

*Incorporated March 12, 1738*

# TINICUM TOWNSHIP

*Bucks County*

## BOARD OF SUPERVISORS

163 Municipal Road  
Pipersville, Pennsylvania 18947

RICHARD ROSAMILIA, CHAIRPERSON  
JIM HELMS, VICE-CHAIRPERSON  
ELEANOR BRESLIN, SUPERVISOR

### **Tinicum Township Board of Supervisors Meeting Minutes January 18, 2022**

Supervisors Eleanor Breslin, Jim Helms and Richard Rosamilia were present with the Township Solicitor Steve Harris. Manager Teri Lewis was absent. The meeting was held in the Tinicum Township building meeting room. There were 25 people in attendance.

Chairperson Rosamilia called the public meeting of the Tinicum Township Board of Supervisors to order at 7:30 PM followed by the Pledge of Allegiance.

#### **A. Emergency Services**

Chief Madden, Tinicum Township Police Dept. presented the following report for December 2021:

- 102 Incident Reports: 31 service-related, 33 traffic, 24 investigative including 3 thefts, 1 fraud, and 1 aggravated assault following a domestic incident, 3 court appearances and 1 training.
- 3 Reportable Traffic Accidents:
  - A driver on 611 swerved to miss a deer and struck a guardrail.
  - Icy conditions on River Rd due to a December storm caused a vehicle to go off the roadway and flip on its side.
  - A vehicle lost control on 113 and hit a guardrail, also as a result of the same December storm.

#### **B. Old Business**

##### Sorbello Proposed Settlement

Kelly McGowan, Obermayer Rebmann Maxwell & Hippel LLP, attorney for the Sorbellos, said Steve Harris had acknowledged receipt of their proposal letter and they had filed a Land Use appeal as a result of a Zoning Hearing Board (ZHB) decision to deny their appeal to build a new, single-family home. McGowan said that they were presenting a settlement proposal to the Board.

McGowan stated that the Sorbellos had rehabbed the existing 1890 farm house situated on a 15-acre property located on Hollow Horn Road. She said it is a small, nonconforming dwelling located in the front yard setback. McGowan said that the Sorbellos wish to use the existing farm house as an accessory dwelling for family and build a larger, primary home behind the existing house on the property. She asked the Board to authorize Steve Harris to engage in settlement discussions.

Harris asked if there was proposal or if the Sorbellos were simply asking for the Board to overturn the ZHB decision? McGowan said they could not move the existing house nor did they wish to demolish it, which were the only cures to meet the zoning ordinance. She said alternately, having two principal dwellings or subdividing required zoning relief. Rosamilia asked why they did not want to subdivide. McGowan said the Sorbellos desired to keep the property intact. Harris inquired if the Planning Commission or ZHB had suggested placing a conservation easement on the property to prevent further subdivisions. McGowan said she had not attended those meetings but would discuss it with her clients.

Kristin Holmes, Engineer, Holmes Cunningham Engineer reviewed the plans with regards to natural resources, specifically steep slopes. She said the existing driveway had some sight line issues and the applicant wishes to establish a new driveway to the new and existing home and remove the existing driveway. Holmes reviewed some of the variances required for subdivision due to the desired location for the new house. She said that the septic systems would also trigger some setback issues and require testing for alternate locations. Holmes said that the option to add onto the existing home would involve moving the well, issues with steep slopes and result in a long, narrow house because expanding to the sides would fall into setback areas.

Helms noted that having two houses on the property could cause issues when the current owners decided to sell the property, whereas subdividing would prevent those issues. He said that a conservation easement on the rest of the lot would prevent further subdivision and would present a reasonable compromise.

After discussion with the Sorbellos, McGowan said they were agreeable to no further development and deed restriction. Harris said he could discuss the proposal with McGowan, have a discussion with the Zoning Hearing Board and then put the draft forward for formal consideration by the Board.

#### River Road Speed Limit Update

Rosamilia announced that Don Centofante, PennDOT had sent an email agreeing to extend the 25 mile per hour speed limit on River Road from Point Pleasant to Bridge Five Lane.

#### EAC Ad Hoc Committee Update

Rosamilia said they have received letters of interest from many volunteers. He said Lewis will put together a spread sheet regarding the volunteers, the Board will determine committee projects and times would be scheduled to meet with the volunteers. Breslin stated she had drafted a written policy/process for a consistent, timely volunteer application process.

#### Remote Meeting Proposal

Rosamilia said the Board would postpone the proposal to allow Lewis to participate in the discussion. He said Lewis had spoken to surrounding townships regarding their remote meeting experiences.

#### Work Session Discussions

**Motion:** to hold monthly Board of Supervisor Work Sessions on the second Tuesday at 4 pm.

Motion by: Breslin. No second. No action taken.

Rosamilia said the discussion would be tabled until Lewis returned to allow her to participate.

### **C. New Business**

#### Township Newsletter Proposal

Rosamilia said that a Township Newsletter mailed out to residents once or twice a year containing factual articles was a good idea provided they had volunteers willing to write articles. Helms stated that past newsletters contained board and committee meeting information and had been quarterly. Rosmailia said that he thought mailing a quarterly newsletter would be too costly and that twice a year seemed more reasonable. Helms suggested it could be posted online. Rosamilia said that some members of the community did not use computers and he did not want them to be left out. He said that they could do online quarterly and mail hard copy twice a year.

Breslin said she had a volunteer for editor. She suggested the Board establish an ad hoc newsletter committee to revive the Township Newsletter. She said the newsletter should be quarterly and include committee/commission input and information about the work that they do and how to get a permit.

**Motion:** to establish an ad hoc Township Newsletter Committee to develop and issue a quarterly Township newsletter.

Motion by: Breslin. Second by: Rosamilia. Voted upon and passed.

**D. Regular Business**

1. Budget Recap and Treasurer’s Report

Rosamilia stated that The Budget Recap and Treasurer’s Reports will be provided at the next meeting.

2. Minutes

**Motion:** to approve the minutes of the January 3, 2022 meeting as written.

Motion by: Helms. Second by: Breslin. Voted upon and passed.

3. Payroll Reports

**Motion:** to accept the Payroll Report for pay period ending December 31, 2021 in the amount of \$49,282.59.

Motion by: Rosamilia. Second by: Helms. Voted upon and passed.

4. Disbursements:

**Motion:** to approve the following disbursements.

Motion by: Helms. Second by: Rosamilia. Voted upon and passed.

General Fund	Amount	Memo
Wynn Associates Inc.	\$2,557.89	Engineering Services Dec 2021
Merry Maids	\$115.00	Janitorial Service
Keystone Municipal Services Inc	\$3,121.50	Bldg. and Zoning 12-14- 12-23
Courier Times, Inc.	\$638.40	Legal Notices
Ricoh Americas Corp	\$93.00	Copier/Scanner
Allied Administrators for Delta Dental	\$835.26	Allied Administrators for Delta Dental
PennTeleData	\$316.55	Internet Modems
George Monesmith	\$50.00	George Monesmith - refund of overpayment gen permit
Staples Credit Plan	\$63.98	Police Office Supplies
Verizon Wireless	\$214.99	Verizon Wireless
DelGuerico’s Disposal Service	\$155.00	Trash Removal
Hartford Insurance	\$493.35	Life and STD Insurance combined
Keystone Municipal Services Inc	\$2,493.50	Bldg. and Zoning services 11-30-12-21
ReadyRefresh	\$114.14	Bottled Water
Delaware Valley Insurance Trust	\$10,682.75	Quarter One Commercial Insurance
Met-Ed	\$209.40	Electricity Public Works
Met-Ed	\$398.03	Electricity Police and Admin
Met-Ed	\$20.70	Electricity Park
Met-Ed	\$33.42	Electricity Traffic Light
Delaware Valley Workers Comp	\$5,362.75	Quarterly Workers Comp
Payroll Fund	Amount	Memo
Account Edge Payroll Service	\$49,057.70	Pay period ending 12/31/22
Account Edge Payroll Service	\$344.74	Payroll Services
Open Space Fund	Amount	Memo
Del Val Regional Finance Auth	\$11,500.81	Bond Payment

**E. Zoning:**

Minor Subdivision and Deer Fence Ordinance Amendments

Rosamilia stated that the Township had received Bucks County Planning Commission (BCPC) review and recommendations for Minor Subdivision and Deer Fence Ordinance Amendments.

**Motion:** to send the BCPC recommendation/comments for Minor Subdivision and Deer Fence Ordinance Amendments to the Planning Commission for final review.

Motion by: Rosamilia. Second by: Breslin. Voted upon and passed.

**F. Zoning Hearing Schedule:**

January 13, 2022: Zoning Hearing Board Appeal #2021-08 Zimmerman / Hilltop Farm and Fence

- The property is located at 113 Durham Road, Ottsville and zoned Village Residential.
- Tax Map Parcel #44-036-027.

- Applicant seeks variance for a fence not installed in accordance with the permit.
- Update: The hearing took place on January 13<sup>th</sup> and the Township is awaiting the final written decision.

February 3, 2022: Zoning Hearing Board Appeal #2021-07 Continuance for Johnston Regarding Tretton

- The property is located at 31 Creamery Road, Ottsville and zoned Commercial.
- Tax Map Parcel #44-001-022-002.
- Applicant appeals the decision of the Zoning Officer relating to the Tretton wedding venue conforming use.

February 10, 2022: Zoning Hearing Board Appeal #2021-10 Wehrung/M&W Precast

- The property is located at 210 Durham Road, Ottsville and zoned Village Residential.
- Tax Map Parcel #44-001-041-007.
- Applicant seeks a variance to build a structure to house a crane that will exceed the 35-foot height limit.

**Motion:** to send ZHB Appeal #2021-10 Wehrung/M&W Precast for Planning Commission review.  
 Motion by: Rosamilia. Second by: Breslin. Voted upon and passed.

Stayed - Pending Zoning Hearing Board Appeal: Conditional Use Hearing Appeal #2021-02 for Watson

- The property is located at 25 Tammany Road, Upper Black Eddy and zoned Country Residential.
- Tax Map Parcel #44-006-017.
- Applicant seeks relief from side yard setback to construct a single-family dwelling, deck and septic.
- The Watsons appealed the Zoning Hearing Board decision to the court. If the decision is overturned this hearing will be rescheduled. If upheld, there is no basis for appeal and the hearing will be canceled.

**G. Public Comment**

Tretton Wedding Venue Agreement Discussion

John Cole, PC member, asked the following questions regarding the Tretton v. Tincum Zoning Hearing Board (ZHB) Land Use Appeal:

- Regarding the statement “On or about May 10, 2021, Appellee, ZHB, by and through its solicitor, Grim, Biehn & Thatcher, filed a Notice of Non-Participation;” Cole asked if that was done after consultation with the ZHB or done on their own?

Harris said typically it is the Township solicitor rather than the ZHB solicitor who handles the appeal. He said this avoids the expense of having two attorneys doing the same task. Rosamilia asked if there is coordination with ZHB attorney? Harris said no, adding that he and Mary Eberly, the ZHB solicitor, had been working together for many years and she had filed the notice of non-participation as a standard operating procedure. Tom Casola, ZHB member, said because this is the typical process to have the township solicitor handle the appeal, the ZHB was not consulted by the ZHB solicitor. He said, however, they assumed that the Township Solicitor would defend the Township ordinances and that the ZHB was unaware that a negotiation to settlement would be made without input from the ZHB.

- Regarding the statement that adjacent property owners McIntyre were participants and engaged in discussions about their concerns with Tretton, Cole asked if any other adjacent property owners were brought into discussions on the matter?

Helms noted that the McIntyres filed against Tretton. Harris said that he was not part of those discussions, but McIntyre was the only appeal filed, so it was unlikely there were any other parties. He said Tretton and McIntyre negotiated a deal among themselves and brought it to the Township. Harris said that plan required the Township to agree to their proposal and the Township had not agreed to that plan. He said that led to the Trettons modifying the plan by addressing two critical variances. Harris said consequently, the Supervisors decided to settle by allowing the Trettons one loading dock instead of two as a reasonable resolution of the that appeal, rather than risk that the court would overturn all three of denials. Helms said that the McIntyres proposal was brought to the Supervisors at least two meeting before the settlement negotiation.

Eleanor Breslin, Supervisor, asked the following questions:

- Why was the ZHB not brought into the settlement discussions?

Harris said he was handling the appeal as the township solicitor and since Eberle had filed the notice of nonintervention, she was not made part of the discussion.

- Is it fair to say that regardless of whether it is the township solicitor and the ZHB solicitor who handle the zoning appeal, ultimately it is the ordinances of the Township that are defended?

Harris said yes, it is ultimately the ordinances of the Township that are defended, and 99.99% of the cases it is the township solicitor who defends appeal.

- In those cases that the township solicitor is defending the appeal, how often is the ZHB given the right of approval or involvement in negotiation?

Harris said that it varies, but ultimately the decision rests with the Board of Supervisors. Jim Helms asked Steve Harris when was the last time the Township received a ZHB settlement proposal? Harris said he could not recall. Harris noted that Tretton seems to be a flash point and that it is a very different application compared to 99.99% of the applications that come before the ZHB.

Cole continued his questions concerning the Tretton agreement as follows:

- Regarding the statement “Township and Tretton agree that in connection with the land development approval, Tretton shall be entitled to the grant of such waivers from the provisions of the Tinicum Township Subdivision and Land Development Ordinance as are necessary to facilitate the development as shown on the Plan.” Coles asked if that was the attached plan?

Harris said yes, the attached plan would generally be what was agreed to, assuming that, upon investigation, the impervious proposed is the impervious surface covered on the plan, that the stormwater management will meet the requirements of the ordinance, that the proposed holding tanks comply with the Act 237 plan. He said an extensive review would be needed during the Land Development review.

- If the Commission sees a place to put an elevated sand mound, which is the preferred method of septic system compared to holding tanks, but the location happens to be where the parking lot is located on the plan, can the PC require Tretton to comply?

Harris said Tretton must comply with Act 237 plan and the Dept. of Health. He said the PC would not get to say what is or is not in compliance. Harris said if there is a commercial use that uses less than 800 gallons a day, the Dept. of Health has the right to approve a holding tank under those circumstances. He said if the Dept. of Health approves the holding tank based on the related calculations, that will take precedence. Harris said that Steve Baluh, Township Engineer, wrote that the township ordinance applies *unless* the Dept. of Health finds that the application qualifies under commercial regulations. Rosamilia said that if it exceeds the 800 gallons per day then they have to find another way to comply. Cole asked if they have to move the parking lot or go to offsite parking can they go back to the ZHB. Rosamilia said yes.

Casola said that he was struck by the discussion that no one can remember a previous settlement agreement brought before the Board prior to Tretton and yet that very evening they were seeing another, brought by the same attorney. He said while he was a proponent of conservation easements, he thought that horse trading as a way to get around the ordinances was a mistake. He said the proposed settlement will be the same as if they actually went through the process and subdivided and were in compliance. He said he was happy to hear Harris said that the ZHB will be engaged in the agreement discussion. Casola

said however, he thought that the Sorbellos were leaving that evening with the clear impression that they had been given that agreement by the Supervisors and it puts the ZHB in an awkward position.

Rosamilia asked Casola if the ZHB had presented options for Sorbello. Casola said that he understood their role was to make decisions on the presented variances according to the ordinances. (He noted he had attended the meeting, but had recused himself from participation because he is a neighbor.) Casola said that it was clear towards the end of the hearing that the Sorbellos were understandably frustrated and asked what they could do. Casola said some ZHB members gave a few options such as subdivision, extending to the back of the existing house, or tearing down the existing house, but it was not seen as part of the deliberations.

Rosamilia asked Casola if he thought it wrong that the Board tried to come up with some accommodation that would keep the Township out of court but was still in line with what the ZHB. Casola said that the Board will see a lot more people coming forward with these types of proposals. Rosamilia said he thought they would see that anyway, because “no” is no longer an acceptable answer. He noted that they still have to go through the proposal discussion process.

Breslin stated that under the law the ZHB has exclusive jurisdiction over variance applications and if a municipality starts settling zoning appeals, especially without the approval of the ZHB then the Supervisors is supplanting the ZHB authority. She said that it is a very slippery slope. Breslin said that in order to fully protect the Township the Board must never again enter into a settlement agreement without approval of the ZHB.

#### Headquarters Road Bridge Discussion

Cashman, Quail Lane, welcomed Breslin to Tincum Township as a supervisor and asked for her position on the Headquarters Road Bridge and if it was in line with the rest of the Board? Breslin directed Cashman to her website [BreslinforTincumTownship.com](http://BreslinforTincumTownship.com) for her complete position but said she would briefly answer Cashman’s question. She said the fastest resolution to opening a bridge on Headquarters Road is to reach a settlement with the interested parties and open a one-lane, rehabilitated bridge. Breslin said the Township’s strategy over the past 10 years has been to hope the litigation would end and the parties could move forward. She said litigation could go on for many years and it would behoove the Township to come up with an alternate “B” strategy in the event that PennDOT’s permits and bids do not come to fruition in the way the PennDOT has represented to the Township.

Cashman said Pennsylvania State of Association of Township Supervisors states that an elected township official is responsible for public safety and that safety should override historical opinions of others. He said the main goal of the Supervisors is safety. He asked Breslin if she had read everything PennDOT has on the subject and how long it has been going on? He asked why she was not supporting PennDOT when after 10 years they had all the permits they needed and they were 99% of the way there? He asked how many times the Township had to go through frivolous lawsuits at the risk of public safety?

Breslin said it was not an accurate statement of her position to say that she did not support opening a bridge on Headquarters Road. She said she believed that the fastest route is to negotiate with the parties involved in litigation and reach an agreement that produces a one-lane bridge. Breslin said that it is not a realistic position for the Township to not have a backup plan.

Cashman said he had called Bruce Wallace and knocked on his door, gone to the Delaware Riverkeepers Network (DRN) office and no one was there – there wasn’t even an office there – and Maya van Rossum (CEO of the DRN) does not return his calls. He asked Breslin if she had talked van Rossum, Wallace or Steve Gitumal (adjacent property owner)? Breslin said she talked to everybody who was willing to talk to her.

Cashman asked if Breslin had spoken to anyone on the other side? He noted that she had not come to talk to him despite seeing him at these meetings and knowing how passionate he is about this issue. Breslin said they had acknowledged each other.

Cashman said those people do not live in the Township. He said he was a full-time resident. He said that he was not able to get the same service that Breslin could get where she lived. Cashman stated that Sheephole Road had washed out, which further limited access and the ability of services to reach him. He expressed how upsetting the situation was for him.

Breslin stated that the Headquarters Bridge is a priority and would be an excellent topic for a working session agenda for the Board of Supervisors. She said the Board should take a more active role in getting it resolved. Cashman said Breslin did not have any understanding as to what this Board has done to get to this point. He said Breslin could call Wallace, Gitumal and van Rossum and arrange a meeting to discuss it but that they would not show up and would sue again.

Cashman said that PennDOT has the permits and the bids and did not understand how Breslin could say the fastest way was a one-lane bridge. Breslin said it was unlikely the litigation will end. He said that as a supervisor and a lawyer, Breslin was just giving a lobbyist more fuel for the fire. Breslin said the bridge is has been stuck in litigation for 10 years and did not understand the expectation that the litigation would just go away. She said it is time for a back-up plan.

Rosamilia asked if Breslin was supporting a one-lane, rehabilitated bridge. Breslin said yes, a one-lane rehabilitated bridge because that is the fastest way to cut through litigation. She said in speaking to so many residents in the township, most people want any bridge. Breslin that there is a minority that want a one-lane, rehabilitated bridge and a handful want a modern, two-lane bridge. She said the vast majority of residents needs would be met with a one-lane, rehabbed bridge.

Rosmailia said that PennDOT has said they will not rehabilitate the bridge. He said when he got PennDOT to agree to sit down with those who wanted a rehabilitated bridge, they declined the meeting. Rosamilia asked why the party advocating for the rehabilitated bridge was not willing to meet and how would they reach a compromise otherwise? He said that Breslin might have more influence. Breslin asked when that had taken place and Helms said 2-3 years ago. Breslin said it was time to try again. Rosamilia said he is always willing, but he was not going to throw out the current permits for that. Breslin asked what would happen if the PennDOT permits fail in the spring? Rosamilia said then they would do what they had to.

Breslin asked at what point does the Board have to figure out something else? He said that there were other alternatives, but it was not appropriate to discuss alternative plans at this stage in PennDOT's process. Harris said the Board can have a work session to discuss and develop information, as long as they do not deliberate or make a decision under the Sunshine Act.

Helms told Breslin he understood her position that a rehabbed one-lane bridge might be the fastest route, and they had tried to go that route a couple of years ago, but now they were farther along on the other path. Helms said based on the way things were going it seems to be their best option at this point. Helms said it was possible another lawsuit could derail the present path; however, it was possible they could still prevail. He said it would depend on PennDOT as to what position they want to take, if they want to work through another lawsuit.

Breslin asked if they were going to wait for PennDOT's plan to fall apart to start discussing alternatives? Helms said yes, because having formal conversations in a public meeting to develop an alternative plan might derail the current position. Breslin said she understood Harris to say that the Board could still explore other ideas among one another and it would not be considered deliberative. Helms stated that any alternative will take a lot effort and a lot of private money to make anything happen.

Breslin asked if the other Board members were willing to meet to identify options for back up plans. Helms he would be willing to discuss ideas, but that he would not make it an official or public position of Township because he viewed that as irresponsible for the Township. He said that it has taken 10 years to reach this point and a few months more would not make any difference because right now PennDOT has a plan and contractors so that is the quickest option. Helms noted that if the current PennDOT plan does fall apart, it would probably take years to implement an alternate plan.

Cashman said the Army Corp. of Engineers permit had included a plan for a monitoring system in response to concerns about flooding. Breslin said Pennsylvania is getting \$1.6 billion for local bridge replacements and repairs through the Infrastructure Act so it is a good time for this type of project. Rosamilia also they will also get money from the Recovery Act. He stated that, in all fairness to PennDOT, PennDOT had always stated that the money was not the issue.

**H. Announcements**

Rosamilia announced that the Board had held an executive meeting earlier in the evening to discuss matters of personnel and pending litigation. No decisions were made.

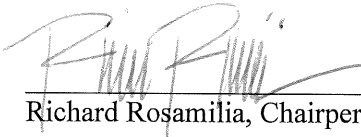
**I. Adjournment**

**Motion:** to adjourn the meeting at 9:30 PM.

Motion by: Helms. Second by: Breslin. Voted upon and passed.

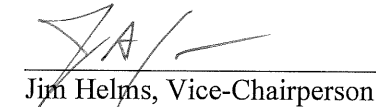
*The next meeting of the Board of Supervisors is scheduled for February 1, 2022 at 7:30 PM.*

**TINICUM TOWNSHIP BOARD OF SUPERVISORS**



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Richard Rosamilia, Chairperson



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Jim Helms, Vice-Chairperson



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Eleanor Breslin, Member