

**MINUTES  
PLANNING COMMISSION  
ZOOM MEETING  
FEBRUARY 23, 2021**

**Attendees/Participants:** Dave Shula, Sherri Glantz Patchen, Patrick Doran, Bob Dambman, Aaron Kostyk, Elizabeth Shaw Fink, Scott Quitel, Charlie Guttenplan, AICP, Director of Planning and Zoning, Krista Heinrich (Township Engineer), Vince Manuele (BOS Liaison), and Dave Sander (Township Solicitor's office)

**1. CALL TO ORDER:** 6:04 PM by Chair Doran

**2. ANNOUNCEMENTS & CORRESPONDENCE** (None)

**3. APPROVAL OF MINUTES**

- On a motion by Mr. Shula seconded by Mr. Kostyk, the Planning Commission moved to approve the January 12, 2021 meeting minutes. Vote 7-0

**4. ZONING HEARING BOARD APPEALS:** (None)

**5. CONDITIONAL USE APPLICATIONS:** (None)

**6. SUBDIVISION &/OR LAND DEVELOPMENT APPLICATIONS:**

- Review (revised/new waivers) SLD#05-14; 901 Washington Partners, LP/901 Washington Street Revised Preliminary Plan; 62 Townhomes

Attendees: Sarah Peck, developer/partner from Progressive New Homes, Jim Vesey, one of the owners of the property at 901 Washington Street Partners; his partner Gary Toll; Jim Bannon, Civil Engineer from Nave Newell; and Mike Wagoner, Landscape Architect.

Mr. Guttenplan stated the Planning Commission has seen this application a number of times before and has taken action on a number of waivers over the course of three different meetings in 2020. A recommendation had been made on the preliminary plan on October 27, 2020 and this then went on to the Board of Supervisors for presentation for the first time on February 11, 2021; no action was taken. Based upon direction from the Board of Supervisors, the applicant has provided 10% of the tract for open space and recreation in accordance with the requirements of the Subdivision and Land Development Ordinance; this is being proposed instead of a fee in lieu of the land. As a result of the addition of the open space, a new waiver is required dealing with the physical characteristics of the proposed open space. At the same time, staff and the applicant have discovered that the waiver for sidewalks along the east/west roadway ("Driveway B") needed to address both sides but only addressed the north side, and an additional two waivers, not previously requested, are necessary. The four waivers that are the subject of discussion at this meeting are:

**Section 105-47.K.(3)** – waiver from the requirement that a red shale macadam pathway with a minimum of 10 feet in width be provided to access the public open space so as to allow a 5 foot wide concrete public sidewalk instead.

**Section 105-30.A. and 105-48.E.** – waiver from the requirement that a 5 foot wide grass strip/green zone be provided on streets on both sides of "Driveway B". A 4 foot wide grass strip is shown except for a stretch of about 25 linear feet near building 51 which will be 42" wide.

**Section 105-47.B. and 105-73.B.** – waiver from the requirement that the minimum width of sidewalks be 5 feet in order to allow 4 foot sidewalk on the south side of "Driveway B". A waiver has already been recommended for same on the north side of "Driveway B".

**Section 105-53.D.(1)(c)** – waiver from the requirement that not more than 25% of the open space be floodplain in order to allow 100% of the dedicated open space to be in floodplain because the entire site is located within the floodplain; to allow not more than 25% of the dedicated open space to be in the riparian corridor and to allow not more than 25% of the open space to be in slopes greater than 8%.

Ms. Peck presented the revised site plan that showed: the area of public open space that is now going to come along with the trail and make for a very nice public amenity; the area of public access to the open space; and the expansion on sidewalks on the south side of “Driveway B” from 3 feet to 4 feet. In addition, the landscape plan has not changed since the plan that has been approved by the Planning Commission and the Shade Tree Commission.

#### Planning Commission Comment

The Planning Commission asked to have the access points to the river trail pointed out; asked for clarification on the areas where the sidewalk narrows (that has not changed from the plans that were approved in October 2020); asked for confirmation that the only reason the open space has more than 25% in over 8% slopes is because it is in the riverbank area (some of the riverbank is included in the open space which caused the total to go up beyond the 25%; they are at a total of 41%); asked if “Green E” is a flat space (basically flat with a slight slope; very usable). Increasing the trail there to 6 feet was suggested as well as continuing the sidewalk that wraps around the 5 parking stalls near Unit 55 (applicant agreed to these changes). Commission members also commented: the waivers are the product of the development and are a product of the Riverfront Development District; going from a 5 foot green area to a 4 foot green area for tree planting is a 20% reduction in a planting zone which is a problem for the roots; going from a 10 foot wide path to a 5 foot wide path is a major ask; what is the real burden of the 5’ to 4’ planting area?

#### Public Comment

Sydelle Zove, Harts Ridge Road, addressed the 5’ sidewalk that serves as the perpendicular connector between Washington Street and the Riverfront Trail. She stated that Mr. Guttenplan commented that the 5’ sidewalk made of concrete had been there from the beginning. She doesn’t believe there was ever attention drawn to the fact that it doesn’t comply with the code as further cited in the waiver request. She commented that if in fact from the get go when this first came in front of the Planning Commission that if it had been made explicit and abundantly clear that the 5’ trail is 50% of what the code requires and furthermore that trail requires to be 10’ wide but should be made of red shale macadam so that it reads as a public trail, she would guess there would have been an abundance of discussion of that noncompliant design feature. So the fact that it has been there all along is just rationalization for this waiver and doesn’t think it should be recommended.

Steve Kaufman, 644 Harts Ridge Road, Harts Ridge Road, commented that the history of the 5’ vs 10’ path irks him because the Township Engineer noted this as was an issue in their review letter dated September 16, 2020, to which the applicant’s response was “No comment necessary. This was provided on the plans.” It is not too late to raise this. Feels Mr. Quitel is absolutely correct that this is an integral part of RDD, that there is a comprehensive regulatory scheme – the intention that there be a system of uniform paths; the materials are important also - they should be red shale asphalt; and the code states it shouldn’t be interrupted by traffic, and it is. In terms of waiver request from 105-53.D.(1)(c), doesn’t feel the open space proposed qualifies under this section since it is supposed to be suitable for active and passive recreation. Asks that both waivers be rejected.

Linda Doll, Fairway Road, questioned if red shale macadam is the same as asphalt with her point being that they are both considered impervious coverage and in a floodplain, it’s not going to allow water to go anywhere. She commented that she appreciates Mr. Quitel so much; we have these

codes for a reason, so why are we letting developers do things that are not in code; we need to make our codes tighter. Feels it is all about money and profitability.

#### Planning Commission Additional Comments

Mr. Quitel commented that the goal is the best possible development; that's what should be proposed and deal with it as appropriate. Believes the applicant's proposed boardwalk was better than the riverfront trail as proposed; this is what should be done.

Ms. Patchen asked if the perpendicular trail is going to potentially connect with another trail if there is future development (the perpendicular trail is connecting Washington Street to the trail and the trail will eventually connect with trails on other riverfront properties).

Mr. Doran commented it would seem to be out of place to have a red shale macadam path directly in between a row of parking and homes; couldn't it be distinguished through signage; feels signage would be a way to get people's attention on where to go as opposed to having it red shale vs concrete. Ms. Peck pointed out that there is signage shown on the plan, and she briefly explained the hardship for the 5' sidewalks; she did not know that the waiver they received did not apply to this; thought it was much more visually consistent with the rest of the community; could do a 10' wide path but would lessen the area in front of the homes and increase impervious coverage. Mr. Bannon commented they are currently at 62½% impervious coverage and they are allowed 75% in this district so unless the Zoning Hearing Board Decision holds them to a less restricted number he believes they would be ok if the access had to be widened to 10'.

Mr. Quitel agrees with Ms. Peck's last set of sentiments on the path design that the red shale macadam is not a pretty surface; he feels the best interest to the public would be to go back to the idea that views the steep sloped area (along the river) as a 'no-person' zone other than for plants and animals and then the passive use and recreation that the public can engage in should be on flatter area which can be done by changing around buildings.

#### Motions

Mr. Dambman moved to recommend approval of the first 3 waivers with the exception that for waiver #1 [Section 105-47.K.(3)] that both perpendicular paths would be 6' width (instead of 5'); Mr. Shula seconded

Mr. Doran proposed an amendment to that motion that there be interpretive signage indicating the access to the river be at the head of the proposed 6' wide concrete path so that the public knows this is public access and that there is a trail down there at the river. Mr. Dambman accepted the amendment as well as Mr. Shula. Vote 5-2

Mr. Quitel moved to not grant waiver #4 based on points that he made and others that he heard, etc. (more of the ecological integrity of the plan; preserve more area, etc.); no second, therefore motion failed.

Mr. Doran stated we find ourselves where the Board of Supervisors asked them to dedicate land and so the alternative is a fee which means no dedication of land; so he sympathizes and acknowledges it could be better but given the choice between public green space and no public green space he would be in favor of the waiver because it is not possible to comply under any circumstances with the physical requirements; he thinks the hardship is met.

Ms. Patchen moved to recommend approval of waiver #4 as requested; seconded Mr. Shula. Following comments made before a vote was taken.

Ms. Zove questioned, is it not the case that the code allows and precedent allows for a combination of fee in lieu and land to meet the requirement; it need not be one or the other but it can be a combination (Mr. Guttenplan stated that is true). With that being the case she would like to suggest you consider amending the motion such that the large area off to the right remain open space and that the Township require a fee for that portion of the land along the river, with that area being removed from the equation.

Mr. Kaufman finds this frustrating because of the order of events and the process here. Looking at Mr. Guttenplan's comment about the trail, he is surprised to find that it can be included in the open space calculation because the developer excluded it and thinks if this issue had come up earlier, it would have saved us a bunch of heartache. He pointed out there is another section 105-53.D.(1)(e) that does provide that all the land dedicated be usable for recreation; thinks a waiver would be required.

Ms. Peck commented it absolutely does meets the definition of passive open space and they dramatically improved it over the original plan; the open space will be enjoyable by the public.

Mr. Doran agrees with the applicant that this passive open space is part of what we are talking about here and not every area is a place where you can have a catch; passive open space is part of the spirit of what we are going for. He carefully looked over Mr. Kaufman's request and letter and doesn't believe an additional waiver is required under these circumstances.

At the conclusion of the above comments, vote taken on motion to recommend grant of Waiver #4; Vote 6-1.

## **7. OLD BUSINESS:**

- Mr. Guttenplan commented the Board of Supervisors at their February 11, 2021 meeting approved a contract addendum with Bergmann Associates so that we can begin in earnest to do a zoning code update phase 1

## **8. NEW BUSINESS:**

- Mr. Dambman commented that Mr. Guttenplan and himself were on another Zoom platform meeting on February 3, 2021 about the Ridge Pike Plan; that is ongoing and they will meet again in about 3 months. Depending upon when construction gets started on the eastern phase (Crescent Ave. to the city line), work will take either 2 or 3 construction seasons.
- Mr. Quitel commented looking back at our Comprehensive Plan process and how it went he is feeling a little regretful that he wasn't more proactive with the preamble he wrote and that it got pared down. It talked about putting some teeth around climate change and really doing our best to make Whitemarsh a much greener community than we currently are and to move in that direction. He recently reread it and thought it was pretty comprehensive and informative and progressive as far as Townships go. He commented on the native garden that was on the Township property, which has since been mowed down. He is going to venture to say there was a lack of understanding by the people that maintain that but back when he was on EAB, the Township got money for it. He questions what direction we are taking in this area with more climate unpredictability and all the discussions we had about it, he doesn't see consistency with actions on how the Township is managing something they paid money for. He doesn't think we are progressive right now and certainly doesn't think it reflects the preamble that survived on the Comprehensive Plan let alone the one he put in front of everybody.
- Mr. Doran stated he really liked the land ethic that Mr. Quitel put together as part of that process and even though what is in that plan and what he put together is obviously not the same thing. The zoning updates will be an area where we can focus our attention and care on adapting that land ethic and that Comp Plan concept to put our money where our mouth is and make zoning changes that reflect our change in climate and reflect the drastic changes.

## **9. PLANNING COMMISSION MEMBERS COMMENTS: None**

## **10. PUBLIC COMMENT FOR NON AGENDA ITEMS:**

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Sydelle Zove thanked Mr. Quitel and commented it's time not to just talk the talk but walk the walk; is critical that the vision that is expressed in the Comprehensive Plan filter down to people who have feet on the ground and behind the mowers doing the work for the Township; it is bad enough the code is full of vagaries and contradictions that create loopholes for developers, we don't have to add to that by granting waivers. She is glad the Miracle Nature Trail is moving forward but to hear that very few people are going to use the perpendicular trail to the river (referring to 901 Washington Street), contradicts what is predicted for the Miracle Nature Trail; we should be doing everything possible to make it comfortable and accommodating.

Steve Kaufman, commented he disagrees with Mr. Quitel with regard to the Comprehensive Plan; sees a net increase in healthy habitat. We need to look carefully at changes to zoning and related portions of SALDO so we can be in a much stronger position, we need a good enforceable code.

## 11. ADJOURNMENT

- On a motion by Mr. Dambman seconded by Mr. Shula, the meeting was adjourned at 8:02 PM.

Respectfully submitted,

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Charles L. Guttenplan, AICP, Director of Planning & Zoning

The Planning Commission is appointed as an advisory group to the Board of Supervisors and the Zoning Hearing Board with respect to comprehensive land use planning, existing land use, and various land use and zoning applications in Whitemarsh Township. No formal decisions are rendered by the Planning Commission. Formal decisions are rendered by the Board of Supervisors or Zoning Hearing Board, as prescribed by law, based on the type of application.