

Paradise Township York County
 Planning Commission Minutes
 January 24, 2022

1. Call to Order/Pledge to the Flag. 7:00 pm

2. Attendance.

<u>Commission Members</u>	<u>Township Employees</u>	<u>Design Firms/Engineers</u>	<u>Residents</u>
Mr. Kevin Barnes	Mr. Neal Doyle	Mr. Clark Craumer, PLS	Mr. Austin Grim
Mr. Korry Beard	Mr. Doug Stambaugh		Ms. Valerie French
Mr. Barry Schuchart			4x Citizens
Mr. Matt Osborne			Tyler Eshelman (Rutter's Attorney)
Mr. Brent Auchey			Eric Thomas (Rutter's (Engineer)

4. Approval of December 27, 2021 PTPC meeting minutes. Mr. Auchey made a motion to approve the previous meeting minutes as written. The motion was seconded by Mr. Schuchart and was passed unanimously.

5. Citizen's Concerns.

a. None.

6. Communications.

a. Paradise Township Supervisor's Meeting (PTSM) Report. Mr. Barnes provided a summary report of the January 2022 Supervisor's meeting. Highlights of the supervisor's meeting included: granted plan extensions for Tall Grass PH II and Jason Bross Land Development Plan, guidelines released for use of COVID-19 relief funding, recreation fees schedule.

b. Miscellaneous. Nothing significant to report.

c. Zoning Officer. Mr. Doyle provided an update on the Jason Bross Land Development Plan and wedding venue. Since the last meeting, the electrical permit for the wedding barn is now approved (as of 24JAN) and the lawyers representing the township and Mr. Bross are working together to reach an agreement. Both the Township and the Mr. Bross desire to come to an agreement through council rather than progressing to litigation. Liliana from CGA is finishing the Township proposal this week.

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7. Zoning Hearing Applications.

a. 7680 Lincoln Hwy. (Rutter's) – Zoning Variance and Special Exception.

Representatives from CHR Corporation (hereinafter referred to as Rutter') were present to request a variance and special exception to perform renovation and expansion to the current Rutter's store located at 7680 Lincoln Highway. Mr. Eshleman and Mr. Thomas explained that the store location was initially opened in 1978 and had not been renovated since the late 1990s. As a result, Rutter's is planning a total internal remodel to include the addition of an additional 1500 SF of retail space that is planned to be added onto the rear of the structure. The material purpose and function of the store will not change but the additional retail space will support a new beer cave and the sale of alcohol. The addition of the beer cave exacerbates the need to increase SF of retail space because state law requires that any point of alcohol site sale requires a least 30 dining seats. Rutter's is requesting a variance because the physical limitations of the lot will prohibit conformance to the off street parking standard outlined in the zoning ordinance 1602(G). Based on the current SF of the facility, the parking lot only has 22 out of a required 28. With the planned SF increase and slight reconfiguration of the current parking arrangement (reduction from 10 ft width to 9 ft width), the store will only have 23 parking spots out of the required 38. Rutter's is also requesting a special exception to expand a nonconforming use 1410(E) in that the dispensing of motor vehicle fuel is prohibited in the village district (802(A)). Rutter's representatives explained that the configuration and number of fuel dispensing locations would not be changed under the proposed renovation plan. The planning commission noted that additional SF of impervious area would require a land development plan and storm water management. The planning commission also noted a concern for additional traffic as a result of the new beer cave. Rutter's acknowledged the concern and noted that they would verify with PENNDOT that parking lot ingress and egress modifications are not required. Rutter's also stated that they do not anticipate a marked increase in traffic due to the beer cave. Historical analysis has shown that most customers that purchase alcohol would be doing so in addition to their normal stop at the store, not as an additional trip solely for an alcohol purchase. The planning commission also

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expressed concern about heavy equipment traveling over underground storage tanks. Rutter's explained that the equipment on the job site would be relatively small earth moving equipment, etc. Mr. Schuchart made a motion to recommend approval of both the variance and special exception to the zoning hearing board. Mr. Osborne seconded the motion and the motion passed unanimously. A zoning hearing board will commence on February 16th at 7:00 pm.

b. 7499 Lincoln Hwy. (Valerie French/Austin Grim) – Variance - Ms. Valerie French and Mr. Austin Grim were present to request variance to section 802(E)(2) for a permanent pole building that was constructed inside the minimum allowable set back. In 2020, Ms. French authorized Mr. Grim to fund the construction of a garage at the rear of her property. She explained that her intent was to sell one of her homes (east of the subject property) and eventually sell the subject property to Mr. Grim. Mr. Grim submitted a building permit in November 2020 and constructed the pole barn throughout 2021. The sketch provided with the building permit showed the building to be built 10' off the property line to comply with the building setback. As it stands, the garage consists of a concrete floor, electric service, insulation and heat. In 2021, Ms. French contracted Mr. Clark Craumer to do a subdivision plan that would reconfigure the property lines of her two lots. When Mr. Craumer surveyed the property, he discovered that the garage was within one (1) foot of the rear property line. The plan received conditional approval based on addressing the remaining comments which included but were not limited to the moving of the structure that were in violation and the stormwater. Ms. French signed a letter that committed her to moving the garage in question as well as two additional smaller structures inside the 10 foot allowable set back in order to have the subdivision plan signed and recorded. Ms. French's subdivision plan was approved and she completed the sale of the adjacent property to the east of the subject property. Ms. French did move the two smaller structures but the garage in question is still non-conforming to the zoning ordinance. When questioned about how the rear property line was located, Mr. Grim explained that he positioned the barn based on the aerial photography on his phone that shows property lines and that he also positioned

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the barn based on where he had previously placed a gravel drive off of Protectory Rd. The planning commission also noted that there is an oil tank that is positioned to the rear of the building that is likely over the property line, Mr. Grim is willing to move the oil tank. The planning commission explained that while the board is empathetic of the situation, the variance request does not meet the standards of approval outlined in 1706 (C). Mr. Barnes made a motion to recommend disapproval of the variance request to the zoning hearing board, the Mr. Auchey seconded the motion and the motion passed unanimously. A zoning hearing board will commence on February 16th at 7:00 pm.

c. 5107 West Canal Rd. (Jason Bross) – Special Exception – Representation for this special exception was not present at the meeting.

8. Sketch Plans

a. 6782 Lincoln Highway, Owner: BP Real Estate Inv. Grp. // Preparer: Gordan Brown & Assoc. Inc. – Representation for this sketch plan was not present at the meeting.

9. Old Business.

a. Tall Grass Meadows Ph II, Preparer: KPI Technology, New Plan expiration April 12, 2022. – Mr. Schuchart made a motion to postpone discussion, Mr. Beard seconded and the motion passed with Mr. Barnes abstaining from the vote.

b. Jason M. Bross Land Development, Preparer: Jack N. Powell, PE, New Plan expiration April 24, 2022. See updates in paragraph 6(C) of these minutes. Mr. Auchey made a motion to postpone discussion, Mr. Osborne seconded the motion and the motion passed unanimously.

c. Paradise Village Ph II, Preparer: Clark Craumer, PLS, Plan expiration March 26, 2022. Mr. Craumer explained that the TDRs, bond and recreation fees are still pending. A new TDR request from a donor farm (Gerald Bortner) was submitted to the zoning officer on January 20th. Mr. Doyle elected to solicit opinions on the TDR request from Mr. Stambaugh and CGA prior to making a determination. The surety bond amount was sent to the owner. Mr. Beard made a motion to postpone discussion until

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the TDRs, bond and recreation fees are completed, Mr. Schuchart seconded the motion and the motion passed unanimously.

d. Gerald Bortner Subdivision, Preparer: Clark Craumer, PLS, Plan expiration June 25, 2022. The legal opinion regarding the maximum lot area authorized in the agricultural zone discussed at the December PTPC meeting was received from Sharon Myers (CGA) and indicates that subdivision of the planned 10 acre parcel is authorized. Based on the legal opinion, the PTPC will recommend authorization of the 10 acre subdivision.

The following issues were discussed:

1. Mr Craumer will likely request waiver to the plan scale because the 120 acre lot does not have significant detail. Mr. Stambaugh concurs as long as text is enlarged to a reasonable size that can be read.

2. SALDO 511(B)(S) requires a hydrogeologic study. Mr. Stambaugh explained that the hydro study is required to assess the nitrites and contaminates in the groundwater in an effort to determine the minimum lot size required to prevent further contamination. Mr. Craumer will likely request a waiver to this requirement,

3. Mr. Craumer will likely request a waiver to the contour interval requirement.

4. Mr. Barnes noted that the Paradise Village TDR plan used a back drop of the current Bortner subdivision plan which is unnecessarily confusing since there are two concurrent initiatives in progress on the same property. Mr. Craumer acknowledged and will change the TDR plan to reflect the current status of the Bortner property.

5. Mr. Stambaugh disagrees with the legal opinion to approve this subdivision as proposed because lot 1 does not meet the requirements of the zoning ordinance as noted below.

a) The lot is residential which exceeds the maximum allowable 90,000 SF size prescribed in 402(A)

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b) Allowing the subdivision will create a non-confirming lot which requires a variance and approval from the zoning hearing board

c) Designating lot 1 as the residual tract is a tactic used to incorrectly use 404(B)(3)(b) to increase the lot size to 10 acres which circumvents the ordinance. Lot 2 by definition is the residual tract. Allowing lot 1 to be considered the residual tract will create opportunity to build a house on lot 2 and subdivide it into a 10 acre parcel by calling it a residual tract. This tactic could be repeated to circumvent the ordinance.

d) The intent of 402(A) was to preserve farm land and to prevent farms from being broken up into 10 acre tracts that would qualify for clean and green but would no longer be farmed.

e) This plan as proposed clearly violates the purpose set forth in 401 to preserve farmland.

Mr. Schuchart made a motion to postpone discussion, the motion was seconded by Mr. Beard and the motion passed unanimously.

e. Small Wireless Facilities Ordinance. Mr. Barnes noted the following minor corrections. Throughout the ordinance the township's name would need to be inserted. In section 6.D the 18' clearance should be cartway and driveway. In section 6.F written permission should be obtained from the easement holder and property owner not just the easement holder. In section 6.I it should say Historical Overlay District not just Historic District. Additionally, an update is required in chapter 7 which relates to underground utilities. The underground facilities portion needs to be rewritten to fit the township. Mr. Doyle will try to get a copy of the document in word format so it can be easily modified. Mr. Schuchart made a motion to postpone discussion, Mr. Osborne seconded the motion and the motion passed unanimously.

f. Recreation Fee Ordinance. Mr. Osborne made a motion to defer decision to adopt ordinance 2022-01 to the supervisors under the guise that supervisor adjustment

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of recreation fees via resolution is more efficient than updating ordinance. Mr. Aucher seconded the motion and the motion passed unanimously.

10. New Business.

a. TDR / Subdivision Rights Zoning Ordinance Amendment – The zoning ordinance section 1337 addresses transferrable development rights. The PTPC agrees that adjustment to this section is required to refine purpose for the process and to remove ambiguity. Several topics of adjustment were addressed: purpose, prohibition of TDRs for properties that already have conservation easements, clarification of sending vs receiving areas, reduction of subdivision rights after the sale of TDR, change to method used to determine number of qualified TDRs available. Mr. Beard will draft proposed amended language prior to the February meeting. Mr. Schuchart made a motion to postpone discussion, Mr. Osborne seconded the motion and the motion passed unanimously.

11. Adjournment. Mr. Aucher made a motion to adjourn at 9:07 pm, Mr. Beard seconded the motion and the motion passed unanimously.