

## **TOWNSHIP OF EVESHAM**

### **Zoning Board**

#### **Minutes**

**7:00 pm**

**22 February 2016**

**Municipal Building**

#### **Call to Order**

Chairman Parikh made the call to order at 7:03 pm.

#### **Flag Salute**

#### **Statement of Conformance with Open Public Meetings Act**

Chairman Parikh made the statement of conformance with the Open Public Meeting Act and the Municipal Land Use Legislation

#### **Roll Call**

**Present:** Parikh, Hoffman, Rodgers, Lowden, Williamson, Laspe, Hughes, Amato

**Also Present:** Wieliczko, Furey, Jamanow, Kinney, Bittner

**Absent:** Rehmann

#### **Minutes: January 23<sup>rd</sup>, 2016**

Motion: Rodgers

Second: Laspe

Ayes: Parikh, Rodgers, Lowden, Laspe, Hughes, Amato

#### **Unfinished/New Business**

- 1. Thomas A. Whelihan, ZB 16-01. 10 Chadsford Court, Block 52.02, Lot 22 (RD-1 Zone District).** *Applicant is requesting side and rear yard variances for an existing patio and walkway, and impervious coverage of 47.63% where 45% is permitted.*

##### **Witnesses Sworn In:**

Thomas Whelihan, Homeowner 10 Chadsford Court

- Mr. Whelihan gives background of property and work, including all dimensions from property. The work on the patio was already completed; contractor at time told him no permit was needed. Now needs to do work on the pitch. He is asking for variance for work previously done, and also for work that needs to be completed.
- Kings Grant Maintenance Association Approved work, December 15<sup>th</sup>, 2015 Letter
- Side Yard Set Back: Requests 1 foot from eastern side where 4 feet is required.
- Rear Yard Set Back: Requests 0 feet set back, where 10 feet is required
- Bulk Variance of impervious coverage: Requests 47.65% where 45% is permitted.
- Mr. Whelihan provides testimony regarding drainage with neighbor at lot 21. States that there is no issue. Run-off is only impacting his property.
- Mr. Whelihan states that he has obtained a new contractor, work has not begun yet.
- Mr. Whelihan agrees to a condition of approval that he will fix the rear patio paver to allow run-off towards the back of his property, as opposed to the sides.

Public Comment- None

Board Comment:

- Ms. Williamson asks if the blocks are in concrete or sand. Ms. Jamanow responds that it is considered the same, but the blocks are placed in sand.
- End of Board Comment

Motion to Approve ZB 16-01

Motion: Williamson

Second: Lowden

Ayes: Hoffman, Laspe, Lowden, Rodgers, Hughes, Amato, Parikh

- 2. Marilyn Lemberskie, ZB 16-02. 26 Birchwood Drive, Block 11.04, Lot 54 (MD Zone District).** *Applicant is proposing a 390 sq. ft pool and requesting a rear yard setback of 8' where 15' is required, 13'6" and 10'6" side yard setback where 15' is required, 10' side yard setback for pool equipment where 15' is required and impervious coverage of 48.5% where 45% is required.*

Witnesses Sworn In:

- Nancy Jamanow, Director of Community Development, Evesham Township
- Jeffrey Lemberskie, Applicant
- Larry Stoelker, Budd's Pools.

Exhibits:

- ZB1: February 10<sup>th</sup> Letter from Nancy Jamanow
- A1: Pool grading plan

Testimony:

- Variances Applicant Seeks:
  - Rear Yard Setback of 8 feet where 15 feet is required.
  - East Side Yard Setback of 13.6 feet where 15 feet is required.
  - West Side Yard Setback of 10.6 feet where 15 feet is required.
  - West Side Yard Setback of 10 feet where 15 feet is required. (for pool equipment)
  - Impervious Coverage: 48.5% where 45% is required.
- Applicant seeks to build 1,000 sq ft of patio, with a 390 sq. ft pool with appropriate decking and equipment.
- Larry Stoelker, Budd's Pools:
  - Gives background of experience with inground pools.
  - Applicant's pool is smaller than average.
  - Concrete of pool will go up to the pool wall itself to reduce the amount of concrete.
  - If the pool is pushed in more, it becomes a safety hazard as it is built to close to the house.
  - Applicant wants decking for recreation area.
  - Describes infiltration trench, and pool grading plan as appropriate.

- Condition of Approval: Applicant agrees to provide a detailed plan of pool grading system and a detailed plan of the infiltration trench system.
- Current Drainage on Lot: Applicant states that there will be pop-out drainage that will go to the curb on the Western side. This is to alleviate puddling on the yard.
  - Mr. Parikh asks about Eastern side and drainage. Applicant states there is no issue there, so no pop-out drainage will be installed.

Public Comment- None

Board Comment- None

Mr. Wieliczko Summary:

- Condition of Approval Listed by Mr. Wieliczko: Applicant agrees there will be no additional storm water runoff to neighbors, no change grades within 5 ft of property lines, pools and decking equipment/installation will not damage neighbor property. It will come from the Eastern side. Any soils removed from the site will be replaced.
  - Mr. Parikh asks if applicant agrees to the conditions listed, applicant agrees.
  - Ms. Williamson notes that if applicant goes beyond scope of the work that is approved tonight, they will be fined. Applicant understands.

Motion to Approve ZB 16-02

Motion: Rodgers

Second: Hughes

Ayes: Hoffman, Lowden, Rodgers, Williamson, Hughes, Amato, Parikh

- 3. Gerald, James & David Soboleski, ZB 15-16. 465 N. Elmwood Rd., Block 11.52, Lot 3 (LD Zone District).** *Applicant is requesting a USE Variance to permit 56 single family residential lots on a 32.277 acre property, existing zoning permits 32 units. Robert Baranowski, Jr., Attorney for Applicant.*

*Mr. Wieliczko notes that Mr. Amato can participate in proceedings but is unable to vote.*

Witnesses Sworn In: *All Witnesses give qualifications to board and are accepted.*

- Lans Langraff, Planner
- John Fischer, Engineer
- Andrew Ferranda, Traffic Engineer
- All Board Professionals (Leah Furey, Rakesh Dariji, Stacey Arcari)

Exhibits:

A1: Density Analysis Exhibit dated 2-22-16

A2: Density Plan. Colored rendering of Soboleski Tract Property. Dated 10-8-16.

A3: Traffic analysis plan done by Andrew Ferranda, dated 10-23-15.

A4: Environmental Review Letter, dated 11-23-15.

A5: Demographic study from the Evesham Board of Education, dated 1-14-14.

## **Testimony:**

### **Robert Baranowski, Attorney:**

- Mr. Baranowski describes overview of application. Applicant is seeking a Density Variance that would permit 1.7 volumes per acre where 1.0 volumes per acre is permitted. Applicant seeks to build 52 single family homes where only 32 would be allowed according to the Density Ordinance. Property exists in an LD Zoning District, although across the property is a MD Overlay Zone, which forces the applicant to seek approval from the Zoning Board.
- Notes surrounding locations around the proposed site that have been approved for clustering by the Township. These surrounding properties are denser than what the applicant seeks. The mean of these properties is more than what the applicant is seeking to do.
- Proposed site will not encroach on wooded areas or open space.
- Site is an appropriate transition area.
- Site accommodates the increased density proposed, and maintains the character of the area.
- Prices of the homes proposed would be extremely high if the applicant only built 32 homes.

### **John Fischer Testimony:**

- Gives background of professional experience, is accepted by the Board as a professional in his field.
- Site is designed for 56 homes, 1.7 homes per acre.
- Site includes 13.4 acres of open space.
- Public Water/Sewer available to owners.
- Pump station will be needed on site.
- Prices of homes would increase \$50,000-\$60,000 if they were placed on 1 acre only.
- Projected timeframe of project:
  - 3 years.
  - 6 months site development; 2 years selling; 6 months finishing property maintenance after last homes have been sold.

### **Andrew Ferranda Testimony:**

- Gives background of professional experience, is accepted by the Board as a professional in his field.
- Looked at location of proposed driveway of site along with Board Engineer.
- Driveway entranceway is proposed to be located outside the bend of the road.
- Located optimal entranceway based on site distance.
- Traffic Impacts on Proposed Development:
  - Existing volumes at Geranium drive is very light. Rated B or A.
  - Future Conditions for Geranium Drive would be a “B or better” and driveway would operate at a “C or better”
    - Development would create 12 extra trips in AM and 24 extra trips in PM hours.
  - Level of service of traffic remains the same regardless of the number of units.

Lans Langraff Testimony:

- Gives background of professional experience, is accepted by the Board as a professional in his field.
- States that average density of surrounding areas is more than what applicant is seeking.
- Application will save Open Space area. 42% of open space on site will be saved.
- Positive Criteria of Density Variance:
  - Preserve character of the neighborhood. Surrounding area is already dense.
  - Reflective of development in density of area.
  - Site accommodates the increased density of the area.
  - Efficient use of land, less cost to developer, savings towards buyers.
- Application meets setback requirements adjacent to neighboring properties.
  - 25 ft rear yard setbacks.
- No detriment to public good.

*End of Applicant Testimony.*

**Planning Board Professional Testimony:**

Leah Furey, Planner:

- Notes that applicant compared this property to an MD Zoning District, which the property in question is an LD Zoning District. There is a reason that the property in question is not in an MD Zoning District.
- LD Zoning District does allow clustering.
  - Notes that she is not concerned about the size of the lots, but how the overall plan diminishes the Evesham Township Master Plan.
  - Many of the single home developments surrounding this plot are less than one unit per acre however they were designed to be clustered. Surrounding properties include townhomes, older homes, and an over 55 community.
- While 41% of Public Space will be preserved, 30% of that would be used for the storm water basin, which would be disturbed.
- States that economic hardships on behalf of developer should be considered, but not undermine ability for proper land use planning.

Rakesh Dariji, Engineer:

- Letter dated December 14<sup>th</sup>, 2015
- Applicant has not yet submitted Phase 1 Environmental Studies. Does not need studies until approval. Does not recommend waiver of environmental studies.
- Asks applicant how they determined location of the storm water basin.
  - Mr. Fischer states they took the lowest point of the site.
  - Mr. Dariji asks that applicant look at multiple storm water locations throughout site. Applicant responds that the basin was size accordingly to the number of homes it would service.
- States that cost of properties increasing is not a factor to making a decision regarding allowing the increased density. Discusses the cost of the homes and the necessity to build a pump station.

Stacey Arcari, Traffic Engineer

- Asks applicant about the concept plan: width of road, on-street parking. Etc.
  - Applicant responds that the roadways have not been fully engineered yet. Parking requirements will be met.
- Asks applicant about a crest in roadway and asks applicant to provide a feasibility study. Applicant states that taking the crest out would create a hardship, it is part of the topography. MDR overlay district was not asked to do it either.
- Asks applicant how offset will operate (back to back left turn lots).
  - Applicant responds that 35 mph is a feasible layout for back to back turn lanes; 150 ft. between two intersections will not create significant stacking. 3-4 vehicle stacking for each lane.
- Asks applicant regarding integration of triangle lot. Applicant will look into this secondary access route as a possibility.

End Board Testimony.

Public Comment:

Mr. Wielicko gives overview of how public comment will be addressed to ensure that the crowd is aware of the process.

**Byron Druss, 5 Sweetgum Court**

- Does not agree with applicant's argument that the site should be granted a Density Variance based on the fact that the surrounding areas have high density.
- Discusses traffic and how it would worsen area. Thinks traffic at the curve is not a good idea, thinks it will be more than what applicant states.

**Steve Sobosinski, 3 Chateau Circle**

- Thinks Open Space tract is too invasive. The Open Space area is placed too far back, and is not enough actual open space.
- Sidewalks on plan are not apparent, thinks they should be installed.
- Thinks that the application is too large for this type of lot.

**Jack Lynn, 35 Mitchell Court**

- President of Legacy Oaks HOA
- Believes there will be negative impacts in regards to traffic and crowding.
- Township has obligation to keep the Over 55 community safe.

**Robert Sullivan, 15 Geranium Drive**

- Opposes use variance due to traffic concerns, etc.
- Entranceway is located to homes near Geranium Drive. Would create safety hazard if neighborhood was allowed.
- Does not understand why developer has to allow 56 homes on property.

**Allen Lyons, Hibiscus Drive**

- Lives at Village Green.
- Very concerned about traffic, does not think it is safe.

**John O'Donnell, 111 Foxhill Drive**

- Concerns are traffic, density, and open space.
- Open space should be better preserved.
- Curious as to how storm drain system will work. Asks what would happen if the pump fails.

**Dan Lake, 136 Crown Prince Drive**

- Believes there will be more foot traffic in backyard, no sidewalk at night.
- Neighborhood has a lot of kids, worried about their safety.
- Curious about how school bus routes would work.

**Dan K., 162 Crown Prince Drive**

- Very concerned about traffic.
- Soil in area is clay and is heavy- concerned about storm water drainage.

**Larry Steinberg, 112 Crown Prince Drive,**

- States that 13 homes already back up to Crown Prince Drive and have a drainage problem.

**Claudia Farrace, 8 Marcy Court**

- Lives near basin area. Constantly has water problem. Does not believe that one area would capture all of the water. Asks what happens to existing taxpayers.
- More houses will create more problems.

**End of Public Comment Portion**

Board Comment:

- Mr. Rodgers asks if the applicant might consider mitigating their position. Mr. Baranowski says no, the application was created in regards to what the property could handle. Want to keep housing prices in appropriate market range.
- Mr. Rodgers asks about drainage issues. Mr. Langraff responds that it is only a concept plan, and would address later with a full engineering and site plan. Mr. Parikh responds, asking why applicant would ask for variance if plan is not yet complete. Discussion ensues.

Summary of Application:

- Applicant is requesting a D5 Density Variance to permit 56 single family homes, where only 32 are permitted.
- Zoning ordinance states that developer must apply for this variance due to density controls in the area.
- Review letters and testimony are used to provide standards of proof of need for increased density, and any positive/negative criteria that will impact the applicant if the variance is not allowed.

- The Zoning Board must make a decision that is not capricious, they must evaluate testimony based on the professionals and determine what was credible/not credible, and if the burden of proof was presented accurately. The board must determine if the applicant sufficiently stated their case as to why this variance should be granted.

Motions:

- Ms. Williamson introduces a motion to deny ZB 15-16. Ms. Williamson states that she is denying because the applicant did not efficiently explain why they should be granted the variance.

Motion: Williamson

Second: Hoffman

Ayes: Hoffman, Laspe, Lowden, Rodgers, Williamson, Hughes, Parikh.

Application is Denied. 7-0.

**Resolutions:**

ZB 15-24

Motion: Rodgers

Second: Laspe

Ayes: Lowden, Rodgers, Laspe, Hughes, Amato, Parikh

**Communications:**

- Ms. Williamson states that she will resign from the Zoning Board effective March 1<sup>st</sup>. She thanks all of her board members, board professionals, and staff for their assistance over the years.
- Next meeting will be on March 21<sup>st</sup> at 7pm.

Meeting Adjourned at 9:47pm.