



**EAST PETERSBURG BOROUGH PLANNING COMMISSION
MEETING MINUTES
August 20, 2020**

Meeting began at 7:00 P.M.

This meeting was held remotely through Webex.

Roll Call: John Schick Chairman, David Keener Vice-Chairman, Rory Buckwalter, John Kerchner, William Pfautz, Marvin Stauffer, John Wolf, and Zoning Officer/Borough Engineer Michael Bingham

Approval of Minutes:

It was moved and seconded (J. Wolf / J. Kerchner) to approve the minutes of the January 16, 2020 meeting

4 votes yes: J. Schick, J. Kerchner, W. Pfautz, J. Wolf

3 abstained because they did not attend the meeting: D. Keener, R. Buckwalter, M. Stauffer

Visitors: Karen St. Clair- Borough Manager, Amy Leonard- Borough Solicitor, Greg Lapp, John Herr, Debra Miller, Don & Betty Emich, Steve Gergley - Harbor Engineering, Eric Nichol - TOA representative, David Miller – Rettew

Public Comments: None

Old Business: None

New Business:

1. Review Application submitted by Greg Lapp for the property located at 5740 Pine Street, East Petersburg, PA. He is requesting a zoning variance to allow for increased lot coverage beyond what is permitted within the R-1 zoning district.

Mr. Lapp explained that he would like to build a deck on his property in the R1 district, but his original application for a permit was denied because he has a maximum allowable coverage of 30% and his lot is currently at 35% lot coverage, so there would be no additional impervious surfaces allowed under the existing rules. Therefore, he would like to request a variance to exceed the 30% and increase current lot coverage to 39%. The deck will be slatted, and there will be pervious ground underneath the deck. Mr. Lapp said he did some calculations and the effective runoff coefficient from the deck and the ground underneath would be about .48 which is less than the .85 runoff coefficient that would be considered an impervious surface. So essentially approving this variance shouldn't actually impact runoff from his property, it would simply allow him to improve his property and make it similar to his other neighbors who have decks. Mr. Lapp shared signed letters with the P.C. members from his neighbors stating they are aware of the deck Mr. Lapp would like to build and they are in support of this.

Mr. Bingham said that he has reviewed this request for a variance, and it is not a minimal amount of variance. This is 432 sq. ft. on top of an already existing non-conforming lot. A lot that already has greater impervious area than what is presently permitted. That is an increase of approximately 20% over the amount of allowed 30% coverage and he is looking at bringing it up to 39%. Mr. Bingham said that he looked at the lot in question and said he has not been able to find a hardship based off of the site, size, shape or any other irregularities. This site is 10,454 sq. ft, which turns out to be the average of the lots in the R1 district. Allowing this particular lot to go over the 30% for an additional 432 sq. ft. would be contrary to what would be in the R1 district. Mr. Bingham said that there are many properties in the R1 district that are smaller than this one and still able to stay within the allowable amount of lot coverage. Mr. Bingham said he did look at the coagulation calculations. Mr. Bingham read the definition for impervious surfaces "areas covered by buildings, pavings, concrete, or other man-made materials that have a runoff

coefficient of .85 or greater". Mr. Bingham said that normally we look at the surface and not the gaps between the surface. If the surface has a runoff coefficient of .85 or greater, than it is impervious. The deck boards are greater than .85; they are .9 to .95. Mr. Bingham said that pervious pavers are impervious because they do not allow water to run through them, it only allows water to go through the gaps. He explained that if you allow this deck to be pervious because of the water running through the gaps of the decking boards, then you are essentially allowing someone to have unlimited reign of how big their deck can be; this could mean technically someone could have a deck that go as far as 10 ft. away from the rear property line, and 8 ft. from the side of the property. Mr. Bingham explained that if this was allowed, almost the entire rear property, and part of the side property, would be covered with a deck. Mr. Bingham said he took an average of the deck boards and the gaps together, and he came up with a .88 coefficient, which is still greater than the .85, so it is his recommendation to deny this request. Mr. Bingham said it sets a bad precedent to allow for decks to be built to any particular size within the set back of the rear of the house, because you are not able to define it within the lot coverage definition. Mr. Bingham said that he is currently at 30% coverage due to existing nonconformities, and this is most likely because it is an older property and it has been grandfathered in. There are stipulations in the ordinance that allow him to take out existing impervious and add equal amounts as long as he does not exceed what is currently there. Mr. Bingham explained that a Hardship has to make the property valueless. It would be an irregularity in the size, shape, topography or location or a distinct conformity with the ordinance. He explained that this property is of average size, rectangular and flat, and he does not see a hardship. Mr. Lapp said that is has a pretty strong angle at the back. Mr. Bingham said that the shape does not normally come in to play with the amount of coverage. Mr. Bingham said that the Lancaster County Municipal Code allows for municipalities to come up with their own regulations for percentage of property coverage and it is typically for conformance within that zoning district.

Mr. Bingham said stormwater must also be considered with impervious coverage, but it is only part of the reasoning, therefore it can not be based only on stormwater, or waived because of any additional stormwater features, that would be added. Mr. Lapp said that improving or denying his application would not result in somebody raising this argument again in the future when it comes to slatted decking with space between the boards. Mr. Lapp said his only issue is with Michaels coefficient calculations being much less than his own calculations, and he feels Mr. Bingham is allowing the space provided between the boards to be considered when he is calculating the amount of coefficient coverage. Mr. Lapp said that the water will reach the ground under the deck through those spaces in the boards, therefore it will not leave the boundaries of the area. Mr. Bingham said if you average the space of the board and the space of the gap you get .85 and this is still a non-conformity. Mr. Bingham said that if this is allowed than anybody can build a deck that is as big as their house or larger. It was agreed by Mr. Bingham, Mr. Schick and Mr. Wolf that the water that runs through the boards will only saturate part of the land. Mr. Schick pointed out that whether or not, the rainwater saturates the ground underneath is only addressing the stormwater part of this issue, and that there is still an issue with the amount of coverage allowed. Mr. Wolf said that Mr. Lapp still needs to prove his hardship. Mr. Keener agreed it is a coverage issue and asked if this is the minimum amount of a deck that Mr. Lapp could propose. Mr. Stauffer said he agrees with Mr. Bingham about the coverage, but asked if he made modifications to the boards, would it change things. Mr. Bingham said you cannot selectively enforce the ordinance. Mr. Bingham explained that whatever the determination is for this deck, it would have to be the same for everyone moving forward. Mr. Buckwalter said that as much as he would like to allow this, he does not see an alternative, and that we cannot set a precedence.

Mr. Pfautz said he has no problem with the lot coverage, but he does not think we should base it on permeability of the deck, because it raises too many questions.

Mr. Bingham said that the only issue is that he will have to prove hardship. He stated that every application he receives must have a sketch to show anything that covers the ground, to calculate the the amount of coverage on the property.

Ms. Leonard stated that the planning commission is not able to grant a variance and that they are just here to make a recommendation to the zoning hearing board. She said that the ZHB is who will make the final determination as to whether this application meets the criteria to grant a variance. Ms. Leonard pointed out that the existing coverage at this property is already in excess of the allowable

amount of 30% and is currently at 35%. She said that hardship cannot be imposed by the ordinance itself, it has to be something particular to the property itself. Mr. Lapp pointed out that he would have to pull up some of his driveway to allow him to have the deck and he feels that this is an unnecessary hardship. Ms. Leonard said that the case law evidence has shown that unnecessary hardship is shown only when it is established that complying with the zoning ordinance renders the property useless or valueless, therefore you have to look at whether or not having the deck values this property as useless. Mr. Lapp said that most would agree that building a deck is standard and he is not trying to get around the rules, and he would just like to figure out how to have a deck so he can have a place for him and his family to spend time together with other family members and friends, instead of his slanted driveway, especially during COVID-19. Ms. Leonard said that the ordinance does not allow this to be looked at from a separate standpoint the way it is written, because the definition of lot coverage in the ordinance is explained as a percentage of the lot coverage that can be covered with an impervious coverage. She stated that impervious surface isn't just an argument that he is raising, others could argue how the runoff coefficient is determined and what defines impervious.

Mr. Bingham said that legally this cannot be a case by case basis. He pointed out the applicant must meet all five criteria to meet hardship. He said that the house and garage are existing, and he purchased the property that way, and that unfortunately this cannot be a hardship. He also pointed out that he is asking for a deck that is 432 sq. ft. He stated this is a very large deck.

Mr. Pfautz motioned to recommend granting the approval for just lot coverage but not the permeability issue to build this deck at 5740 Pine Street, motion had no further action by Board members. This motion died.

Ms. Leonard said that it would be a problem to separate the two because the lot coverage definition is based upon the percentage of impervious coverage

It was moved and second (J. Wolf / J. Kerchner) to recommend not approving the variance request by Greg Lapp for 5740 Pine Street, East Petersburg, PA, motioned passed with 6-1 vote, William Pfautz voted no

Mr. Schick said he understands that it would be nice to have a deck, but the regulation in place does not allow for it unfortunately, and reminded Mr. Lapp that the planning commission is just the recommending body.

2. Review Traditions of America Final Land Development and Subdivision Plan Phase II

Dave Miller, representing TOA, pointed out Phase II of this project will still be in East Hempfield Township. East Hempfield is working on processing and receiving approvals. The plan will not be recorded until the Borough signs off on this project. Mr. Miller said that Phase I was approved and is currently under construction. Phase II will consist of 97 units, all in East Hempfield.

Eric Nichol, TOA representative, said Phase III of this project will have 98 units in total with 48 of them located in East Petersburg Borough. They will be come back to the Borough when they are ready for Phase III. This part of the project will not be too far off. There are currently 60 units sold already and they are pushing ahead for Phase II and hope to break ground before the end of this year. The reception for this community is going very well and they now need to build more home.

Michael Bingham said his recommendation is to approve these plans.

It was moved and seconded (J. Kerchner/R. Buckwalter) with unanimous approval by the Board, to recommend Approval of the Traditions of America Final Land Development and Subdivision Plan Phase II

3. Review Emich Lot Add-on Plan for 6200 Hollow Drive

Mr. Bingham said that four different properties will be receiving additional land from 6200 Hollow Drive. They are taking one property and adding some of it to 4 other properties, but there will still

be 5 properties after the subdivision is finished. There are not any additional lots, it is just moving some lot lines.

They are asking for a waiver of sidewalk installation because there are no adjoining sidewalks to connect to.

They are asking for a partial waiver of identification of lot pins of some of the adjoining properties, and only to survey the adjacent properties, to identify lot pins, for the sections that effect this plan.

Ms. Groff explained they are asking for a waiver of Fee in Lieu of for parkland for 1200.00 for each lot. Although this does qualify as a subdivision and land development plan under the ordinance, this is really just a shifting of lot lines by 20 feet to the east, to the properties on Parkridge Drive, to accommodate some trees. Mr. Emich said he would just like to clean up the lot line for the trees. Mr. Troop originally was going to add the whole 6200 Hollow property to Mr. Troops lot on State Street, but now it will just be ½ acre being added to the State Street property to create a t-shaped lot. The additional area on 6200 Hollow will remain a field.

Mr. Schick asked if there have been any other waivers of Fee in Lieu of. Mr. Bingham said that normally it is not waived, and it can not be collected on the larger portion if it is built on, only if it would be subdivided again.

It was moved and seconded (J. Wolf / M. Stauffer) with a 6-1 vote by the Board, to recommend approval of the waiver of section 110-602.F.(1), the applicant is requesting a waiver of the requirement to install sidewalks along the east side of Parkridge Drive and along the west side of Hollow Drive because there are not any new units of occupancy or site improvements and due to the lack of sidewalks in that area, residents would not benefit from adding sidewalk to the two streets, for this reason ARRO has no objection to the waiver. Dave Keener abstained from voting because he lives at the neighboring property.

It was moved and seconded (J. Wolf / R. Buckwalter) with a 6-1 vote by the Board, to recommend denying the waiver of section 110-610.C(3)(b), the applicant is requesting the waiver of the requirement to provide a Fee in Lieu of Open Space Dedication. In the past, this requirement has not been waived, regardless of the extent of the subdivision. As such ARRO recommends denying the waiver. Dave Keener abstained from voting because he lives at the neighboring property.

It was moved and seconded (J. Wolf / M. Stauffer) with a 6-1 vote by the Board, to recommend approval of a partial waiver of section 110-606.C, to only require the corner markers that are shown on the plan to be necessary to these sites. Dave Keener abstained from voting because he lives at the neighboring property. ARRO also recommends granting this partial waiver.

It was moved and seconded (J. Wolf / J. Kerchner) with a 6-1 vote by the Board, to recommend Approval of the plan that was submitted at this meeting with satisfying the comments of the Borough Engineer. Dave Keener abstained from voting because he lives at the neighboring property. ARRO also recommends granting approval of the plan that was submitted at this meeting with satisfying the comments in the review letter or any further comments after the plan that was presented at the meeting is reviewed.

Adjournment: 8:35 p.m.

Announcement: Next meeting will be held September 17, 2020 at 7:00 p.m., if needed

Respectfully Submitted,
Kim Strayer, Recording Secretary