

NEW HANOVER TOWNSHIP
PLANNING COMMISSION
REGULAR MONTHLY MEETING
APRIL 13, 2011

The New Hanover Township Planning Commission held its regular monthly meeting on April 13, 2011 in the New Hanover Township Municipal Building, 2943 North Charlotte Street, Gilbertsville, PA 19525. Edward Wagner served as Chairman and led in a Salute to the Flag and called the meeting to order at 6:35 PM.

ROLL CALL - Present – Robert Thomas
Philip Agliano
Kenneth Hansell
Susan Smith
- Absent - Richard Mulstay

Also present were Township Solicitor Paul Bauer, Township Engineer Douglas Brown, Planning Consultant Adam Supplee, Township Manager Edward Wagner and Administrative Assistant Eileen Pogany.

TOWNSHIP BUSINESS

WORK ITEMS – None

MINUTES – Susan Smith **moved** to approve the minutes of the March 9, 2011 regular monthly meeting. Kenneth Hansell **seconded** the motion, and it carried by vote of **4-0**.

COMMUNICATIONS - Eileen Pogany announced that a zoning hearing had been held on April 5, 2011 and a variance was granted to Kenneth and Debra Martin, 2362 Hill Road, Perkiomenville to allow for a garage to be built which exceeds the 1,200 sq. ft. maximum cumulative area allowed for garages.

BUSINESS FOR DISCUSSION OR ACTION:

N.H.T.P.C. No. 772 Payne, Schaffer Road

Landon Woodward, P.L.S. and Edward Payne were present to discuss this project and explained that they would like to subdivide this six acre parcel into two, one of which already has a home situated on it and the other to be sold as a 3 1/2 acre building lot. Percolation testing has been performed and approval has been obtained. Engineer Brown's review letter of March 25, 2011 was reviewed with Mr. Woodward questioning the necessity of showing a building and driveway layout since someone building a home may not choose the locations shown on the plan. Mr. Woodward was advised that it must be shown that a house and associated features can be built on Lot 2 meeting all requirements including the natural resource protection standards and the storm water management requirements; it was noted that stormwater calculations can be deferred during the subdivision process but must be done prior to a building permit being issued. Planning Commission members expressed concerns regarding an area suitable for building a home due to the amount of wetlands and mature woodland and were also concerned that a buyer of the lot may not understand the limitations or what is required prior to building. Solicitor Bauer stated that a Resolution approving the subdivision would identify what is needed prior to building and that a seller's disclosure could also be required to show what is needed; the submission is being reviewed as a minor subdivision. The waiver request letter was reviewed with Planning Commission

members being agreeable to recommending waivers of Section 703.B(3)(c)(i)(4) and Section 812.3. A fee of \$1,200. in lieu of establishing a bikeway will likely be recommended. Relief from the requirement for road widening along the frontage of Schaffer and Kurtz Roads was discussed with Mr. Brown being asked to calculate costs for further discussion and consideration.

N.H.T.P.C. No. 771 Gibraltar Rock Layfield Road

Attorney Steve Harris was present asking for the Planning Commission's position on the preemption issues. Solicitor Bauer stated that he reviewed the documents provided by Mr. Harris and does not believe that the permits issued regulating noncoal surface mining preempt the township's ordinance and that Gibraltar Rock needs to comply with Township ordinances. Solicitor Bauer stated that he agrees that a fence is required by the surface mining permit but that its location is not specified and also that the noncoal surface mining permit does not regulate the height of the buildings. Mr. Harris requested a decision of the Planning Commission and was advised that they intended to follow advice of their counsel. Mr. Harris requested a copy of Mr. Bauer's opinion letter to the Township and Mr. Bauer advised that attorney-client privilege applies. Mr. Harris stated that the Township's Zoning Hearing Board determined certain items to be preempted and that he raised 20 issues in his letter and received responses to two of them. Susan Smith stated that she has an issue with the fence and believes that it could be relocated to satisfy the requirements of the mining permit and also the Township. Engineer Brown stated that the plan shows development of the property located on the South side of Hoffmansville road and that legal descriptions are given for properties on both North and South sides of Hoffmansville Road. Kenneth Hansell asked about the Township and Zoning Hearing Board differences regarding the preemption items and Solicitor Bauer stated that the Zoning Hearing Board ruled on the zoning hearing application for a special exception and did not review the land development plan application. Solicitor Bauer stated that he requested copies of case law from Mr. Harris which would support his opinion and has not received copies for review, Solicitor Bauer added that he has not heard Mr. Harris say that they are unable to meet Township ordinances, only that they do not want to meet certain requirements. Mr. Bauer also stated that Mr. Harris previously spoke of revising the mining permit application and currently is not indicating that he is willing to revise and resubmit it. Mr. Harris stated that he provided a letter dated February 8, 2011 which gave examples of buffers and berms being preempted; he did not provide a case in which the building height had been preempted. He stated that Gibraltar Rock may consider amending their permit but that the Township always takes an appeal. He stated that he and Mr. Patankar will be attending next month's meeting of the Planning Commission.

COMMENTS FROM THE FLOOR

Gerald Mullaney, Esquire, representing the Ban the Quarry citizens group, stated that he agrees with the Township Solicitor and that most items are not preempted and that Gibraltar Rock should be subject to the Township's code regulations.

Planning Module Component 4A's None

90 DAY TIME LIMITATION WAIVERS - Waiver requests were approved at the April 11 Board of Supervisors meeting for the following plans:

N.H.T.P.C. #754	Breinig Subdivision	2 Lots	4/23/11
N.H.T.P.C. #767	Murianka	2 Lots	5/6/2011
N.H.T.P.C. #771	Gibraltar Rock	Commercial	4/30/11

NEW BUSINESS - None

ADJOURNMENT

Robert Thomas **moved** to adjourn at 7:30 PM and the meeting was **declared adjourned**.

Kenneth Hansell, Secretary