

The stated meeting of the Code Enforcement and Land Development Committee of the Board of Commissioners of the Township of Abington was held on Wednesday, February 1, 2017 at the Township Administration Building, Abington, PA., with Commissioner Sanchez presiding.

**CALL TO ORDER:** 7:13 p.m.

**ROLL CALL:** Present: Commissioners SANCHEZ, DiPLACIDO, ZAPPONE, GILLESPIE  
Excused: MARKMAN

Township Manager LEFEVRE  
Township Solicitor CLARKE  
Director of Code Enforcement MATTEO  
Planning & Zoning Official PENECALE

Also Present: Commissioners LUKER, KLINE, MYERS, HECKER, FARREN, ROTHMAN, SCHREIBER, BOWMAN, SPIEGELMAN, KALINOSKI

**MINUTES:** Commissioner Sanchez made a MOTION, seconded by Commissioner DiPlacido to approve the minute of the November 28, 2016 Code Enforcement and Land Development Committee Meeting.

MOTION was ADOPTED 4-0.

Subdivision SD – 16-08 – Patrick J. Deacon – 2823 Old Welsh Road

Commissioner Sanchez made a MOTION, seconded by Commissioner DiPlacido to approve the subdivision application of Patrick J. Deacon, applicant for the property located at 2823 Old Welsh Road. The applicant proposes to subdivide the existing property at 21,250 square feet into two lots. Lot No. 1 will contain the existing single-family dwelling and consist of 13,750 square feet. Lot No. 2 is proposed to be 7,500 square feet. Lot No. 2 is proposed to be improved with a new single-family dwelling. The Zoning Hearing Board of the Township of Abington granted a dimensional variance on October 18, 2016 to allow for Lot No. 1 to have one side yard of seven (7) feet in depth. The properties are zoned in the R-4 Residential District in Ward No. 8 of the Township of Abington.

This motion is subject to the following conditions:

1. Sanitary sewer service is available for the development. Flows from this project will be treated by the Abington Township Wastewater Treatment Facility. The applicant has submitted an ACT 537 Exemption Mailer that must be approved by DEP. (Abington Planning Commission approved this request on January 24, 2017).
2. The terms listed within the Staff Review letter dated November 28, 2016 are to be taken under consideration by the Board of Commissioners of the Township of Abington.
3. The side yard setback on the eastern side of the property is requested to be a minimum of 13 feet from the common property line. (Zoning Hearing Board decision of October 18, 2016).

This motion is subject to the following waivers:

1. Waiver from Section 146-11.A – Property Identification Plan – this plan is required to supply the tax parcel information, owner’s name and lot area for all properties within 400 feet of the site involved in this application. Staff supports this waiver.
2. Waiver from Section 146-11.B. – Existing Features Plan – the plan is required to plot the location of all utilities on the sites and within 400 feet of the properties involved in this application. Staff supports this waiver.
3. Waiver from Section 146.11.C. – Proposed Layout Plan – the plan is required to plot the location of all existing utilities to include the size, type and depth of all existing improvements propose to remain and be removed. Staff supports this request.
4. Waiver from Section 146-39. 1 – Shade Trees – the applicant will be planting the required shade trees. However, they seek approval to plant the trees within the front yard setback area and not within five (5) feet of the front property line. (The Planning Commission recommends that trees not be planted within twenty (20) feet of the front property line).
5. Waiver from Section 146.11.L – Architectural Plan – an architectural plan is required to be submitted with this subdivision plan. A rendering of the proposed single-family dwelling has been submitted.
6. Waiver from Section 146-24 – Right-of-Way Width – to allow the paved surfaces within the right-of-way to remain as currently installed. This request was approved on the prior application. The applicant stated that all setbacks have been plotted from the Ultimate Right-of-Way.
7. Waiver from Section 146-27 – Sidewalks, Curbs & Gutter – the applicant is required to install full street improvements along the frontage of Old Welsh Road. There are no sidewalks, curbs and gutters along either side of Old Welsh Road on this block.

Commissioner Sanchez asked the applicant to present their plan.

Patrick Deacon, Popper & Deacon, Inc. 659 Roberts Avenue, Glenside, PA., 19038, representing Joseph and Jeanette Stewart, owner of property located at 2823 Old Welsh Road, Willow Grove, PA., presented the plan to the Board and requested approval for this subdivision plan.

The existing lot is 21,250 sq. ft. and the lot to be created will conform at 7,500 sq. ft., and the applicant complies with front and side yard setbacks and we are not seeking any other variances other than what was already approved. The ZHB granted a dimensional variance to allow Lot No. 1 to have one side yard of seven feet in depth and the building on the new lot will be 13,750 sq. ft. from the newly created property line. We will build a single-family-dwelling with two off-street parking spaces as required.

Commissioner Sanchez referred to Condition No. 3 and revised the language to read: The side yard setback on the eastern side of the property is *required* to be a minimum of 13 feet from the common property line. He also revised Condition No. 2 to read: The terms listed within the Staff Review letter dated, November 28, 2016 is to be *adopted as a condition* by the Board of Commissioners of the Township of Abington.

He asked for any comments from Commissioners or staff.

Commissioner Gillespie questioned whether any trees will be removed and asked for clarification on off-street parking.

Mr. Deacon replied there are mature trees on the left front of the property that will remain and will be protected during construction. The driveway will be deep enough to pull in and park two vehicles so as to not park on the street and also the dwelling will have a potential two-car garage.

Commissioner DiPlacido referred to comments made by Mr. Narcowich, County Planner, regarding sidewalks and asked if this property currently has a sidewalk.

Mr. Deacon replied no.

Mr. Matteo noted that a letter was received from Mr. Narcowich rescinding his comment about sidewalks.

Commissioner Myers commented that if sidewalks were required in this area it would be a sidewalk to nowhere. This entire area has been a problem, but she would not want to require one homeowner to install a sidewalk when no one else has it. She would rather see a complete plan for Old Welsh Road.

Commissioner Kline questioned why there is no landscape plan showing existing mature trees as well as protection around those trees.

Mr. Penecale replied there is a landscape plan on Sheet 3 of 4 showing existing trees and two trees that will be removed; one 24 inch caliper tree and one 20 inch tree.

Mr. Deacon added that there is a 30 inch tree and an 18 inch tree that will remain. The final plan will show tree protection around the trees that will remain prior to recording.

Commissioner Kline questioned whether requirement of 25% of woodland canopy would be part of this subdivision.

Mr. Penecale replied no, that is not part of this subdivision application.

Commissioner Kline continued that the 13-foot setback requirement by the ZHB should be plotted on the subdivision plan.

Mr. Deacon replied the final plan will show that the dwelling will be 13 feet from newly created property line.

Commissioner Sanchez asked for any public comments. There were none.

MOTION was ADOPTED 4-0.

Liquor License Transfer – Resolution No. 2017-007 – Giant Food Stores, LLC/737 Huntingdon Pike

**FOR INFORMATION ONLY**

Commissioner Sanchez announced that a Public Hearing will be held on February 9, 2017 at 7:30 PM on Resolution No. 2017-007 authorizing the Giant Food Store at 737 Huntingdon Pike to transfer an existing restaurant liquor license from outside of Abington Township.

Ordinance No. 2131 – To Amend the Zoning Code, Ordinance No. 1753 of the Township of Abington, to Create Use C-37 Medical Marijuana Dispensary and Use D-18 Medical Marijuana Grower/Processor with the Township of Abington

Commissioner Sanchez made a MOTION, seconded by Commissioner DiPlacido to approve the advertisement of Ordinance No. 2131, and to take action on the following Ordinance No. 2131 at its regularly scheduled meeting on March 9, 2017, at 7:30 p.m.

Commissioner Sanchez asked for any comments from Commissioners or staff. There were none.

Commissioner Sanchez asked for any public comments. There were none.

MOTION was ADOPTED 4-0.

Commissioner Sanchez asked for any general comments relating to Code Enforcement and Land Development.

Lora Lehmann, 1431 Bryant Lane, expressed concern that she feels the condition of her road is dangerous.

John DiPrimio, 1324 Warner Road, said on August 1, 2016, a permit was issued for a fence in Abington Township that was in violation of the zoning ordinance. The requirement of the permit was that the fence is no more than four feet high, so he contacted his Commissioner, sent an email and letter to the President of this Board and a copy to the Board of Commissioners. He requested records of this permit and apparently there was a meeting on this property where Township Solicitor, Code Enforcement Officer and a Commissioner met to look at it. He, along with another member of the ZHB called the Code Enforcement Department about it and work was stopped and, when he came back from out-of-town, the fence was erected.

This application never came before the ZHB, and Township Solicitor and his legal firm recommended that this fence be allowed to stand and not be removed. He read an email into the record from Township Solicitor's office in regards to a recommendation that this could be challenged in court and the Township would not likely succeed.

It is a 6-foot high fence in the front yard of the property that required a variance and is in violation of the zoning ordinance.

Commissioner Zappone clarified that a permit was issued for a four foot fence and a six foot fence was erected, so when was the policy changed?

Mr. Matteo replied staff from his office did issue the permit. He was informed that measurements were taken incorrectly, so a six-foot fence was erected. He was told it could not be taken down.

Commissioner Kline clarified that Township Solicitor or anyone from Township Solicitor's Office was not involved with the meeting at the site. It was he, Mr. Matteo and Mr. Penecale. The original permit issued for the site was for a four-foot high fence and the applicant never went through with the work. They subsequently came back to the Township for a new permit for a six-foot high fence showing the proper building setback, which would allow for a 6-foot high fence from the center line of the road.

It is a corner property in the R-1 Residential District with a 40-foot building setback requirement, so it is not restricted to the four-foot fence height. The permit was issued as the drawing showed 40-foot from center line of the road in which the property owner erected the fence slightly more than 40 feet. Complaints were then received and a stop-work order was issued and then an onsite meeting was held where information and measurements were taken to be passed onto the Solicitor's Office, and based on information provided by the Solicitor's Office was the reason why the fence remained.

Solicitor Clarke said he and Ms. Gallagher will pull our files and explain what our rationale was for our decision at the Board's meeting next week or send an email to the Board. This came to our office after the problem arisen and staff of Code Enforcement Department made a decision, and when there were complaints, we advised what should be done.

Mr. Penecale said the issue was unique to this property in that the property owner measured the fence from the center line of Valley Road coming in and the current deed for the property still shows the meets and bounds description to the center of the roadway.

So the discrepancy is that there was a condition on the plan that it be measured from the front property line and the applicant did measure it from the front property line, which in this case happens to be the center of Valley Road. The permit was issued with a listed condition and the Solicitor's opinion was that they met that condition as they measured it from their front property line, but unfortunately, that front property line is the center of the road. The deed says, "Measure from the center line of the street," and that is where it was measured from and the permit could not be rescinded.

**ADJOURNMENT:** 7:58 p.m.

Respectfully submitted,

Michael LeFevre, Township Manager

sev