

MARYSVILLE BOROUGH PLANNING COMMISSION
WORK SESSION MEETING MINUTES
JUNE 23, 2009

A work session of the Planning Commission was not held. The Planning Commission attended a reconvene meeting of Borough Council to discuss the Rockville Estates Developer's Agreement draft.

MARYSVILLE BOROUGH PLANNING COMMISSION
REGULAR MEETING MINUTES
JUNE 23, 2009

CALL TO ORDER. The meeting was called to order at 8:48 pm

ROLL CALL:

1. MEMBERS PRESENT

Jennifer Brock, Chairman
Stephanie Stoner
Monte Shearer
Art Vaitl
Shawn Vaccaro
James Zehring
Lori Mohr

STAFF PRESENT:

Ron Brown, Borough Engineer
Janet Hardman, Code Enforcement Officer
Mike Kmiecinski, Tri County Planning Commission

OTHERS PRESENT:

Daniel Stephens
Dolores Stephens
LeAnn Horanic
Donna Lee Clendenin
Jean Raisner
Todd Stager, CEDG, Inc.
Mark Walsh

MOTION: Mr. Shearer moved, seconded by Mr. Vaitl to table agenda items #2. Minutes and #4 Old Business until the next meeting. The motion passed unanimously.

2. MINUTES:

a. May 26, 2009 Minutes - Tabled

3. PUBLIC COMMENT.

1. Dan Stephens. Mr. Stephens asked what the Planning Commission was reviewing.

Ms. Brock informed Mr. Stephens that the Planning Commission would be reviewing a minor subdivision plan submitted by Mark Walsh on Leonard Street.

4. OLD BUSINESS: Tabled

- a. **Subdivision Amendment -Plan Specifications and Procedures - tabled**
- b. **Rockville Estates Phase I Subdivision Plan - tabled**

5. NEW BUSINESS:

a. Mark Walsh Subdivision (Expires 9-21-09)

Ms. Brock asked Mr. Walsh and his engineer to present the plan.

Mr. Stager, CEDG, Inc. stated that there was an approved previous plan for this property for a seven lot subdivision with a cul-de-sac street. The abutting property owner sued the Borough and the property owner which has been resolved. What they want to do now is to keep the subdivision simple by meeting the requirements for a minor subdivision plan.

Ms. Brock asked if the proposed subdivision is new making the previous plan history.

Mr. Walsh stated that they are looking to simplify the subdivision and keep it more natural.

Mr. Stager stated that if the proposed minor plan is approved, the previous plan is gone.

Ms. Brock stated that the proposed lots will be abutting an existing dirt road.

Mr. Stager stated that there is a 40' right of way on the north side of the property and on the south side of the property.

Ms. Brock asked if the 40' right of way was owned by the Borough.

Mr. Walsh stated that the 40' right of way was privately owned.

Mr. Stager stated that anyone abutting the 40' right of way has rights to the road.

Ms. Brock asked how big was the lots.

Mr. Stager stated that the lots are approximately three acres each.

Ms. Hardman stated that the plan does not qualify as a minor subdivision because it does not abut a public street.

Mr. Stager asked if a request for a waiver from the preliminary plan requirements would be acceptable.

Ms. Brock stated that a waiver request must be submitted stating the section of the ordinance and justification for the waiver.

Mr. Stager stated that the subdivision will create three lots on an existing gravel driveway. One of the lots has an existing house and two lots will be created to add two houses.

Ms. Brock asked about the 40' right of way to the east.

Mr. Stager stated that there is a 40' right of way to the east and the west.

Ms. Brock asked about the access drive through the middle of the lot.

Mr. Stager stated that it is a private street.

Ms. Brock asked if there would be a deed restriction permitting access through the lots.

Mr. Stephens stated that there is a difference between easement and right of way.

Mr. Walsh stated that he can provide the Planning Commission with a copy of his deed.

Mrs. Stoner stated that the Borough Solicitor should review the legalities of the plan regarding easements and right of ways and the result of the legal action.

Ms. Brock stated that she will ask the Borough Solicitor to review the legal issues.

Mr. Stephens stated that the plan must be true and correct.

Mr. Brown stated that the first comment in his review is regarding zoning, Section 27-811 states, *“Every building or structure hereafter erected or moved shall be located on a lot that abuts a public street or road or with access to an acceptable private street or road, and all buildings and structures shall be located so as to provide safe and convenient access for servicing, fire protection and off street parking, if parking is required.”*

Mr. Stephens stated that the property does not front on Leonard Street. He owns the property up to Leonard Street.

Mr. Brown asked where Leonard Street ends.

Mr. Stephens stated that Leonard Street ends at the ownership of his property.

Ms. Brock stated that Mr. Walsh and his engineer need to have a chance to review the Borough Engineer's report, Perry County Planning Commission's comments and the staff report. The Planning Commission needs a chance to review easements and rights of way to the property. There is an ordinance prohibiting landlocked lots. She thinks that there must have a definitive access which may mean that the existing dirt road might have to be wider to be adequate for parking.

Mr. Kmiecinski stated that a street right of way is required to be 50'.

Mr. Stager stated that there can be deed restrictions to prevent parking on the street. What is the definition of public street and private street in the zoning ordinance and/or subdivision regulations? The lots are not landlocked. They want to use the existing dirt road as access.

Mr. Brown stated that there is no definition for a private street.

Ms. Hardman stated that Section 22-502.1.E. states, *“Private streets may be allowed which do not meet the design standards of these regulations if Council finds that the design standards proposed are adequate to meet the likely use of the street, will pose no threat to health safety or aesthetics of the area nor pose a danger to any property, public or private, in the area and upon the condition that the street will not be offered for dedication.”*

Mr. Stephens stated that Mr. Walsh purchased the property “AS IS”. The plan does not reflect the truth. The property Mr. Walsh purchased did not have access.

Mr. Stager stated that the access question is a legal issue.

Mrs. Horanic stated that she has a question pertaining to the ordinance. There should be an ordinance stating that when the second house is proposed to be built, it must be on a public street.

Ms. Hardman stated that Section 22-5051.B. Private Streets states, *“An access intended to serve more than two dwellings or uses or to act as a connecting link between two or more roadways is for the purpose of this Part, considered a “private street” and not a driveway, regardless of its ownership. As such, its design must be in accordance with this Chapter and any construction and materials specifications which are or shall be adopted by the Borough Council of Marysville.”*

Mr. Walsh stated that he already has an approved plan.

Mr. Kmiecinski asked what the name of the approved plan was.

Mr. Walsh stated that the approved plan was named “Enclave in the Woods.”

Mr. Brown stated that input from the Solicitor is required on the status of Enclave in the Woods.

Mrs. Stoner stated that if there is a zoning issue, it must be resolved first.

Ms. Hardman stated that the zoning ordinance states there must be frontage on an acceptable private street. Therefore it will depend on what the Planning Commission and Borough Council considers acceptable.

Ms. Brock asked if there were any other questions.

Mr. Stager stated that he can address the comments.

Ms. Brock stated that a number of waivers must be requested.

Mr. Stephens asked if anyone knows what a right of way is. The owner of the property must offer dedication of a right of way.

Ms. Brock stated that the right of way issues is a question for the Borough Solicitor for this property and what is around the property and if the proposed lots have frontage on Leonard Street. The Planning Commission does not know where Leonard Street begins and ends. There is also a question brought up as to whether three houses are permitted to be on a private road. If the road is required to be a public road it must be improved before the second house is built.

Mrs. Stoner asked about water line location and service to the properties.

Mr. Walsh stated that access to the water lien is provided from the southern property.

Mr. Stephens stated that right of way must be granted by the owner of the property. He is waiting for a decision from the Attorney General's office.

Mrs. Stephens stated that there is a court order regarding this property.

Ms. Brock stated that rights of way have been granted that are not stipulated where they are. She does not have them in front of her.

Ms. Mohr asked if waivers are going to be requested from providing erosion and sedimentation control and a storm water management plan. Since there will be construction on the lots, justification will need to be provided for the waivers.

Ms. Brock stated that she presumes that they will be building on the two lots being created.

Mr. Stager stated that the erosion and sedimentation control can be provided when a building permit is applied for.

Ms. Brock stated that waivers were granted in the past for erosion and sedimentation control and storm water management if there is no earth moving or building proposed.

Mrs. Stoner stated that the minor subdivision adjacent to her property was required to construct the private street to public street standards.

Ms. Brock stated that with all legal issues aside, she doesn't feel there is a problem with the plan because the two lots are buildable lots.

MOTION: Mr. Vaccaro moved, seconded Mr. Vaitl to table the plan. The motion passed unanimously.

6. GENERAL ANNOUNCEMENTS. None

7. Report on Borough Council Meeting (Next Council Meeting 7/14/09): None

8. ADJOURNMENT/NEXT SPECIAL MEETING DATE 7/8/09 @ 6:30pm/NEXT REGULAR MEETING 7/28/09 @ 7:30 pm, WORK SESSION @ 6:30 pm.

MOTION: Ms. Mohr moved, seconded by Mr. Shearer to adjourn the meeting at 9:28 pm.

Respectfully Submitted,

Janet Hardman,
Code Enforcement Officer