

MARYSVILLE BOROUGH PLANNING COMMISSION
REGULAR MEETING MINUTES
JANUARY 25, 2011

CALL TO ORDER. The meeting began at 7:40 pm

MEMBERS PRESENT

Jennifer Brock, Chair
Stephanie Stoner
Art Vaitl
Shawn Vaccaro

STAFF PRESENT:

Janet Hardman, Code Enforcement Officer
Scott Weaver, Borough Manager

OTHERS PRESENT:

Ann Simonetti, Borough Council

1. REORGANIZATION

Ms. Brock turned the meeting over to the Mr. Vaccaro, Secretary/Treasurer.

Mr. Vaccaro asked for nominations for Chair.

Ms. Mohr nominated Ms. Brock for Chair, seconded by Mrs. Stoner.

Mr. Vaccaro asked for nominations for Vice-Chair.

Ms. Mohr nominated Mr. Vaitl for Vice-Chair, seconded by Mrs. Stoner.

Mr. Vaccaro asked for nominations for Secretary/Treasurer.

Ms. Mohr nominated Mr. Vaccaro for Secretary/Treasurer, seconded by Ms. Brock.

MOTION: Ms. Mohr moved, seconded by Mrs. Stoner to appoint Ms. Brock as Chair. The motion passed unanimously.

MOTION: Ms. Brock moved, seconded by Ms. Mohr to appoint Mr. Vaitl as Vice-Chair. The motion passed unanimously.

MOTION: Mrs. Stoner moved, seconded by Ms. Mohr to appoint Mr. Vaccaro as Secretary/Treasurer. The motion passed unanimously.

2. MINUTES:

a. December 28, 2010 Minutes

Page 3, 5.A., paragraph 2 change "Corsen" to "Corson".

Page 4, paragraph 9, change “could” to “should”.

Page 5, paragraph 5, change “in” to “end”.

Page 6, paragraph 2, change “advice” to “advise”.

MOTION: Mr. Vaccaro moved, seconded by Mrs. Stoner to approve the minutes as amended. The motion passed with Ms. Moore abstaining because she was absent at the December 28, 2010 meeting.

3. PUBLIC COMMENT.

Mrs. Simonetti stated that there will be a Valentine’s Dinner at the Senior Center on February 11, 2011. There is a raffle for several eateries in the area. The purpose of the raffle and dinner is to obtain funds for a toddler park between the Borough building and the Library.

4. OLD BUSINESS.

a. Article 4 Subdivision Amendment - Plan Specifications and Procedures

Ms. Brock stated that Article 4 review has been completed.

b. Article 5 Design and Improvement Standards.

Ms. Brock stated that Streets, Access Drives and Driveways from Article 8, 9 and 10 of the Lancaster County Model SALDO are being reviewed. There was a workshop meeting held on January 12th. The Streets, Access Drives and Driveway section is almost completed. The section on standards for road design will be forwarded to the Borough Engineer for comment and a recommendation. Once the section is completed, the Planning Commission as a whole can review it.

Mr. Vaitl stated that the Borough Engineer made a comment regarding the street design standards in the Lancaster Model SALDO.

Ms. Brock stated that the Borough Engineer stated that he did not prefer the percentage method because contractors tend to use more stone.

c. Well Ordinance.

Ms. Brock stated that Mrs. Stoner is working on the well ordinance.

d. Rockville Estate Phasing Plan Date Revision

Ms. Brock stated that she requested an interpretation from Mr. Altland, the Borough Solicitor. Mr. Altland stated the following in an email; *Technically the MPC requires that if installation of the improvements as depicted on the preliminary plan will extend beyond 5 years, a schedule of completion of the sections, or phases, is to be filed with the plan. Everyone knew that the installation of improvements would exceed 5 years, thus the failure to file a schedule could be argued to have been waived by the Borough.*

We don't have to make any decisions based on that position. A phasing schedule was included in the Final Plan for Phase 1. The MPC does not specify the form of the schedule, thus the inclusion of a schedule with the Final Plan for Phase 1 is acceptable; and was not challenged by the Borough. As you pointed out, the schedule is to be updated annually. If there is a modification to the original schedule, or a prior schedule, the modification shall be subject to the approval of Council in its discretion. Thus, the modification of the schedule set forth in Paul Hepler's letter received on 12-7-10 is subject to Council's approval.

Act 46 of 2010 makes some of the timing issues far less critical. As you know that Act extends approval dates of plans, permits, etc. for certain periods of time.

First, if an approval or permit expired between 1-1-09 and 7-6-10, it is extended until 7-1-13.

Second, the expiration of any permit or approval is "tolled" as of 7-6-10, and whatever time remained on the approval on that date gets tacked on after 7-1-13. For example, the 5 years on the preliminary plan stated with its approval on 12-8-08. On 7-6-10 about 3 years and 3 months remained out of the 5 years. Adding that time to 7-1-13 results in an extension of the 5 year period until October 2016.

Third, the provisions of Act 46 would be applicable to the phasing schedule, and would extend the deadline for submission of each phase. The 3 year period to complete each phase would likewise be extended.

Finally, the 5 year period commences as of the date of preliminary plan approval, regardless of when any conditions may be satisfied. Thus, expiration of the 5 year period is what governs, not the date when all conditions are satisfied and the plan is recorded.

Ms. Brock stated that based on the email information provided by Mr. Altland, the Planning Commission needs to make a recommendation to Borough Council regarding the phasing plan update requested.

Ms. Hardman inquired as to the applicability of the MPC based on Mr. Finnerty's comments on the Borough's SALDO.

Ms. Brock stated that Mr. Hepler of Yingst Homes, Inc. and Mr. Altland has indicated that the MPC is applicable.

Ms. Brock stated that the preliminary plan phasing schedule did not have dates; however, the phasing schedule on the Final Phase 1 plan did have dates and was accepted by the Borough.

Mr. Vaitl stated that the only change in the phasing plan is for Phase 2 which is changing from 2011 to 2012.

Mrs. Stoner stated that the Final Phase 1 plan has not been recorded.

Mr. Weaver stated that the developer's agreement has not been received by the Borough.

Ms. Hardman stated that the developer's agreement is a condition of approval. The plan is not approved until all the conditions have been met. Therefore, the plan cannot be recorded until all conditions are met.

Ms. Brock stated that the property was in the Clean and Green program when it was owned by the Bucher's. She would like to know if the property is still in the Clean and Green program.

Ms. Mohr stated that typically when the property is sold the seller must pay the deferred taxes.

Ms. Brock stated that the Clean and Green program will have an impact on this development.

Mrs. Stoner stated that the property was in the Clean and Green program.

Ms. Brock would like to know if the property is in the Clean and Green program now and what the current taxes are.

Mrs. Simonetti will check the tax records.

Mrs. Stoner stated that she is confused regarding Mr. Altland's response based on the approval date of the plan. If the Final Phase 1 plan has not been recorded, the time has not started.

Ms. Hardman stated that the preliminary plan approval date is used for ordinance changes to affect the plan after the five year period. The preliminary plan does not get recorded. The Final Phase 1 plan is approved when all conditions are met. The recording date is the date used for the Final Phase 1 plan.

Mr. Weaver stated that Yingst Homes, Inc. will finish the work in front of the Diner as part of the Highway Occupancy permit (HOP).

Mrs. Stoner asked if the work done at the bakery was part of the HOP.

Mr. Weaver stated that the work done at the bakery was storm water related. It was not part of the HOP.

Ms. Hardman stated that a zoning permit issued for earthmoving authorized the work done on the Rockville Estates property.

Ms. Mohr stated that the Planning Commission should discuss the phasing plan deadline dates to be aware of the issues.

Mr. Vaitl stated that Yingst Homes Inc. did not have a choice regarding the work required in the HOP because it was about to expire.

Ms. Brock stated that the HOP work was part of Phase 1.

Mr. Weaver stated that the HOP work was not part of Phase 1.

Ms. Brock asked if there was any other discussion about the phasing plan revision submitted.

Ms. Hardman stated that phase 5 is dated for 2022 which is 18 years from the date of the preliminary plan.

Mrs. Stoner questioned that since the Borough did not discuss the phasing plan deadlines as part of the plan approval, can the deadline dates be discussed.

Ms. Brock stated that Phase 2 is the only phase that falls under Act 46 extending the deadline to start. The MPC 5 year period is a deadline to complete the plan.

MOTION: Mr. Vaccaro moved to recommend approval of the revised phasing schedule for Rockville Estates plan to Borough Council.

Mrs. Stoner stated that she is only hesitant on taking official action because the Planning Commission was unaware that they were accepting a phasing plan past the five year deadline.

Ms. Mohr asked if Act 46 automatically gives an additional year.

Mrs. Simonetti stated that a permit had to been issued by July 6, 2010. If the approval of the permit expired between January 1, 2009 and July 6, 2010 it is extended until July 1, 2013.

Mr. Weaver stated that one year does not really matter.

Ms. Mohr stated that the Planning Commission should not get into a situation because the issue is not fully understood. She feels the Planning Commission should further explore the issue.

Mrs. Stoner stated that if Act 46 extends everything for three years, action is not required.

Ms. Mohr stated that she was of the understanding that no action means it is automatically approved.

Ms. Brock stated that that the Phase 2 submission date is unknown. Act 46 is an extension of plan approval. But if approval was before 7/1/2013 it would be approved before the time out period. She thinks it means it is extended for six years.

Mr. Vaitl stated that he feels that based on the phasing plan submitted, there are no issues with Phase 1 and 2. The five year time period for ordinance changes would be applicable to Phase 3, 4, and 5.

Ms. Brock stated that if it is approved by Borough Council it is accepted.

Mrs. Stoner stated that when Phase 1 was being discussed there were so many other issues that needed to be addressed that the phasing plan was not discussed.

MOTION. Mr. Vaitl seconded the motion. Mr. Vaitl, Mrs. Stoner and Mr. Vaccaro voted yes. Ms. Brock voted no. Ms. Mohr abstained because she was not present at the December meeting for discussion and she does not fully understand the issues.

The motion was amended to make reference to the Borough Solicitor's written interpretation email.

5. NEW BUSINESS.

a. Planning Commission Vacancy – Letter of Interest.

Ms. Brock stated that the Planning Commission received a letter of interest and a resume from Christopher Albright to fill one of the vacant positions on the Planning Commission. Mr. Albright was on Borough Council from 2001 to 2005.

Mrs. Simonetti stated that she was contacted by Mr. Terry Kline regarding one of the vacant positions on Planning Commission. Mr. Kline is an engineer and served on the Planning Commission for ten years in the past.

Mrs. Simonetti stated that she will serve on the Planning Commission if Mr. Kline does not submit a letter of interest.

Mrs. Stoner stated that she only knows Mr. Kline because of the plan he prepared for a subdivision off King Highway.

Mr. Weaver stated that he has known Mr. Kline for many years. Mr. Kline is very meticulous about everything. He is an engineer and does surveying.

MOTION: Ms. Mohr moved, seconded by Mrs. Stoner to recommend Mr. Albright to fill one of the vacant positions on the Planning Commission to Borough Council. The motion passed unanimously.

Ms. Brock stated that the Planning Commission will address Mr. Kline filling the other vacant position when a letter of interest is submitted.

6. GENERAL ANNOUNCEMENTS. NONE

7. OTHER BUSINESS

a. H2O Grant.

Ms. Brock asked if the H2O grant for the sewer separation was approved.

Mrs. Simonetti stated that the Commonwealth Financial Authority postponed the meeting on the H2O Grant funding because there is no money.

b. Square Improvements.

Mrs. Simonetti stated that Mr. Craig Allen, owner of the apartments on the square next to the Moose, offered to dedicate two feet of his property for the proposed improvements. She requested that the Borough Manager contact Erdman Anthony Engineers to request that a deed be prepared for the two foot dedication. There are remaining funds available from the grant to cover the cost of the surveying and deed preparation. The grant money was split up between Erdman Anthony Engineers for surveying and the Cairo Group for design.

c. Clean and Green Funds

Mrs. Simonetti verified that the taxes paid by Fishing Creek Valley Associates for the Rockville Estates property was \$346.

**8. REPORT ON BOROUGH COUNCIL MEETING (Next Council Meeting 2/14/11).
None**

**9. ADJOURNMENT/NEXT SPECIAL MEETING DATE 2/9/11 @ 6:30pm/NEXT
REGULAR MEETING 2/28/11 @ 7:30 pm, WORK SESSION @ 6:30 pm.**

The meeting adjourned at 8:48 pm.

Respectfully Submitted,

Janet Hardman,
Code Enforcement Officer