

**MINUTES OF THE BOARD OF SUPERVISORS OF
KENNETT TOWNSHIP
801 Burrows Run Road
Chadds Ford, PA 19317**

April 3, 2019

Stevens called the meeting to order at 7:00 p.m.

Present: Chairman, Scudder G. Stevens
 Vice-Chair, Dr. Richard Leff
 Supervisor, Whitney S. Hoffman
 Township Manager, Lisa Moore
 Solicitor, Dave Sander
 Chief of Police, Lydell Nolt
 Building and Codes Enforcement, Rich Hicks
 Zoning Officer, Diane Hicks
 Township Engineer, Stan Corbett

MINUTES

Hoffman made a motion to adopt the minutes from the March 20, 2019 meeting. Leff seconded the motion. Motion passes unanimously.

OLD BUSINESS

Hillingham/Stephens Gardens

Moore provided an overview of the Stephens gardens property condition issues. Moore noted that after the last meeting, the Building Code officer and Township Engineer did a follow up site visit and then had a follow up conference call with the Township solicitor.

Sander discussed the options the Township has to deal with the issues noting that the engineer and codes officer found there is nothing on the property that is in imminent danger of collapse or that makes the house on the property uninhabitable, and thus condemnation under the Property Maintenance Code would not be possible. Even if there were grounds for condemnation, if the property was condemned, it would be placarded and no one, including potential purchasers, would be able to access the property except to clean it up, and that would be unlikely in the event of a condemnation. Sander also stated that he is in agreeance with the Township Engineer, Zoning officer and Codes Enforcer that The Township has no grounds to enter the property and clean it up absent some tangible threat to public health and would likely spend unrecoverable money to perform such a clean-up.

Sander noted that he spoke with Kent Dahl of Huntingdon National Asset Management which advised him that his company began foreclosure proceedings against the property in 2017 and obtained a default judgment against the four individual owners of the property. The day before the scheduled sheriffs' sale in late 2018, Pam Schlett filed Chapter 13 bankruptcy.

Sander noted that the debts exceed the value of the property. The mortgage holder will ultimately get paid because they are owed \$350,000 on the mortgage and the property will sell, in some manner, for more than that. However, there are over \$1 Million in proofs of claim that have been filed consisting of additional liens, taxes, and other debt, much of which will not get paid.

Sander commented that the good news is that there is a Bankruptcy Court Order in effect requiring the property to be under agreement of sale by May 6, 2019 and requiring closing to be held by August 6, 2019 and there is a Sheriffs' sale scheduled for April 18, 2019, but that will only happen if the bankruptcy case is dismissed as a result of an April 10 conference with the bankruptcy trustee, and that is unlikely. Sander reported that Dahl advised him that if the property is not under contract on May 6, his company will be in bankruptcy court on May 7 seeking relief to proceed with a Sheriffs' sale in May or June. Sander noted that Peter Schlett could always file bankruptcy on the eve of the Sheriffs' sale and thwart the sale. Sander noted that Dahl is optimistic that clean-up of the property will occur in 2019, whether it be by his company working with the Schletts to clean it to make it more attractive for sale, or by a purchaser.

Sander presented the Board of Supervisors with options; the Townships can wait to see what happens with the bankruptcy case, or it can opt to take action against the property owners. If the Township wishes to take enforcement action, no formal motion of the BOS is required as the zoning and code enforcement officers will merely begin enforcement of the applicable codes and ordinances. Hopefully by the time we get to court on the enforcement matters, the property will be cleaned up by the mortgage company or a purchaser.

Hoffman asked what position the Township would be in if the Township continues to fine the property owner. Sander replied noting the position that the Township would be in with all of the other judgements.

A Hillingham resident asked if the Township has ever entertained the purchase of this property.

Sander asked if there was an offer of \$600k that was rejected and the Township does not and never had a plan to purchase the property.

Marylyn Monahan commented that she does not understand why the property cannot be condemned. Sander replied noting the reasons a property can be condemned noting that the law does not provide reasons for open property, only structures such as safety issues.

Stevens noted that the bankruptcy situation complicates the process. Discussions regarding the process ensued.

A Hillingham resident asked if there is another offer on the table, Sander responded that there are none that he is aware of.

Stevens noted that he feels that the Township should start a formal process to give the property owners notice of violation and if unresolved, continue with local court filing noting that the Township could start this now or on May 7th.

Hoffman commented that she wants to ensure that things get taken care of and feels that the Township needs to wait until the May date to see what happens noting that she does not want to put so many liens on the property that it would prohibit a future sale.

Leff asked why not proceed with enforcing the individual's owners at this time noting that he feels that quicker the better. Discussion ensued.

Hoffman made a motion to have the zoning and codes officers to proceed with the Enforcement of the Zoning Ordinance and property maintenance code as well as other applicable codes and ordinances against the Stephens Gardens property owners individually. Leff seconded the motion.

Motion passes unanimously.

Stevens noted that it does not seem to be any effective remedies and need to look at the codes, rules and regulations to tighten them up to give more effective options in the future and asked Sander to assist with doing this. Sander responded that he will work with the Township to review the property maintenance code.

Stevens commented that he thanks the Hillingham homeowners for coming to the meeting and bringing the extent of the issues to the Board of Supervisors attention noting that he was not aware the extent of the issues and thought they were being taken care of. Stevens noted that the Board is committed to resolving these issues.

Rich Hicks commented that whoever dismantled the greenhouses in the last month created more of a mess than the property was in noting that the property owners had been complying with the orders of the initial citation.

NEW BUSINESS

EAC-Conditional Use Discussion

Matt Sabo presented an overview of the EAC's request to find a mean to ensure that during a conditional use process, the plan that is submitted to the Planning Commission is the same plan that is being presented during the conditional use hearing.

Sander commented and read his comments from an email that was sent to the EAC. Sander commented that there is not a need to revise the zoning ordinance and suggested that if Township Staff receives a revised plan after the original plan has been reviewed by the reviewing bodies the plans should be screened to determine what revisions were made. If revisions were made to comply with recommending bodies or professionals comments, then the Board of Supervisors should be advised about the revisions and the Conditional Use proceedings be allowed to continue. If the revisions involve substantive changes like the removal of curb or sidewalks where those improvements are desired, the plans should be sent back to the reviewing bodies for another review.

Sander commented on the timing requirements of the Municipal Planning Code and how those requirements effect the process. Sander noted that if there is substantive changes to the plan during the conditional use hearing, it can be (and has to be) sent back to the Planning Commission for review as the MPC notes that the plan must be reviewed by the Planning Commission.

Sander and Sabo noted that they are both in agreeance with the process.

Hoffman made a motion to have Township Staff review any revised plans filed during any Conditional Use hearings and flag any substantive revisions that should be reviewed by the Planning Commission. Leff seconded the motion.

Discussion:

Leff asked what happens when a changes is made during the hearing from a suggestion from one of the parties of the hearing. Sander noted that he feels that it should be flagged by the staff and brought to the Board of Supervisors attention.

Leff asked if the hearing can continue with testimony while the PC is reviewing. Sander responded that it depends on what the testimony is and decided on a case by case basis.

Leff asked if the final decision to go back to the PC would be by the staff or the Board of Supervisors. Sanders replied that he suggests the staff to make that decision.

Diane Hicks commented that all plans and revisions are also reviewed by the Township engineer.

Richard Stat asked if the Township requires revisions are marked/highlighted with a number and description by the applicant so it is not difficult to notice the changes. Stan Corbett noted that it is something that can be added to the Township procedures for applicants and noted that it does not need to be codified. Moore thanked Stat for his suggestion noting that the Township will implement this into its procedures.

Motion passes unanimously.

551 Hillendale Road-Sewage Facilities Planning Module

Moore presented proposed Resolution 2019-14, a resolution for plan revision for a new treatment facility per the sewer planning module for 551 Hillendale road.

Hoffman made a motion to adopt Resolution 2019-14 to approve the Sewer Planning Module for 551 Hillendale Road. Leff seconded the motion.

Discussion:

Leff asked if there is any cost to the Township, Moore responded no.

Motion passes unanimously.

Stonehouse driveway grade level waiver

Moore presented a waiver request from Bentley Homes from Section 206-505.D of the Subdivision and Land Development Ordinance on behalf of the Stonehouse project developer. A maximum 10% driveway slope is proposed in lieu of the 5% maximum slope for the first twelve (12) feet of a driveway as required by the Ordinance. Moore noted that this waiver request has been reviewed by the Township engineer and a similar request was approved for the Sinclair Springs application.

Leff made a motion to approve a driveway grade level waiver for the Stonehouse application. Hoffman seconded the motion.

Discussion:

The Board of Supervisors, Township Engineer and Scott Emerson of Bentley homes discussed the grades. Leff suggested that the Township staff look at this particular code to see if it makes sense to make any changes.

Motion passes unanimously.

Whittle Trail grant application-Resolution

Moore presented proposed Resolution 2019-13 which would allow the Township to apply for a grant to install the Whittle trail which would be part of the greenway. Moore noted that the grant requires a 50/50 match which is about \$44k.

Hoffman made a motion to adopt Resolution 2019-13 to approve the submittal of a grant application for funding to install the Whittle trail. Leff seconded the motion.

Discussion:

Leff asked who the grant is offered by. Moore responded DCNR.

Motion passes unanimously.

PUBLIC COMMENT

None.

ADJOURNMENT

Hoffman made motion to adjourn. Leff seconded the motion.

Motion carried unanimously.

The meeting adjourned at 8:35 p.m.

Respectfully submitted,
Michael O'Brien
Recording Secretary