

PENN TOWNSHIP ZONING HEARING BOARD

MINUTES OF AUGUST 12, 2008

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The Penn Township Zoning Hearing Board (ZHB) met on Tuesday August 12, 2008, at 7:00 p.m. in the Penn Township Municipal Building to conduct a hearing concerning Fishing Creek Valley Associates, L.P. Docket 2008-05. 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
JoAnn Glossner, Member
David Grow, Alternate
Barbara Van Horn, Alternate
Lenny Sizer – Alternate Zoning Officer
Dennis Shatto – Zoning Solicitor
Helen Klinepeter- Secretary

HEARINGS

Chairman Bigley opened the hearing at 7:12 p.m.

Visitors Sworn In: Betty Smith, Duncannon Cemetery Association Secretary
Diane Henery, Adjoining Homeowner
John Murphy, Alpha Engineering, Applicant's Engineer & representative
Todd Wilson, Alpha Engineering, Applicant's Engineer
P. Richard Wagner, Township Solicitor
W. Max Shradley, Township Engineer
Steve Crider, Adjoining Homeowner
Clifford Gilman – Representative of the Susquehanna Water Gap Association.
Leonard Sizer, Township Zoning Officer
Helen Klinepeter, Zoning & Township Secretary

Evidence Submitted:

Applicant:

- A1 Warden Property Plot Plan showing the steep slopes
- A Blow up of entrance to property showing steep slopes
- B. Blow up of Stormwater Basins
- C. Blow of Easton Drive and Perryton Lane

Penn Township ZHB:

- 1 Memorandum from Township Engineer (RETTEW)
- 2. Steep Slope Map

Mr. Bigley asked for all persons wishing to testify to please state your names and be sworn in. Mr. Bigley explained that the ZHB Solicitor had some questions for points of clarification. Mr. Shatto offered that the variance request mentions the stormwater drainage and

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roadway and that the plans submitted show proposed dwellings in the prohibited and precautionary slopes. Mr. Shatto asked the applicant if the proposed dwellings are part of the variance request.

Mr. Murphy offered that the applicant would like to separate out the different requests and if possible to verbally amend the variance request to include the lots with proposed dwellings. Mr. Bigley asked Mr. Wagner his position on the request.

Mr. Wagner offered that a special narrative has been filed that specifies three differed requests for variance and the Township is ready to address those specific requests. If the publication of the hearing goes beyond the scope of the narrative, we run the risk of people who would have been here to give an opinion, but are not here because of the scope of the publication. Mr. Wagner stated that the Township would respectfully object to any attempt to expand the request beyond the three items in the narrative. Mr. Murphy stated that the applicant concurs with the Township's objection.

After the explanation of the procedure for testimony, Mr. Shatto asked Mrs. Klinepeter if the meeting was properly advertised. Mrs. Klinepeter stated original and the continuation advertisement dates. Mr. Sizer state that the property was properly posted.

Mr. Bigley requested the applicant to present their position.

Mr. Murphy offered that the applicant is concerned with parcel number 210,104.00-012.000 known as the Warden Track. There are seventy (75) acres with frontage on SR 849 and has restricted frontage on SR 11/15. The property is owned by Fishing Creek Valley Associates. He offered that he was present to request variances for Section 1203 of the Penn Township Zoning Ordinance, which are the steep slope provisions. Mr. Murphy explained that variance request A is requesting to grade the proposed entrance to the property and that a variance is needed because of the restricted access to the property by SR 11/15 and the steeper slopes along SR 849. Mr. Murphy explained that variance request B is requesting to grade portions of the Easton Drive and Perryton Lane to provide a connection for a loop roadway systems. Variance request C is request to grade two stormwater management basins for appropriate stormwater management.

Mr. Murphy offered that he did not believe the variances to be detrimental to the surrounding areas and the use does meet the appropriate subdivision and land development requirements. Mr. Todd Wilson offered that the preliminary plans had been submitted approximately three years ago and has been resubmitted as a 55+ development. Mr. Murphy offered that a 55+ development lessens the impact of utility and school system and provides the same tax base but has less impact on the community.

The ZHB and Mr. Shatto asked questions of the applicant. Mr. Wagner asked why the plan is called the Warden Property. Mr. Murphy offered that when the preliminary plan was submitted the Warden family owned the property. Mr. Wagner asked if the Fishing Creek Valley Associates is the owner Mr. Murphy answered in the affirmative. Mr. Wagner asked questions

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concerning the zoning of the property and any other permitted uses considered for the property. And if a plan was done to reduce the number of lots so that slope variances could be avoided.

Mrs. Henery asked about the fifty foot access that reduces the fourteen foot access. Mrs. Henery asked if it is correct that the applicant will not be using the fifty foot private right-of-way and not maintaining the private right-of-way and could a private right-of-way sign be placed so that there would be no traffic. Mr. Wilson offered that what is proposed is a public access for 250 feet and then a tie in the private right of way at that point. The public road would parallel the private right-of-way.

Mrs. Betty Smith expressed her concern about trespassing, vandalism, and debris crossing the property line into the cemetery. She asked if it was possible to place a fence between the property lines. Mr. Murphy offered that a fence would be addressed during the subdivision and land development phase but that a fence is a reasonable request. Mrs. Smith continued with a concern regarding the Stormwater basin #3 and runoff. Mr. Murphy offered that yes the stormwater basin could in theory run over and that there is an emergency spill way designed to handle any overrun.

Mr. Bigley offered that the applicant a change to rebut.

Mr. Murphy offered that there is a difference between what a property can be used for and how a property should be used. He continued that due to the unique status of the property and the surrounding uses in the area he feels that the appropriate use is being presented for the property.

The ZHB asked questions regarding on the size of the access road and if the applicant was aware of the ordinance when the property was purchased,

Mr. Bigley offered the Zoning Officer a chance to make comments. Mr. Sizer offered that he had no comments at this time.

Mr. Bigley offered the floor to Mr. Wagner for his presentation. Mr. Wagner offered that he had one witness and proceeded to questions Mr. Max Shradley on his credentials. Mr. Wagner had Mr. Shradley testify on his familiarity with Penn Township and precautionary and prohibitive slopes. Mr. Shradley explained that as part of his services to the Township that his firm had produced an exhibit for planning purposes during the drafting of the Zoning Ordinance. Mr. Shradley described the Steep Slope Map. Mr. Wagner asked if Mr. Shradley has reviewed this plan or any other sketch plans regarding this property. Mr. Shradley answered in the affirmative. Mr. Wagner then asked Mr. Shradley what his opinion was related to the access proposed on this plan as to whether access can be granted other than being proposed by the request for variance. Mr. Shradley offered that as he indicated on page 4 of his report that the access and by their mapping, it appears that if that access was realigned slightly it would be able to provide an access with less impact on the prohibitive and precautionary slopes. Mr. Wagner offered that one of the additional requests is a variance of the precautionary and prohibitive slopes as it relates to the roadway. Mr. Wagner asked Mr. Shradley if the roadway could be configured so that the

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roadway was not in the prohibitive or precautionary slopes. Mr. Shradley offered that he believed that the plans would be laid out differently and could avoid the prohibitive slopes and the majority if not all of the precautionary slopes except for the access road.

Mr. Murphy offered that he believes Mr. Shradley was not entirely accurate. That by shifting the access drive may have impact on neighboring property. We designed the access so that there would not be an impact on the neighboring properties.

Steve Crider – had questions on the type of impact on his property. Mr. Wilson offered that there should be no impact and that any construction will be at least five feet from the property line.

Mr. Cliff Dillman offered that he represented the Susquehanna Water Gap Authority. He continued that he would like to make some comments on water issues and the Susquenita River.

Mr. Forrest Toutman, Solicitor for Fishing Creek Valley Asst, objected to Mr. Dillman offering any comments as the Susquehanna Water Gap does not have an interest in the property.

Mr. Bigley called a recess from 8:43 until 8:55 p.m.

Mr. Bigley offered that the applicant will make some comments to the ZHB. Mr. Murphy made a verbal request to withdrawal the request for variance for B and C and asked for a continuance until next month on variance A. Mr. Bigley asked if the Township had any objections. Mr. Wagner replied in the negative.

Mr. Bigley offered that the withdrawal request will be granted and that a continuance until September 11, 2008 at 7:00 p.m. will be granted. Upon a Glossner/Bernhard motion, the ZHB adjourned the hearing at 8:58 p.m.

MINUTES – Secretary presented the minutes of July 17, 2008 for review. After discussion, and upon a Glossner/Bernhard motion, the ZHB voted unanimously to approve the ZHB minutes of July 17, 2008.

OLD BUSINESS

Penn 1155 Hearing – Mr. Shatto offered that the only date available for everyone was October 1, 2008. After discussion and upon a Glossner/Bernhard motion, the ZHB voted to hold the Penn 1155 Hearing on October 1, 2008 at 7:00 p.m.

NEW BUSINESS

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Berrier Appeal – Mr. Shatto offered that Judge Rehkamp has remanded the Radocha ZHB back to the ZHB. After discussion, the consensus of the ZHB was to hold the hearing on September 11, 2008 after the Fishing Creek Valley Associates hearing.

Upon the completion of all business, and upon a Glossner/Berhnard motion, the ZHB voted by majority to adjourn the ZHB meeting at 9:15 p.m.

Respectfully Submitted;

Helen Klinepeter
ZHB Secretary