

TOBYHANNA TOWNSHIP PLANNING COMMISSION  
REGULAR BUSINESS MEETING  
FEBRUARY 4, 2021

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The February 2021 Regular Business Meeting of the Tobyhanna Township Planning Commission (“Commission”) was held on February 4, 2021, via the platform GoToMeeting due to the COVID-19 pandemic.

Present are Michelle Bisbing, Marlin “Sam” Keiper, and Edwin Miller. Also Present is Solicitor Jonathan Reiss and Township Engineer Bob McHale.

1. Sam Keiper calls the meeting to order at 5:32PM. A quorum is present.
2. The Pledge of Allegiance is recited.
3. Public comment on agenda items: none
4. Minutes
  - a. Consider the minutes of the November 5, 2020 Planning Commission Regular Business meeting: Mr.Keiper discusses concern of approving the minutes as Mr. Miller was not a member of the Planning Commission in November and without his vote, there is no majority. Item is tabled.
  - b. Consider the Minutes of the January 7, 2020 Planning Commission Reorganization and Regular Business meeting: Ms. Bisbing motions to approve the January 7, 2020 Reorganizational and Regular Business Meeting minutes. Mr. Miller seconds. All in favor, motion carries.
5. Old Business
  - a. Tobyhanna Site LLC revised plan- Mr. Keiper explains the plan just came in. Ms. Deanna Schmoyer and Attorney Ralph Matergia are present to represent the group. Revised plans consist of sheets one through five. Sheet two represents the existing features and sheet three is the subdivision plan showing the area of the Hudock Road Right of Way to be vacated and the area of relocation. The cul de sac has been moved to provide access to the Eder property. Sheet four is the site plan showing changes to the rear of the building with the drive-thru. The unloading area was removed and right turn lane added. Parking was adjusted slightly in upper north western area to accommodate a retaining wall and guide rail. Unloading areas were added in the front. Turning movements onto Hudock Rd. and Harvest Ln. will be added and certain radii will be tightened to deter unwanted movements. Sheet five reflects grading changes. Grading is now finalized. Site plan reflects all directional signs as well. The right of way dedication and vacation is the main item of focus currently. Notes on the cover sheet reflect that the Township will own and maintain the road but Tobyhanna Site LLC or the current property owner will maintain the stormwater responsibility.

Mr. Keiper questions the sight triangle position. He believes they should be at a different angle. Mr. McHale explains there are two types of sight triangles, one for sight distance and one for keeping vegetation away from the intersection. He explains the auto turn sequence for tractor trailers needs to be shown as he is concerned they cannot make the turn. In revisiting the sight triangles, Mr. McHale explains there are different requirements for highways and local roads. Mr. Keiper thinks it should be looked into. He also questions the retention wall. Ms. Schmoyer explains it does not seem feasible at this point and it would be up to her client.

Mr. Keiper discusses the extent of the cul de sac on the lot. He questions if this makes it a separate lot. This needs to be discussed further as it could also affect basins and sewage as they are on another lot as well. Legal counsel will need to weigh in.

Mr. McHale asks for input of Jonathan Reiss and Ralph Matergia on the vacation and dedication of relocated Hudock Rd. Concerns regarding the cul de sac are discussed. They include snow plowing and any liquid fuels implications. PennDOT will need to confirm if it qualifies for liquid fuels funding. Mr. Reiss explains that the Planning Commission should provide input regarding the new location for Hudock Rd. and the cul de sac prior to the developer contacting property owners for an agreement. Mr. Keiper expresses that an easement would be more favorable as the Township may not want the excess cost for maintenance of the cul de sac.

Mr. Keiper believes the Dunkin Donut drive-thru is still a challenge. He believes there is not enough stacking distance, comparing the plan to current locations in operation. The turning lane presented is part of the township road. Mr. McHale asks about the traffic engineer input. Ms. Schmoyer explained she was not overly concerned and there still needs to be a full traffic analysis and all movements should be shown. Mr. McHale discusses the concern of stacking distance from the menu boards to Hudock Rd. and that the traffic engineer expressed concerns with the plan and provided comment to Ms. Schmoyer. Mr. McHale discusses the grades at the south east of the building and the potential to tie into where the menu boards are so the queue can be directed around the building. The current access point should be reconsidered. The right turn lane is not a stacking lane for Dunkin Donuts. Stacking should occur on site.

Mr. Keiper expresses concern for the entrance so close to 940. He is concerned with the traffic flow and wants to see the report from the traffic engineer. Mr. Joe Bennet explained the design is similar to another site and that only 1-2% of patients use the drop off.

Mr. McHale also expresses the need for a permanent easement for the UGI gas main. Ms. Schmoyer has not been able to get in touch with UGI. She is working to coordinate service connection and an easement. The current easement is shown in upper parking lot as a twenty-foot easement for a twelve inch line. Mr. Matergia feels that because it is pre-existing, the easement will pass to the developer. Mr. McHale is not certain an easement is on record. Mr. Reiss explains that there is no pre-existing easement so the Township would want to see the easement between the developer and the utility provider. Mr. Matergia says the deed of easement will be prepared and presented to the gas company.

Mr. Reiss questions the timing for pursuing the land development approval. The Township received the SEO review of the planning module and there is concern about not having land development approval. Ms. Schmoyer explains they are working through the agreements for the subdivision and land development. She is hesitant to start descriptions until the layout is acceptable. Formal submission of land development has been made. Mr. Reiss questions the dormancy of the project and how little progress has been made. Mr. Matergia is hopeful for feedback on the geometry of the cul de sac and the road proposed for dedication. Once these are acceptable, the formal process will begin for surveying and drafting meets and bounds descriptions as well as initiation of the formal process for vacation and dedication of Hudock Rd. It seems unlikely that agreement with all property owners is feasible. Mr. Matergia would like the Township to vacate the road or for the developer to petition the Township to vacate the road. If amendable, the ordinance process will show any property owner objections. Mr. Reiss explains the Township would want indemnification for any costs. Mr. McHale explains that once the Planning Commission is comfortable with the layout, it should be brought to the Board of Supervisors for their concurrence prior to surveying and gathering descriptions.

Mr. Matergia would like to have this reviewed at the next Board of Supervisors meeting to obtain their opinion.

Mr. Reiss suggests getting comment from PennDOT, the Public Works Director, and input from the Traffic Engineer regarding the cul de sac and relocation of the road to go to the Board for review. Mr. Keiper reiterates his concerns.

Mr. McHale discusses an additional easement needed for an overhead electric line. An easement for the power line is currently north of the Venezia property. It is a PPL line. Ms. Schmoyer explains currently there is no plan to relocate the line, it will remain intact. It was not shown in the title. Mr. Matergia asks if it is in the section of roadway that will be vacated. It is not. Mr. Matergia would like to present the plan to the Supervisors for feedback. The commission is in agreement with Mr. Keiper and Mr. McHale's concerns.

Mr. Keiper believes there is not enough information to move forward and the plan should be tabled.

Mr. Matergia feels it is a fair approach to go to the utility company and ask for their consensus.

Ms. Bisbing feels some of the questions need to be answered before going to the Board.

Mr. Reiss explains if the Board says they are okay with the general layout and the vacation, it would be subject to outstanding info such as UGI resolution. The developer expresses that they will work on providing the info and plans to present to the Board at the February 16<sup>th</sup> meeting.

Mr. Keiper will provide information for the recommendation to go to the Board of Supervisors of the comments discussed.

No public comment at this time.

No update for Keswick Pointe at this time.

No update for LIVIC CIVIL, Dollar General, at this time.

## 6. New Business

- a. Consider by-law amendment to change meeting dates and times. Mr. Keiper circulated information regarding proposed changes. He reviewed original by-laws which were adopted in 1964 and ordinance 369 in 1988 which repealed establishment of the original Planning Commission and reestablished it under the MPC rather than the second class township code. In 2016, the Planning Commission amended by-laws to change the meeting time and dates. Mr. Keiper suggests putting Article 2 of the MPC into the by-laws and some other amendments. Other suggestions include changing chairman to chairperson, changing the time from 5:30pm to 6:00pm, and including a clause that allows for the Planning Commission to change the day or time as they see fit. Mr. Reiss suggests that the section be changed to read that meetings will be held on the day and time as determined by the majority of the Planning Commission rather than putting any day or time.

Mr. Keiper indicates he also changed the wording of section four which reflected the Secretary as responsible for the administration of the Planning Commission.

Discussion of amendments will be held until next meeting as some members have not received the proposed changes. Meetings will be held at 5:30pm until changes are approved. Ms. Bisbing motions to table until the next meeting. Mr. Miller seconds. All in favor, motion carries.

- b. [Item taken out of order] Discussion of the Dunne Manning Sketch Plan.

Dave Lear, from Lehigh Valley Engineering, and Connor Topper, a representative of Dunne Manning, are present to discuss.

Mr. Lear explains the goal is to put in a new convenience store and demolish the old. Sheet one of one of the lot consolidation plan, shows the consolidation of the lot in the wetlands as well as the lots along 940. Dunne Manning would like to consolidate the entire area. Changes related to the Township off ramp relocation project are shown but are not technically part of the plan. The intent is to get feedback from the Planning Commission prior to going to the County. Ms. Butler explains the lot joinder process includes going to the County first and bringing certain items back to the Township for the lot joinder. Mr. Lear believes it is easier to look at one tract and then sub divide later when needed.

Mr. McHale asks for Mr. Reiss' input as condemnation has begun with those parcels identified. Mr. Reiss feels it will not be an issue.

Mr. Keiper asks why the group would consolidate if the road is going to subdivide. Mr. Lear asks for the group to reference sheet four of six. The intent is to work with the Township on the Stillwater Dr. relocation, while getting the convenience store built. This sheet reflects the new convenient store, parking, and fuel islands. The proposal is to continue working with the Township while moving forward with their project without design issues for grading or alignment as proposed to Dunne Manning. The group understands they will have to go through Zoning for a setback issue at corner of store. The convenience store is as close as it can get to the fuel islands in order to keep two-way traffic between parking area and pump islands. It is also as far west as it can go for safe ingress and egress.

Mr. McHale references sheet two of six and the alignment of the new Stillwater Dr. across from the current Fed Ex Dr. In the future, there will be a right in right out driveway as well as a single one way in driveway further east. The road behind will provide future access. Dunne Manning has gone to PennDOT for an interim permit on the eastern most entrance. PennDOT has indicated to build, eastern most access point will be closed. Mr. Lear indicated the permit is submitted and there would be only two access points once permitted. They anticipate comment back shortly.

Mr. McHale suggests discussion of zoning issues. There is a line that separates zoning district between commercial and residential. Mr. Reiss indicates Dunne Manning will have to obtain a special exception from the Zoning Hearing Board to have commercial use in the residential portion of land. Mr. Keiper references Section 155.9 of the Zoning addresses lots divided by zoning boundaries. 155.79 will provide information of the process to the applicant. Mr. McHale references the Luzzi property and the need for the Township to take the property. There is a small area that will need an easement for Dunne Manning for use, where the driveway is. The setbacks remain an issue and will need to be brought to the Zoning Hearing Board as a request for variance for encroachment of the setback.

There is discussion of the process of condemnation of the property for the Township project.

Mr. Keiper questions the width of the roadway. Mr. Lear explains the right of way is shown as thirty feet. Mr. Keiper expresses the Subdivision, Land Development Ordinance does not allow for a width of thirty feet for the road and that liquid fuels would not cover it. Mr. Lear discusses liquid fuels requirements. The access lane is thirty feet in right of way but meets liquid fuels based on paved area. Mr. Reiss explains it is shown on the Dunne Manning plan but is part of the Township project. The construction of the road is not subject to the Subdivision Land Development Ordinance because it is not part of the Subdivision Land Development application. Mr. Lear agrees an access easement will be needed.

Mr. McHale expresses the need to show the plan to PennDOT to ensure it is appropriate for liquid fuels. Mr. Keiper questions the placement of the roadway for additional setback issues. Mr. McHale explains it will have to go to Zoning Hearing Board. Mr. Reiss discusses the width of the road. If Dunne Manning goes through the land development

process prior to the road being built, the taking of the land and building of the road will not require Dunne Manning to get a variance for the setback from the road as they will already be grandfathered in. He expresses concern regarding wetland impacts if the right of way is expanded.

Mr. Keiper states the Zoning Ordinance under Section 155.11i fifty foot setbacks from roadways should be used. Mr. Reiss reiterates if land development approval is given prior to the road construction, they will be grandfathered in and not have to meet the setback criteria. Mr. Lear explains he showed the road to depict that their proposed plan does not impact the Township's intent. In regards to the questioned drive-thru lane and pick up window for the potential of a drive-thru. There is no specific business yet.

Mr. Keiper explains that when a drive-thru is considered, parking is re-evaluated based on the zoning ordinance definition of a restaurant. Mr. McHale suggests working to determine the square footage to be set aside for a drive-thru and factor that into the parking requirements. There is discussion about appropriate location for the menu board and the driveway.

Mr. Keiper questions the existing canopy structure and pump location as they do not meet setbacks. Mr. Lear explains they would contend they are pre-existing non-conforming setbacks. Mr. Keiper states that once something gets changes, the zoning should be referenced if they will require changes. Mr. Keiper cites sections he believes may present challenges. Mr. Reiss suggests Dunne Manning request an opinion of the zoning officer regarding the non-conforming issues to determine if they agree or disagree with the applicant's interpretation. Mr. McHale suggests we check the file for a non-conforming certificate.

Mr. Keiper questions the septic tanks in series. Mr. Lear explains the intent is for the septic tanks be used as holding tanks until central sewer comes to the area. Testing in certain areas have been unfavorable and other areas are being used for stormwater. Mr. McHale suggests Mr. Lear contact the SEO to discuss as there may be an ordinance related to the holding tank. Mr. Keiper suggests asking about a repair permit for the current failing system on the commercial property to relocate to the residential property.

Stormwater is discussed. There is a culvert system proposed. Mr. McHale explains that the small portion of the building where impervious coverage is being added is factored into the design for the road overall to connect to a basin designed for the project. Mr. Lear explains some parking lot could be removed to accommodate the additional coverage. He explains the intent is to get permits for the store and then pursue full land development once the Township is set on the realignment project and to provide the calculations to show the impervious surface pre and post construction. Mr. McHale clarifies that the plan shows a lot of things but the drive thru and associated lane would not be constructed at this time. Mr. Lear confirms that those changes would come in the future.

Mr. McHale states the sketch plan presented is for information only and suggests another sketch plan just for the improvements needed for the new convenience store be

submitted. Land Development is needed for the new building but the plan should only depict what is needed for the current work being proposed. Mr. Lear will work with Mr. McHale for formal submission.

Mr. Keiper points out width and depth edits that need to be corrected.

The lot joiner is revisited. Mr. Lear states they will pursue a lot consolidation and then pursue the convenience store plan through zoning, building, etc.

c. Consider zoning amendment:

Mr. Keiper suggests tabling for further time for review. Ms. Bisbing states she reviewed and did not have specific questions but was interested in the fee for the permit. Ms. Butler explained a fee has been discussed but it was calculated based on an in office enforcement officer and the Township has not made a decision on the enforcement or the fee at this time. Ms. Bisbing asks if there will be a renewal fee. Ms. Butler indicates there would be. The standalone ordinance was provided for reference. Mr. Reiss explains it is for context for the zoning ordinance amendment so the commission is aware that the short term rentals are not being proposed without any regulations. The focus of the Planning Commission is the Zoning Ordinance Amendment, but the zoning ordinance amendment only allows short term rentals. The standalone provides context to show how they will be regulated. Mr. Miller asks about the standalone ordinance regarding permits renewals and a duplicate sentence.

Mr. Keiper motions to table the amendment. Mr. Miller seconds. All in favor. Motion carries.

7. Open Discussion: Kathleen Peterson states Rachel Schickling met with her in November. She owns a property by the old Edelweiss. She has concerns over new commercial development nearby. She met with a PennDOT rep who agreed the current application was not approved. She met with Ms. Schickling on site. She also submitted a Right to Know request for crash statistics which was denied as they are not tracked by roadway. She visited the PennDOT crash data website and found in a quarter mile stretch between the entrance to Pocono Lake Preserve east to the Golf Park, accidents have risen over the last ten years. There were ten accidents in 2018. She echoes concern over the potential development. Mr. Keiper explains that PennDOT would authorize access off of 940 and the Township does not have jurisdiction. He continues to explain the Planning Commission would review the plan based on Township Ordinance and requirements and if the plan meets these criteria, it cannot be denied.
8. Public Comment: none
9. Ms. Bisbing motions to adjourn, Mr. Miller seconds. Meeting adjourned at 8:11PM.

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Minutes recorded by Autumn Canfield