

Vice Chairman Stephen Lear called the 515th meeting of the Lowhill Township Planning Commission to order on September 26, 2022 at 7:00 pm. The meeting was held in person at the Fogelsville Volunteer Fire Company and on Zoom. Members: Larry Geiger and John Casciano attended via Zoom. Members: Stephen Lear, Kevin Bubbenmoyer, Barry Betz, Mike Divers, Preston Nelson, Zoning Officer Brian Carl, Attorney Keith Strohl, Engineer Ryan Christman and SEO Engineer Chris Noll attended in person. This meeting was advertised and operated in accordance with Act 15.

The 514th minutes were approved as submitted. Motion carried.

Stephen Lear discussed “side bar meetings” and his opinion on them. Stated that a Betz Court email wasn’t received by the Planning Commission until around 4:00 pm this evening. He feels it was submitted late. Preston Nelson made a motion, seconded by Mike Divers to not review the plans until they have ample time to review all submissions. Roll call: Barry Betz – No; Kevin Bubbenmoyer – No; Larry Geiger – No; John Casciano – Yes; Stephen Lear – Yes; Mike Divers – Yes; Preston Nelson – Yes. 4 – 3, Motion carried to deny the plans. Brian Carl reminded the board that the submission was received on time, it is the engineer’s comments that came in late. Keith Strohl states it is not advisable or grounds to deny, since it is only the engineer’s review letter that was received late. Keith asked if this is for all submissions for Betz Court and Stephen Lear answered yes.

2951 Betz Court – Land Development – 299,880 sqft. – Warehouse Preliminary Plan Revised
9/12/2022 (2951 Betz Court, Orefield, Pa)

2951 Betz Court – Planning Sewer Module

Both plans were denied by motion until all Planning Commission members have ample time to review all submissions.

Stephen Lear moved to the last item on the agenda, Zoning Ordinance Amendment. A discussion ensued on transparency and that the agenda doesn’t give the public any information on what part of the Zoning Ordinance is being amended and what those amendments entail. He believes that we are being too forgiving to the Warehouse developers needs and not the resident’s needs. Brian Carl explained that it hasn’t gotten to the point of being advertised yet, it is only proposed changes at this point. The proposed amendment to section 953 is for non-conforming use is damaged wholly or partially by fire, flood, etc. That a permit must be secured within 6 months and that reconstruction start within 12 months. This is for all non-conforming structures, not just the warehouses. Keith Strohl – the amendment also deals with allowable square footage and height, etc. Again, this is only a proposal. This can be changed by the Board of Supervisors. Stephen Lear – it is in his opinion to not grant anymore relief in our ordinance.

Stephen Lear received a few copies of a letter sent by Rust Law, LLC. He believes it was sent certified mail to the Zoning Hearing Board Chairman and Zoning Hearing Board Solicitor. It also says it was sent via e mail to Brian Carl, Larry Geiger, Richard Hughes and Keith Strohl. Jill Seymour received this letter today in the mail and e mailed it to all of the above mentioned around 6:00 pm this evening. It was received via regular US mail, not certified mail. Brian Carl has not seen, nor received this letter.

Larry Geiger and Stephen Lear had a discussion on the Zoning Ordinance Amendments. Brian Carl – What is being said is not correct. The amendments are to limit the size of buildings in the non-conforming area, for any buildings in the township, if a non-conforming structure is destroyed, you

need to pull permits within 6 months and rebuild within a year. Consider until the insurance carrier gets the estimates and does their job and the contractor gets supplies needed and gets started, even a single dwelling home would not be complete within one year. We cannot pick and choose, it either fits the zoning ordinance or it does not. Stephen Lear would like to get a second opinion by outside counsel. Kevin Bubbenmoyer – the MPC has the state mandated definition for non-conforming use. It can't be changed because it is defined.

Public comments ensued.

Jack Iantuanno – Lowhill Township – Concerned about 400,000 sqft. Buildings being burnt and abandoned causing eye sores in the Township.

Kurt Dietrich – Orefield – Disagrees with developers being punished due to engineers getting late submissions. Agenda's do not meet requirements. Residents don't know what to comment on.

Bill Pleban – Lowhill Township – Second's Kurt's comments and feels there isn't enough clarity.

Bob Rust – Lower Macungie Township – Public notice wasn't received prior to the Zoning Hearing Board meetings.

Preston Nelson stated that permits secured within 6 months and rebuilt within 1 year is sufficient time.

Jack Iantuanno – We have to be realistic, if they walk, we can't force them to do anything.

Brian Carl reminded everyone that this is a draft. It is not set in stone. If you don't like it, you can propose a draft of what you would like in the Zoning Ordinance. Again, this is only a draft.

Larry Geiger made a motion to approve the draft of the Zoning Ordinance Amendment, as written. No second to the motion. The motion dies for lack of a second.

Preston Nelson made a motion to not approve the 953 clause until further review. Mike Divers second the motion. Kevin Bubbenmoyer – Agreed; Barry Betz – Agreed; John Casciano – Agreed. Motion carried for non-approval.

More public comments ensued.

Joann Mertz – Orefield – Why are we giving an inch if we don't know the effects?

Bill Pleban – Objective is to work in the best interest of the Township.

Greg Schaffer – Orefield – Feels that developers come in and change our ordinances.

Kurt Dietrich – Orefield – There is a handout the residents have drawn up for reasons for denial of the warehouse approvals. He discussed some concerns the residents put in the handout. All Planning Commission members received a copy of this handout. The 537 plan is out of date; recommends we update it.

Stephen Lear – Environmental concerns. Recommends an environmental impact study be done on all proposed warehouse sites.

Larry Geiger – DEP and EPA have already looked at these sites and gave their professional opinion. There was a discussion between Larry Geiger and Stephen Lear about environmental studies.

Larry Geiger – The developer pays for these studies and our engineers review them.

Mike Divers made a motion to table all activity on the three distribution center/warehouse projects until we have environmental impact studies and the act 537 is updated. John Casciano seconded the motion. Roll Call: Larry Geiger – No; Barry Betz – Yes; Preston Nelson – Yes; Kevin Bubbenmoyer – Yes; Stephen Lear – Yes. Motion Approved.

Kevin Bubbenmoyer asked Keith Strohl is this would affect these warehouses. Keith Strohl – We must act within a certain amount of time.

Chris Noll – They can submit direct to the department and we would have to update the 537 plan. Watch what you wish for, this could affect the entire township. Septic being pumped every 3 years, mandatory, etc. New development, submitted planning modules, sewage testing... everything is on lot sewage disposal. We must provide sewage facilities. A lot of what is being proposed is being done with the planning module. Chris Noll is our sewage enforcement officer. He has been with the township for 14 years and been doing this job since the 1980's. A proposed water line does not trigger a 537 plan. They have done sewage testing. A comprehensive plan gets adopted, then we update the SALDO and possibly have to amend the 537 plan.

Kim Weinberg – Weisenberg Township – Asked why isn't this a trend with the warehouses.

Chris Noll – We are talking strictly about our municipality; it is not a development trend to have three warehouses. Chris and DEP were on site when soil testing was done. Kim Weinberg wants independent testing done. Chris takes offense to this, as he has been doing this job for a very long time. Ms. Weinberg would need to get the property owners permission to have an independent testing done.

John Dixon – Fogelsville – Asked that the Board review the handout from the residents and come back with a date for a response.

Brian Carl – The Planning Commission can hold a workshop, since it sounds like there's a problem with our Zoning Officer, Engineers and Solicitor. Get outside opinions.

Chris Noll – Once passed through, the department is the ultimate decision maker.

Barry Betz – Do we have enough time to keep everything on hold until they can review or will it go through without Planning Commission approval?

Keith Strohl – From a legal aspect, he is not sure how long it takes for Act 537 approval. Plans can be approved contingent upon whatever the Board would like done.

Chris Noll – The SEO has 20 days to review and comment. The Board then DEP has 120 days and the Planning Commission has 60 days.

Keith Strohl – You already denied Betz Court, the only thing left is the Core5 lot consolidation. Core5 was tabled last meeting.

Core5 at Route 100 – Lot Consolidation Preliminary Plan Dated 9/12/2022 (7503 Kernsville Road, Orefield, Pa)

Stephen Lear made a motion to deny the Core5 lot consolidation. Mike Divers second the motion. Roll Call: John Casciano – Agreed; Preston Nelson – Agreed; Barry Betz – Agreed; Larry Geiger – Agreed; Kevin Bubbenmoyer – Agreed. Motion carried.

Core5 at Route 100 – Land Developemtn – 100,569 sqft. Warehouse/distribution center revised Preliminary Plan Dated 9/12/2022 (7503 Kernsville Road, Orefield, Pa)

And

Core5 at Route 100 – Planning Sewer Module

Both plans were denied by motion until all Planning Commission members have ample time to review all submissions.

Stephen Lear would like to schedule an executive session to discuss conflict of interest.

Brian Carl – You don't want side bar meetings, and now want an executive session? Who do you want at this meeting?

Stephen Lear is looking for guidance from Keith Strohl. Keith suggested submitting in writing to ensure it fits the exclusion to have an executive session. Stephen Lear thanked Keith.

The floor was opened for public comment, hearing none Larry Geiger made a motion to adjourn. Preston Nelson second the motion. Roll call: All. Motion carried.

The Lowhill Township Planning Commission Meeting was adjourned at 8:53 pm.

Respectfully Submitted,

Jill Seymour
Municipal Secretary