

The stated meeting of the Code Enforcement and Land Development Committee of the Board of Commissioners of the Township of Abington was held on Monday, April 4, 2016 at the Township Administration Building, Abington, PA., with Commissioner Sanchez presiding.

CALL TO ORDER: 7:36 p.m.

ROLL CALL: Present: Commissioners SANCHEZ, MARKMAN, DiPLACIDO, ZAPPONE, GILLESPIE

Assistant Township Manager WEHMEYER
Director of Code Enforcement MATTEO
Township Engineer POWERS
Township Solicitor CLARKE

Also Present: Commissioners LUKER, KLINE, SPIEGELMAN, KALINOSKI, SCHREIBER, HECKER, MYERS, ROTHMAN

MINUTES: Commissioner Sanchez made a MOTION, seconded by Commissioner Markman to approve the minutes of the February 29, 2016 Code Enforcement and Land Development Committee Meeting.

MOTION was ADOPTED 5-0.

Zoning Text Amendment – Flood Plain Ordinance – Ordinance No. 2117

Commissioner Sanchez made a MOTION, seconded by Commissioner Markman to adopt Ordinance No. 2117, amending Chapter 162 “Zoning” at Section 600 “Flood Plain Conservation Overlay District,” Subsection 5 “Definitions” for adoption at the regularly scheduled meeting on April 4, 2016 at 7:30 PM.

Commissioner Sanchez called on Township Solicitor Clarke.

Solicitor Clarke explained that this is an amendment to change the definition for new construction and a copy of the amended draft ordinance was forwarded to FEMA.

Chapter 162 – “Zoning,” Section 600 – “Flood Plain Conservation Overlay District” is amended at Subsection 5 - “Definitions,” to amend the definitions of “New Construction” to read as follows:

“New construction – structures for which the start of construction commenced on or after 3/2/2016 and includes any subsequent improvements to such structures. Any construction started after 9/30/1977 and before 3/2/2016 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.”

We received a letter this afternoon from FEMA and they requested that the date of “3/2/2016” be changed to 2/11/2016 in the ordinance in order to be incompliant. This amendment will not require re-advertising of the ordinance, so the committee can approve the ordinance as amended and recommend approval to the full Board at its meeting next week.

Commissioner Markman made a MOTION to AMEND Ordinance No. 2117 changing the date of 3/2/2016 to 2/11/2016 and to recommend approval to the full Board at its meeting next week, seconded by Commissioner DiPlacido.

MOTION to AMEND - PASSED 5-0.

Commissioner Sanchez asked for any comments from Commissioners.

Commissioner Kline clarified that since the date of the deadline to update the Township’s Flood Plain Ordinance has passed, this will not affect the Township’s ability to be involved with FEMA’s Flood Insurance Program. Is that correct?

Solicitor Clarke replied that is correct because we only had to update the definition for new construction consistent with FEMA’s instructions and now we will add the new dates.

Commissioner Sanchez asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, clarified that in order to collect FEMA monies, the Township needs to pass this ordinance. Is that correct?

Commissioner Sanchez replied that is correct.

Commissioner Kline added that if the Township does not have an approved floodplain ordinance that complies with DEP regulations, the Township would not be eligible for floodplain insurance program.

MOTION as AMENDED – PASSED 5-0.

Subdivision SD-16-01 – Daniel J. Opdyke – 821 Central Avenue

Commissioner Sanchez made a MOTION, seconded by Commissioner Gillespie to approve the subdivision application of Daniel J. Opdyke for the property located at 821 Central Avenue and the vacant parcel known as #300011464008 fronting on Cricket Avenue. The applicant proposes to relocate the shared property and add 300 feet to the vacant parcel fronting on Cricket Avenue. The vacant lot will be increased to 7,500 square feet and 821 Central Avenue will be reduced to 13,500 square feet. Both lots comply with the dimensional requirement of Section 303.3 of the Zoning Ordinance. Both parcels will be served by public water and sewer. The property is zoned in the R-4 District in Ward No. 9 of the Township of Abington.

This motion is subject to the follow conditions:

1. Sanitary sewers are available for this project at this time. An ACT 537 Exemption Application has been submitted and reviewed as part of this application.
2. The applicant is required to provide the Township with two (2) new, executed (signed, notarized and recorded) deeds. This is a requirement of the subdivision process.
3. The items listed in the Staff Review letter dated, February 18, 2016 becomes a condition of this application.

This motion is subject to the following waivers:

1. Section 146-11.A. – Property Identification Plan.
2. Section 146-11.B – Existing Features Plan.
3. Section 146.11.C – Proposed Layout Plan.
4. Section 146.11.L – Architectural Plan.
5. Section 146-24. D – Right-of-Way Width

Commissioner Sanchez asked the applicant to present their plan.

Daniel Opdyke, applicant, 3111 Arbour Green Court, Hatfield, PA., 19440, explained that he is here on behalf of his sisters as this is a family-owned lot built in 1952. Lot #2 was always known as our backyard, and since his parents passed away, it was their wish that his two sisters divide the property between themselves. No development is anticipated at this time. This application is to comply with Township's ordinance.

Commissioner Sanchez asked for any comments from Commissioners or staff.

Commissioner Zappone questioned whether at any time in the near future will there be any construction of a new home.

Mr. Opdyke replied no.

Commissioner Markman asked for Township staff's position on the County's recommendation for shade trees.

Mr. Matteo replied that was discussed at the Planning Commission meeting and there are existing shade trees fronting on Central and Cricket Avenues.

Commissioner Kline questioned whether there is concern by Township staff regarding the lot line in the back.

Mr. Matteo replied no, it will not be a problem in this area.

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

MOTION was ADOPTED 5-0.

Subdivision SD-16-02 – Nicholas and Shelley Schorsch – 1560 Warner Road

Commissioner Sanchez made a MOTION, seconded by Commissioner Gillespie to approve the subdivision application of Nicholas and Shelley Schorsch for the property located at 1560 Warner Road and the vacant parcel known as #300043660023 fronting on Mill Road. The applicants propose to relocate the shared property line and add 11,031 square feet to 1560 Warner Road. The vacant lot will be decreased in lot area from 8.11 to 7.86 acres in size. No construction is proposed and no new building lots will be created by this application. The properties are zoned in the (R-1) Residential District in Ward No. 1 of the Township of Abington.

This motion is subject to the following conditions:

1. The applicants are required to provide the Township with two (2) new, executed (signed, notarized and recorded) deeds. This is a requirement of the subdivision process.
2. The items listed in the Staff Review letter dated, March 7, 2016 becomes a condition of this application.

This motion is subject to the following waivers:

1. Section 146.11 A – Property Identification Plan.
2. Section 146-11.B – Existing Features Plan.
3. Section 146.11.C – Proposed Layout Plan.
4. Section 146.11.L – Architectural Plan.
5. Section 146-24.D – Right-of-Way Width
6. Section 146-27 – Curbs, Gutter and Sidewalk
7. Section 146-38 – Street Lighting

Jeffrey S. Feldman, Esquire, of Friedman Schuman Attorneys at Law, 101 Greenwood Avenue, Fifth Floor, Jenkintown, PA, 19046, representing the applicant, introduced Nick T. Rose, P.E. ProTract Engineering, Inc., PO Box 58, Hatboro, PA 19040, to present the application.

Mr. Rose referring to the plan showed the property located at 1560 Warner Road as well as the fenced-in garden in the back lot; and noted that the applicant would like to join that fenced-in garden with that property. There will be no zoning nonconformities created by this lot line change.

Commissioner Kline asked for the total square footage after the transfer of the front lot.

Mr. Rose replied 64,283 sq. ft. will be the new lot size, which is about 1.48 acres.

Commissioner Kline asked for the setback dimensions of the side yard.

Mr. Matteo replied 20.

Commissioner DiPlacido said in regards to the waiver request for curb, gutter and sidewalk; there are no sidewalks on that road. Is that correct?

Mr. Rose replied that is correct. The property has a country-lane-feel and we want to keep it that way.

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

MOTION was ADOPTED 5-0.

Commissioner Sanchez asked for any general comments relating to Code Enforcement and Land Development.

Edith Schmid, 1160 Bradfield Avenue, owner of Elite Florals, commented that she is here on behalf of all business owners of brick and mortar florist shops in the Township. The Board has recently passed a code and it has been violated by the “grandfather act.” We feel our civil rights have been violated when she found out about the “grandfather act” on Good Friday right before Easter that permits were issued to applicants of pop-up stands selling flowers.

After research, this “grandfather act” is for property and these pop-up stands are not property, they are businesses that pop-up anywhere. These pop-up stands are only there twice a year and not stable and she asked how something that is not stable can be “grandfathered?”

Solicitor Clarke replied that it is a preexisting nonconforming use, and when property has been used for a period of time, the Board cannot change an ordinance just to prevent the preexisting nonconforming use.

Requirements for preexisting nonconforming uses are to be continuous, if it is abandoned for one year, then case law states that the preexisting nonconforming use is abandoned. A definition in the code cannot be changed to take away a use of someone’s property as it would be considered a de facto taking of a property under the law.

Commissioner Myers said something is being missed here, because when we all worked on that ordinance for quite some time, she believed, and everyone here was under the same impression, that we (the Board) were never told about a preexisting nonconforming use or being grandfathered-in. We thought at the end of the day when that ordinance passed, that pop-up tents (businesses) were not going to be permitted to be located at a certain distance from the bricks and mortar businesses.

She certainly did not walk out of this room thinking they (pop-up businesses) can still be within the distance that was disallowed by the ordinance. She feels we (the Board) missed a step here. Did everyone walk out of this room knowing that they can still do business there?

The fact that pop-up businesses are there for just a temporary period of time would not be hurting the business owner for which they are renting that corner from, by disallowing it.

She is confused by this and certainly understands why Mrs. Schmid feels the way she does and she feels that way too.

This is very disappointing to work that long on an ordinance and come out of it with a real misunderstanding.

Code Enforcement Committee Meeting

April 4, 2016

ADJOURNMENT: 8:06 p.m.

Respectfully submitted,

Michael LeFevre, Township Manager

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