

SMITHFIELD TOWNSHIP PLANNING COMMISSION
COUNTY OF MONROE, COMMONWEALTH OF PENNSYLVANIA
REGULAR MEETING OF JULY 30, 2020 AT 7:00 P.M.
MEETING MINUTES

1./2. Call to Order and Members Present:

The meeting was called to order at 7:00 p.m. by Township Planning Commissioner Chair Attorney Scott Amori. One (1) other Commissioner-along with the Chair-was physically present at the Township Municipal Building; namely, Douglas Schryver. Commissioners David Strunk, Michael Albert and Robert Moses were present via ZOOM.

In addition to the above Commissioners, Township Supervisors Robert Lovenheim and Jacob Pride, Township Engineer Jon S. Tresslar, PE and PLS and Township Solicitor, Ronold J. Karasek, Esquire, of the Karasek Law Offices, LLC, were all physically present at the Township Municipal Building.

As stated above, this meeting was also conducted remotely via ZOOM with both a video and audio transmission. While the attorney for Water Gap Capital Partners, LLC (F. Andrew Wolf, Esquire) was physically present in the Meeting Room, one of the Objectors' Attorney, James A. Fareri, Esquire, participated via ZOOM.

3. The Pledge of Allegiance to the Flag: was recited.

4. Minutes of July 9, 2020: Upon motion of S. Amori and second by D. Schryver and on a unanimous vote of 5-0, the Meeting Minutes were approved.

5. Public Comments: None.

6. Plans to Act On: None

7. Unfinished Business:

Water Gap Capital Partners, LLC-Landowner Curative Amendment

Commissioner S. Amori stated that the Letter Request for the Landowner Curative Amendment from Attorney F. Andrew Wolf to the Township (dated June 12, 2020) and the Monroe County Planning Commission Review Letter (dated July 9, 2020) are to be made part of the record.

Commissioner S. Amori asked the Solicitor whether or not the Township's recent adoption of the ED (Economic Development) Zoning Ordinance Amendment cures the alleged defect inasmuch as a Drug and Alcohol Treatment Center is a permitted use in that zone. While Solicitor Karasek initially believed that the ED Amendment was a cure, the subsequent case law which he researched seems to indicate the contrary i.e. The Piper Group, Inc. et al. vs. Bedminster Township Board of Supervisors et al., 30 A. 3d

1083 (Pa. 2011). The Solicitor explained that this is a case by the PA Supreme Court and (in dicta) recites that a “the municipality could not be permitted to modify or amend its ordinance in such a way that the defect was cured but the landowner who had raised the challenge obtained no relief”. (citations omitted) 30 A.3d at 1096.

Commissioners Strunk and Albert raised questions regarding the process and the Solicitor explained the process as best he could. Commissioner Schryver asked if the request is akin to “spot zoning” and whether the amendment would be applicable throughout the R-1 (Low Density Residential) Zoning District. The Solicitor indicated his belief that, with the adoption of ED Zoning Amendment, the request will be site specific relief and not throughout the zoning district.¹

Attorney Fareri stated that the two questions regarding the landowner’s amendment are 1) is the proposed amendment a reasonable resolution of the matter and 2) the Board is then allowed to determine what would be the appropriate cure. Attorney Wolf made clear that there are distinctions between a landowner’s curative amendment (as found in Section 609.1 of the PA Municipalities Planning Code) and a Township cure (as found in Section 609.2).

After some further discussion, Commissioner S. Amori made a motion to reject the proposed landowner curative amendment as there was no need for a cure based upon the Zoning Ordinance as it existed prior to the ED Amendment i.e. the Township had enacted (by Ordinance No. 192) the B-2 (Business and Professional Office/Medical District) Zoning District which allowed medical uses such as a “rehabilitation facility” as a permitted use; and, Township Ordinance No. 197 established a “short stay medical center” as a conditional use in the C-1 (Commercial) Zoning District). Upon a second by Commissioner Strunk and upon a vote of 4-0, the motion was approved.²

8. New Business: None

9. Public Comment:

Solicitor Karasek stated that there are two pending plans that will require review by the Planning Commission i.e. the Verizon Wireless-Magick Cauldron L.D. Plan (for a cell tower) and the Wyckoff-Fredericks Minor Subdivision-Lot Consolidation Plan. While

¹ Attorney Fareri disagreed with this interpretation inasmuch as he reads the proposed ordinance to be effective throughout the R-1 Zoning District. After re-review of the proposed amendment, Solicitor Karasek agreed and suggested that, if the amendment is adopted, it needs to be clear that the amendment is for site specific relief and not throughout the R-1 Zoning District.


² As the result of a prior commitment, Commissioner M. Albert left the meeting early so that only 4 Commissioners were present at that time.

the Solicitor was uncertain as to whether or not the Monroe County Planning Commission had reviewed either or both plans, Commissioner Chair stated that (in view of these plans) the next Planning Commission meeting will be Thursday, August 13, 2020 at 7:00 p.m.

10. Adjournment:

There being no other business coming before the Commission and on motion by Commissioner Chair S. Amori, seconded by Commissioner D. Schryver and on a unanimous vote of 4-0, the meeting was adjourned at 7:45 p.m.

Karasek Law Offices, LLC

By: 

Ronald J. Karasek, Esquire
PA I.D. No. 28233
Solicitor to Smithfield Township