

**EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION
REGULAR SESSION
Wednesday, July 7, 2010 - 7:30 P.M.**

Those in Attendance:

Mr. Bruce Rawlings, Chairman
Mrs. Sandra Moser, Vice-Chairman
Mr. Stephen Cushman, Member
Mr. Mervin Thomas, Member
Mr. Carl Croft, Ex-Officio Member
Mr. Scott Piersol, Township Manager
Thomas Oeste, Esq., Planning Commission Solicitor
Mr. Michael Mayhew, Township Engineer
Mr. Andreas Heinrich, Traffic Consultant
Mr. Thomas Kummer, Landscape Architect
Mrs. Mary Beth Smedley, Secretary/Treasurer

Absent:

Mr. Michael Corbin, Member
Mr. Ray Crossan, Member
Mr. Charles Giordano, Member
Mr. Michael Wagoner, Ex-Officio Member

Opening of Meeting

Mr. Rawlings opened the meeting at 7:30 P.M. with a Salute to the Flag. There were twelve visitors present, along with MileMarker Editor George Holmes.

Planning Commission Minutes – June 2, 2010

Mr. Rawlings asked if there were any additions or corrections to the above minutes. There were none. Mr. Rawlings made a motion to approve the June 2, 2010 minutes as presented. Mr. Thomas seconded the motion, with all voting Aye.

Manley Sketch Plan

The owners of 1211 Osborne Road are Gerald R. Manley and Rebecca A. Manley and the owners of 1213 Osborne Road are Gerald R. Manley, Rebecca A. Manley and Jennifer R. Guy. The properties are located on the west side of Osborne Road between the intersections of Constitution Drive and Tradition Lane. Lot #1 is a conventional property of 1.0 gross acres and currently contains a single family dwelling and detached garage with driveway access from Osborne Road, lawn area and trees. There is an above-ground swimming pool situated near the southwestern property corner.

Lot #2 is an interior property of 3.022 acres and currently contains a single family dwelling with attached garage and driveway access from Osborne Road, lawn area and trees. There are two sheds situated to the farthest southwestern property corner. Each lot is served by on-site water and on-site sewer.

The sketch plan proposes a lot line change between these two properties resulting in the same gross acreage for each property. The two lots would retain their existing dwellings, driveway access and on-site water and on-site sewer. The lot line change increases the setback for the existing garage from being on the property line to being 15.25 feet from the property line.

The subdivision plan cited on the deed for Lot #1 neither provides for further subdivision of Lot #2, nor does it restrict further subdivision. There are no improvements planned for this time.

Mr. Manley attended the meeting to discuss the Yerkes June 22, 2010 review letter.

1. Section 399-28.A(1)(a) – Requires a minimum gross lot area to be 1.5 acres, to allow proposed Lot #1 to be no less than 1.0 acres gross and Lot #2 to be no less than 1.385 acres gross. Lot #1 is an existing non-conforming lot with regard to this ordinance section and no change is proposed in the gross acreage of 1.0 acres. It is Mr. Oeste's opinion that a variance from this section isn't necessary. The Planning Commission is in agreement.
2. Section 399-28A.(1)(b) – Requires the minimum net lot area of 45,000 s.f., to allow proposed Lot #1 to be no less than 41,115 s.f. net. Lot #1 is an existing non-conforming lot with regard to this ordinance section. The net acreage will actually decrease somewhat, since more since Osborne Road right-of-way will be included in Lot #1 in the proposed lot line change. After discussion with Mr. Manley it was agreed that the net lot area won't change. This Planning Commission agreed that this issue is resolved.
3. Section 399-28.A.(2)- Requires the minimum lot width, measured at the building setback line, to be no less than 175 ft., to allow Lot #1 to be no less than 165.35 ft. Lot #1 is an existing non-conforming and the minimum lot width will not change with the proposed lot line change. Mr. Manley said that the lot width is currently 150 ft. and is proposed to be 165.35 ft., so there is a slight improvement in the lot width. The Planning Commission supported this improvement.
4. Section 399-28.A.(5) – Requires that not more than 12% may be covered by impervious surface, to allow Lot #1 to be no more than 13% impervious coverage and to allow Lot #2 to be no more than 12.4%. Lot #1 is an existing non-conforming lot, and the impervious coverage will not change for Lot #1. The proposed Lot #2 does not exceed the impervious surface coverage. The Planning Commission took no exception to this comment.
5. Section 399-75.C – Requires uninhabitable accessory structures to be no less than 10 ft. from a side or rear lot, to allow the shed on Lot #1 to be no less than 2 ft. from the southern side yard. Lot #1 is an existing non-conforming lot, and no change in location is proposed for this existing accessory structure. The garage will remain, but an existing shed will be moved or demolished.
6. Section 399-85.E – Swimming pools, tennis courts, and similar outdoor recreation facilities shall be permitted within the side and rear yard areas provided they are set back at least 25 feet from the lot line. The applicant stated that the existing above ground pool is to be removed since it does not comply. Mr. Manley was asked to add a note to the plan stating that the swimming pool will be removed prior to recording the subdivision plan.

7. Section 350-24.B.2.h – Names of all adjacent landowners and locations and dimensions of all existing features and other significant features within the property or within 300 feet of the property. The applicant is asking for a waiver of this ordinance section since the submission involved only a minor lot line change and does not affect adjacent properties or streets. The Planning Commission supported this waiver request.
8. Section 350-24.B.2.k – Locations of all historically significant sites or structures or abutting property. The applicant is asking for a waiver of this ordinance section since there are none. Mr. Mayhew recommended that a statement to this effect be added to the plan as a note.
9. Section 350-24.B.2 – Locations of walkways and paths. The applicant is asking for a waiver of this ordinance section since there are none. Mr. Mayhew and the Planning Commission had no objection to granting this waiver.
10. Section 350-24.B.2.m – A full plan of the development, including proposed building locations. The application is asking for a waiver of this ordinance section since there is no development involved. Mr. Mayhew and the Planning Commission supported this waiver request.
11. Section 350-24.B. 2n – Where the plan submitted covers only a part of the applicant's entire holding, a sketch of a proposed future street system and lot layout of the unsubmitted part is required. The applicant is asking for a waiver of this ordinance section since it is not applicable. Mr. Mayhew and the Planning Commission supported this waiver request.
12. Section 350-24.B.2.o – A shadow analysis, where applicable to the proposed plan is required. The applicant is asking for a waiver of this ordinance section since it isn't applicable. Mr. Mayhew and the Planning Commission had no objection to granting this waiver request.
13. Section 350-24.B.2.p – Plan requirements for cluster or multifamily developments. The applicant is asking for a waiver of this ordinance section since it isn't applicable. The Planning Commission supported this waiver request.
14. Section 350-24.B.q – Plan requirements, including easements for access to all parcels not fronting on public roads. The applicant is asking for a waiver of this ordinance section since it isn't applicable. The Planning Commission supported this waiver request.
15. Section 350-24.B.3 – All plans shall be accompanied by Planning Modules for land development provided by PADEP. The applicant is asking for a waiver of this ordinance section since there is no land development involved. Mr. Mayhew recommended that a standard non-building waiver form be sent to PADEP and noted on the plan. The applicant has agreed to this.
16. Section 350-24.C – Improvements construction plan. The applicant is asking for a waiver of this ordinance section. Mr. Mayhew has no objection and the Planning Commission supports this waiver request.

17. Section 350-24.D – Conservation plan and topographic contours. The applicant is asking for a waiver of this ordinance section since no improvements are planned. The Planning Commission has no objection to this waiver request.
18. Section 350-24.E – Stormwater management plan. The applicant is asking for a waiver of this ordinance section since no improvements are involved. The Planning Commission supported this waiver request.

Mr. Cushman remarked that the applicant has resolved many of his previous land development issues. He thought that Mr. Manley could complete a full subdivision of the lots in a short period of time. Mr. Manley said that he didn't want to have a perc test done at this time on Lot 2 in order to subdivide it.

Mr. Manley questioned what type of plan he would need to submit for the subdivision application. He hoped he could accomplish it with a metes and bounds survey of the lot. Mr. Oeste said that the garage is to comply with setbacks for the R-2 Zoning District. This will need to be verified through whatever method is required in the Township's ordinances. The applicant will also need to set concrete monuments on the property lines

Brandywine Center (Giant Grocery Store)

Carlino East Brandywine L.P. is proposing a commercial development named East Brandywine Center, containing a supermarket (Giant), retail buildings, and a bank. The project is located on Rt. 322, west of the Brandywine Village Shopping Center and is zoned Mixed-Use Commercial.

The plan generally consists of the following proposed features: Two commercial buildings, a parking lot, and a road. Stormwater BMP's include two infiltration basins, six rain gardens, a vegetated swale, and two areas of porous pavement. There are woodlands and wetlands on the tract, but no disturbance is proposed for either of these natural features.

The project site will be serviced by public water and public sanitary sewer services. The plan proposes to abandon the existing sewer system, existing storm sewer and existing easements on the Watters Parcel and to provide a general cross access and utility easement over the Watters Parcel and proposed Parcel B. The sanitary sewer easement and sanitary sewer components within the easement are to be offered for dedication to the East Brandywine Township Municipal Authority.

Mr. Peter Miller from Carlino Development and Marc Kaplin, Esq., the applicant's attorney, and also the attorney for the Watters family who own this parcel, attended the meeting to discuss the preliminary land development plan submission.

Mr. Rawlings read a prepared statement for the audience "This will be the first time the Planning Commission has had a chance to have public comment on these preliminary plans although other meetings have taken place with other Township individuals. The Planning Commission understands that this submission isn't complete and the 90 day clock hasn't started. The Planning Commission believes that this project may be highly emotional to local residents and businesses, and will do their best to make sure all parties get a chance to voice their concerns." Mr. Rawlings went on to say that the Planning Commission would limit their discussion of this project this evening to no more than two hours.

Mr. Kaplin expressed surprise that the 90 days clock hasn't started. It was explained that Mr. Miller from Carlino agreed to this because the Sewage Facilities Planning Module hasn't been submitted. Mr. Miller verified this.

According to Mr. Kaplin, one of the biggest issues facing the developer is construction of a road from Rt. 322 to North Guthriesville Road. His clients do not own the Spence property, a portion of which is needed to build the road. That property is currently controlled by a bank. There have been extensive discussions with Gambone Development about obtaining an easement or purchasing property for the road, land which he described as otherwise unusable. The applicant has submitted a design showing the road going through from Rt. 322 to North Guthriesville Road and also an alternate plan that doesn't go through to North Guthriesville Road, but does comply with the subdivision and land development ordinance. Mr. Kaplin said review letters from Township consultants have asked for certain portions of the proposed road to be widened, that the location be modified and have suggested other changes. He said that in his May 25, 2010 letter to the Board of Supervisors he laid out, in detail, his client's position on the road and also sewer issues.

Mr. Kaplin provided the Planning Commission with an excerpt of the Township's 2003 Act 2009 Study for their review. He pointed out the traffic fee calculations on page two. In 2003 he said that a judgment was made by the Township as to what road improvements are needed, and the costs associated with those improvements. The traffic impact fees are calculated using several different factors including costs due to existing conditions and costs due to pass-through trips. It is then broken down according to PennDOT's share, the Township's share, and developers share. Using the formula provided by the Township, Mr Kaplin said that his client would be liable to pay \$1,795,000. Mr. Kaplin said that the Township's traffic impact fee was the highest he has seen. He provided a copy of an email from Mr. Piersol to Annmarie Vigilante, which discussed the Township's traffic planning during the Act 209 process in 2003. If the applicant completes improvements to Rt. 322 it appears that they will also be asked to pay an additional fee for that. A breakdown of costs for constructing the through road was provided to the Township. Mr. Kaplin would like the traffic impact fee to offset those costs and is waiting for a response from the Supervisors to that request and said there are two choices; the road will be constructed and costs will be offset by the traffic impact fee or they will construct the alternate road.

One suggestion was that the applicant shows an access connection in back of the Brandywine Village Shopping Center. Mr. Kaplin said that it wouldn't be possible because the Township has recently changed their parking requirements and, with road construction the plan, shows the maximum impervious allowed in the MU District. Any additional roadway would necessitate a variance, which might be difficult considering how emotional this development seems to be.

Mr. Heinrich's June 22, 2010 letter suggests Horseshoe Pike be widened along the entire frontage to accommodate future extension of the westbound lane, and other improvements. The letter also indicates that the applicant hasn't given the proper right-of-way. Several other improvements have been suggested, which include straightening out the roadway through shopping center and providing easier access to the existing Brandywine Village Shopping Center. Mr. Kaplin said that although they are willing to tweak the plan somewhat, they don't want a speedway through the shopping center. Mr. Rawlings said that there is only 10 acres to construct the shopping center. He wondered if the applicant was trying to squeeze too much onto the property. Both Mr. Heinrich and the Chester County Planning Commission have made

several suggestions for road improvements. With providing the roadway, it is Mr. Kaplin's opinion that his client isn't in the position to make further accommodations.

The other major issue is sewage disposal. The East Brandywine Township Municipal Authority wants the sewage to be conveyed to the Applecross Treatment Plant. The applicant's is willing to do that, but said there is no disposal capacity on their property because of the proposed roadway. Mr. Kaplin has had discussions with representatives from the Downingtown Area School District to dispose of the effluent on the Weaver tract. His client is willing to pay a tapping fee of \$26 per gallon and would install equipment to dispose of 23,000 gpd. Another option is to send the sewage to the Little Washington Wastewater Treatment plant for disposal. Mr. Kaplin has been waiting for the Township and School District to resolve outstanding sewer capacity issues, but is concerned that this is delaying his project. According to Mr. Kaplin, there is no room on the Watters property for drips fields and it isn't required by the Township ordinance.

Mr. Rawlings noted that the plan calls for porous paving, which is not generally recommended by the Township. It was suggested that the applicant provide examples of where it has been used, along with a maintenance plan. Mr. Rawlings also wants the Township Engineer to review the location of the proposed porous paving areas and how winter conditions will affect those locations. Mr. Kaplin said that the use of porous paving is permitted by ordinance and he agreed to provide a maintenance program.

Mr. Thomas left the meeting at 8:45 P.M.

Mr. Kaplin was asked if there were any plans for the residential acreage on the Watters tract or the Spence property. He said that he doesn't know what will happen to the remaining Spence property since his client doesn't own it and has no interest in obtaining it. The portion needed for the roadway will be subdivided. He was noncommittal about the other acreage. Mr. Rawlings said that the Township would like to know if there are any plans since it helps with future planning and may have a bearing on the road configuration.

Mr. Rawlings asked if there have been any discussions with the owners of the Brandywine Village Shopping Center. Mr. Kaplin said there was one meeting with the owners several weeks ago that was informational only.

The cover sheet on the plan shows Mr. Rawlings as the Township Manager and Fire Marshall. This should be changed to Mr. Piersol.

Mr. Rawlings asked to see a copy of the current easement with the existing shopping center. Mr. Piersol has a copy of the easement agreement.

At present, Mr. Kaplin can't say for certain what businesses will be in retail A and retail B, but they will comply with the Township Ordinance. He said a bank would be an appropriate use.

How the existing shopping center will operate during construction will be determined in the construction sequencing plan.

Mr. Heinrich said that a second access to Brandywine Village should be provided as an alternative means of access at times when the main driveway intersection for Brandywine Village/East Brandywine Center is blocked. Mr. Kaplin said that he would not agree to the

additional connection. He cited the traffic study which indicates that in 2017 there will be a 15 minute backup, the bulk of which will be the result of traffic other than from the shopping center.

The Chester County Planning Commission is suggesting the applicant consider a Park and Ride area. They also asked for a 150 ft. setback from the road. Mr. Kaplin said that the current plan complies with the ordinance and there isn't any room for a Park and Ride area.

The Township would like to see trails and a sidewalk installed. Mr. Kaplin said there is no place to do it and it would create more impervious cover.

Sprinklers will be installed in the building.

Mr. Kaplin said there are no major issues with the June 18, 2010 Yerkes review letter. Mr. Mayhew and Mr. Thakkar from Langan Engineering have discussed the review letter and resolved most of the issues. The applicant hopes to revise the plan once more time and will resubmit it shortly.

Mr. Kummer and Mr. Thakkar have reviewed the landscape plan and are in general agreement with it. Mr. Rawlings said that he would like to see the landscape table showing what needs to be planted per the Township ordinance. He also said there should be no ash trees, no lindens and he is questioning the use of cap yews and cherry laurel.

A lighting plan will be provided to the Township for review. Mr. Kaplin said that down-lighting will be used. Signage still needs to be addressed.

Comments made by Mr. Hanney in the July 6, 2010 PennDOT review letter should be addressed to the satisfaction of Mr. Heinrich and the Township. Once there is an agreement on the road configuration the applicant and Township representatives should meet with PennDOT to finalize all outstanding issues. Mr. Heinrich made several suggestions to improve the internal circulation. He thought that the road should be moved, but Mr. Kaplin thought that might interfere with the proposed bank site. Mr. Heinrich disagreed and said that it would be short-sighted not to consider future development when constructing the road and make sure there are adequate access points and left turn lanes. He is concerned that if all PennDOT comments and those in his June 22nd letter aren't carefully considered a road might be built that doesn't really meet the needs of the shopping center and community.

Stormwater comments in the June 18, 2010 Yerkes review letter should be addressed to the satisfaction of Mr. Mayhew.

Mr. Cushman said that he is concerned with access from the Brandywine Village Shopping Center to the proposed road. There is a slight right hand curve and then a left hand turn. He thinks it will be awkward for motorists. The Planning Commission thinks that improvements need to be considered for that intersection and agreed that it doesn't make sense to build an under-designed road.

Mrs. Moser said that she surprised that a shopping center of this size has only one access. Mr. Kaplin said that his client is aware of the access and Giant has approved the plan.

Mr. Croft said that his major concern is the road and thinks the applicant should consider ways to reconfigure it without losing the bank. He thinks the roadway will be very confusing for motorists.

Mr. Richard Blair, one of the owners of the Brandywine Shopping Center, is concerned about access to the existing shopping center. He said now it is a gentle turn. He is also concerned about the proposed sewer connection.

Mr. Holmes asked about how the plan might affect North Guthriesville Road. He thought that traffic being diverted through the shopping center might cause backups. Mr. Piersol explained that North Guthriesville Road will continue to be open to Rt. 322 for right-hand turns only, so that will help with some of the traffic.

Mr. Barry Krieble from Croppers asked if the applicant has completed a marketing analysis. Mr. Kaplin said that they used the traffic study, but doesn't think it is relevant to the discussion. Mr. Krieble is concerned that traffic will backup in the shopping center. Mr. Kaplin said that traffic counts have been taken into consideration in designing the roadway. The Planning Commission remains concerned about traffic backing up near the Burger King restaurant. Mr. Rawlings suggested that the applicant consider an additional entrance to the Brandywine Village Shopping Center.

Ms. Betty Niermitz, a Cropper's employee, remarked that there were only 10 acres to build the Giant and other stores. She agreed with Mr. Rawlings that the applicant is trying to squeeze too much on the site.

Mr. Bob Myers, a meat cutter at Croppers, asked Mr. Kaplin if he cared how the new grocery store might affect Croppers and whether another grocery store was needed in the area. Mr. Kaplin remarked that competitive issues are not to be taken into consideration with land development plans.

Mr. Rawlings said that he thought good progress was made at the meeting and suggested that the applicant attend the August meeting to continue discussions about the land development plan.

Mr. Kaplin said that two issues need to be resolved, the first being the sewer issue and second resolution of the road configuration and traffic impact fee.

As for the second access to Brandywine Village, Mr. Kaplin said that his client would consider it but funding, ownership and maintenance needs to be discussed.

Mr. Kaplin would like to see a response from the Board of Supervisors on the outstanding issues on the road and sewer. He said that his client doesn't want the land development plan held up any longer.

Ordinance Task Force

Mr. Piersol has asked Mr. Sweet to coordinate information for the next Task Force meeting which will be held Wednesday, July 28th at 7:30 P.M.

Other Business

The Reidinger final plan will be discussed at the August meeting.

Comments from the Audience

Mr. Rawlings asked if there were additional comments from the audience. There were no comments.

East Brandywine Township Planning Commission

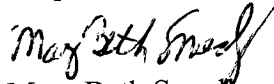
July 7, 2010

Page 9

Adjournment

There being no further business Mr. Rawlings made a motion to adjourn the meeting. Mrs. Moser seconded the motion, with all voting Aye. The meeting was adjourned at 9:45 P.M.

Respectfully submitted,



Mary Beth Smedley,
Secretary/Treasurer