

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – OCTOBER 23, 2017

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on October 23, 2017. Mr. Tracey called the meeting to order at 7:35 p.m.

Those present:

Planning Commission: John Tracey, Chair
Dawn DiDonato-Burke, Vice Chair
Chad Wallace, Secretary
Charles Halboth, Member

Others: Jim Majewski, Director Planning & Zoning
Barbara Kirk, Township Solicitor
Jeff Benedetto, Supervisor Liaison

Absent: Craig Bryson, Planning Commission Member

APPROVAL OF MINUTES

Mr. Halboth moved, Mr. Tracey seconded and it was unanimously carried to approve the Minutes of September 25, 2017 as written.

DISCUSSION AND MOTION ON ORDINANCE AMENDMENTS

Mr. Majewski stated they are doing the ongoing update of the Ordinances, and the information he sent to the Planning Commission includes some cleanup items. He stated these items have been superseded by another Ordinance that established the adoption of the Uniform Construction Code which is Chapter 97. Mr. Majewski stated as part of that the State adopts Building Codes and periodically updates what they prescribe as the Code they are using. He noted Item #3 – Chapter 87: Building Construction, Item #4 - Chapter 101: Electrical Standards, Item #5 - Chapter 104: Energy Conservation, Item #6 – Chapter 132 – Mechanical Standards, and Item #8 – Chapter 150 – Plumbing; and he stated all of those have been superseded. Mr. Majewski stated there is no longer a BOCA Code. Mr. Majewski stated all of those Sections can be repealed because they are covered by Chapter 97 of our Ordinance.

Mr. Majewski stated Item #1 deals with bamboo. He stated the Township adopted a Bamboo Ordinance a year ago; and after they adopted it and started to try to enforce it, they found some discrepancies. He stated in one Section it stated they had to be ten feet off the property line, but in another part it stated they had to be at the property line. He stated he reviewed this with the solicitor, the EAC, and the Code Enforcement people; and they determined what needs to be changed so that they do not duplicate or conflict with other Sections of the Ordinance.

Ms. Kirk noted the Section where it states the adjacent neighbor has to provide satisfactory proof to the Township that after discovering the bamboo they notified the property owner of the encroachment, and she asked if they are repealing that or replacing the wording. Mr. Majewski noted where they have to change the word from “and” to “or.” Ms. Kirk stated she feels they should add in at the end that “he or she advised the owner of such property of his/her objection to the encroachment in writing.” Ms. Kirk stated they would have to send an e-mail or a letter to that effect. Mr. Majewski agreed to include the wording suggested by Ms. Kirk.

Ms. Kirk suggested that they include language that there has to be remediation in accordance with recommendations from an arborist, a landscaper, or someone familiar with bamboo. Ms. Kirk stated they had a situation where they were trying to enforce the Ordinance, and the homeowner was not hiring anyone who had any experience with bamboo. Ms. Kirk stated the Township does not have the expertise to know whether what they are proposing will be effective, so she feels the Ordinance should rely on someone in that field. Ms. Kirk stated unless the bamboo is planted in a self-contained container to prevent the spread of the roots, it is very difficult to destroy it and it will spread. Mr. Wallace stated he feels the Ordinance needs to be as tight as possible. Mr. Majewski stated there is a type of bamboo that does not spread, but there is the other type which shoots out runners; and even if you cut it, the runners still grow. Ms. Kirk stated she feels they should have language that requires the property owner to present a remediation and removal plan per the recommendations of someone with expertise in dealing with bamboo.

Mr. Majewski stated he will provide a draft of this for review and comments. Ms. Kirk suggested that he take the language they used in the Settlement Agreement that was prepared for the case they had dealing with bamboo.

Mr. Majewski noted Item #7 Chapter 153: Property Maintenance. He stated this currently references the BOCA Basic Property Maintenance Code of 1993, and they have been trying to enforce the Ordinances with standards that are twenty-four years old which are out of date. He stated he recommends that they go to the latest

Code which is the International Property Maintenance Code of 2015. He stated this is not contained in Chapter 97 – Uniform Construction Code as the State does not regulate property maintenance; and it is up to the individual Municipalities.

Mr. Majewski stated if the Municipality chooses to adopt a Code to enforce property maintenance, the Municipality is free to pick what they want or make up their own standard. He recommended that it be updated from the 1993 Code to the 2015 Code.

Mr. Majewski stated he feels more needs to be done with regard to enforcement, and some people have indicated the Township needs to be more aggressive against delinquent property owners who are letting their properties go into disrepair. He stated there are other mechanisms for that which may need to be adopted in the future as there are situations where there is demolition by neglect, and there are some houses which are rotting away. He stated they will discuss with the Board of Supervisors how they wish to attack that as it is not an easy process. Mr. Majewski and Ms. Kirk discussed different mechanisms for dealing with blighted properties.

Ms. Kirk asked if they have to send something to the State Department of Licensing and Inspection or can Lower Makefield do their own enforcement. Mr. Majewski stated they have adopted the State version which is Chapter 97. There was discussion about the different Codes in place, and Mr. Majewski stated there has been talk about adopting the 2015 Code for the last two years.

Ms. Kirk asked Mr. Majewski if he has the actual 2015 Property Maintenance Code on file in the Township; and Mr. Majewski stated the Code Enforcement Officer has it, but the Township will have to purchase that. Ms. Kirk asked that when they do they send a copy to the Solicitor's Office so that when they have to do enforcement, they will have it available.

Ms. Kirk also asked Mr. Majewski to look at the Township's version of the Fire Code, and Mr. Majewski stated since they are going to be adopting a new Code he hesitated in updating it to the 2009 Code. He stated currently they enforce certain provisions of the Fire Code as it relates to the Building Code. He stated they are talking about changing that to a newer Code; and he would not want the Building Code to have pieces of the 2009 Code when the State will update certain provisions of the Fire Code to the 2015 Code. Mr. Majewski stated the 2000 Fire Code is what they currently use. He stated the 2009 is the minimum they want to go to; however, if the State is going to update soon, they would not want to change anything now.

Mr. Majewski asked if the Planning Commission would want to go further into repealing and replacing updating standards, or would they want to next go into the Subdivision and Land Development Ordinance and cleaning up that, or go through the Zoning Code for cleanup. Ms. Burke stated she feels they should do the quickest first, and then after that consider items that are going to take a long time to discuss.

Ms. Kirk stated there is a provision of SALDO that they can correct immediately with regard to connections to public sewer systems. Mr. Majewski agreed there is one that is very ambiguous. Ms. Kirk stated there are two separate paragraphs and one says “mandatory requirement for a landowner to connect to a sanitary sewer or water system within 1,500 feet of the proposed Subdivision or Land Development,” and the immediate paragraph below that says, “connection to a public sanitary sewer;” and she stated it needs to reflect in both paragraphs that it should be “public sanitary sewer or water systems.” She stated that is the subject of a pending Appeal right now in Doylestown.

Mr. Majewski stated there is also one that should be cleaned up sooner rather than later which is existing non-conformities. He stated currently it states “existing non-conforming structures can be expanded/enlarged,” but there is no restriction on it at all. Ms. Kirk stated other Townships will have a provision saying a legally-existing non-conforming structure cannot be expanded unless it is less than 25% of the total area or something to that effect, and Lower Makefield does not have a limitation to that. Mr. Majewski stated they do have limitations on non-conforming uses which are limited to an expansion of 50% of the size. He stated they recently had a situation where a Permit was granted for a garage that was torn down and was re-built, and they tripled the size of the garage.

Mr. Halboth stated he feels a non-conforming structure would cover a multitude of issues, and he feels they need to determine how this should be approached. Ms. Kirk stated Mr. Majewski is concerned about structures that were limited to a certain setback requirement or impervious surface requirement, that has now since changed. Ms. Kirk stated there is no limitation in the existing Zoning Ordinance if someone wanted to come in and enlarge a structure more than 50% of the existing structure.

Mr. Tracey stated he agrees with Ms. Burke that they should try to tackle as many of the easier ones that they can and those that are non-controversial.

Ms. Kirk asked for those properties that are along River Road, can they use the combination of the main lot and the adjacent lot across River Road to determine an impervious surface ratio; and Mr. Majewski stated our Code considers those to be

October 23, 2017

Planning Commission – page 5 of 5

separate lots when you are divided by a road. Ms. Kirk stated she has heard people make that argument before the Zoning Hearing Board that it should be a combination of both; and Mr. Majewski stated they have agreed with that argument at times because it does make some sense.

Mr. Halboth moved, Mr. Wallace seconded and it was unanimously carried to recommend to the Board of Supervisors adoption of the recommendations of Mr. Majewski Items 3 through 8 of the memorandum dated 10/20/17 dealing with Building Construction and Building Standards.

There being no further business, Mr. Wallace moved, Mr. Halboth seconded and it was unanimously carried to adjourn the meeting at 8:05 p.m.

Respectfully Submitted,

Chad Wallace, Secretary