

Board of Supervisors Meeting Minutes
Monday, December 17, 2018, 6:30 P.M.

Attendance: Supervisors - Ricki Stumpo, Elaine DiMonte, Alice J. Balsama; Mark Knightly, Public Works Director; Amanda Sundquist, Township Solicitor; Craig Kologie, Township Zoning Official.

Public in Attendance: 44

1. **Call to Order and Pledge of Allegiance:** Stumpo called the meeting to order at 6:30 p.m.
2. **Sunshine Announcements:** On December 14th the Board met with GKO Architects regarding the feasibility study and with a representative of East Penn Railroad regarding recent concerns.
3. **Announcements:** no announcements.
4. **Public Comment on Non-Agenda Items:** Terry Gumpper asked if the Township was in receipt of the monthly state police uniform crime report. Corporal James Wisnieski of the Avondale Station was in attendance and noted that the report is sent monthly. Board acknowledged that Gumpper may submit a Right-to-Know Request to the Township to request the report.
5. **Work Session:** the December 11th work session was cancelled.
6. **"Castle Bam" Event (Event) December 13, 2018:** Stumpo read a statement with the specific actions taken by the Township when the Township became aware of the December 13th Event, including but not limited to Code Officials reviewing and observing the activity, directing the Solicitor to collect information and review existing court orders, and continual contact with the State Police at the Avondale Station. Stumpo noted that the Township will begin work on a special event ordinance to address what may be increased activity at the property going forward including a New Year's Eve party, Airbnb activity, and use of the property as a wedding destination. Board agreed to authorize the Solicitor to proceed with drafting the special events ordinance and to schedule a special meeting for December 26, 2018 for its adoption. Balsama noted that this is a narrow opportunity to pass legislation given the legal advertising requirements. Sundquist noted that court orders from a decade ago will be reviewed to identify potential violations given that reports indicate that food and alcohol were sold during the Event and that an admission charge was collected at the gate. Sundquist commented that with regard to the Airbnb reports, there will be a ruling from the PA Supreme Court in the coming days on an Airbnb case that should give municipalities better guidance on what can be regulated and what type of ordinance can be enacted. Code Official Craig Kologie reported that he was made aware of the event via contact with the Township as well as via an Instagram account. A letter was sent to the address of record and posted at the site as notification to obtain a demolition permit for the skateboard ramp. Bam Margera's manager invited Codes personnel onto the property to observe construction activity that was taking place within the pole barn building which was not subject to the court order or building code. Corporal Wisnieski provided the following information regarding State Police activity in advance of the Event and as it progressed: a command post was set up at Hickory Hill and Locust Grove Roads; resources such as a helicopter,

personnel (troopers, undercover and criminal investigators) were dispatched and overtime approved; multiple cars were towed by 4 or 5 towing companies; arrests were made for a number of violations. Corporal Wisnieski noted misinformation with regard to towing. He stated that if a vehicle is clearly parked on private property (all four wheels on private property), the landowner has the right to call a tow company and have a vehicle towed and the owner of the vehicle will be responsible for the cost to tow the vehicle and store it. Balsama noted that the Township does not have criteria as to any particular towing company. Corporal Wisnieski offered that landowners may choose to contact the Margera family as the State Police were aware that Bam Margera's father was assessing damage to private property. PUBLIC COMMENT:

- a. Suzy Breiseth personally thanked the Board for their efforts and the attendees offered a round of applause for the Board and the State Police.
- b. Georgia F. Brutscher asked who is paying for the police coverage and commented that she did not want to see taxpayer money spent on behalf of the Event. DiMonte noted that Margera has been a resident since 2004 and inquired as to considerations made by Brutscher and previous Board members regarding legislating events. Brutscher and Nancy Ercolani responded that previous concerns at the Margera property were addressed via court decisions specifically with regard to filming. Their recollection included Margera busing guests to the site from the Walmart parking lot rather than inviting people to park on the property. Brutscher suggested that the special events ordinance include permitting provisions and that the permit fee be such to cover enforcement and damages. By example, she noted that cars were blocking the FAA driveway on the Baily farm, emergency service vehicles could not access the roads in the event of an emergency, and a cow on the Baily farm died because equipment to save the animal could not get through.
- c. Alexander Venit commented that a car was towed from the backside of his property by a private tow company and that numerous cars were parked along the road creating an obstruction.
- d. Tom Pancoast voiced concern that a special events ordinance written to control parking, traffic, and limit the number of people who can attend a party or an event will hurt residents who desire to hold private parties and weddings on their property. He is concerned that the ordinance written for one person will have an overall negative effect on the community. Pancoast expressed that too often municipalities pass one-sided ordinances that favor one concern over another. He suggested that it has been his experience that the Margera family be contacted regarding repairs to private property. Corporal Wisnieski clarified parking is permitted on private property and that sometimes the best measure is to informally notify your neighbors, the Township, and the State Police that you will be having an event.
- e. Nancy Ercolani commented that the Instagram postings indicate that pro skateboarders will be attending the New Year's Eve party. She also noted that the wedding bookings are through next year. Sundquist responded that the Township Planning Commission will look at the special events ordinance following passage and it may be that the use of the property as a wedding venue brings to light a commercial application for which there are no approvals.
- f. Richard and Maryann Schaftlein commented that buses for the Unionville Chadds Ford School District could not access the bus routes. Public Works Department was recognized for the great job they did in communicating with the school district under the circumstances. The Schaftleins indicated extensive damage to their property from parked cars as well as numerous instances of trespassing.
- g. Ethan Swartz recently moved to the area and commented that he was shocked to see this type of activity which he did not think was typical for the Township. He expressed concern for the safety of his family given the reports of the sale of alcohol and the sheer number of people walking on the road. He asked if the Township would ascribe

a penalty that will make such events prohibitive in the future. Balsama noted that the activity is not typical for the Township and that with guidance from the Solicitor the Township has an opportunity to legislate events going forward. Sundquist and Kologie clarified that while the magistrate sets the penalty, there are maximum dollar amounts that are allowed.

- h. Mary Beth Drobish commented that she hired private security given the crowds of people that were swarming the area. She offered that the special events ordinance speak directly to parking concerns and constraints. Balsama noted Margera did not approach the Township in advance as to the extent of the event. Had he extended such a courtesy, issues such as security and parking could have been addressed.

Board thanked all for attending the meeting and offering their public comment.

Sundquist asked the community to keep in touch with the Township with regard to social media postings, observations, and news articles that indicate activity on the property.

Documentation is needed in order to identify activities that are commercial in nature or in violation of previous court orders. The Township is not drafting an ordinance specific to this Event. The purpose of the ordinance is to identify options that may be available to address the health and safety issues and damages to the community-at-large that result from events that require security, parking, and other such controls. Residents are invited to check the Township web site and the legal advertising section of the newspaper of general circulation for information on the December 26th special meeting.

7. Zoning Hearing Board Applications:

- a. Chetty Builders of DE LLC ("Chetty Builders") 604 West Creek Road, Tax Parcel 63-4-91.3 - the following individuals appeared before the Board to discuss the Application: John A. Jaros, Attorney for the Applicant; James Fritsch, P.E., Engineer for the Applicant; and Applicant Carl Chetty. Jaros indicated that a hearing is scheduled for January 3, 2019 and described the property as an elongated 2.5 acre parcel with environmental constraints located on West Creek Road in the RA District. He noted that substantial zoning relief is requested. Chetty Builders purchased the property to develop it for the construction of a single-family home of approximately 2400 square feet to be located in approximately the same location as an existing cabin. Jaros stated that the matter has been before the Planning Commission and that the Board is in receipt of their recommendation dated December 10, 2018. DISCUSSION: Fritsch presented the proposed engineering plan to remove the existing cabin and install a driveway over the existing stone driveway that is located off of West Creek Road. He explained that previous access to the cabin was by way of neighboring properties which were part of the parent parcel and subdivision from 1977. Legal descriptions and easements associated with the parent parcel for such access do not exist. The access is no longer utilized. Applicant recognizes that the hillside site is narrow. The tie-in to the existing driveway from West Creek Road is the best available site for construction of the dwelling. The dwelling will be served by on-site septic and water. Kologie noted that the plan seems to show a setback closer to West Creek Road that could accommodate a dwelling. Fritsch responded that the plan as proposed is a reasonable representation for the location of the dwelling based on recognition of the site as an approved buildable lot in accordance with subdivision plans recorded in the 1970s. Stumpo voiced concern that the length of the driveway may create accessibility issues for emergency response vehicles. Jaros noted that the Applicant will address this issue during the building permit review process. Balsama noted appreciation from an engineering standpoint that the Applicant proposes to protect and preserve the environmental features; however, the zoning relief requested is quite substantial and presents a number of challenges. Jaros indicated that the Applicant is looking to use the lot in a reasonable manner and that if the Board finds that the use of the lot for a dwelling is unreasonable then basically there is a consideration of condemnation of

the property. PUBLIC COMMENT: Lynn and Phil Stephens described the location of their property in relation to 604 West Creek Road. They commented that the photographs presented during the Planning Commission meeting and provided to the Board show the destruction and damage caused by Chetty Builders when they began to grade the site without permits approximately 3 years ago. They noted significant damage to their barn, paddocks, and property, as well as incidents of trespassing by personnel from Chetty Builders who were informed that they could not access the site via the Stephens' property. Generally, there has been a lack of courtesy on the part of Chetty Builders in communicating how they intend to operate on the site. Mr. and Mrs. Stephens commented that their property has been damaged by runoff as a result of Chetty Builders removing the trees and vegetation. They presented the number of measures they have had to take to try to remediate the environmental impairment created by Chetty Builders. Mr. Stephens commented that to his knowledge, the existing cabin is approximately 700 square feet, rat infested, and abandoned as it was once used as sleeping quarters for railroad employees. Fritsch responded that the proposed plan includes measures for stabilization and to manage the stormwater runoff. Equally important, he noted that measures would be in place to control sediment and erosion during development of the lot. Brenda Tilley Glisson asked if the Board would consider condemning the property. Sundquist provided a brief legal interpretation of condemnation in as much as there would be a transfer to the Township if the Board opposes the Application, and there would be consideration and relief due the Applicant. Jerry Kreider commented that his son owns property in proximity to the proposed driveway and that it is possible that his son would discuss granting an easement. Mr. Chetty apologized for the difficulties the landowners have experienced and assured those present that the proposed plan includes engineered measures to remediate and resolve stormwater runoff concerns. The removal of trees was required to access the property but every effort will be made to work on restoring natural features in accordance with the Township Code. At 8:22 p.m., upon motion made and carried, the Board convened an Executive Session with the Township Solicitor. At 8:40 p.m. upon motion made, the public meeting was reconvened. MOTION: DiMonte moved, Balsama seconded, to oppose the Zoning Hearing Board Application of Chetty Builders of DE, LLC ("Applicant") as proposed. However, the Board of Supervisors understands that the Pocopson Township Zoning Hearing Board is the determining body on this Application, and should the Zoning Hearing Board find it appropriate to grant the requested relief, request that it condition the relief on the following: (1) stormwater facilities and best management practices are put in place such that all stormwater is captured on site, including the existing stormwater runoff originating from the prior clear cutting of the natural features by the Applicant; (2) if the installed stormwater features are ineffective, the Applicant will add additional features at the direction of the Township Engineer; (3) the Applicant install visual buffers on the property to screen the neighboring properties; and (4) that ambulance and emergency service companies can access the site via the proposed driveway; motion unanimously approved.

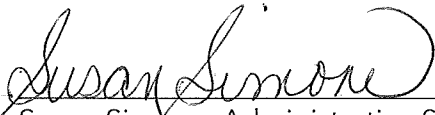
- b. Keith and Linda Mock, 5 Bragg Hill Road, Tax Parcel 63-1-8.2 - David Damon, P.E. and Keith and Linda Mock appeared before the Board to discuss the Application for relief to construct a two-story single-family dwelling, driveway and outbuildings. Damon noted that the Board is in receipt of the recommendation of the Planning Commission to support approval of the Application provided the Township Engineer has no objection that the proposed improvements will not negatively impact the neighboring properties. Damon noted that the Applicants were denied a PennDOT Highway Occupancy Permit to design a driveway via access from Route 842 (Unionville Wawaset Road) due to sight distances and data collected during a speed study. In addition, the Applicants were not successful in acquiring an easement from other

landowners. Driveway access via Bragg Hill Road is the only option. Damon reviewed the site plan noting the percentages of steep slopes, wooded areas, and the area of natural features restored with the assistance of the Brandywine Conservancy in accordance with the conservation easement. He pointed out elements on the plan that will capture runoff and drywells for overflow which will be piped directly to the remediated wetland area. Best management practices are incorporated in the plan to eliminate erosion discharge. Mr. Mock offered to discuss an architectural rendering/elevation of the dwelling. The Board declined to discuss but offered that the renderings may be of interest to the zoning hearing board during the January 8, 2019 hearing. MOTION: Balsama moved, DiMonte seconded, to recommend support for the Application provided the Township Engineer confirms that the proposed improvements to the Property can be constructed without adverse impacts on neighboring properties, road, or the environment; motion unanimously approved. PUBLIC COMMENT: Charlie Benzel noted that the Declaration of Covenants and Restrictions for the parcel sets forth the building materials that are permitted. Board agreed that building materials are not relevant to the relief requested from various sections of the Zoning Chapter, limits of disturbance, or the construction of the driveway.

8. **Agricultural Easement Denenno Property:** Sundquist reported that Attorney George Elser would not be in attendance this evening. Board reviewed a summary of the County Agricultural Easement Program Regulations for the Denenno Property. Elser seeks a process to simultaneously put the County easement on the property while removing the Township easement. Sundquist explained that the County restrictions are more substantial than the Township restrictions as the County substantially limits development in the future. The current deed restriction for 30 acres permits subdivision into 2 lots that comply with the Township Ordinances. The County Easement would include 30 acres plus 12 additional acres for a proposed 42 acres that would require multiple approvals from County agencies and compliance with state agricultural regulations in order to subdivide. The request is not contingent upon financial support from the Township although Mr. Elser's letter includes an ask for financial participation. There is an acknowledgement that the Township has declined financial support in the past. Mr. Elser seeks approval at this time to accommodate the County request to move forward with acquiring the easement as funding for the transaction could be available in early February 2019. MOTION: Balsama moved, DiMonte seconded, to agree, (1) subject to Solicitor's review of the required documentation, to remove the Township's 1990 deed restriction on the Denenno Property if and when the County Agricultural Easement is put in place, conditioned on the County Easement containing development and subdivision restrictions no less restrictive than the existing deed restrictions and Mr. Denenno reimbursing the Township for costs incurred in facilitation of the removal; and (2) subject to Solicitor's review entering into a letter agreement memorializing an agreement regarding the deed restriction and easement; motion unanimously approved. At 9:01 p.m. the Solicitor requested to be excused. Board granted the request.
9. **Planning Commission (PC) Report December 5, 2018:** Board reviewed the report submitted for the November 7th and December 5th PC meetings. MOTION: Stumpo moved, Balsama seconded, to authorize submitting to the Solicitor for review and adoption, the following ordinance amendments recommended by the PC: Chapters 190 and 250 roadways/road classifications and Chapter 78 Fireworks; motion unanimously approved.
10. **Zoning Official Report:** no report submitted.
11. **Public Works Report:** no report submitted. Knightly commented that the department spent approximately 3 hours in clean-up during the December 13th Castle Barn Event. Once towing operations commenced the department exited the area. Board and public

in attendance suggested that an invoice be sent to Margera requesting he reimburse the Township for the clean-up.

12. **Facilities:** no report submitted.
13. **Kennett Fire & EMS Regional Commission Report:** no report submitted.
14. **New Business:** no new business submitted.
15. **Old Business:** no old business submitted.
16. **Correspondence:** no correspondence.
17. **Treasurer's Warrants:** Stumpo moved, Balsama seconded to approve the Bill Payment Lists for November 27 - December 17, 2018, recommended for payment by the Treasurer; General Fund: 34 bills paid totaling \$22,161.89; 13 debit card charges totaling \$1,609.41; Highway Aid: 4 bills totaling \$717.33; Parks, Rec & Trails: 1 bill for \$12.57; motion unanimously approved.
18. **Approval of Meeting Minutes:** Stumpo moved, Balsama seconded, to approve the Meeting Minutes for November 26, 2018 as submitted; motion unanimously approved.
19. **Adjournment:** At 9:20 p.m., Balsama moved, DiMonte seconded, to adjourn the meeting; motion unanimously approved.



Susan Simone, Administrative Secretary



Ricki Stumpo, Chairman