

## Tinicum Township Planning Commission Minutes

February 28, 2023

Members Present: David Upmalis, Chair; Carl Ruthardt, Vice-Chair; John Cole; Terry Johnston; Tim Cashman. Absent: John Clement, Neil Sullivan

Others In Attendance: Adam Crews of Crews Surveying LLC, Curtis Genner of Wynn Associates, Katherine Auerbach of Center Road, Supervisor Eleanor Breslin, Supervisor Rich Rosamilia

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Call To Order: Dr. Upmalis

Public Comment: None

Approval of Minutes:

**MOTION** by Mr. Ruthardt to approve the minutes of the Planning Commission meeting held on January 24, 2023. Seconded by Mr. Johnston. Unanimous Vote to Approve.

New Business

### 1. Minor Subdivision of Donna Luck - acceptance and preliminary review

The existing parcel of 39.39 acres extends on both sides of Center Road. Applicant proposes to subdivide the subject property along the centerline of Center Road. TMP 44-14-78 located on the west side of Center Road is 28.94 acres, and TMP 44-15-8 located on the east side of Center Road is 10.45 acres. There are no existing structures or improvements on either parcel, and no new construction is proposed on the subdivision plan. The site is located within the RA zoning district. Adam Crews of Crews Surveying LLC gave a brief overview of the property and the application before the Township. Mr. Crews explained that the owner/applicant, Donna Luck, had applied to the Board of Health for a septic permit and that the Department of Health had determined that the property was actually one property and not two. He said the applicant was asking the Township for approval to formally subdivide the property, which from all appearances is two separate properties. Both sides of the property have steep slopes, wooded areas and open fields. Little Tinicum Creek runs along Headquarters on the other side of the road.

Dr. Upmalis noted that a number of waivers were being requested with the application, and Mr. Crews noted that the requested waivers were reasonable and that the applicant was not attempting to subdivide the property or build numerous houses. Mr. Cole asked where the proposed septic system would be located, and Mr. Cruz indicated the 10 acre parcel, adding that it had already been tested and found acceptable for a septic system.

John Hartzel, counsel for the applicant, reiterated the notion that the two tracts of land have always been separated by Center Road, and that when the current owner purchased the

property it was clear that there were two separate parcels with two separate tax numbers. It wasn't until they presented their application to the Board of Health that they were told that the land needed to be officially subdivided.

Dr. Upmalis asked if the deed describes two separate parcels of land. Mr. Hartzel said that in 2021, surveys were prepared for both tracks of land and two separate deeds were prepared and filed with the County. Mr. Johnston asked if the property was described as one tract of land when Ms. Luck originally purchased it. Mr. Hartzel said the original deed described the entirety of the property's perimeter as one tract of land and that separate deeds were prepared as a result of Ms. Luck's desire to sell the 10-acre section.

Mr. Genner of Wynn Associates discussed the comments contained in Steve Baluh's review letter dated February 21, 2023. Mr. Hartzel agreed to Comments #1 through #6. It was noted that there was a general lack of detail in the plans in terms of future development. Mr. Hartzel said the applicant would certainly submit such plans when permits for development were applied for.

Mr. Cole said his concern with the proposed subdivision was that it created a lot that is non-compliant and would require a number of variances for development. Mr. Hartzel said the variances required for the property as a whole would be no different if it were subdivided. Mr. Cole replied the difference would be that the Township would be creating two non-compliant lots with inherent hardships instead of one. He added that if approved, a disclosure should be filed with the 10-acre lot warning any subsequent owner that a variance to develop wouldn't be automatically granted due to hardship since the hardship is being created by the subdivision.

Dr. Upmalis asked that the septic areas noted on the plan be labeled as such. He also asked about an existing water course on the property. Mr. Hartzel said it was hard to see on the plan. It was noted that a riparian buffer was indicated for Little Tinicum Creek but not for the additional water course. Mr. Ruthardt pointed out that there is also an area within the Flood Zone on the property.

Mr. Ruthardt noted an address had been assigned to the 10-acre parcel in the deed description and asked where that assignment had originated. Mr. Hartzel said he had taken it from a 2016 Bucks County Board of Assessment document.

Katherine Auerbach of Center Road, whose property adjoins the subject property, stated her concerns about the non-conforming nature of the property, as well as its important geographical features, including steep slopes, location in the scenic corridor value, and proximity to multiple natural resources.

Mr. Ruthardt said that because he lived adjacent to the property he would abstain from voting.

**MOTION** by Mr. Cole to recommend that the Board of Supervisors approve the application provided that 1) the applicant comply with all comments outlined in

Steve Baluh's review letter dated February 21, 2023, and 2) a disclosure be added to the deed stating that such approval does not imply the right to any future development on the property. Seconded by Mr. Johnston. Unanimous vote to approve. Mr. Ruthardt abstaining.

The requested waivers were discussed, including the need for clarification that they should apply only to the subdivision plan currently being considered and not blanket waivers for future development. Dr. Upmalis suggested that the applicant work with Mr. Baluh to limit their request to specific areas of the Ordinance rather than wholesale waivers of entire sections.

**MOTION** by Dr. Upmalis to recommend that the applicant work with Steve Baluh to limit their waiver requests to specific areas needed now rather than wholesale waivers for future development and that such revised waivers be presented to the Board of Supervisors for review. Seconded by Mr. Cashman. Unanimous vote to approve. Mr. Ruthardt abstaining.

## 2. Old Business

1. Cryptocurrency and Bitcoin Mining - It was noted that in a previous meeting the Commission had requested that Steve Harris draft an Ordinance for review.
2. Lighting – Existing lighting violations and enforcement in the Township were discussed.
3. Tretton Wedding Barn – Notice of Extension

## Discussion

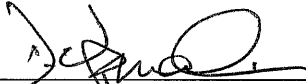
Mr. Ruthardt noted that the Ordinance has requirements for Township notification of neighboring properties in the event of a major subdivision, minor subdivision or land development, similar to the way that variance notifications are handled, but that such notifications were not being consistently submitted. He asked that the subject be addressed at the next meeting of the Board of Supervisors, and it was agreed that such notification include important dates, such as the date the matter would be discussed by the Planning Commission. Whether the Ordinance needed to be amended to include requiring important dates was also discussed. Mr. Rosamilia said he would consult with the Township Manager and that the topic would be addressed by the Board of Supervisors.

Mr. Ruthardt said he was working with Mr. Clement and the Township to create a searchable version of the Subdivision and Land Development Ordinance.

## Adjournment

**MOTION** by Mr. Cashman to adjourn. Seconded by Mr. Ruthardt. Unanimous Vote to Approve.

**TINICUM TOWNSHIP PLANNING COMMISSION**



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Dr. David Upmalis, Chair

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John Clement, Secretary