

SMITHFIELD TOWNSHIP PLANNING COMMISSION
COUNTY OF MONROE, COMMONWEALTH OF PENNSYLVANIA
SPECIAL MEETING OF DECEMBER 2, 2020 AT 3:00 P.M.
MEETING MINUTES

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

The meeting was called to order at 3:05 p.m. by Township Planning Commissioner Chair Attorney Scott Amori. Along with Commissioner Amori, Commissioners D. Schryver, D. Strunk, and M. Albert were all physically present in the meeting room at the Township Municipal Building. Commissioner R. Moses attended remotely. Commissioner K. Wichman was absent. The meeting was also streamed remotely via ZOOM.

In addition to the above Commissioners, the other Township officials who attended the meeting were Township Supervisor Robert Lovenheim, Township Engineer Jon S. Tresslar, PE and PLS and Township Solicitor, Ronold J. Karasek, Esquire, of the Karasek Law Offices, LLC, all of whom were all physically present in the meeting room.

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

4. Minutes: There were no minutes that needed approval.

5. Public Comments: None.

6. Plans to Act On: None

7. Unfinished Business:

a) Water Gap Capital Partners, LLC-Conditional Use Application

Township Ordinance No. 238 was adopted by the Township on September 9, 2020. This ordinance was adopted pursuant to a Petition for a Landowner Curative Zoning Amendment filed by Water Gap Capital Partners, LLC to site a private drug, alcohol and substance abuse treatment center in an R-1 (Low Density Residential) Zoning District. This amendment was approved by the Township with Findings of Fact, Conclusions of Law and Decision dated September 22, 2020.¹

Pursuant to the Ordinance, the approval of a drug, alcohol and/or substance abuse treatment in a residential zone must proceed as a conditional use². Under the Township Zoning Ordinance, conditional uses require review by the Township Planning Commission.

While this matter had been placed on the November 12, 2020 Planning Commission agenda, Planning Commissioner Chair Amori was of the opinion that there was not sufficient notice to all interested parties to attend the meeting and provide comment, if any.

¹ An appeal of that Decision has been filed by various township residents to Monroe County Docket Number 5584 Civil 2020. That appeal is pending.

² On July 28, 2020, the Township adopted Ordinance No. 237 which established an ED (Economic Development) Zoning District. As per the Township Solicitor, a "rehabilitation facility" is a permitted use in this ED Zone and such facility is defined to include inter alia drug and alcohol treatment centers. Therefore, the conditional use in question is site specific to the Water Gap property and not throughout the entire R-1 District.

Smithfield Township Planning Commission
December 2, 2020
Page Two (2)

Accordingly, the conditional use review was scheduled for a special meeting to be held today and immediately prior to the public hearing to be held by the Township Board of Supervisors on the use.

The Township Solicitor initially indicated that the Planning Commission did review the same, prior application (filed pursuant to the Supervisors' Section 302 Determination) at its meeting of October 30, 2019 but that there was no recommendation. However, Commissioner pointed out that was a mistake since, at the subsequent Planning Commissioner Meeting of November 6, 2019, he made a motion (which was seconded by R. Moses and on vote of 4-0) where the Planning Commission voted to approve the conditional use request with the following conditions:

- There be a preliminary screening and background checks of proposed residents for violent or sexual abuse crimes; and, violent offenders an sex offenders are not to be admitted into the facility³; and,
- Residence at the facility is voluntary and not court-mandated sentencing⁴; and,
- That security for the facility will be provided including monitored cameras, door alarms and security staff; and,
- That the name of the facility be changed to a neutral name; and,
- That the facility obtain within six months state licenses and maintain those licenses in good standing; and,
- That the facility obtain both Joint Commission Accreditation for Addiction Treatment (JCAHO) and Joint Commission Accreditation for Rehab Facilities (CARF); and,
- The Township Engineer to review the Site Plan and traffic and stacking-at-entrance-gate issues; and,
- The Applicant is to file a more detailed Site Plan/Survey to define and delineate property lines for Applicant's property, Township and Borough properties and Park property; and,
- Full compliance with the Township Engineer Review Letter of October 17, 2019 (or secure approved waivers); and,
- The Board of Supervisors review the application for compliance with Zoning Ordinance Section 511,3,E i.e. sanitary sewage and access to collector or arterial road issues; and,
- The Applicant's Traffic Engineer to prepare a formal, written report (not simply an oral presentation) to establish that the anticipated traffic will not be any different than...or stated another way, the same as or less... with the present uses; and,
- Any future expansions of the facility either by way of acreage, buildings or number of beds will need further Township approval (along with any other required approvals); and,
- The Supervisors to determine how different types of emergency vehicles will access the site; and,

³ This language was added as per the December 2, 2020 meeting motion infra.

⁴ This language was added as per this December 2, 2020 meeting motion infra.

- There is an examination/test of the existing on-lot sanitary sewage system to assure that the system will meet the expected demand

After re-reviewing those conditions, Commissioner Chair Amori proposed four additional conditions that either modified or added further conditions as follows:

- A patient's stay cannot exceed sixty (60) consecutive days; and,
- There be perimeter fencing with 24/7 security; and,
- On-site treatment must be by licensed professionals who will staff the facility 24/7; and,
- All treatment must be in-patient and no out-patient treatment.

Attorney James Fareri (obo the Objectors) suggested that there be an addiction component to the treatment so that the facility does not become a mental health treatment facility.

Other conditions were briefly discussed as to the number of parking spaces, the number of employees, landscaping, buffers, the nature and type of supervision and monitoring of patients. The Solicitor mentioned that Middle Smithfield Township addressed a similar facility with a very similar fact pattern and granted a conditional use to that facility with several conditions that may be instructive in this case⁵. Commissioner Albert questioned access to the site via Mountain Road and/or the existing driveway. Attorney Andrew Wolf (obo the Applicant) also addressed the road issue and characterized it as an "orphan road" in the Township. Based upon this discussion, Commissioner Chair Amori suggested fifth condition as follows:

- The Township and the Applicant enter into a agreement to release the Township from any liability for maintenance and/or use of Mountain Road

Commissioner Schryver asked whether it is necessary to address future expansion of the facility.

Attorney Peter Layman wanted to introduce into the meeting record a October 8, 2020 Warning Letter from the PA Department of Drug & Alcohol Programs purportedly stating that there is an operating "unlicensed substance abuse disorder treatment facility located at 288 Mountain Road, Delaware Water Gap, Pa 18327". Commissioner Albert stated that that letter may pertain to a zoning issue but is not relevant to a conditional use approval.

Attorney Fareri asked for conditions confirming that it is not the intent to have violent sex-based offenders at the facility, that no court-ordered individuals be admitted to the facility, that the security fencing surrounds the entire property as neighbors were concerned with people leaving the site⁶. He also suggested that patients cannot leave the site without a facility staff

⁵ See Conditional Use Application of JL and Associates Stroudsburg, LP dated May 1, 2012 where there was an conditional use application to convert the existing Hillside Inn Resort Facility into an in-patient substance abuse treatment facility.

⁶ Based upon this suggestion, Commissioner Amori made a motion (which was seconded by Commissioner D. Schryver and on a vote of 5-0) to add language to the prior November 2019 conditions noted above. See fn 3-4 supra.

member. If the patient leaves without a staff member, then he would want the Delaware Water Gap Police Department to be notified.

Some community members also spoke including Walter Conway, Attorney Marshall Anders and Coach Dowd. Mr. Conway stated that he was the Mayor of Delaware Water Gap from 2000-2012; and, he agrees with police notification of someone leaves the facility. Attorney Anders suggested that if a patient leaves the facility without staff member and commits a crime that the facility's conditional use should be revoked. Coach Dowd wanted to re-visit his public comments and a "number of conditions for the project". However, Commissioner Chair Amori stated that such comment would be repetitive and/or duplicative of his several prior comments at other meetings and hearings on the exact same issue so that such comments were not allowed.

After an hour and five minutes and on motion by Commissioner Chair Amori and seconded by Commissioner D. Schryver with a vote of 5-0, the Commission voted to recommend approval of the conditional use but with the November 6, 2019 conditions (as modified-see fn. 3 and 4) and the further conditions as outlined in these minutes.⁷

Thereupon and on motion to amend by Commissioner Albert and seconded by Commissioner Schryver and on vote of 4-1 (Amori-nay) an additional condition was adopted as follows:

- If a patient wants to leave the facility but does not have transportation, the facility is required to arrange and/or provide transportation for that patient to the nearest available public transportation depot.

8. New Business: None

9. Public Comment: See above.

10. Adjournment:

There being no other business coming before the Commission and on motion by Commissioner Chair S. Amori, seconded by D. Schryver and on a unanimous vote of 5-0, the meeting was adjourned at 4:10 p.m.

Karasek Law Offices, LLC

By: 

Ronald J. Karasek, Esquire

PA I.D. No. 28233

Solicitor to Smithfield Township

⁷ All conditions can be easily found in these minutes by the referenced bullet-points.