

BUFFALO TOWNSHIP PLANNING COMMISSION

REGULAR MONTHLY MEETING

FEBRUARY 7, 2018

The Regular Monthly Meeting of the Buffalo Township Planning Commission was called to order on February 7, 2018, at 7:30 p.m. in the Township Municipal Building by the Vice-Chairman Chris Foust. This Meeting is being recorded. If anyone is taping this Meeting, please state your name and address.

The following members were present at this evening's Meeting: Chris Foust, Sue Gregory, Tim Gottus, Grant McConnell, Amy Trulik, Atty. Joe Charlton, Ken Howard, and Roger Kelly. Absent were Ray Smetana, who called, and Donna Davis.

APPROVAL OF THE MINUTES

On motion of Grant McConnell, seconded by Amy Trulik, to approve the minutes of the January 3, 2018, Regular Monthly Meeting of the Buffalo Township Planning Commission as recorded. Motion Carried. Un. Approval.

TWIN OAKS PRD #1 – MODIFICATION REQUEST

A letter dated January 17, 2018, was received from Steven Victor, Victor-Wetzel Associates which states "by this letter and attached application, we are requesting an Amendment to the Grant of Tentative Approval and Conditional Use for the Twin Oaks PRD #1, so as to revise the side yard setback from 10' to 9'. The PRD requirements in the Buffalo Township Zoning Ordinance do not specify a dimension for the side yard setback. As part of the Twin Oaks PRD #1 approval, we established a side yard setback of 10'. By this request, we are proposing to reduce the side yard setback by 1', thereby creating a new side yard setback of 9'. It is our expectation that in order to make this Amendment request, we will need to present this request to the Planning Commission, followed by a Public Hearing by the Board of Supervisors. As there will not be any changes to the design, layout and engineering required for this Amendment, we have not submitted any plans as part of this request." The township office received a letter from the Township Engineer dated February 7, 2018.

Steven Victor stated on November 10, 2016, the Buffalo Township Board of Supervisors granted tentative approval to the Twin Oaks PRD. In that approval was an approval of the plan itself. That plan had specified the side yard setbacks would be 10 feet. We are working with Ryan Homes to be the builder. We asked what is the biggest house that you will build, and the answer was 40 feet. A few weeks ago they told us yes it is 40 feet; but if you put brick or stone on the outside of the house it is going to grow by another 4 inches on both sides. At that point we said we need to do something to correct the situation. The obvious but incorrect answer to that is let's go to the Zoning Hearing Board. We did not take that path after discussions with our Attorney and he spoke with the Township Solicitor and he agreed. The reason for that is when you ask for a variance you are asking to correct a hardship. We are asking for an amendment that would affect 99 lots in the plan. Atty. Charlton stated it can't be

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self created. Steven Victor stated what the appropriate path for this is one that I have done several times and I know our Attorney has done several times for various projects. That is when granted tentative approval there are certain rules and specifications and sometimes there is a change in the market or a change in other conditions and you just go back and ask for an amendment, modification to that original approval that was granted. In this particular case we want to change the side yard setback from 10 feet to 9 feet. We think that this is not only appropriate but the PRD Ordinance specifically says it is appropriate for the township to consider and maybe act on that modification. There is a subtle difference here but it gets you the same thing. I will use the word modification—the change in the conditions for a PRD. That is a modification that is granted by the Supervisors. A variance which does exactly the same thing can only be granted by the Zoning Hearing Board. We can't go to the Zoning Hearing Board. Is a variance and modification the same thing—absolutely but they are granted by two different boards. We are here so we are talking about a modification. In your PRD Ordinance, Section 530.3, it specifically has an area for modification. He read Section 530.3. I think the question is does the municipality have the right to make modifications. The answer is yes we have the right to come back and ask you to consider these changes or modifications. We would follow the same process that we did on the original application which is we come before you for a recommendation as a Board followed by a public hearing. We are hoping by your making a recommendation this evening it would allow us to schedule a public hearing. The question is relatively simple. You have no standards for side yard setbacks in your PRD. You do have a base standard of building separation of 20 feet. That is what we are asking for as a modification. We want to reduce the building separation. We would ask for the 9 foot side yard for all of the lines. Not all of the buildings will be 40 feet wide. Some of the homes maybe 36, some maybe 38, some will be 40. We are asking for it to be uniform on all of the lots. That is necessary because we don't know which lot somebody is going to come in and purchase the 36, 38, or 40. This specifically applies to the 40. We are requesting a standard that applies uniformly. In your Engineer's letter he made a comment that it was a common practice to have a 10' side yard. I would disagree with that. The standards are anywhere from 5 to 7 ½ or 10. Ten is not the minimum that you would find in PRD's.

Atty. Joe Charlton stated there is a modification procedure as he said within the PRD Section of our Zoning Ordinance. In Section 517.4 it does state a 20 foot side yard. That is what is in our Code. One of the standards that you have to consider in regard to the use and the location of the building or structure whether or not this modification favors the township. It is a judgment call on your part on whether allowing closer than 20' would favor the township. Ken Howard can give his opinion on that. You have two options. After you consider that, you could table this which is not a viable option. Option number two is that you send this on with a recommendation of approval that the Supervisors grant the modification request and conduct the public hearing. The third option is send this on with the recommendation of disapproval; but say the Supervisors conduct their public hearing and get other

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opinions on this. You are an Advisory Committee. You are not making a decision. All that you are doing is saying in our opinion this either favors the township or does not favor the township. If you have questions, now is the time to ask. I don't believe that this is a Zoning Hearing Board issue. This is the Supervisors either denying or granting the modification request for the PRD.

Ken Howard read the comments. Section 517 in the PRD Section is titled Yard and Building Requirements. No development shall be approved unless the following requirements for yards and buildings are met: 517.4 Space Between Buildings: Every structure shall be separated by not less than twenty (20) feet from any other structure on the site. The developer is asking for an amendment from the ten (10) feet side yard setback, as originally approved, to nine (9) feet to accommodate larger frontage dwellings. We would not support any deviation that reduces this setback requirement. The ten (10) feet side yard setback is a commonly accepted standard for many reasons including safety and emergency access. The developer may be able to construct larger dwellings by conforming to the ten (10) feet side yard setback and increasing the depth of the dwellings, or revising the Subdivision Plan so that the larger frontage dwellings conform to the ten (10) feet side yard setback. Under General Comments, we believe that the developer's request to amend the side yard setback from ten (10) feet to nine (9) feet would require a hearing by the Zoning Hearing Board and a Conditional Use Hearing to amend the previously approved Twin Oaks PRD Number 1 setbacks. I know that PRD's allow a developer to get waivers on certain requirements to reduce some things. When an Ordinance has a "shall statement" that wants 20 feet between buildings there is a good reason for that. You allow that 20 foot separation for emergency vehicles and for heights of structure. These are safety factors. Other portions of Section 517 I believe have been met.

Steven Victor stated your Attorney stated that this is not a matter for the Zoning Hearing Board; our Attorney agrees with that opinion. This is a matter for the Board of Supervisors. Section 530 which occurs after 517 says everything in this section can be modified. We still have the right to ask for it. I would ask you when was the last time you saw an emergency vehicle drive between two single family houses. I don't think having emergency vehicle access is a rational reason for 20 feet between structures. There are standards that are used elsewhere. I will be prepared to demonstrate all of the other communities that have standards less than 10 feet.

Amy Trulik stated I understand what you are saying. I am not hearing anything that makes me feel that this would be a favorable change for the township. For that reason I would have to pass this on to the Supervisors with a recommendation for disapproval. Grant McConnell commented about prior planning with Ryan Homes. Ken Howard stated that lot sizes is an option for them as well. A new public hearing for lot sizes would be something that we could support. Steven Victor stated we would not need another public hearing for that. Tentative approval grants us the right for 99 lots. If we changed the lot sizes, we could reduce the number of lots. For us to come in and do a lot reduction will reduce

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the number of lots but doesn't change street pattern, stormwater, doesn't change the loss of I don't know how many lots; but it would be several lots in the plan. It would just be walking back in with an amended plan saying this is what we are going to do. The hardship will be the loss of lots; we are also going to have to spend thousands of dollars and have the engineer recalculate and create a newly recorded plan and then file for the final plans procedures again and spending thousands more dollars for reviewing the plan, etc. so it is a hardship both economically and the expectations of the particular development that would change. You can see no benefit; but can you see no harm? I don't think you can find any harm with doing this and that is the reason it should be done. Amy Trulik stated I would suggest that the harm would be in obviously the setbacks were put in place for a reason like Ken said. Steven Victor asked what is the reason? Amy Trulik answered I don't know. Tim Gottus stated who knows what the reason could be. I agree with Grant that maybe this was just an oversight. Grant McConnell commented on the lots. Have we ever made an exception on this Ordinance in the past? Ken Howard answered not that I am aware of. In this type of situation I think there have been reductions by the Zoning Hearing Board but not in this type of situation (PRD). In other instances there were setbacks that were not met that were granted by the Zoning Hearing Board. Grant McConnell asked every other PRD in the township has conformed to this? Ken Howard answered as far as I know. Chris Foust stated the corner of my foundation got knocked off because it was two inches over. Sue Gregory asked are all of the lots that you have planned in you development the same size, is there a way to put a larger house on a larger lot? Tim Gottus stated when we built our house it was the same thing. Steven Victor answered there is some flexibility; there are some of the lots that are greater than 60 feet wide. That is workable there. If you have a pie shaped lot, we could just move the building back a few feet and now the lot is wide enough to accommodate that. But in areas where we have continuous parallel lots they are all set. Because of the CAD Systems that we use today, we design and measure things accurately. Chris Foust asked Atty. Charlton about the three options. Number one is to table it which isn't an option. Number two and three are to send it on to the Supervisors. Atty. Charlton stated you either send it on to the Supervisors to schedule a public hearing and your recommendation for approval or recommend they schedule a public hearing and your recommendation to not approve it. You are an Advisory Board. You can talk about it and then vote on it. Tim Gottus asked you referred to Section 530 is that common practice? Atty. Charlton answered there is a modification section in the PRD Section to allow provisions of the plan. Steven Victor stated if we change the lot sizes we won't be asking for a modification. It would be a matter of an amended recorded plan. That is not a path we wish to take because of time and money. Atty. Charlton stated you are going to send your recommendation and the Supervisors could have a completely opposite view. You could open it up for a motion.

On motion of Amy Trulik, seconded by Grant McConnell, to pass this on to the Board of Supervisors and not recommend granting the modification request. Motion Carried. Un. Approval.

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MUNICIPAL AUTHORITY OF BUFFALO TOWNSHIP - AGENCY COMPLIANCE LETTER REQUEST – WATERLINE EXTENSION

John Haven, Municipal Authority of Buffalo Township, read a letter which states the Municipal Authority of Buffalo Township, Butler County, proposes to extend public water service from the existing point of service, the intersection of Chesterfield Drive and Sarver Road/Route 228, to the intersection of Crescent Hill Road and Sarver Road/Route 228 West. In addition to residents along Sarver Road/Route 228, public water service would be extended for residents of the following areas: Sunny Lane, Kimberly Drive, Carol Drive, and Crescent Hill drive. Enclosed is a USGS topographic map showing the project area. We will be applying for grant funding for this work through the Small Water & Sewer Project program of the Pennsylvania Department of Community and Economic Development. As required for the application, a letter is needed from the appropriate planning agencies certifying that the proposed project is in compliance with the comprehensive land use plans. A response letter should be sent to Kristine's attention at the Municipal Authority. The deadline for submission of applications is February 28, 2018.

Atty. Charlton stated what you would be doing is making a motion to have Rhonda draft a letter stating that this is in compliance with the Comprehensive Plan. In my opinion, it is in compliance with the Comprehensive Plan. Ken Howard stated this is a common practice. We recommend that you send the letter; we support this.

On motion of Grant McConnell, seconded by Tim Gottus, to have Rhonda draft the appropriate letter to the Municipal Authority. Motion Carried. Un. Approval.

John Haven read a letter from the Butler County Conservation District concerning the stormwater drains in the Oaks Plan.

ADJOURNMENT

There being no further business, it was on motion of Grant McConnell, seconded by Sue Gregory, to adjourn this meeting. Motion Carried. Un. Approval. Adjournment at 8:10 p.m.

APPROVED:

VICE-CHAIRMAN

SECRETARY