Road because there are slope conditions as well as result in disturbance of mature trees.

Gary Tilford, PE, Charles E. Shoemaker, Inc., 1007 Edge Hill Road, Abington, PA, 19001, presented the plan showing existing Burger King that has been there since the 80's. The project is an economic upgrade by improving the façade as well as adding a 744 sq. ft. playground room inside the building as well as another drive-thru lane. Shown on the plan were the access points from Easton Road, Bradfield Road and Edge Hill Road; another drive-thru lane; landscaping; area where proposed playground will be constructed; a minor adjustment to the entryway and architectural treatments to the exterior of the building to bring it up to market standards.

Plan is to provide more landscaping along frontage on Easton Road; paved walkway for pedestrians along the front façade; and the back of the building will remain the same.

The MCPC provided a review letter and the applicant implemented recommendations from that letter, such as a planting island and four parking spaces would be removed to plant two new trees within the parking area. Due to 11 items of existing nonconformities onsite, the applicant appeared before the Zoning Hearing Board seeking zoning relief.

Regarding Bradfield Road entrance/exit; proposed is a striped out crosswalk across the driveway entrance to give prominence to pedestrians walking along Bradfield. Also, Bradfield has an existing sidewalk to a location just past Fernhill Road. The area that the waiver is requested is the portion of Bradfield Road that is not fully developed with curb/sidewalk and there is an area that has substantial shade trees, and if the curb was to be extended and sidewalk installed, it would require a retaining wall and the trees in that vicinity would be lost.

The applicant is proposing improvements to the internal building and not external, and due to the physical conditions in that area and the desire to maintain trees for privacy between a commercial building and residential is the reason for the sidewalk waiver request.

Commissioner Sanchez said although he is sensitive to the mature trees, a sidewalk would be a great connection to Edge Hill Road and Copper Beech School located in that area.

Commissioner Thompson agreed and questioned whether there is nothing that can be done to extend that sidewalk on Bradfield while maintaining those trees.

Mr. Tilford replied it can be done, but it would require removal of trees and a retaining wall and it is not something that the applicant was entertaining in his budget.

Commissioner Gillespie said this is in her ward and she understands there are no sidewalks, but there are great, old trees that she does not want to see removed on the Burger King side of the road. She suggested installation of sidewalks on the other side of the street.

Commissioner Sanchez questioned whether that is something that the applicant could do although easements would need to be secured on the other side of Bradfield.

Mr. Broseman replied we can look into it; however, his client would probably abandon the project if that was required.

Commissioner Thompson said as part of MCPC's request, is the applicant installing crosswalk across Bradfield to the other side?

Mr. Broseman replied the MCPC suggested as an option to the sidewalk, to place the crosswalk at the driveway and the applicant agrees in which it would complete the connection, and Township's Planning Commission suggested that Traffic Safety Officer approve it. Also discussed was whether a crosswalk should be on Fernhill, but there is limited sight distance there.

Commissioner Schreiber said she has seen many people walk on that street and it is a very dangerous, narrow street, so she understands why the applicant does not want to put sidewalks there.

Commissioner Gillespie said she agrees there should be a sidewalk, but not on the Burger King side of the street. It should be on the other side of the street.

Commissioner Vahey suggested a trail that would work with the topography and existing landscaping. We understand the challenges of the project, but we would like to see a solution for improvements for pedestrians walking to the site.

Mr. Broseman replied we can look into some type of path that would provide reasonable access; however, it is very steep there.

Commissioner Bowman said it would need to be ADA compliant, so it would essentially be a sidewalk. Also, sidewalks are included in the Edge Hill Road reconstruction project, so it will be a much more walkable area and he supports sidewalks on the Burger King side.

Commissioner Brodsky agreed that pedestrian safety is important. What are the applicant's parameters for this project?

Mr. Broseman said we looked into code compliant sidewalk on that stretch, but it will be a lot of disturbance of trees and there is the cost. He was informed by his client that 'if we had to do that, we would not do the project,' so we are seeking a waiver from it.

Commissioner Zappone clarified that if the applicant is mandated to install sidewalks; they would abandon the entire project. Is that correct, and if so, why not just renovate the inside of the building?

Mr. Winans replied we will need to look at cost.

Mr. Broseman added that if the playground addition wasn't proposed we would just need a building permit. We believe the project has a lot of benefits that does not include a full sidewalk connection; however, we propose making improvements by adding playground room; landscaping and another drive-thru lane, and due to the unique physical circumstances, we feel we are justified in requesting a waiver.

Commissioner Sanchez made a MOTION, seconded by Commissioner Brodsky to pass the Land Development Application for Family Dining, Inc. (Burger King) onto the full Board without recommendation.

MOTION was ADOPTED 5-0.

Item ACL-04-101118:

Commissioner Sanchez made a MOTION, seconded by Commissioner Brodsky to appoint Campbell, Durrant, Beatty, Palombo and Miller, P.C. as special labor counsel to provide labor and employment law services at their current rates to the Township up to or through December 13, 2018 while the Administration goes through the Request for Proposal process.

Commissioner Sanchez asked for any comments from Commissioners or staff.

Manager Manfredi said he has previously worked with this firm and they do excellent work. This is a request for approval to continue using this firm while going through the RFP process and then it will come back before the Board at its meeting on December 13, 2018.

Vice President Kline clarified that any work to be done by this firm will first be approved by Township Manager. Is that correct?

Manager Manfredi replied that is correct.

Commissioner Sanchez asked for any public comments. There were none.

MOTION was ADOPTED 5-0.

**PUBLIC COMMENT:**

Commissioner Sanchez asked for any general comments relating to Administrative Code and Land Use.

Lora Lehmann, 1431 Bryant Lane, expressed concern about the process where developers are permitted to put something on the agenda and not constituents as well as the cost for the process.

Vice President Kline clarified that the only way the Board can vote on a land development project is that it needs to be formally proposed to the Township. Is that correct?

Solicitor Clarke replied that is correct.

Vice President Kline questioned whether there has been a formal proposal by the developer who the speaker is talking about?

Solicitor Clarke replied there was an application for a text amendment and the applicant appeared before the Planning Commission at several hearings; but there has been no request from BET to be on the agenda at this point in time. If it is listed for a hearing, the developer has the right to present their application and it would be expected that there has been no predetermination by the Board as to the outcome. A text amendment application is a legislative function of the Board and it is within the discretion of the Board to grant or even hear it, and the Planning Commission has not made a formal request for it to be placed on an agenda of the Board of Commissioners.

Vice President Kline clarified that the MPC and State law provides that a property owner can propose whatever use they see fit for their land through a text amendment, map amendment or some type of subdivision or land development as often as they would like. Is that correct?

Solicitor Clarke replied that is correct. Once a land development application has been heard, ruled upon and denied, the applicant cannot come back with an identical application, they need to revise the plan, but then they can keep coming back.

A text amendment can be proposed several times; however, the Board does not need to hear it.

Vice President Kline clarified that costs expended by the Township for that project are paid by professional services agreement that the Township has with the developer. Is that correct?

Solicitor Clarke replied that is correct. A professional agreement is signed by Township officials and escrow is posted by the developer and that pays for legal fees, engineering fees, Planning Commission fees as well as administrative fees.

**ADJOURNMENT:** 8:29 p.m.

Respectfully submitted,

Richard J. Manfredi, Township Manager/Secretary

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