

BUFFALO TOWNSHIP PLANNING COMMISSION – REGULAR MONTHLY MEETING – NOVEMBER 4, 2020

The Regular Monthly Meeting of the Buffalo Township Planning Commission was held Wednesday, November 4, 2020 and convened at 7:30 pm via video conference. 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 – Present
Tim Gottus – Present
Joe Charlton - Present
Ken Howard - Present
Rick Healey – Absent

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 October 7, 2020 Regular Monthly Meeting of the Buffalo Township Planning Commission, as recorded, was on motion of Sue Gregory, seconded by Tim Gottus. Motion Carried. Un. Approval.

NEW BUSINESS

REAPPROVAL OF AUDUBON SOCIETY PLAN

Ken Howard with Bankson Engineers stated that the plan was approved previously but was not recorded in the 90-day time period which is required by the recorder of deeds office. So, it just needs reapproved to update the date of approval.

On a motion of Amy Trulik, seconded by Sue Gregory to reapprove the Audubon Society Plan for recording. Motion Carried. Un. Approval.

LAND DEVELOPMENT

ALLENBERG PLAN NO. 2 – SARVER ROAD – SUBDIVISION PLAN

Graff Surveying is proposing a subdivision plan for N. Allenberg-Kuniak of a 1.838-acre lot off an existing 29.712-acre parcel located along Sarver Road. The new proposed Lot 2 will be for a single-family residential dwelling with public sewage.

The township office has received the application, the filing fee, the plans, Butler County Planning Commission Comment letter dated 10/22/20; BCPC did not receive information for on-lot sewage disposal. BCPC did not have any comments on this plan. Municipal Authority of Buffalo Township

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comment letter received 10/19/20; Public water does not exist within the vicinity of the Allenberg Plan No. 2 Subdivision; however, public sewage does exist and was field verified. Applicant is aware of tapping fees and a grinder pump may be necessary due to lack of elevation. Bankson Engineers comment letter received 10/28/2020; **ZONING:** 403: A note should be added to the plan drawings stating that the residence on Lot 1 is a Non-Conforming Existing Use. Additionally, we recommend that it should be clarified as to whether lot 1 is served by public utilities. If public water and sanitary sewer service are not available for Lot 1, the Applicant should demonstrate that adequate on lot systems exist on the parcel, and that the newly created Lot 2 parcel fully complies with the requirements of the Township Ordinances. **SUBDIVISION:** 202.2.d: A Sewage Facilities Planning Module should be completed for the proposed connection of Lot 2 to the municipal sewage collection system. 213: Public Sites and Open Spaces: A new residential lot is being created as part of this Subdivision. Per the Municipalities Planning Code the Applicant should be required to provide a dedication of land for recreational purposes, or a fee in lieu of such dedication. 402: Monuments and Markers: The Applicant should provide monuments or iron pins at all property corners. 407: Water Supply: The Applicant should demonstrate the location of the water supply wells(s) on the Subdivision Drawings. Per the Subdivision and Land Development Ordinance, private wells should be located at least 50 feet from all septic tanks. The Applicant should also demonstrate that this minimum separation distance provision is met. We recommend that Approval of the subject Subdivision Plan may be granted at this time, contingent upon adequate resolution of all comments outlined above. The Applicant should make all necessary revisions to the Application, then provide evidence of adequate resolution of all comments outlined above.

Ken Howard with Bankson Engineers stated that they received all of the revisions as requested from Stan Graff regarding their comment letter and recommend approval as presented contingent upon receiving the Fee In Lieu of and the Planning Module Paperwork. Nikki Kuniak was present as well with no comments.

On a motion of Tim Gottus, seconded by Chris Foust to favorably recommend the Allenberg Plan No. 2 Subdivision Plan as presented contingent upon receipt of the Fee In Lieu of and the Planning Module Paperwork. Motion Carried. Un. Approval.

REMARKS FROM THE FLOOR

Michelle Bradley was in attendance regarding her and her husband Dan’s vacant property located along Sterling Drive in which she is asking the Planning Commission Board for a letter prior to selling the property stating that the lot may be developed for the permitted uses noted in Table 206A of the Buffalo Township Zoning Ordinance Book dated September 2018, as a legal, non-conforming lot. Mrs. Bradley shared some information regarding the property. The lot has access to both public water and sewage and is 70’ x 190’ and is in the R-2 General Residential District. This plan of lots was recorded in November of 1952 and predates the current Zoning Ordinance which requires 100’ width for development. There are 13 lots along Sterling Drive. Nine of the lots are 70’ in width and eight of them currently have homes on them. Mrs. Bradley stated that her lot is the only vacant lot left on Sterling Drive. Atty. Charlton asked if these are adjoining non-conforming lots or just a sole stand-alone lot?

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Mrs. Bradley stated it is a sole stand-alone lot which has its own tax parcel number and its own separate deed. Atty. Charlton asked if this property is adjacent to the other lot? Mrs. Bradley answered that it is contiguous with the lot that I own but it has its own tax parcel number and deed as well as purchased at a separate time. Atty. Charlton stated that it makes a difference because you are now under Section 404 Existing Lots of Record for non-conforming lots. "Any lot of record existing at the effective date of this Ordinance, and held in separate ownership different from the ownership of adjoining lots, may be used for the erection of a structure conforming to the use regulations of the district in which it is located even though its lot area and width are less than the minimum required by this Ordinance. However, such lot must comply with the yard, height, and coverage standards of the zoning district wherein it is located. Where two (2) or more adjacent lots of record with less than the required area and width are held by one (1) owner, on or before the date of enactment of this Ordinance, the request for a permit shall be referred to the Zoning Hearing Board which may require replatting to fewer lots, which would comply with the minimum requirements of this Ordinance." Atty. Charlton stated that the Planning Commission Board does not have the authority to write the letter that you are requesting be written. So, we can recommend that this be sent on to the Board of Supervisors. You can still build on that lot but you must follow the current Ordinance guidelines. I pointed to that section to guide you. You may want to discuss this with the Board of Supervisors but I know that they generally do not write letters or opinions on that either. It is just an interpretation of the Zoning Code whereas your recourse if the Building Permitting ever gets denied, is then to go to the Zoning Hearing Board and say, I should not have been denied. That would be in conjunction with the Zoning Officer and the Solicitor for the Board of Supervisors. They have more of the authority to guide you and give you a concrete answer. The Planning Commission is where most people start out and then we can talk you through the process. We can only point you to a certain section of the Zoning Ordinance. Mrs. Bradley asked Atty. Charlton what her next step should be. Atty. Charlton explained and stated that he will share this information with the Township Solicitor.

Candy Oxenrider, Associate Broker with Coldwell Banker was in attendance with her client, Dean McAfee regarding property located at 495-497 Monroe Road, the former J-Barn Restaurant owned by James & Karen Walsh. Mr. McAfee is purchasing the property and is planning on using it as a Wedding Venue and an Event Planning Business. It was used as a restaurant in the past. Ms. Oxenrider stated that James & Karen Walsh currently have a Conditional Use on the property. Mr. McAfee stated that he is planning on using the property for Weddings and Family Events. He is not going to use it as a restaurant and there will not be any concerts. Candy asked if they could continue with the Conditional Use is possible? Atty. Charlton stated that the first thing he noticed when he read the email was that they currently have a Conditional Use on the property which makes a world of difference in the analysis of this so I asked Rhonda to go back and check to see what the Conditional Use says. We found no Conditional Uses for J-Barn, James & Karen Walsh or Jardine's which is what it was way back in the day. Atty. Charlton asked Candy if she has or if James & Karen Walsh have the Conditional Use paperwork and stated that it was not in any of the paperwork at the township office. If it is a non-conforming use and it was used as a restaurant and it has not been used as one for over a year then that non-conforming use expires. What needs to be looked at amongst the Board of Supervisors and with their Solicitor when you are making the recommendation is whether the purposed use can be conducted

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there. Atty. Charlton asked Rhonda to get Lutz & Pawk’s number to Candy and that he will contact the Supervisors Solicitor regarding this discussion.

Michelle Bradley asked when the Zoning Hearing Board meets? Atty. Charlton stated that they only meet when they have issues. Amy Trulik asked how would she go about getting on that schedule? Atty. Charlton replied normally it would be when you have a ruling against you or you have been denied is when you make an appeal to the Zoning Hearing Board. At this point you don’t have any issue; you haven’t been denied anything so we could talk about this with the Zoning Hearing Board Attorney. Mrs. Bradley stated that the Buyer is wanting the confirmation that they will be permitted to build on this lot. Gary Risch shared some information regarding the Zoning Hearing Board. Ken Howard answered I think they could meet with the Board of Supervisors and their legal counsel to get their opinion of using a non-conforming lot of record which is a standalone tax parcel, standalone deed they may be able to get a ruling there. Maybe they could get on the Agenda for next weeks meeting and make that request? Possibly talk to Brian at Lutz & Pawk prior to that meeting for guidance. Gary Risch replied that I think we could possibly make that decision and if she is not happy with our decision then she could then go to the Zoning Hearing Board. Ken Howard replied, we have seen this in the past where there were non-conforming lot size. These plans were recorded in the 50’s, 40’s or 60’s traditionally your Board has given approval with these kind of lots just to meet the set backs and there has been a standard of practice there. So, I do not think there will be a problem using that lot at all. Michelle stated that the buyer wants the confirmation. Amy asked can’t they write the offer contingent on the Zoning Approval. Michelle replied, that is not what they want they want approval first. Ken replied, then I would get on the Agenda for next weeks meeting. Atty. Charlton stated that you are asking for Zoning approval prior to having any sort of plans or survey in place and that is not going to happen here. Asking for Zoning approval and interpretation of a Zoning Code are two completely different things. Gary Risch asked about the house the buyer is planning on being built and told her to come to the Supervisors meeting next week.

ADJOURNMENT was on a motion of Sue Gregory, seconded Tim Gottus by at 8:06 pm. Motion carried.
Un. Approval.

APPROVED:

CHAIRMAN

SECRETARY