

UPPER MILFORD TOWNSHIP
PLANNING COMMISSION MEETING MINUTES
FOR THE MAY 30, 2023 MEETING

Members Present: Anthony Koneski Jr., Vice Chairman; Charles Peters Jr., Secretary; Matthew Hunter; Philip Hartranft; Ronald Guth; Ellen Larmer, Alternate Member; John Zgura, Alternate Member.

Absent were: Luke Lichtenwalner, Chairman; Angelika Forndran

Also Present: Brian Miller, Planning Coordinator; Eric Strauss, Planning Commission Solicitor; Cynthia Kuhns, Administrative Assistant

In the absence of Chairman, Luke Lichtenwalner, Vice Chairman, Anthony Koneski Jr. will conduct the meeting. Alternate Member, Ellen Larmer will be seated as a voting member in the absence of Chairman, Luke Lichtenwalner.

The meeting was brought to order at 7:30 P.M.

Minutes

1. Meeting Minutes of April 3, 2023

Motion:

Charles Peters Jr. made the motion to approve the minutes as recorded. **Philip Hartranft** seconded the motion. All were in favor. No one opposed. **John Zgura** abstained from voting.

Time Extensions:

Subdivisions:

- Indian Creek Industrial Park Subdivision
- Jerome Goldstein Minor Subdivision
- Engelman Kay Subdivision, Fields at Emmaus

Land Development / Site Plans:

- 4054 Chestnut St. MPI Diagnostics
- Indian Creek Industrial Park, Lot 10
- 6334 Chestnut St

Lot Line Adjustments

- Engelman Associates 4650 & 4702 Indian Creek Rd.

Motion:

Charles Peters Jr. made the motion to recommend that the Board of Supervisors grant a 180-day time extension up to and including December 31, 2023 for the following Subdivisions, Land Development / Site Plans, and Lot Line Adjustments:

- Indian Creek Industrial Park Subdivision
- Jerome Goldstein Minor Subdivision
- 4054 Chestnut St, MPI Diagnostics, Land Development
- Indian Creek Industrial Park, Lot 10, Land Development
- 6334 Chestnut St., Land Development

and a 90-day time extension up to and including September 28, 2023 to the following Subdivision, and Lot Line Adjustment:

- Engelman / Kay Subdivision, Fields at Emmaus Subdivision
- Engelman Associates 4650 & 4702 Indian Creek Rd. Lot Line Adjustment

Matthew Hunter seconded the motion. All were in favor. No one opposed. John Zgura abstained from voting.

Zoning & Subdivision Submission for Discussion:

1. 6702 Vera Cruz Rd. Special Exception Request
 - a. Zoning Information packet from Alan Brokate

Present was: Ian Dollman one of the property owners.

Ian Dollman said he is one of the property owners of Queen of the Valley Farms located at 6702 Vera Cruz Road South. He said that they are looking to construct a separate / detached in-law dwelling for his sister and her husband to help take care of his older mother for the time being. He said in the future, if necessary, his mother would be able to move into the separate detached in-law dwelling / suite.

Charles Peters, Jr. asked Ian Dollman if he received a letter dated May 18, 2023 from the Township Zoning Officer, Alan Brokate denying his Building Permit Application to construct a separate / detached in-law dwelling on his property at 6702 Vera Cruz Road

South and informing him that he would need to request a Special Exception from the Zoning Hearing Board prior to getting approval for a Building Permit to construct the separate detached in-law dwelling. He said that in the Rural Agricultural Zoning District, which is where the subject property is located the Zoning Ordinance permits one single family dwelling on the property.

Ian Dollman said he did receive the letter dated May 18, 2023 from the Zoning Officer, Alan Brokate.

Charles Peters, Jr. asked what was included inside the separate / detached in-law dwelling.

Ian Dollman said the separate / detached in-law dwelling would consist of one bedroom, one bathroom, kitchen, dining room, living room and some storage space. He said that the separate / detached in-law dwelling would have its own separate septic system which would be installed on the property. He said that they will be doing soil testing and perc testing on Wednesday and Thursday of this week to see where they can put a new septic system on the property. The testing will also help to determine where they can construct the separate / detached in-law dwelling on the property.

Charles Peters, Jr. asked how the Planning Commission deals with Special Exception requests as this is new to him being a new member of the Planning Commission.

Brian Miller said that Special Exception requests are allowed by the Township Zoning Ordinance. He went on to explain how the applicant must establish credible evidence to the Township that the application complies with all applicable requirements of the Zoning Ordinance. The applicant shall provide the Zoning Hearing Board with a sufficient plan, studies or other data to demonstrate this compliance. He said that the approval may be conditioned upon the applicant later showing proof of compliance with other specific applicable Township, Pennsylvania and Federal Laws, regulations and permits. He said one of those being septic. He said that there are other items listed in the Zoning Ordinance relative to granting a Special Exception which are as follows, traffic, site planning, character of the neighborhood, public health and safety, and natural features on the site.

Solicitor Eric Strauss said in the past the Planning Commission sent a letter to the Zoning Hearing Board letting them know if the Planning Commission saw any zoning issues based on the criteria.

Charles Peters, Jr. said his concern is that this separate / detached in-law dwelling is being proposed as a unit for care of a relative and having a relative live in the structure. What are the safeguards measures that are in place if the relatives no longer live in the

separate / detached in-law dwelling and it could now become a rental property or should the property owner sell the property.

Anthony Koneski, Jr. said that one of the requirements of granting approval of this type of Special Exception is that there is a note attached to deed of the property that the separate / detached in-law dwelling could not be used as a rental property once the relative no longer occupies the structure.

Ian Dollman said if he were to sell the property there would be a note on the deed that the new owner would have to request a Special Exception to use the separate / detached in-law dwelling for care of a relative just as he is going through at this time. He said he had no problem with the Zoning Hearing Board adding a condition to their approval that the separate / detached in-law dwelling for care of a relative could not be used as a rental should the relatives no longer occupy the structure.

Brian Miller said that the Zoning Hearing Board will limit the use by specifically naming the occupant of the separate / detached in-law dwelling. He said if that person is no longer occupying the structure the owner would have to come back before the Zoning Hearing Board requesting another Special Exception for another relative to occupy the structure. He said if the property were sold the new owner would have to obtain a Special Exception from the Zoning Hearing Board to use the structure for care of a relative.

Charles Peters, Jr. asked what the Township's safeguard measures were if the property is sold and the new owner doesn't know they need to obtain a Special Exception and they start to rent the separate / detached in-law dwelling out to a non-family member. How does the Township enforce that if the Township is unaware that the new owner is renting out the separate / detached in-law dwelling.

Solicitor Eric Strauss said someone would have to file a complaint to the Township.

Brian Miller said that typically when the property is sold the new owner will find out about the conditions placed upon the property for the separate / detached in-law dwelling.

Ian Dollman said that his sister and her husband who are going to occupy the proposed separate / detached in-law dwelling already live on the property in the main house.

Ellen Larmar asked if the separate / detached in-law dwelling unit was a one-story structure or a two-story structure as the plans show two stories, with the second floor being proposed living space.

Ian Dollman said it is like a cape which is a 1-1/2 story dwelling. He said that the first floor is all living space, and the second floor is unfinished storage. He said that the plans

show a bathroom and bedroom on the second floor which they are not proposing to put in at this time. He said that the septic system for the house will have to be designed for a three-bedroom house per the DEP regulations even though there will only be one bedroom in the separate / detached in-law dwelling.

Ellen Larmar asked if there was a size restriction for the separate / detached in-law dwelling.

Brian Miller said that he did not think there was a size restriction. He said if they were to have more than three bedrooms then they would have to do a DEP Planning module once they were over the limited 800 gallons per day. He said DEP allows 399 gallons per day for the separate / detached in-law dwelling septic system and 400 gallons per day for the septic system to the main dwelling that has three-bedrooms. Brian Miller said that the septic system for the separate / detached in-law dwelling must be designed for a three-bedroom house which is the minimum system DEP allows.

Brian Miller said that they would have to deal with flood plains and the regulations for the flood plains. He said there is a floodway on this property not a flood plain. He said the separate / detached in-law dwelling as shown on the plan is outside of the floodway. The new septic system would have to be located outside of the floodway as well.

Brian Miller asked if there was parking provided for the separate / detached in-law dwelling.

Ian Dollman said that parking for the separate / detached in-law dwelling would be by the existing garage on the parking pad. He said that they are not proposing to have any parking next to the separate / detached in-law dwelling. He said that you would be able to walk to the separate / detached in-law dwelling from the parking pad next to the existing garage.

Motion:

Matthew Hunter made the motion to send a letter to the Zoning Hearing Board to inform them that the Planning Commission recommends that the Zoning Hearing Board grant approval of the Special Exception request to Section 304.B.1.e. (Unit for Care of Relative, Accessory Use) of the Zoning Ordinance in order to construct a separate / detached in-law dwelling at 6702 Vera Cruz Road South in the Rural Agricultural Zoning District with the following conditions:

1. That a memorandum of understanding listing the occupants of the separate / detached in-law dwelling be filed with the Recorder of Deeds office and attached to the deed for the subject property.

2. That all outside agency approvals are met and complied with.

Ronald Guth seconded the motion. All were in Favor. No one opposed. **Anthony Koneski, Jr. and John Zgura** abstained from voting.

Other Business:

1. Draft Ordinance 171 – establishing requirements for the disposal of pet waste within Upper Milford Township

Brian Miller said as part of the Township's MS4 requirements the Township needs to have an ordinance regulating the disposal of pet waste within the limits of Upper Milford Township and prescribing penalties for violation thereof. He said that as part of the MS4 program DEP is requiring the Township adopt an Ordinance regulating the disposal of pet waste. He said he tried to find a sample ordinance to follow and keep the Township's Ordinance as simple as possible.

Charles Peters, Jr. said the ordinance defines a pet as a domesticated animal.

Brian Miller said the ordinance does not specify what type of pet. The ordinance just says pet.

Brian Miller said he looked at some of the other municipality's ordinances and you would not believe the ordinances that they have adopted regarding the disposal of pet waste.

Charles Peters, Jr. asked if the Township received complaints from some of the developments that people are not taking care of their pet waste appropriately.

Brian Miller replied occasionally.

Brian Miller said that this is a required Ordinance as part of the MS4 program and that the Township must post this Ordinance on all municipal owned properties.

Brian Miller said he needs a recommendation from the Planning Commission to have the Board of Supervisors start the process of adopting an Ordinance for the disposal of pet waste.

John Zgura felt that this Ordinance was just a joke and a waste of time. He said people will be forced to pick up all their pet waste but what about wild animal pet waste.

Brian Miller said item 3 in the proposed ordinance says that all pet owners and keepers are required to immediately properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

Charles Peters, Jr. asked if the Township had to build infrastructure to post the Ordinance on Township owned property or are there places to post the ordinance.

Brian Miller said that there are places at the Township owned properties to post the ordinance such as the dog waste stations at the parks.

Charles Peters, Jr. said to him this seemed straightforward and simple.

John Zgura asked if a service animal would be considered the same as a disability assistance animal which is mentioned in the proposed Ordinance under item 4 (Exemptions).

Charles Peters, Jr. said that there are many types of disabilities, such as being blind, or having PTSD, or anxiety to name a few.

John Zgura asked if the Township should include service animals under item 4 (Exemptions) in the proposed Ordinance.

Charles Peters, Jr. said could we just list it as a disability animal instead of disability assistance animal under item 4 (Exemptions).

Brian Miller said if there are ADA guidelines for a service animal that may be a perfect addition to the Ordinance.

Motion:

Matthew Hunter made the motion to recommend that the Board of Supervisors begin the process to advertise and adopt the proposed Ordinance No. 171 for the disposal of pet waste within the municipal limits of Upper Milford Township and prescribing penalties for violation thereof. **Philip Hartranft** seconded the motion. All were in favor. No one opposed. **John Zgura** abstained from voting.

Brian Miller said that he felt that this Ordinance will come back to the Planning Commission before the Board of Supervisors adopts the Ordinance.

Brian Miller announced that the Developer is still working on cleaning up the Plan for the Engelman tract on Indian Creek Road before coming back before the Planning Commission.

Anthony Koneski Jr. announced that the next Planning Commission Meeting is **Wednesday, July 5, 2023** at 7:30 P.M.

Adjournment:

Matthew Hunter made the motion to adjourn the meeting at 8:09 P.M. **Charles Peters, Jr.** seconded the motion. All were in favor. No one opposed.

Date _____

Anthony Koneski, Jr. Acting Chairman