

**EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION  
REGULAR SESSION  
Wednesday, October 7, 2009- 7:30 P.M.**

**Those in Attendance:**

Mr. Bruce Rawlings, Chairman  
Mrs. Sandra Moser, Vice-Chairman  
Mr. Stephen Cushman, Member  
Mr. Charles Giordano Member  
Mr. Mervin Thomas, Member  
Mr. Carl Croft, Ex-Officio Member  
Mr. Michael Wagner, Ex-Officio Member  
Mr. Michael Mayhew, Yerkes Associates Inc.  
Mrs. Mary Beth Smedley, Township Secretary/Treasurer

**Absent:**

Mr. Scott Piersol, Township Manager  
Mr. Michael Corbin, Member  
Mr. Ray Crossan, Member

**Opening of Meeting**

Mr. Rawlings opened the meeting at 7:30 P.M. with a Salute to the Flag. There were five visitors present.

**Planning Commission Minutes – September 2, 2009**

Mr. Rawlings asked if there were any additions or corrections to the above minutes. There were none. Mr. Rawlings then made a motion to approve the September 2, 2009 minutes as presented. Mrs. Moser seconded the motion, with all voting Aye.

**Hopewell Church Fence and Stormwater Basin**

Mr. Jeff Cantlin from Yerkes Associates stopped at the Church office September 3<sup>rd</sup> and spoke with the Church office manager about this issue. She was going to contact the Church Trustees and have them respond. As of October 5<sup>th</sup> the removed fence sections have still not been replaced. David Schwab from the Church said that they expect this work to be completed by October 11<sup>th</sup>.

Mr. Piersol sent an e-mail message as a follow-up to a telephone conversation he had with David Cloetingh, President of the Church Trustees early in September about a complaint received from Mary Healy of 425 Reeds Road regarding stormwater from the Church property exiting onto her property. Mr. Piersol and Mr. Cantlin met with David Porter from Rettew and Associates in September to discuss what they would propose to improve the situation. Mrs. Healy said they have lived at this location for 36 years, and have not had the amount of water that is currently running across their property. It appears that some maintenance of the stormwater facility is in order.

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Mr. Rawlings stated again that he remains concerned about the lack of safety measures along Hopewell Road to protect children from running into the street.

### **Corner Ketch Landing**

Mr. Piersol spoke with Dean Meyer from M & Z Builders on October 6<sup>th</sup>, and again this morning, about additional trees that need to be planted. He has ordered four additional trees; two evergreen trees will be planted soon; two shade trees will be dug at the first frost, and planted soon after delivery. Mr. Meyer will communicate with Mr Piersol regarding any updates on this issue as progress is made. There was some discussion about three dead trees. According to Mr. Meyer, these trees were not part of this landscaping package, rather they were other trees planted for the development. Once the trees are planted, Mr. Meyer will contact Mr. Piersol to schedule a site meeting to finalize this matter.

### **Manley Zoning Hearing**

The East Brandywine Township Zoning Hearing Board is scheduled to meet on Monday, November 16, 2009 at 7:30 P.M. to hear the application of Gerald and Rebecca Manley and Jennifer Guy requesting a variance from Section 399-28A(1)(a) of the Zoning Ordinance. The applicant wishes to subdivide a three acre lot into two lots, 1.4 acres and 1.6 acres respectively. The property is located on Osborne Road in the R-2 Zoning District, which requires a minimum gross acreage of 1 ½ acres gross and a net acreage of 45,000 square feet. In addition, two waivers are needed; one from Section 350-29.F(2) and the other from Section 29.F(3) of the Subdivision and Land Development Ordinance.

Mr. Manley explained that he would like to relocate the property line between two parcels (showed as Parcel #1 and Parcel #2 on Diagram C2 of the application) since the garage on his property is only a foot in from the property line. Mr. Manley stated that this will correct a non-compliance issue for his property.

The diagrams also show a three acre parcel divided into two lots. The proposal has separate driveway access to each lot. Lot #2 has an existing house and driveway and Lot #3 would be a building lot where Mr. Manley may construct a garage. He has no other plans for construction on that lot at the present time. In addition to creating a non-conforming lot on Lot #2, which would only be 1.4 acres, the subdivision would create two interior lots and will have an access strip connecting to the street with less than the minimum required width of 50 feet for its entire depth.

The 3.022 acre parcel on Diagram C1 was carved out of the Locust Knoll subdivision in the 1970's. Most of the land for that development was owned by Mr. Manley's father, who deeded that parcel to him. Most lots in the Locust Knoll subdivision are at least one acre in size, or slightly larger. According to Mr. Manley, it was always the intention to subdivide the 3 acres parcel at some point; why it wasn't done at the time of the original subdivision isn't certain.

Perc tests were done in 1995 for Lot #2, which Mr. Manley provided for review. According to the tests, there are 12% slopes near the location for a proposed septic

system and it would also be either very close to, or in the driveway. Mr. Manley said that there aren't 12% slopes in that area, but they are towards the back of the proposed Lot #3. Mr. Thomas raised some concerns that the slope could create stormwater run-off problems. Rather than having two driveways the Planning Commission suggested it might be better to have both lots accessed by a common driveway, with it splitting at some point, to serve the proposed Lot #3. It was also suggested that the portion of Lot #3 that is only 46' wide could be 50' wide, thereby eliminating the need for a waiver from Section 350-29.F(3) of the Subdivision and Land Development Ordinance. Mr. Croft thought that supporting the 46' wide access strip might create a precedent.

After review of the application, the Planning Commission offered the following recommendations for the Zoning Hearing Board's consideration:

1. The applicant was asked to make sure the three acre parcel isn't deed-restricted from further subdivision. A copy of the deed should be provided for review.
2. The 46' access strip should be widened to 50' and Lot #2 and the proposed Lot #3 should be accessed by a common driveway. A common driveway, rather than two separate entrances, will allow room for stormwater management, if needed.
3. The area of the lots should be recalculated for square footage in the event the above modifications change the requested variance.

Mr. Manley will amend the application and attend the November 4<sup>th</sup> Planning Commission Meeting to discuss the revisions to the plan.

#### **Verma Zoning Hearing**

The East Brandywine Township Zoning Hearing Board is scheduled to meet on Wednesday, November 11, 2009 at 7:30 P.M. to hear the application of Lalit Verma who is requesting a variance from Section 399-40.B of the Zoning Ordinance. The applicant wishes to demolish a structure on the property and construct a four unit residential building. The property is located southeast of the intersection of Horseshoe Pike and Hopewell Road and is in the Village Commercial District. The property contains two Class II Historic structures, driveway access from Horseshoe Pike, lawn area and trees. Each building currently contains two residential dwelling units for a total of 4 units. The plan proposed a total of six dwelling units where four presently exist. Mr. William Steimer, architect for the applicant, attended the meeting to discuss the application and the October 7, 2009 Yerkes Associates' review letter.

Section 399-40.B – The lot area of the property is less than the minimum net lot area of 20,000 square feet and is an existing non-conforming lot. There is a discrepancy in the actual gross and net lot areas between the Zoning Hearing application and the plan.

Section 399-14.C(1) – The plan appears to be within the 20% Steep Slope Conservation District. The plan should specify if the slopes are natural or man-made. If the property is determined to be within the Steep Slope Conservation District, additional restrictions will be applicable with respect to use, grading and other design features. If the Steep Slopes are disturbed the applicant may need to request a variance from this Section of the Ordinance.

Section 399-99.A(2) –The proposed use does not conform to permitted uses in the VC District, where dwelling units are allowed, but only in combination with one of the other uses listed in Sections 399.99.A(3) through (13) of the Zoning Ordinance. The current property use is an existing, non-conforming use. The application may need to be amended to add this variance request. The plan shows 6 residential units, but not in combination with any other use.

Section 399-104 – Areas devoted to surface parking may occupy no more than 50% of any requested front, side, or rear yard. The proposed parking area is over 50% of the side and rear yard required setback. The parking should be adjusted or an additional variance sought.

Section 399-123.B – Any lawful nonconforming use of a structure may be expanded upon the lot on which it exists. The expansion of a nonconforming use on a lot shall be limited to the lot which was in existence. The volume, area, or extension of the subject nonconforming use shall not be increased by more than 25% of what was existing. It appears that the expansion from four residential units to six residential units exceeds the 25% allowed in this section of the Ordinance. The application should be amended to include this variance request.

Mr. Wagner asked Mr. Steimer if Mr. Verma has ever discussed purchasing property from the neighboring property owner in order to eliminate the need for some of the variances. Mr. Steimer said that the two property owners have had discussions in the past, but haven't been able to come to an agreement.

Mr. Rawlings stated that the Planning Commission does not have enough information at this time to comment either positively or negatively on the application. There are also concerns that in addition to the above variances discussed at this meeting, there might be other zoning relief needed. It was suggested that Mr. Steimer schedule an appointment with Yerkes to review the plan and application and either attend the November 4<sup>th</sup> Planning Commission with an amended application, or ask for a continuance of the zoning hearing until such time as a complete application can be reviewed.

Mrs. Smedley will ask the Zoning Hearing Board Solicitor Thomas Oeste, Esq. when he will need an amended application in order to properly advertise the hearing.

**Amending Chapter 399, Zoning Article IV, Natural Features Protection Standards, Section 14, Steep Slope Conservation District and Amending Various Provisions of the Land Use Code, Including Chapter 350, Concerning Conservation and the Four-Step Design Process and Chapter 399, Concerning Conservation and Cluster Development – Recommendation for Act 247 Review**

These two amendments were submitted to the County Planning Commission for their review as required by the Municipalities Planning Code (MPC). To expedite the review process, Mr. Piersol asked the Supervisors for their approval at their October 1<sup>st</sup> meeting. Mr. Piersol requested that the Commission recommend the Supervisors act on these two amendments. In accordance with the MPC requirements, the Planning Commission is not required to make recommendations before the Supervisors take official action, although this is the more normal process. Mr. Rawlings asked if there were any comments. There

were no comments. Mr. Rawlings then made a motion to recommend the Board of Supervisors forward the above amendments to the Chester County Planning Commission for their Act 247 review. Mrs. Moser seconded the motion, with all voting Aye.

### **Land Use Code Amendments Pending Planning Commission Recommendation**

#### Daycare Removed from the Village Commercial District

Mr. Rawlings said that the Ordinance Task Force is recommending the removal of daycare from the Village Commercial District. Mr. Croft asked why the Task Force wanted this provision removed. Mr. Rawlings explained that the Task Force determined that there wasn't any appropriate space in the Village Commercial District for a daycare. Mr. Croft thought that the empty lot on Hopewell Road might be appropriate. Mr. Rawlings said that the area is steep and there were concerns about ingress and egress during the land development process. Mr. Rawlings made a motion to recommend the Board of Supervisors forward this amendment to the Chester County Planning Commission for their Act 247 review. Mr. Thomas seconded the motion, with all voting Aye.

#### Subdivision and Land Development Revisions to Article V – Preliminary Plan Requirements – Recommendation for Act 247 Review

This Amendment requires the contour lines show two foot intervals unless otherwise approved by the Township. Mr. Rawlings asked if there were any questions. There were no questions. Mr. Rawlings made a motion to recommend the Board of Supervisors forward this amendment to the Chester County Planning Commission for their Act 247 review. Mrs. Moser seconded the motion, with all voting Aye.

#### Village Extension Option Removed from the Village Commercial District

Recommendation on this amendment was tabled pending a final review by the Ordinance Task Force.

### **Guthriesville General Store**

Mr. Rawlings asked about the material used to construct the stairs at the Guthriesville General Store building. He was concerned because the steps are made of wood. Mrs. Smedley said that, according to Building Inspector Jeff Cantlin, the material used is fire retardant and does meet the IBC requirements.

The Planning Commission is concerned about the amount of earth disturbance to the rear of the General Store Building and the lack of silt fence. Mrs. Smedley will check with the building inspector and report back to Mr. Rawlings.

**Applecross Development**

Mr. Thomas reported that contractors working along E. Reeceville Road yesterday were diverting traffic from the road through a field where a temporary road was constructed from modified stone, creating an unsafe situation. He said that it was difficult for his truck to navigate and he thought that cars would have a very difficult time. Mrs. Smedley will ask Mr. Cantlin to investigate this.

**Comments from the Audience**

Mr. Rawlings asked if there were additional comments from the audience. Mr. Holmes said that he had a difficult time hearing the Board and applicants this evening. Mrs. Smedley said that, unfortunately, the sound system wasn't working and she would discuss this with Mr. Piersol.

**Adjournment**

There being no further business Mr. Cushman made a motion to adjourn the meeting. Mr. Giordano seconded the motion, with all voting Aye. The meeting was adjourned at 9:10 P.M.

Respectfully submitted,

Mary Beth Smedley,  
Secretary/Treasurer