

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS  
REGULAR SESSION  
Thursday, September 6, 2007**

**Those in Attendance:**

Jay G. Fischer, Chairman  
Hudson L. Voltz  
David A. Kirkner, Member  
Scott T. Piersol, Township Manager  
Matthew T. VanLew, Roadmaster  
Russell Yerkes, Yerkes Associates  
James Koppenhaver, Yerkes Associates  
David L. Summers, Chairman, Bondsville Mille Committee  
Mary Beth Smedley, Secretary/Treasurer

The East Brandywine Township Board of Supervisors meeting of Thursday, September 6, 2007 was called to order by Chairman Fischer at 7:35 A.M. at the East Brandywine Township Municipal Complex. There were five visitors present.

**Public Comment for Non-Agenda Items**

Chairman Fischer asked if there were comments on non-agenda items. There were none.

**Rothman Tract**

The site is situated in the southerly portion of East Brandywine Township along the easterly and northerly side of Bondsville Road and contains 33.104 gross acres of land. The Rothman Tract is zoned R-2 Residential.

The site is bounded on the north by a single family residence on a large partially wooded lot and woodlands adjacent to agricultural lands, to the east by existing family residences, and to the west by three lots containing single family residences and Bondsville Road.

The existing site consists primarily of woodlands and meadows and contains an existing pond and dam. The westerly portions of the site are traversed north to south by an unnamed tributary to the Beaver Creek. A small portion of the property contains an existing barn, garage and springhouse. The site is accessed by an existing stone bridge from Bondsville Road. There is a Class 2 Historic Resource on the site. Wetlands have been delineated and are being avoided.

The average slope of the property is approximately 7.5% and drains to the west to the unnamed tributary of Beaver Creek, and to the pond. There are some areas of Steep and Very Steep Slopes.

The Planning Commission recommended that the Board of Supervisors grant preliminary plan approval for this subdivision application with the conditions that all issues in the Yerkes August 29, 2007 review letter are resolved and that the applicant submit a structural engineering report on the existing house and barn as a condition of final plan approval.

After review of the plan Vice-Chairman Voltz made a motion to grant preliminary plan approval for this subdivision application with the conditions recommended by the Planning Commission as outlined above and in the September 5, 2007 Planning Commission minutes. Mr. Kirkner seconded the motion, with all voting Aye.

### **November Board of Supervisors' Meeting**

Mrs. Smedley suggested that the date of the Board of Supervisors meeting regularly scheduled for Wednesday, November 21<sup>st</sup> be moved to either November 19<sup>th</sup> or November 20<sup>th</sup>. Preliminarily, the Board thought that November 20<sup>th</sup> would be the best date. This issue will be finalized in October.

### **Resignation of Lauren Damiano at Township Auditor**

Mrs. Damiano tendered her resignation on August 27, 2007. Regretfully, Chairman Fischer made a motion to accept Mrs. Damiano's resignation. Vice-Chairman Voltz seconded the motion, with all voting Aye. The Board thanked Mrs. Damiano for her service.

### **Appointment of Sue Rapp DeKleine as Township Auditor**

Chairman Fischer made a motion to appoint Sue Rapp DeKleine to replace Mrs. Damiano as Township Auditor. Vice-Chairman Voltz seconded the motion, with all voting Aye. Mrs. Smedley will contact Voter's Services to inform them of these changes.

### **Resignation of Thomas Oeste from the Zoning Hearing Board**

Mr. Piersol reported that Mr. Oeste tendered his resignation from the Zoning Hearing Board. It was with regret that Chairman Fischer made a motion to accept Mr. Oeste's resignation. Mr. Kirkner seconded the motion, with all voting Aye. The Board thanked Mr. Oeste for his many years of serving on the Zoning Hearing Board.

### **Zoning Hearing Board Appointments**

Vice-Chairman Voltz made a motion to appoint Anthony Damiano as Chairman of the Zoning Hearing Board, Kevin Connors as Vice-Chairman and Robert Davis as a regular Zoning Hearing Board Member. Mr. Kirkner seconded the motion, with all voting Aye.

Chairman Fischer made a motion to appoint James Rosato as an alternate Zoning Hearing Board member. Mr. Kirkner seconded the motion, with all voting Aye.

### **DeCovny/Brandywine Ponds**

Chairman Fischer made a motion grant final plan approval for this subdivision with the following conditions:

1. Homeowners' documents and the Developer Agreement are reviewed to the satisfaction of the Township Solicitor and Township Engineer.
2. The fire protection tank and dry hydrant will be installed and will be in working order directly after curbing is installed and prior to the issuance of any building permits. A note will be added to the plan.
3. The landscape plan will be revised to remove Linden trees. They will be replaced with another tree agreeable to the Township.
4. Bridges and retaining walls will be approved by the Township Engineer and Roadmaster.
5. The applicant will install a 6 foot wide trail.
6. Orange construction fencing will be installed **prior** to any clearing. A note will be added to the plan.
7. The fee-in-lieu of open space will be resolved to the satisfaction of the Board of Supervisors and 3% for inspection fees and a 10% contingency for the trail will be included in the escrow for site improvements.
8. The applicant will pay \$84,180.96 in traffic impact fees (\$3,507.54 for 24 new building lots).

The Supervisors had previously recommended final plan approval, but wanted to include imposition of the traffic impact fee. Mr. Kirkner seconded the motion, with all voting Aye.

#### **K. Hovnanian Extension**

The applicant verbally granted an extension to review this application until October 18, 2007. The Board will act on this extension once it is received in writing.

#### **Building Committee Report**

Mr. VanLew continues to work out the issues with Wu and Associates and the incomplete items on the building. The major issues are the power supplies for the two entrance doors, the reveals around the cast stone signs and the unsightliness of the police garage floor.

Drum Construction Company is currently converting the basin from a sediment basin to a finish basin. The basin has been designed with areas to allow for rain water to infiltrate into the ground and not run off into the streams as was the practice years ago. Our site has been designed with various Best Management Practices (BMPs) to maximize retaining storm water on site and minimize runoff. One of the BMPs is a rainwater garden located just to the west of the meeting room. The rain water garden collects most of the water from the roof and allows the sediments to filter out and also provides a habitat for frogs, insects and other creatures that like a wet area. Most of the swales throughout the site are not mowed and are planted with a seed mixture that retains moisture. This reduces the maintenance costs for the Township. This also allows sediments to be filtered out of the rainwater and reduces pollutants discharged into the streams. On the south side of the lower parking lot is a stone infiltration ditch designed to catch the runoff from this lot and allow it to percolate into the ground. Mr. VanLew anticipates these BMPs will demonstrate to developers and residents that they can be incorporated into any property on different scales.

### **Roadmaster Report**

Mr. VanLew has been working with Russell Yerkes to develop bid specification for overlay and repairs for this years road projects. There are plans to overlay Pancoast Lane in the Echo Dell Development. Other projects include the installation of inlets and an endwall in the area of 150 Crawford Road, some base repair in a few areas, leveling course and overlay of the road. Some storm water work, widening and overlay are planned for North Buck Road. The bid package should be completed next week.

Chairman Fischer asked about a scheduled road closure for the Corner Ketch Road development. Mr. Piersol said that the road would be closed from September 14<sup>th</sup> to September 17<sup>th</sup> so that Gambone Development could complete road improvements near the HeatherWynd East and HeatherWynd West developments.

Mr. VanLew asked if the Supervisors would like to participate in interviewing for an additional public works employees. The Supervisors did not feel that they needed to participate.

### **Bondsville Mill Committee – Final Report**

Mr. Summer submitted a final report for the Board of Supervisors to review. He provided an overview of the report.

Mission – The mission of the committee was to compile recommendations to the Board of Supervisors for the use of the Bondsville Mill property.

Vision – To convert the Mill property from dilapidated mill structures and overgrown vegetation to a passive recreational facility for the use of a diverse group of residents to include but not limited to, walking/biking and hiking trails, picnic area, playground area, historical preservation and educational area/facilities for bird sanctuary or wildlife reserve area.

Recommendations – The Committee commended the Township Officials and staff on acquiring the property. It not only adds to the overall Township park system, it provides additional open space and will eventually convert an unsightly, yet historically valuable property into a passive recreational area which will be most presentable to and for public use. The report goes on to describe the Committee's recommendations in detail.

The Committee has been approved for \$25,000 grant from DCED and a \$5,000 grant from PECO. Mr. Summers stated that the Committee hopes to obtain additional DCED grants and hopefully, Chester County Park Grants once the park projects at the Community Park on Dilworth Road are completed. In addition, the Charles F. Moran American Legion Post may have funds for rehabilitation of the Veterans Memorial at this site.

Many volunteers, the Boy Scouts and township staff have spent a lot of hours clearing the property and shoring up some of the buildings. Special thanks go to Carl Walker, Deke Inslee, Arne Jensen and Donald Leong for their many hours of volunteering at the site. In addition, Township staff including Mr. Piersol, Mr. VanLew, Mr. Dawson, and Mr. Voltz, as the Board's Liaison, has spent many hours on this project.

In conclusion, the Committee recommended that the Board consider this 25 acre site for a passive park with picnic areas, a wildlife preserve, trails, possibly a tot lot and hopefully, when funds are available, the ability to rehabilitate some of the historic buildings.

Chairman Fischer thanked Mr. Summers and the entire Bondsville Mill Committee for the fantastic job they have done on this project. He stated that the Board couldn't be more pleased with what has been accomplished. He said that the entire Committee, especially Mr. Summers are to be commended. Both Vice-Chairman Voltz and Mr. Kirkner echoed Chairman Fischer's sentiments.

Chairman Fischer asked if there was any discussion about the recommendations. There were none. Vice-Chairman Voltz made a motion to adopt the Bondsville Mill Committee's recommendations. Mr. Kirkner seconded the motion, with all voting Aye.

#### **Bondsville Mill Volunteer Forms**

Mr. Inslee has requested that the Board consider softening the indemnification language which he feels inhibits getting additional volunteers. Township Solicitor Stacey Fuller will work on a less strict version. The Board feels that the Volunteer Release form that is currently being used should still be used for volunteers entering the buildings. A less stringent form will be considered for volunteers working on the property only, but not entering any of the buildings since most of them are in poor structural condition.

#### **White Acres Farm/Whitaker Property**

Mr. Piersol discussed a letter received from Richard Whitaker dated August 3, 2007 that discussed the sale of a portion of their property to East Brandywine Township to be used as open space. The Board asked Mr. Piersol to write a letter to Mr. Whitaker asking for a meeting with the Whitaker family so that their requests can be discussed face-to-face. Mr. Piersol will contact Mr. Kevin Anderson from Brandywine Conservancy to schedule the meeting, since he has been the liaison to the Whittaker Family. Mrs. Okie, Vice-Chairman of the Open Space Committee also asked to be in attendance.

#### **William Moore House and Barn on Zynn Road**

John Curtin, Tony Sabatini and Bill Kreiger from Pulte Homes attended the September 6, 2007 Board of Supervisors meeting to discuss the William Moore House. Russell Yerkes and Jim Koppenhaver from Yerkes Associates also attended.

Barn on Zynn Road -- Mr. Piersol explained that it has come to the Township's attention that the barn was disassembled and was being stored at the Miley farm. The timbers were to be taken down and reused. John Curtin confirmed that the roof structure was on a flat bed at the farm. According to Jim Koppenhaver, the walls were concrete block with stucco. He wasn't certain if the materials were old or new, but it would not have been practical to use these walls when the timber portion of the barn was moved and reassembled at the corner of East Reeceville Road and Zynn Road. This structure is to be used as a maintenance facility for the golf course.

The Board reviewed Mr. Koppenhaver's report of August 7<sup>th</sup> and discussed the Planning Commission's recommendation. It was agreed that although the two remaining walls might be incorporated in the new building, they can't be structural walls. Mr. Curtin presented a plan to the Supervisors to reuse the stone on the prominent north facing wall as you enter along the main

road so that it will be the front of the community center. The sides will be of cultured veneer stone since there isn't enough stone to face the whole building. The building will look exactly the same as the community center that has already been approved. Essentially, they will be recreating what they were already going to do although it will require changing the foundation. Mr. Koppenhaver and Mr. Yerkes felt that Pulte's proposal was likely the best solution. Mr. Koppenhaver explained that at one point the stone was covered with stucco. Although it was regouted when the stucco was removed, it would not meet today's codes and this construction likely helped to destabilize the building. Mr. Koppenhaver and Mr. Yerkes agreed that the methods used to demolish the portion of the building agreed upon in the settlement agreement and to brace the remaining two walls was appropriate. Unfortunately, it wasn't known how deteriorated the building was until the demolition began.

The Board asked that Pulte submit architectural plans for review by the Board, Planning Commission and Yerkes Associates. The plan will be reviewed by the Planning Commission at their October meeting.

The Township does have photographs and dimensions of the original structure and what portion was to remain.

Pulte will submit an amended demolition permit application. Once it is approved, the walls will be taken down immediately for safety, and the material will be stockpiled on site.

Mr. Piersol noted that Representative Curt Schroder has expressed concern in the William Moore House and had written to the Pennsylvania Historic & Museum Commission as to its disposition. Mr. Piersol will update Karen Marshall the Heritage Preservation Coordination for Chester County Parks and Recreation on this issue.

### **Hopewell Methodist Church Zoning Hearing**

The Hopewell Methodist Church Zoning Hearing will take place Tuesday, October 23, 2007 at 7:30 P.M. Mr. Piersol said that he and Mr. Giannantonio have met with representatives from the Church to discuss outstanding stormwater issue and concerns from neighboring property owners. The applicant is expected to submit additional information within the next week.

### **Spain Conditional Use Hearing**

The Spain conditional use hearing to allow a daycare in a single family residence is scheduled for September 25, 2007 at 7:30 P.M. at the Township Municipal Complex. Notices will be sent to residents within 1,000 feet of the property because of resident interest in the application. This is not required by the Township or Municipalities Planning Code.

### **Kessler Zoning Hearing**

The hearing will take place October 23, 2007 at 7:30 P.M. directly before the Hopewell Methodist Church Zoning Hearing.

### **Wawa Land Development Plan**

Mr. Piersol reported that the Army Corp of Engineers has decided that there is no practical and feasible alternative to the applicant preferred alternative of demolishing the building. Therefore, they have decided to accept the adverse effect on the Guthriesville Historic District. They are now moving forward with the development of a Memorandum of Agreement (MOA), which will include measures to mitigate the adverse effect to the district.

The Supervisors were asked if the Township or another agency could intervene or appeal the Army Corps' decision. Chairman Fischer stated that might be difficult since the legal standard is that you would have to prove they abused their discretion or didn't follow protocol.

### **East Fisherville Road Bridge Closure and Proposed Osborne Road Bridge Closure in Caln Township**

Mr. Piersol said that Caln Township is evaluating the East Fisherville Road Bridge issue. Minor repairs to the bridge would make it possible to re-open the bridge. However, Caln Township Manager Greg Prowant said that the bridge weight restriction would remain three tons with temporary repairs that they could do quickly. The bigger issues are the trash trucks using the bridge and school buses which use the bridge on a daily basis during the school year. Alignment and a large tree along a curve in the roadway as you exit or approach are critical issues. Replacement of the bridge is the long-term answer, but it will take time and will be expensive. According to Mr. Prowant the average daily traffic (AVT) over this bridge was 250 vehicles per day.

Osborne Road is the more critical bridge. AVT is 1,000 over the bridge. The approach alignment is poor. Caln is currently considering options in replacing the bridge. Option #1 is a side-by-side replacement, which would entail construction of a new bridge while the existing bridge remains in place. Option #2 is to demolish the bridge and reconstruct a new bridge in its place.

Caln Township is not currently considering having both bridges closed at the same time. They will continue to evaluate all options, and will continue to report this information to East Brandywine Township.

Representative Schroder has requested that East Brandywine Township contact Caln Township to support repairing the East Fisherville Road Bridge as soon as possible. Mr. Piersol will send a letter of support to David Mushrush, President of the Caln Township Commissioners for obtaining grants and other assistance in repairing the East Fisherville Bridge as soon as possible and repair the Osborne Road Bridge in the future.

### **Ordinance Task Force – Planning Commission comments on the Convenience Store Standards and the Growing Greener and Historic Preservation Standards in the Zoning Ordinance – Article XII and in the Subdivision and Land Development Ordinance**

Mr. Piersol explained that these Ordinances are pending. They have been advertised and will be considered for adoption at the September 19, 2007 Board of Supervisors meeting.

The Chester County Planning Commission commented on the proposed Growing Greener Amendments to the Zoning Ordinance and Subdivision and Land Development Ordinance on August 6, 2007, the Proposed Historic Resource Protection Amendment to the Subdivision and Land Development Ordinance on August 20, 2007, and the proposed zoning ordinance amendment to the Historic Resource Protection Standards, Convenience Store, VC District and MU District on September 4, 2007. The latter is being reenacted at the advice of Township Solicitor Stacy Fuller, Esq. because of some technical issues with the first reenactment. The CCPC had several minor comments, one being that the Township references both a Historic Resources Map and a Historic Resources Atlas. The terms should be consistent throughout the document. Section 399-102.B should reference 3,000 square feet instead of 3.000 square feet. Mr. Piersol will check with Township Solicitor Stacey Fuller to make sure these minor inconsistencies won't affect adopting the Ordinance. If the Planning Commission has comments they will be provided prior to September 19<sup>th</sup>. Mr Piersol stated that if there were comments they would likely be dealt with after the 19<sup>th</sup> in the form of an additional amendment.

#### **Additional Public Comment**

Chairman Fischer asked if there were additional public comments. Mrs. Kate Okie asked for clarification on why the Township wanted to delete convenience stores from the Mixed Use District since this would mean that "convenience stores" could only be located in the Village Commercial District. Chairman Fischer stated that this was really a reenactment of an ordinance amendment that had been passed in 2002. He thought that the reason the Ordinance Task Force deleted "convenience stores" from the Mixed Use/Commercial District at that time was they wanted something larger scale in that district and did not want a lot of strip stores along the Rt. 322 corridor. The Mixed Use/Commercial District requires a minimum of 10 acres for each project.

Mr. Kirkner thanked the Township and staff members for their kindness regarding the recent death of his mother-in-law.

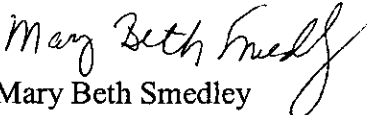
It was noted that PADOT plans to close the Little Washington Bridge located in East Brandywine Township for eight months in 2008.

There were no further comments.

#### **Adjournment**

There being no further business, Chairman Fischer made a motion to adjourn the meeting. Mr. Kirkner seconded the motion, with all voting Aye. The meeting was adjourned at 9:30 P.M.

Respectfully submitted,

  
Mary Beth Smedley  
Secretary/Treasurer