

BUFFALO TOWNSHIP PLANNING COMMISSION – REGULAR MONTHLY MEETING – APRIL 3, 2019

The Regular Monthly Meeting of the Buffalo Township Planning Commission was held Wednesday, April 3, 2019 in the Buffalo Township Municipal Building and convened at 7:30 pm. The Meeting was called to order by the Chairman, Grant McConnell. This Meeting is being recorded. If anyone is taping this Meeting, please state your name and address.

Roll Call

Grant McConnell - Present
Chris Foust – Present
Sue Gregory – Present
Amy Trulik – Absent – emailed-working
Tim Gottus - Present
Joe Charlton – Absent – emailed-out of town
Brian Farrington - Present
Ken Howard - Present
Rick Healey – Present

A majority of the Planning Commission Board being present, the Chairman declared the Meeting open for the transaction of business.

APPROVAL OF THE MINUTES of the March 6, 2019 Regular Monthly Meeting of the Buffalo Township Planning Commission, as recorded, was on motion of Tim Gottus, seconded by Chris Foust. Motion Carried. Un. Approval.

LAND DEVELOPMENT

SHELLINGER SUBDIVISION – 539 SARVER ROAD

Louise Buzzard-Schellinger and Amos Schellinger are proposing to subdivide their property at 539 Sarver Road. This parcel of land is zoned R-1 Residential. They are proposing to subdivide parcel 040-1F75-A7A5 which is 3.529± acres into two (2) separate parcels of land. Lot 1 has an existing home with public water and public sewage and will be a total of .636± acres after conveyance. Proposed Lot 2 will be their future home site and will be 2.541± acres after conveyance and has access to public water and sewage.

The Township office has received the Subdivision Application, Subdivision Filing Fee, 5 copies of the plan, Butler County Planning Commission comments received 3/12/19: BCPC did not have any comments on this plan. Municipal Authority of Buffalo Township comments received 3/19/19: Public water & sewage exists to Lot 1 and is available to Lot 2; however, further field work would need completed to determine where the sewer tap could be dropped. The property owner is encouraged

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to contact the Authority office to discuss the project associated costs, and also to review the Authority's rules for service on their website. Bankson Engineer comments received 4/1/19: The Applicant shall label the dedicated Roadway right-of-way areas on the Plan Drawing. The Applicant shall revise the Township Board of Supervisors signature block so that it can be properly viewed and executed. The Applicant shall show the minimum lot area for the R-1 Single Family Residential Zoning District to be 7,200 sq. feet. The minimum lot area should be 20,000 sq. feet. Please revise the table to comply with the Ordinance.

Jon Doerr was in attendance and spoke on behalf of the Schellinger family and stated that there have been some revisions to the plan, just some minor verbiage changes. Ken Howard stated that all of the changes that were requested in our comment letter have been made and a revised copy of the plan has been received. We would suggest that approval be made of this subdivision plan as presented. Grant McConnell asked about a size issue that was stated in Bankson's comment letter? Ken Howard stated that has been taken care of.

On a motion of Chris Foust, seconded by Tim Gottus to make a favorable recommendation of the Schellinger Subdivision. Motion Carried. Un. Approval.

BOLLINGER/KELLEY PLAN – 141 SMITH ROAD & 704 SARVER ROAD – LOT LINE REVISION

Thomas & Tami Kelley of 141 Smith Road are proposing a Lot Line Revision to convey 5.972 acres, shown as tract "A", from Lot 101 to Lot 102. Lot 101 is 704 Sarver Road and was 8.906 acres and will be 14.878 acres after the conveyance. Lot 102 which is 141 Smith Road was 11.898 acres and will be 5.926 acres after conveyance. Both parcels have existing dwellings, well and on lot septic systems.

The Township office has received the Lot Line Fee, Lot Line Application and 7 copies of the Plan, Municipal Authority of Buffalo Township comments received 3/25/16: MABT does not have public water & sewage service within the vicinity of this project. Bankson Engineer comment letter received 4/1/19: The Applicant shall label the dedicated Roadway right-of-way along Sarver Road on the plan drawing. The Applicant shall revise the project narrative document to accurately summarize the subdivision plan.

Tom Kelley was in attendance regarding this lot line revision. Ken Howard stated that all of the changes that were requested in our comment letter have been made and a revised copy of the plan has been received. Grant McConnell asked about the Butler County Planning Commission comment letter and if the plan could be approved without this letter. Rhonda Swartz stated that the Butler County Planning Commission has their meeting the third Wednesday of the month. Ken Howard stated that this is a simple lot line revision and we would suggest that approval be made contingent upon receiving the Butler County Planning Commission comment letter and that the plan not be recorded until that letter is received. Tim Gottus asked about public water and sewer service. Ken Howard stated that they are not creating any new building lots, they are just moving the lot line.

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On a motion of Tim Gottus, seconded by Sue Gregory to make a favorable recommendation contingent upon receiving the Butler County Planning Commission comment letter and that the plan not be recorded until comment letter is received. Motion Carried. Un. Approval.

PROPOSED AMENDMENT TO THE A-2 ACCESS MANAGEMENT OVERLAY DISTRICT

The Board of Supervisors is requesting for review, comment and approval of proposing a General Amendment to the Buffalo Township Zoning Ordinance Section 605 Standards Specific to the R-1 and R-2 Residence Districts. It states in 605.1 Conditional Use Standards for the Conversion of Single-Family Dwellings to Other Uses: Single-family dwellings may, by conditional use, be converted to the following uses as defined by the Township Zoning Ordinance; professional office, apartment dwellings for up to two (2) families, public buildings, personal care homes, provided they meet specific standards as noted in Section 605. The proposed General Amendment to be added to the Zoning Ordinance would be for the addition of “Funeral Homes”.

Grant McConnell stated so we are just adding “Funeral Homes” to that definition in Section 605. This was brought up at the Supervisors Meeting last month and it seems like it is straight forward. Atty. Farrington stated that this needed to come back to the Planning Commission because it was just an over sight that it was not included in the original Zoning Ordinances. It is a fairly common practice so as long as you all feel that it is consistent with the spirit of what we are going for and making those Zoning Ordinances. Then I would recommend that it go back to the Supervisors with a favorable recommendation. The Planning Commission board agreed this should be added to the Zoning Ordinance.

On a motion of Chris Foust, seconded by Sue Gregory to make a favorable recommendation to add Funeral Homes as a General Amendment to the Zoning Ordinance in the A-2 Access Management Overlay District and suggest the Board of Supervisors approve to advertise and schedule a public hearing. Motion Carried. Un. Approval.

REMARKS FROM THE FLOOR

Brian Pomfret of 200 Brittany Run Lane stated he shares the same driveway with his neighbor and his neighbor contacted him stating that he is planning on having the lane paved and Mr. Pomfret will no longer be permitted to use the lane to gain access to his home from Howes Run Road. The neighbor has dug a trench at the end of Mr. Pomfrets driveway so he can no longer go in or out. At this time, he is parking at his mother in laws house who lives along Howes Run Road and walking through the field to his home, but my right of way is in the front of my house which runs into Brittany Run Lane. Grant McConnell asked so you have no access to your home. Luckily, we can park at my Mother in Laws and walk back to our house. Mr. Pomfret answered that is correct. Atty. Farrington stated that this is a private matter between you and your neighbor, or you will have to seek private counsel and take up with your neighbor. That is not something that the township can address

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because it is not a public issue. Mr. Pomfret stated that Brittany Run Lane never existed before we built there. The neighbor's house had a Howes Run Road address. The Douglas Family lived there prior to the current family and when we moved in it was changed to a private lane. Again, I do not have the deed, but I do know that part of it was on our property. I don't know if he will be moving it or not. Grant McConnell stated that once you have more than one dwelling onto a driveway then you have to give it a name for 911 purposes. Ken Howard stated that is correct. Ken Howard asked Mr. Pomfret to go back to his survey and deed to see if you have a legal easement that is recorded as part of your ownership and if there is a legal easement that should show up in your deed and on your survey if you have a survey. Atty. Farrington stated that I unfortunately can't give you more than that, but you have options you can explore but there is nothing that we can do. Tim Gottus asked if this is something that he could go and talk with his neighbor about? Mr. Pomfret answered that he will try to do that. Gary Risch asked if the GIS Mapping shows the right of ways. Atty. Farrington stated that it might show some but not all.

John Heigert, 166 Heck Road stated that he is currently installing a privacy fence between our neighbor at 168 Heck Road and ours at 166 Heck Road. We understand that currently the codes states that the fence in the back of the house can only be 6 feet high and in front of the house it can only be 4 feet high. We have followed that parameters. However, with the lay of the land is trained, he sits up on a higher hill than we do, a 6-foot fence equates to more like a 4-foot fence. We have also had numerous legal issues with this gentleman, our neighbor to include death threats and him meeting us out in the driveway with firearms threatening us. This is the reason we are putting the fence up is to put that barrier between our neighbor and us. They recently acquired a dog that has the same stamina and build as a pit bull. I have nothing against pit bulls because we rescue them. My feeling is that this dog can clear this 6-foot fence given it has got the advantage of the terrain. The other part we would like to address is the front yard. We would like to start with a step down going out to the road with a 4-foot fence. He showed the Board some pictures that he took with his phone. Grant McConnell stated that I think what you are looking at is a variance and I will give this to our legal counsel. Atty. Farrington stated that what you are looking for is a variance in the ordinance specifically 406.2. Which requires that the fence be under 6 feet in the back and under 4 feet in the front. The problem is this is the Planning Commission and they are not in the position to grant variances as to the height of that. So, where you would need to take this if you feel the need to have this be greater than 6 foot in the back and greater than 4 foot in the front would be to the Zoning Hearing Board. They are who listens to all requests for variances. Ken Howard asked if there is an option to take a look at that paragraph on page 53? The last sentence in that paragraph, would that be applicable to this situation or not would be my question? Mr. Heigert stated that we are cool with having the fence at 4 foot but putting a trellis type thing on top of it, but does that add to the height of the fence then? Grant McConnell stated that the fence is for safety purposes. Atty. Farrington stated that you are asking a tough question because it becomes an issue of what is safety purposes and what are we going to interpret it as now and what will it be interpreted as down the road. Mr. Heigert stated in these legal matters that I speak of regarding the firearms, the dog and everything else, they are a matter of court record and they have been brought before a judge. The police have

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responded to help us gain access to our driveway because of the firearm threats. I am a former Army Ranger so it's one of those things where I know where my place is and I know where my state is but also, I am fed up with it. I have a feeling that if this continues any longer that someone is going to end up dead and I don't mean to make this an over exaggeration or throw things out there like that but this is the lifestyle in which we live and that's the situation that we feel our home is at right now. We have invested over \$350,000.00 into our home. We moved out here from Colorado 4 years ago to make a go. My wife is a doctor in speech pathology, and I am a mental health counselor for the Butler, Armstrong and Westmoreland communities and this is what we are dealing with. This is why we are here tonight; we don't want it to go any further, we don't want the escalation to go any further than it already has. Tim Gottus stated that the last sentence talks about safety purposes or containment of livestock that do not block a public road or driveway of sight are exempt from these provisions. Grant asked if the taller fences are in the rear of your home? Mr. Heigert replied yes. Sue Gregory asked if decorative lattice on top would be permitted? Mr. Heigert stated we are willing to think outside of the box and I understand that there has got to be a process and that several factors have to be considered. Grant asked Zoning officer Rick Healey if he has an opinion on this? Rick stated that he has witnessed a few situations and I don't know if a fence is going to do much, it may aggravate the situation more. There was damage to his house that was not witnessed. Ken asked what type of fence are you proposing? Mr. Heigert stated that it is a wood privacy fence. Ken asked you would not be able to see through it? Mr. Heigert replied yes. It is a typical 6-foot home cedar privacy fence from Lowes. Sue Gregory asked if you go an extra foot or two, would that block the neighbors view? How high do you need to go? Mr. Heigert stated I don't want to totally 100 percent block the view. The thing that I am worried about is the dogs getting at each other. We are just trying to screen that over, so this does not happen. We don't want to give the dog that advantage so he can jump the fence. Chris Foust asked if he is purposing to go as high as the gutter on the house or garage? Mr. Heigert replied, yes. Atty. Farrington stated that in light of the fact that it does say fences for safety purposes are exempt from these provisions, I think that there is the possibility of interpreting this situation in that manner. However, for us to arrive at that decision I want to see something so this does not become a slippery slope. So, someone doesn't come in and say that they have safety fears with my next-door neighbor, I have a goat in my backyard, I need a fence. I guess the word that I am looking for are pretenses. With that being said, if you would come back with a documented police report stating that the police have been out to your house. So, there is a documented pattern of behavior that you could come back and show the board. So maybe this wouldn't be a variance but something that would be in line with what the ordinance actually says. It is just in order for me as a solicitor to say that yes, that is okay, I would want to see some documented proof that there are safety issues. Ken Howard stated that I think it would be relevant for you to tell us how high you would want to build these fences. Mr. Heigert stated in the back no more than 8 foot and in the front no more than 6 foot. Ken stated if you could put that in writing to the board, documentation on record of what has gone on as far as incidents. Atty. Farrington stated that I have to be clear that there are still people that you need to go through. I am not giving you my guarantee that if you come back you will get this approved. This would make me and the others more comfortable if you could come back with all of the information that has been documented and say this is why you need it; this is why that it is a conforming use of 406.2. To be able to, as Ken has

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suggested, show us this is why the height is necessary, this is what the materials are going to be, this is what it is going to look like, and this is why all of that is necessary for safety. That is, I think, unfortunately the best that I am going to be able to give you on that. I think in being fair there is still a fair burden to show here for safety. There will be people coming in all the time alleging it's for safety reasons. As long as we state this is the standard we require. Tim Gottus stated so you need to write a letter, get proof of police report and come back and see us next month. Atty. Farrington stated that this is the most appropriate, so we are able to discuss this at the next Planning Commission Meeting. Sue Gregory asked what is the timeline? Mr. Heigert stated that we have most of the back yard done at the max height of 6 foot so if we are approved, we would have to add a trellis to the top of it. The front yard, I would like to start this weekend, but I can hold off on it right now. Grant asked Atty. Farrington whose job is it to define safety purposes? Is that our job or the Zoning Officers job? Ken Howard answered that would be the Supervisors job and Atty. Farrington agreed. They would be the ones who ultimately make that decision. Grant asked what the actual process will be when this documentation comes back, and we make a motion to pass this on to the Supervisors for ultimate review, that is the process we would take here? Atty. Farrington stated, I think that is the safest process to do. That way we are acknowledging all the steps in the process. Tim Gottus asked would there be any reason that we couldn't move this onto the Supervisors at this time as long as he has all the documents for the meeting next week? Atty. Farrington stated that, my hesitancy in all honestly, is that I would like to hear Atty. Charlton's opinion on all of this as well. That way we would have a consistent opinion within the Township of what we are going to move forward on as far as safety reasons. Mr. Heigert stated that in my letter it may have sounded like I am wanting an 8-foot fence from start to finish but that is not what I am looking for. I would at least like an 8-foot fence in back and a 6-foot fence in the front. Sue Gregory asked if he could put the 4-foot fence up in the front and then if approved put the trellis on top of that? Ken Howard stated that he feels this is a good approach. I know that they letters did receive the letter that you submitted. Atty. Farrington stated that he would like to hear more input from everyone on this. We are asking about interpreting what is a fairly ambiguous provision when you are doing something like that you want to make sure that we pin it down properly the first time, so we don't have multiple interpretations. Mr. Heigert stated so what you need from me is, get police report with firearm incident, in writing what the materials are going to be and where it is going to be located and come back to the next Planning Commission meeting Wednesday of next month? Atty. Farrington stated yes.

ADJOURNMENT was on a motion of Sue Gregory, seconded by Tim Gottus at 8:10 pm. Motion carried.
Un. Approval.

APPROVED:

CHAIRMAN

SECRETARY