

PENN TOWNSHIP BOARD OF SUPERVISORS
100 Municipal Building Road
Duncannon, PA 17020-1100

Henry A. Holman, Jr., Chairman

Brian Maguire, Vice-Chairman

Brian K. Peters, Supervisor

Minutes of November 19, 2014, Devlin Conditional Use Hearing

The Penn Township Board of Supervisors (PTS) met on Wednesday, November 19, 2014, at 6:00 PM in the Municipal Building to conduct a Conditional Use Hearing for Patrick Devlin. Chairman Henry Holman, Jr., Vice-Chairman Brian Maguire, and Supervisor Brian Peters were in attendance. Other personnel present were Helen Klinepeter (Secretary), Solicitor Richard Wagner, and Elizabeth Goodhart (Treasurer/Recording Secretary). A list of visitors is on file in the Township office.

Chairman Holman opened the hearing at 6:00 PM, and turned the meeting over to Solicitor Wagner.

Solicitor Wagner stated that anyone who wanted to speak during this Hearing would be sworn in. Patrick Devlin was sworn in by the court stenographer at this time.

Solicitor Wagner stated the following items would be entered into the Record as Exhibits.

1. Exhibit #1 – Three-page document titled Conditional Use (CU) Hearing application dated October 2, 2014, applicant Patrick Devlin, for purposes of CU on property in Penn Township for the use of limited distillery and brewery and production of craft products.
2. Exhibit #2 – Affidavit of Publication indicating time, date, place and purpose of this Hearing were properly advertised on two separate occasions, November 6, 2014, and November 13, 2014, in newspapers of general circulation.
3. Exhibit #3 – Letter from Penn Township Planning Commission indicating they voted unanimously to recommend approval of the Conditional Use.
4. Exhibit #4 – Letter from the Township Zoning Officer indicating his response in review of the CU application noting the Penn Township Supervisors must determine if the intended use is of the same general character as listed in permitted uses in Section 604.14 (NOTE: Section 604.14 is incorrect and should indicate Sections 804 and 805 of the Township Zoning Ordinance).
5. Exhibit #5 – Multi-page document captioned “CU Application Details”, which includes the following information:
 - 1) Location, boundaries, and dimensions of the land.
 - 2) A general description of the activities to take place,
 - 3) Location, use and ground area of proposed buildings and structures.
 - 4) Locations, dimensions of streets, loading areas, etc.
 - 5) Capacity arrangement and controls for areas to be used for access.
 - 6) Character of the buffer area.
 - 7) Description of proposed methods to control water pollution, fire hazards, traffic congestion, etc.

- 8) Description of methods to be used for water supply treatment and disposal.
- 9) Names and addresses of adjoining property owners, and additional information characterized as "In Preparation for the Referral to Penn Township Planning Commission".

The Solicitor asked if there were any objections to submitting these Exhibits into the Record for consideration by the Board of Supervisors. There were none.

Solicitor Wagner asked Mr. Devlin who prepared the document listed as Exhibit #5 above. Mr. Devlin stated he prepared the document. The Solicitor asked Mr. Devlin if the information included in Exhibit #5 is true and correct to the best of his knowledge. Mr. Devlin replied in the affirmative. Solicitor Wagner asked Mr. Devlin if the document was prepared in anticipation of complying with the requirements of Penn Township ordinances related to Conditional Uses. Mr. Devlin replied in the affirmative.

The Solicitor asked Mr. Devlin to describe the proposed purpose for this property. Mr. Devlin stated it will be a craft beer brew pub. The craft beer will be sold at retail and will also be distributed. There will be a craft distillery for sampling and to view the distilling methods.

Solicitor Wagner stated one of the permitted uses for a commercial district under Section 803 includes liquor sales, restaurants, etc.

Solicitor Wagner explained that there may be issues under code of federal regulations in the use of the property in both the sale of alcohol and the distilling on the same property. The PTS may vote to approve with the condition of compliance with all federal, state and local regulations.

The Solicitor asked both the PTS and members of the audience if anyone had any questions about the CU application. There were none. There were seven Township residents present in addition to the applicants.

Supervisor Peters asked the applicants if they intend to modify their application to comply with federal regulations. Mr. Devlin stated there will be a retaining wall separating the two areas which will satisfy federal regulations. Mr. Devlin's partner, Matthew Fritz, who was not sworn in, stated there are attorneys on retainer with the PA Liquor Control Board (PLCB) who have informed the applicant that there can be no internal connection, excluding utilities. Customers cannot be able to walk through an inside wall from the brewery to the distillery. Supervisor Peters referenced a federal regulation which states "a person who intends to establish a distilled spirit plant may not locate in the following places: in any residence,.....where liquor is sold at retail, or where any other business is conducted.....". Mr. Fritz and Mr. Devlin stated the applicant's attorneys said this property is considered two separate locations as long there is a solid barrier wall between the two.

Solicitor Wagner informed the applicant that he must be licensed by the PLCB and must comply with all federal, state and local regulations. He also stated if the PTS includes compliance with these regulations as part of the CU, failure to comply will prevent the applicant from operating.

Chairman Holman asked the applicant if he has contacted the Penn Township Municipal Authority (PTMA) regarding the available amount of discharge. The applicant stated they did and based on the ratio of amount produced vs. the amount discharged, he must purchase two additional EDU's. CeCe Novinger asked who was contacted at the PTMA. Matthew Fritz stated he spoke to Karen who then discussed with a man in the background. Ms. Novinger stated this has not come before the PTMA Board. Chairman Holman informed the applicant he should attend the next PTMA meeting which is scheduled for the first Wednesday in December.

Solicitor then closed the Hearing.

The CU was unanimously approved upon a Holman/Peters motion, subject to the following conditions. Solicitor Wagner stated if any one of these conditions is not met, the CU is null and void.

1. Applicant must provide documentation stating the intended use is permitted under federal law and regulations.
2. Applicant must obtain all required licenses from federal, state and local agencies.
3. Applicant must receive PTMA approval.

Applicant waived necessity to receive findings of fact.

The meeting was closed at 6:20 PM upon unanimous approval of a Holman/Maguire motion.

Respectfully Submitted,

Elizabeth Goodhart
Treasurer/Recording Secretary