

**UPPER TOWNSHIP PLANNING BOARD
REGULAR MEETING MINUTES
OCTOBER 19, 2023**

The meeting of the Upper Township Planning Board was held at Township Hall at 2100 Tuckahoe Road, Petersburg. The meeting was called to order at 7:07 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Member	Attendance
Matthew Davidson, Class IV	Absent
Gary DeMarzo, Class II	Present
Brooke Handley Alt	Absent
Joseph Harney, Class IV	Present
Kimberly Hayes, Class III	Present
Ted Kingston, Class IV	Present

Member	Attendance
Chris McGuire, Chairman	Present
Colby Meloy Alt	Present
Jay Newman, Class I	Present
Gary Riordan, Vice Chair	Present
Sean Whelan, Class IV	Absent*

Also, in attendance were Jeffrey Barnes, Board Solicitor and Liz Oaks, Board Secretary and Zoning Officer.

APPROVAL OF THE SEPTEMBER 21, 2023 MEETING MINUTES

A motion to approve the minutes was made by Mr. Riordan and seconded by Mr. Harney.

In favor: Harney, Hayes, Kingston, Meloy, Riordan, McGuire

Abstain: DeMarzo, Newman

*Mr. Whelan joined the meeting.

NEW BUSINESS

None

DISCUSSION

Adding Farms as a permitted use to the CM2 Zone

Mr. Demarzo explained there were some questions as to the validity, the cost, and the motivation of the request to add farms as a permitted use to the CM2 Zone. Mr. Demarzo reached out to Mr. Patterson, the resident requesting the change, for more insight. It was originally implied it was for environmental reasons and it was a family farm. Through emails it was revealed that it was financially motivated to sell the property to his daughter. Mr. DeMarzo was concerned the board should be aware of the true nature of the request before finalizing the change.

Mr. Barnes clarifies that the resident wants to make a zone change in order for his daughter to be able to obtain a VA loan to purchase the property.

Mr. Harney – If you go back to the February minutes it shows they were trying to allow one farm that was non-conforming and make it conforming to allow the county to purchase because the county did not want to purchase a non-conforming farm, Does it change anything now that he wants to sell to his daughter.

Mr. McGuire stated he believed the original request was based around rights to deed restrict the property to the county for farmland preservation. There was a consideration that there were 5 or 6 properties inside this zone that could potentially do the same.

Deputy Mayor Hayes believes it was determined that the properties within this zone would not be large enough to become a preserved farm other than this property and one other.

Mr. McGuire – What we need to decide is whether there is a reason to change the original determination from February.

Mr. Harney – Based off the fact that he is selling it to his daughter and husband.

Mr. McGuire – Believes that is inconsequential.

Mr. Barnes – Would it make more sense for the property owner to come in and seek a use variance. And let the CM2 Zone remain the same.

Deputy Mayor Hayes – Mr. Dietrich's comments in the minutes state that the county did not want to considerate if it was and existing non-conforming.

Mr. Kingston – Are we opening the possibility of wineries by making this change.

Mr. McGuire – This would not change that. The size of the property and the status of the farm is not determined by permitted use. Or if it is a preserved farm. It is based on size and income. It is already a farm and could potentially put a winery there. The problem in Beesley's Point is that it is a very small tract and the way the map was done was in question as to whether it should have been a preserved farm. The only question is, does the board consider it a permitted use and does it allow the gentleman and his family to sell the deed restricted property to the county.

Mr. Barnes stated again that a use variance may make more sense.

Mr. McGuire – As it stands now the board made a unanimous decision to allow the use and it now sits with the Township Committee.

Mr. Barnes – The change could create a detrimental impact on the township. A use variance would be less of an impact. He suggested having an engineer look at the CM2 Zone.

There was a brief discussion of the options.

It was decided that we reach out to the engineer to make a phone call to the county to see if a use variance would be an acceptable option rather than a zone change. If that is acceptable then it would be in the hands of the property owner to seek a use variance from the zoning board. If that is not an option, they will revisit the impact of adding the use to the zone.

Recommendation of the adoption of ordinance No. 015-2023

Mr. DeMarzo – There have been some issues brought to the township's attention regarding the removal and maintenance of cell towers. If there are any modifications to a cell tower that would require them to be brought up to code. If they must come down, there are concerns as they would not be the simple demolition of a shed. There are larger issues relative to site plans and conditions. Mr. Monzo, township attorney, created this ordinance to control the demolition and construction of these types of towers.

Mayor Newman – We are in the process of renegotiating a contract with Crown Castle and some of the other entities that are on the tower behind the EMS building. This is township owned property. These towers are a good source of revenue for municipalities. So much that they want to go out to bid. Crown Castle is now saying they don't want the tower. If they

don't want it, they must take it down. The purpose of the ordinance is to ensure proper removal, including removing a 20' deep piece of concrete the monopole is sitting in.

Deputy Mayor Hayes – There are multiple towers in the township that they lease land from the township.

Mr. Barnes – Questions whether the lease addresses this issue.

Deputy Mayor Hayes – She believes the lack of this being addressed in the lease is the problem.

Mr. McGuire – The language of the lease would be a concern.

Mr. Barnes – A concern is who is responsible financially. It could be bonded.

Mayor Newman – It is his belief that it is unlikely that this will result in the tower being removed. They are making a lot of money as it is now.

Mr. DeMarzo – If you look at section c, the language states that if it does come down, they must post a bond.

Mr. McGuire – Suggests defining the term “personal wireless service”. And omitting “Section 2” which addresses the use of farms in the CM2 zone. And thinks the wording of “post a bond” without more specifics could lead to problems.

Mayor Newman – That would be an engineering cost. There is a standard percentage for posting a bond.

These items will be forwarded to Mr. Monzo for revision.

The signing of final plot plan for the Cedar Lane major subdivision SD 03-2022

Mr. Barnes explained the concern was whether the vice chair was able to sign the mylars in the absence of the chair. The chair is present this evening making this a non-issue. However, it is an issue we can address for future reference. It isn't necessarily whether you can or cannot do it from a municipality perspective, but it had more to do with the county and county clerk's office accepting the signature of someone that wasn't the chair. What we can do is have a resolution that says that the purpose of the vice chair is to step in when the chair is not available, and this would include signing mylars.

Mr. McGuire suggested a brief resolution be drawn up to reflect this.

Mr. Barnes agreed to create such a resolution.

Board Engineer

Mr. Barnes started by stating that at the completeness workshop this evening it was evident that the need to have a board engineer available is extremely important. They spent 20 minutes on a discussion about a setback that should have been discussed in advance and would have only taken a few minutes. The importance of having the engineer to interact with the applicant will ensure a clear application for the board to make a determination.

Mr. McGuire – Requested Mr. Barnes to recap the memo about the RFQ/RFP.

Mr. Barnes - One of the issues when seeking RFP's, you will get firms that are not even in the area. In the beginning they will send their “go-to” person that will morph into someone else that will not be familiar with the area. Many times, you choose based on the money and if you don't then there are firms that had clearly won and want to know why they weren't picked. What is the rationale. This board has the opportunity to pick the people they want to interview and pick from. He thinks it is a better move for the board to solicit qualified applicants rather than them to solicit you.

Mr. McGuire summarized the timeline since Mr. Dietrich tendered his resignation. This has become a highly contentious issue. Despite several emails, email chains, phone calls, personal conversations, we moved forward by selecting a sub-committee. The sub-committee was then advised, given the size, was in violation of the sunshine act and the open public meetings act. He then suggested at the last meeting that Ms. Hayes, Mr. Kingston and himself go ahead and interview the engineer's they had reached out to. There ended up being three applicants. It was Mr. Kingston, himself, and the board secretary present during the interview process. There were three candidates, and he was happy with each of them. He would not be dismayed at any of the prospects. However, he doesn't believe they are ready to bring a suggestion of hiring an engineer to the board currently. There are some members that are uncomfortable with the process. Based on either miscommunication, poor communication or just not being on the same page. He would like to make sure tonight that everyone is clear with one another and on public record with how we are moving forward. What the process is. Who is taking action.

There was a discussion with the following result.

A sub-committee was established consisting of Mr. McGuire, Deputy Mayor Hayes, Mr. DeMarzo, Mr. Kingston, and Mr. Whelan. They will meet Thursday, October 26th, 7:00pm at Town Hall in the conference room. There will be a discussion of what the criteria will be expected of the candidates and how the search will move forward.

RESOLUTIONS

None

PUBLIC PORTION

The meeting was open to the public.

Hearing no one and seeing no one, this portion was closed.

BILLS

A motion was made by Mr. Harney seconded by Mr. Whelan to pay the bills, with all Board members present voting in the affirmative.

ADJOURNMENT

A motion was made by Mr. Harney and seconded by Mr. Whelan to adjourn the meeting, with all Board members present voting in the affirmative. The meeting was adjourned at 8:29 p.m.

Submitted by,

Liz Oaks