

ZHB MINUTES OF AUGUST 14, 2007

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The Penn Township Zoning Hearing Board (ZHB) met on Tuesday August 14, 2007 at 7:00 p.m. in the Penn Township Municipal Building to conduct a hearing concerning the Penn 1155 LLC, Docket No. 2007-04 and Penn 1155 LLC, Docket NO 2007-05. A list of visitors is on file in the Township Office.

Secretary conducted the roll call of the ZHB.

Present: Jonathan Bigley, Chairman
Vince Bernhard, Member
Carl Heller, Member
Gerald Hirt, Alternate
Barbara Van Horn, Alternate
John Madden – Zoning Officer
Lenny Sizer – Alternate Zoning Officer
Dennis Shatto – Zoning Solicitor
Helen Klinepeter- Secretary

HEARINGS

The ZHB opened the hearing at 7:05 p.m.

See Transcript for testimony.

Visitors Sworn In: Helen Klinepeter, Lenny Sizer

Evidence Submitted:

Penn Township ZHB:

- 1 Proof of Publication of the legal notice in the Duncannon Record
- 2 Notices on Adjacent Property's Owner on Docket 2007-04
- 3 Notices on Adjacent Property's Owner on Docket 2007-05
- 4 Sign Posting Locations by Assistant Zoning Officer

Applicant:

- 1 Large Plot Plan with Prohibitive Slopes and Precautionary Slopes depicted

Chairman Bigley opened the meeting, introduced the ZHB and explained that the hearings would be three hours in length, starting in the future at 6:00 p.m. until 9:00 p.m. and running the hearings twice a month on a Tuesday night. Chairman Bigley continued to explain that the ZHB members have the right to inspect the property. He offered that the members can do the inspection individually or in a group, however if the group does a tour and they invite one

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of the parties to join the tour, all of the parties will be invited to join the tour. If a ZHB member visits the site individually, he asked that any party to the case not to approach the member and talk to them.

At 7:05 p.m. Chairman Bigley called the hearing to order and asked the parties introduce themselves. Chairman Bigley asked Mr. Shatto, ZHB Solicitor, to do some housekeeping business in regards to the hearing. Mr. Shatto questioned the Secretary on the advertisement of the hearing and the notification of adjoining land owners. Mr. James Diamond, Applicant's Solicitor, and P. Richard Wagner, Penn Township Solicitor was asked if they had any questions of the Secretary. Both replied in the negative. Mr. Shatto then asked Lenny Sizer, Alternate Zoning Officer, on the positing of the properties. Mr. Diamond and P. Richard Wagner were asked if they had any questions of the Mr. Sizer. Both replied in the negative.

Mr. Diamond asked if a consolidation record of the two dockets could be considered. He offered that if there was a consolidation of the dockets, it would streamline some things. He offered that they would be using the same witnesses, including the same experts, certainly their qualifications, if we could have one running transcript we would obviously put on where there's unique testimony because of differences in physical characteristics and things. Mr. Diamond offered that the testimony would be specific about whether the discussion is about West or East, but that there are some common things that will apply to both. He offered that a log of the exhibits would also be the same for both dockets. It was the consensus of the all the parties that as much as possible for the two dockets would be incorporated into one and that the differences for each docket would be kept separate.

Mr. Shatto explained the party status to the audience. Mrs. Toni Maria Casale asked if this would be the only time party status is given. Mr. Shatto stated that yes the ZHB would like the parties to the case(s) be cleared up and established at the beginning of the hearing so that it's consistent throughout the course of the proceeding. Mr. Shatto explained that if you are not a party to the case(s), you may loose certain rights that you otherwise would have had as a party to file an appeal from any decision that you feel is wrong.

Mr. Shatto, Mr. Diamond and Mr. Wagner asked questions of Mrs. Casale in regards to her being granted party status.

Mr. Wagner offered that the discussion is about a variance of Mountainside East and West. He offered that a review of the application for the variance consistently throughout is predicated upon the interpretation of the ordinance. There has no been an interpretation done by the Zoning Officer. Mr. Diamond offered that his people were having a serious problem with the vagueness of the ordinance and that the Zoning Officer comments to the Preliminary Subdivision and Land Development Plans, on file in the Township, have risen questioned that there is a problem up there. Mr. Diamond offered that was enough of a concern for us that to present a variance application. The discussion continued with both sides stating their positions on the variance application.

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Mr. Diamond requested a recess. Chairman Bigley granted the request with a recess being from 7:50p.m. until 8:10 p.m.

Chairman Bigley reopened the meeting and Mr. Shatto offered that he understands that there is an agreement on how to proceed. Mr. Diamond offered that a continuance would be mutually requested and that the zoning officer would review the request and make an opinion. Mr. Wagner stated that there are a couple of understandings that are needed to be placed on the record.

1. Both parties agree to continue this hearing in order for the zoning officer to give an interpretation of the zoning ordinance as it applies to this particular plan.
2. Depending upon his interpretation, there are provisions in the MPC that give the applicant the right within 30 days to file an appeal back to this board.

Mr. Wagner continued that there is a subdivision plan pending before the Board of Supervisors and in order for this procedure and Mr. Madden's procedure to be undertaken that the subdivision plan would be generally continued from the Township's perspective.

After discussion, and upon a Bernhard/Heller motion, the ZHB voted unanimously to continue this hearing to a date to be determined later.

After discussion, and upon a Bernhard/Heller motion, the ZHB voted unanimously to close the hearing at 8:17 p.m.

MINUTES – Secretary presented the minutes of July 12, 2007 for review. After discussion, and upon a Heller/Bernhard motion, the ZHB voted unanimously to approve the ZHB minutes of July 12, 2007.

Upon the completion of all business, and upon a Bernhard/Hard motion, the ZHB voted by majority to adjourn the ZHB meeting at 8: 20 p.m.

Respectfully Submitted;

Helen Klinepeter
ZHB Secretary