

TOWNSHIP OF MIDDLETOWN  
PLANNING COMMISSION MEETING

April 12, 2016

Present: David Sharbaugh, Anthony Mirenda, Greg Reitze, William Moran, Peter Schettler, Mark Bradson, Eric Janetka (Engineer, Kelly & Close) and Donald Petrosa, Esq. (Solicitor)

A. Call to Order

Chairman Mr. Sharbaugh called the meeting to order at 7:30 PM.

B. Approval of Minutes

There were no minutes to approve.

Mr. Sharbaugh noted that he was flipping the order of the meeting to discuss Item D first due to it not taking as long to discuss as Item C.

D. New Business

*Amended Final Land Development plan, Granite Farms Estates, 1343 W. Baltimore Pike, Applicant proposes a 725 sq. ft. secondary entrance addition to the existing Building E to serve the upper floor independent living residential units with the building.*

Mr. Joseph P. Hanna of Chambers Associates, Inc. introduced himself as Engineer for the applicant. He explained that he is seeking approval for a 725 square foot secondary entrance addition to the existing Building E to serve the upper floor independent living residential units within the building. This is an amendment to the Land Development Plan that was approved by Township Council on April 27, 2015. Mr. Hanna went on to state that this application also includes plans for a 33 foot 4 inch by 42 foot 4 inch wall enclosure and associated emergency generator proposed to be located within the 50 foot accessory building setback. Mr. Hanna stated that they were granted a variance from the Zoning Hearing Board on February 24, 2016. The wall will project to within 5 feet of the property line, and the generator to within 34 feet of the property line. Mr. Hanna stated that he received review comments from the Engineer on March 21, 2016 and responded that they would comply with all comments.

Mr. Sharbaugh motioned to recommend approving the Amended Final Land Development plan. Mr. Moran seconded the motion and the Commission passed the motion unanimously with a vote of 6-0.

*Conditional Use Application, Granite Run Buick GMC, 1056 W. Baltimore Pike, Applicant seeks approval to permit motor vehicle parking lot in B-Business to allow for temporary parking at 8 S. New Middletown Road for the storage of vehicle inventory.*

Mr. Timothy Sullivan, attorney for the applicant, introduced himself and stated the applicant is looking for approval for a Conditional Use Application to allow temporary parking

and storage of vehicles at the former Denny's site. He explained the Ordinance allows the storage of vehicles as a conditional use of this district. He stated that this is a short term lease with the owner due to the fact that the owner is looking to rent the diner.

Mr. Petrosa asked who owns the property. Mr. Sullivan stated he did not know who the legal owner of the property was. Mr. Petrosa stated that the Township would need a copy of the deed. Mr. Petrosa asked if there was designated parking in the lot. Mr. Sullivan explained that they have stacked as many cars as they can get into the lot. Mr. Petrosa asked that the application be a temporary application and that a limited time be placed on the application and if it exceeds the time frame then another application should be submitted.

Mr. Sharbaugh stated that he has issues with the security of the lot, and suggested that perhaps lighting would help this issue. Mr. Ryan Irish, of Granite Run Buick, GMC stated that he would have PECO turn the lights on for security.

Mr. Reitze made a motion to approve the Conditional Use Application subject to the comments addressed. Mr. Miranda seconded the motion and the Planning Commission approved unanimously with a vote of 6-0.

#### C. Old Business

*Preliminary Minor Subdivision and Land Development, Michael Mita, 272 Oak Avenue, subdividing an existing 1.81 acre lot property into three single family residential lots. The originally submitted plan was for the creation of four residential lots and an open space lot.*

Mr. Timothy Sullivan, attorney for the applicant, introduced himself and explained that the applicant, Michael Mita, would like to make an introductory statement. Mr. Sullivan stated that he then would give an overview of the project.

Mr. Mita stated that he has been a resident of Middletown Township since 2009. He stated that this project is very dear to him and he has worked with Township Manager, Bruce Clark, Assistant Manager and Zoning Officer, Meredith Merino, and the Township Engineer, Mr. Eric Janetka, very closely to bring this project to fruition.

Mr. Sullivan stated that the property has 100 feet of frontage on Oak Avenue with an existing house that has been vacant for a number of years. He explained that approximately a year ago a large tree came down crushing part of the existing house. It is proposed to develop a 3-lot subdivision with Lot 1 having a 50 foot frontage on Oak Avenue, with a separate driveway. Lot 2 will also have 50 foot of frontage on Oak Avenue with a shared driveway with Lot 3. Mr. Sullivan stated that the property consists of 1.83 acres within the 1/4 acre Zoning District R-4. Mr. Sullivan stated that Lot 1 would consist of 12,886 square footage, Lot 2 would consist of 25,000 square footage, and Lot 3 consists of 41,000 square footage. He stated that approximately 80% of the property would be kept green and that some of the wetlands would be deed restricted. He explained that there is some erosion occurring on the property and that this would be landscaped and planted to prevent further erosion. He explained that there would be a rain garden basin on each lot for stormwater management. These basins would be planted with native plants and not be

mowed. Mr. Sullivan stated that one house would be built into the hillside and the other two houses would have daylight basements. The houses would be deed restricted to prevent any disturbance to the impervious surfaces. Mr. Sullivan stated that they would comply with most of the Township Engineers comments.

Mr. Janetka asked Mr. Sullivan to go over the waivers requested as part of this application. Mr. Sullivan stated that they are asking for a waiver for grading/disturbance of steep and very steep slopes behind the existing house (Section 210-61(A)(B), due to the fact that the slopes are not naturally occurring. They are requesting a waiver of the ordinance Section 210-26.F(3)(4) pertaining to the widening of the Oak Avenue cartway to meet municipal standards. A waiver is requested for Section 186-5.C(3) regarding no cut/fill slope shall be steeper than 3:1. Mr. Sullivan also asked for a waiver from Section 198.13.A for Stormwater Management Ordinance regarding the final grading of the proposed site; conditions shall be several feet above existing grade as a result of providing two 14% slope downhill asphalt driveways. The proposed grade slope shall be less than the existing grade slope. Additional fill material shall be needed to provide the proposed slope. Final grading elevations of all proposed conditions, including the proposed stormwater basins, shall be several feet higher than the existing grade elevations. Mr. Sullivan requested a waiver from Section 198.14.D from meeting the 50 foot minimum wetland buffer. Since the rear yard setback is less than 50 feet and the wetland reduces the use of the site, the applicant is requesting that the riparian buffer be reduced to 25 feet. A waiver is requested from meeting the minimum requirement of the stormwater peak rate control of the proposed two- year storm event requirement to meet or be less than the existing one-year storm event requirement, per Section 198-16.A.(3). Per existing and proposed steep slope site conditions, wetlands location and size of the property, final grading of the property and location of the proposed houses and driveways and stormwater basins, the final bypass area downslope from the proposed construction consists of the additional regraded meadow area. The total stormwater runoff rates for all drainage areas combined for post development shall be less than pre-development for the 1, 2, 5, 10, 25, 50, and 100 year storm events.

Mr. Bradson asked if there were plans for remediation work in the wetlands areas without disturbing the wetlands. Mr. Gryga, Engineer for the project, stated that they would have to apply to DEP for improvements and that they wanted to keep as much of the area undisturbed as possible. Mr. Bradson asked if there was a minimum depth requirement for rain gardens. Mr. Janetka answered that there is no minimum depth requirement. Mr. Gryga stated that rain gardens manage stormwater in a much more controlled manner and they will also manage the neighboring properties. Mr. Sullivan showed where the swales were on the property.

Mr. Reitze asked what the steep slope ordinances state in regards to this project. Mr. Janetka stated that with a minor subdivision, there are two mechanisms for disturbing the steep slopes; one is through a variance which does not apply to this application. To disturb steep slopes, a steep slope report is required and the applicants would have to get a waiver from the requirements. Mr. Janetka stated that the maximum proposed ground slope in this development may not exceed 3:1 (horizontal to vertical). There are locations throughout the site where the proposed slope exceeds this requirement and a waiver has been submitted to the Township for relief from this requirement. Mr. Reitze asked if there are requirements for the type of fill. Mr. Janetka stated that there are fill requirements per code. Mr. Bradson asked if there were test

borings done for soil types. Mr. Gryga stated that they dug six test pits and hit bedrock at about six feet across the site.

Mr. Janetka stated that another waiver requested is for infiltration. Infiltration testing completed at the site indicates there is no infiltration capability and a shallow limiting zone and mottling exists throughout the site. Rain gardens are proposed to control the rate of stormwater runoff and to provide some water quality benefit. A waiver of the volume control requirements of the Stormwater Management Ordinance is requested. Alternative stormwater management facilities proposed are similar to that required by PADEP for infiltration-challenged sites. Mr. Janetka stated that all the basins are lined with PVC liners to protect the houses from an influx of water. Mr. Sharbaugh stated that he has visited the site several times and has seen running water and believes that this is the reason for some of the trees to topple. He asked what is causing water to not percolate on this site. Mr. Sharbaugh stated that the plan is adding impervious surface to a site that does not control the runoff. Mr. Gryga stated that 80% of the site is still green.

Mr. Sharbaugh asked that because of the severe development problems of this site, if there would be any objection to submitting the plan to the Delaware County Conservation District? Mr. Sullivan stated that this would be done as part of the preliminary plan.

Mr. Bradson asked concerning the proposed rain garden on Lot One would the rip-wrap protect water runoff onto the other lots. Mr. Janetka stated that in his opinion where the outlet structure is located would direct the water to the wetlands. He stated that if they were to move the outlet structure over 10 feet, it would give more assurance that the water would runoff into the wetlands.

Mr. Moran asked what the slope of the driveway would be. Mr. Janetka stated that most of the driveway is fill and the final slope of the driveway is 14%, which complies. Mr. Moran asked about the water runoff issue. Mr. Sullivan stated that each lot owner maintains the rain gardens as in the case of a seepage bed or basin. There will be a declaration to comply with this issue and the Township will have the right to enforce this declaration. Mr. Moran asked about the orientation of the houses. Mr. Sullivan explained the houses have front loaded garages. Mr. Janetka explained the houses are standard single family homes. Mr. Sharbaugh asked about the marketability of the houses especially the 2 lots which are virtually land locked. Mr. Sharbaugh asked if there were any more questions from the panel. Mr. Bradson asked about the radius of the driveways specifically in regards to emergency vehicles. Mr. Janetka stated the driveways were sufficient for emergency vehicles.

Mr. Dennis Donnelly of 273 Oak Avenue stated that the proposed driveways are not any different than existing driveways.

Mrs. Susan Masters of 6 Laurel Lane thanked the Planning Commission members who walked the property to address any issues. She stated that she and her husband Jack lived in the Township for 47 years. She stated that not all undeveloped land should be developed. She stated that her property would be the most impacted by the proposed development of this

project, due to the elevation, which is 8 to 12 feet higher than her property. She stated that her property is the lowest point of the five Laurel Lane properties. She said that the springs and water runoff infiltrate her property. She stated that she and her husband did improvements totaling in the thousands of dollars to improve the water runoff problem. She stated that pipes were laid to alleviate the runoff issues. She stated that the spring water running through the pipe is running at 1 gallon every 11 seconds. She stated if they did not do these improvements she believed that they would have a much more problematic situation. She stated that the impervious surfaces proposed would add to her already existing problem. She stated that last year she had an 80 foot tree fall from the Oak Avenue property onto her property. She stated that the reason the tree fell was due to the water problem of springs around the trees. She stated that they have paid for trees to be removed from the Oak Avenue property. Mrs. Masters stated that the development proposed would be a huge disservice to the residents of Laurel Lane. Mrs. Masters asked that the Planning Commission take into account the density issue and how it will impact Laurel Lane. She stated that this tract of land, though small, is a wildlife corridor and should be protected as open space. Mrs. Masters stated that she and her husband are opposed to the development of this property. Mrs. Masters showed pictures of the water runoff issues on her property. Mr. Sullivan asked if the pipe shown in the pictures was on the Oak Avenue property and if the lawn was on her property as well. Mrs. Masters stated the pipe was on her property but the slope was on the Oak Avenue property which is not maintained. Mr. Sullivan stated that his client does not own the property, that he is the equitable owner under an agreement of sale.

Mr. Randall Sampson of 14 Laurel Lane stated that he has been a resident of the Township for 20 years. Mr. Sampson explained that in that 20 years cycle, there have been 3 hurricanes and 5 torrential storms and each time his house has been flooded. He stated that this was due to the slope of the Oak Avenue property. He explained that on the Oak Avenue property there is a natural made gorge into which the water runs. He explained that during Hurricane Irene, a 40 foot diameter tree came down on his property. He stated that when the Township Engineer speaks of impervious land that is exactly what it is. Mr. Sampson agreed that the land is clay mixture and approximately 4 feet below the clay mixture is solid bedrock. Mr. Sampson stated that in the most recent storm, another large tree came down on his neighbors' property. Mr. Sampson asked that no waivers be approved. He stated that there should be a stipulation that if this project is approved by Township Council, that the future homeowners will be responsible to fix any additional water problems for the Laurel Avenue property holders. Mr. Sampson stated that in 1976 a state law was passed that stipulated that a property development cannot produce any more water onto neighboring properties. Mr. Sampson asked that this development not be approved or if approved, there should be no waivers.

Mr. Sullivan asked if the Laurel Avenue homeowners were notified by letter of this development. Mr. Sampson and Mrs. Masters both stated that they were not notified of this meeting. Mr. Petrosa stated that after submitting the preliminary plan, the applicant should notify by certified mail that the plan has been filed. Mr. Petrosa explained that some developments could go on for many, many meetings and that interested parties should be aware and keep track of the ongoing meetings. Mr. Sharbaugh asked if it would be good business practice to send notices of ongoing meetings. Mr. Petrosa stated it is not a requirement to do so.

Mrs. Jan Kagarise of 12 Laurel Lane stated that she has been a resident of the Township for 50 years. Mrs. Kagarise stated that springs move. She stated that she has a water issue and has a sump pump in her basement. She stated that this is an ongoing problem. Mrs. Kagarise stated that it is not unusual to see water streaming down into her property. Mrs. Kagarise commented that she is afraid that building on Oak Avenue will create more water issues for Laurel Lane.

Mrs. Maryanne Bennett of 10 Laurel Lane stated that she has lived in the Township for 37 years and has experienced many water issues. She stated that they had to spend approximately \$22,000 for water management done to her home. She stated that they have a spring in front of her home. Mrs. Bennett stated that she and the neighbors have used their own money to fix the water problems. She stated that the Township does not want to manage the homeowners' rain gardens. Mrs. Bennett suggested that the waivers should be called red flags, not waivers. Mrs. Bennett thanked the Planning Commission for the time and effort they are giving to this project.

Mr. Mita responded that he feels for the families on Laurel Lane which is why he is figuring ways to design his project to hold the water so it does not impact the neighboring properties. Mr. Mita stated that he can work as a team with the community, Township and Engineer for a better project for all involved.

Mrs. Masters stated that Mr. Mita cannot know where the springs will pop out. She stated that not all land needs to be developed.

Mr. Donnelly of 273 Oak Avenue stated that he built his house approximately 10 years ago. He stated that he has followed the water issues over the years. He stated that all the water from the Oak Avenue property runs back to the swale and heads east. He stated that not one drop of water enters the Laurel Lane property. He stated that the development by Alan Mancill uses site management. Mr. Donnelly stated that the project proposed by Mr. Mita will improve the water problems, improve the neighborhood and improve the house values.

Ms. Marie Fabian of 264 Oak Avenue stated that she has a water issue in her back yard. She stated she feels for the residents on Laurel Lane. She stated that she does not feel the property should be developed.

Mr. Reitze stated that should the project be denied and someone wants to put a single family home would the same issues be prevalent. Mr. Janetka stated that the applicant would still have to meet stormwater management regulations.

Mr. Sharbaugh stated that due to the conditions that exist on site and the high water table, he feels that the Committee is not in a position to recommend approval to Council. He suggested either outright denial or table the land development submission. Mr. Sharbaugh made a motion to deny at this time with the developer having the right to appeal and present any further studies which they may deem appropriate to overturn the decision. Mr. Bradson seconded the motion to recommend that Council deny the application. With a vote of 6 – 0, the Commission passed the vote to recommend to deny the application.

Mr. Petrosa, Esquire, stated that the motion to deny does not mean that the applicant may not still go before Township Council. Mr. Sharbaugh explained that the Planning Commission is not in the position to deny an application outright. He stated that they recommend Council to deny this application.

There being no further business, the meeting was adjourned at 9:25 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Sharon Browne". The signature is written in black ink and is positioned above the printed name.

Sharon Browne, Recorder