

**East Fallowfield Township
Planning Commission Workshop meeting
Approved October 16, 2017 minutes
6:35 pm**

Attendees:

Dennis Crook, Chairman
John Schwab, Vice Chairman
John Nielsen
Sue Monaghan
Joe Perzan
Mike Crotty, Township Solicitor

Not Present:

Michael Domboski
Stephanie Saxton

Dennis Crook called the meeting to order at 6:35 pm.

Discussion on Order of Agenda Items.

There was a discussion about the order of agenda items for the meeting. The Planning Commission decided to proceed with the meeting in the order below.

Ordinance Discussions with Township Solicitor Mike Crotty.

1. Ordinance 1995-07 "Shooting Ranges – Communication Towers – Junkyards"- Discussion.

There was a discussion about Ordinance 1995-07 which addressed shooting ranges, communication towers, and junk yards. Dennis Crook said the more he reads Ordinance 1995-07, the more he likes it. However, he questions where the ordinance went because it isn't reflected in the current ordinances. Solicitor Crotty explained that when the current zoning ordinance was approved, the Township probably went through a big process to combine the existing ordinances together. When this process is done, items are forgotten or missed in the new ordinances or intentionally left out of the new ordinances. When the Board of Supervisors approved the 2000 Ordinance, the old 1995-07 Ordinance would have been wiped out. It is difficult to track what items were changed/updated in a new ordinance.

Solicitor Crotty stated the Pennsylvania Game Code partially preempts or supersedes the Township's ability to regulate gun ranges. Municipalities can't regulate ownership, possession, or storage of firearms. There is some disagreement among municipalities as to whether or not this law regulates the discharge of firearms. It's been tested in court and held up. Solicitor Crotty discussed the history of the firearms regulations and laws. Both commercial and accessory fire arm use was discussed and are considered different in the Code. The Township Code can't be more restrictive than the Pennsylvania Game Code.

Solicitor Crotty presented an example ordinance from Exeter Township in Berks County. He recommended using this as a starting point for crafting an East Fallowfield Township ordinance to address shooting ranges. Mike Crotty recommended referencing the Pennsylvania Game Code in a Township Ordinance but not to quote that document because it changes and the Township Ordinance would become outdated. There is a distinct difference between a commercial shooting range and someone setting a shooting range up in their backyard. For a commercial shooting range, the Township can stipulate more restrictions such as only allowing commercial gun ranges in the Multi-Use and Office-Industrial Zoning Districts.

Dennis Crook discussed Section 27-1714 Hunt Club, Hunting Lodge, or Shooting Range. He questioned item "1-A. Area and bulk regulations as specified in 27-403." and reference to 27-403. Solicitor Crotty stated that in the Code there is some "area and bulk" in Section 403 referencing residential and agricultural uses. John Schwab voiced a concern about amending the Code piecemeal. There was a conversation about the table of uses in the Township Code. Solicitor Crotty discussed the table of uses permitted in each zoning district in the Code starting on page 27-41.

Solicitor Crotty broke down the appropriate steps to move forward with shooting range ordinance improvements:

- 1) Look at Section 27-1714 first and determine how to bolster the language in this section because everything references back to it. Most of Section 27-1714 is relevant to hunting lodges and commercial facilities. John Schwab suggested a separate section under Section 27-1714, adding in regulations for accessory shooting ranges. A cross reference to NRA standards should be referenced. It also needs to be determined what the appropriate regulations are for both accessory uses and commercial uses.
- 2) Determine where/what zoning districts they want to allow shooting ranges. Include shooting range in the sections/zoning districts they want to allow it in and reference Section 27-1714. Do not include shooting range in the zoning districts they don't wish to allow it.
- 3) Look up model ordinances on the Chester County Planning Commission's website or look at ordinances for similar municipalities through General Code.
- 4) Come up with a game plan and present this to the Board of Supervisors.

In the R-A Zoning District, a general shooting range (commercial) is allowed by conditional use but an accessory use isn't allowed at all according to the chart. Solicitor Crotty and the Planning Commission felt that didn't make sense. Solicitor Crotty discussed the table of uses permitted in each zoning district in the Code starting on page 27-41.

2. Day Care Centers – Discussion.

There was a discussion on the difference between day care center and home day care. There is a huge difference in size. Mr. Crook stated there is much more written in the Township Code about the home day care, which is less intensive than the day care center. Solicitor Crotty stated the thinking was probably that a home day care was allowed in a traditional residential zoning district and smaller area and therefore more regulations were needed. However, in the

Township Code, day care center is currently also allowed in the R-1 Zoning District through conditional use. The Planning Commission doesn't think this was intentional. Dennis Crook also said a day care center is considered accessory use under one zoning district and conditional use under another zoning district in the Township Ordinances.

In the Township Code, Section 27-1711 addresses day care centers and Section 27-1712 addresses home occupations under which a home day care is covered. John Nielsen stated there are three different classifications and licenses for day cares.

Solicitor Crotty suggested the following steps to move forward with ordinance amendments:

- 1) Pull the regulations in the definition of home day care and put it in Section 27-1712 - Home Occupation.
- 2) Look at Section 27-1712 C – which they would want to be included in the Day Care Center section. Solicitor Crotty suggested #4 (noise), and a setback requirement for the playground area be added to Section 27-1711. The biggest issue is where they are allowed as uses. There was a discussion on the zoning districts and the Planning Commission members felt a day care center and home day care home should be allowed. The ordinance would need to be amended by striking the uses not wanted in the ordinance.

John Schwab suggested addressing adult day care centers in the ordinances as well. They discussed using the terms child care center and adult care center. Solicitor Crotty stated they need to be careful not to encroach on nursing home life care facility or retirement communities. Joe Perzan asked if the state sets up regulations for all of these facilities. Solicitor Crotty said there are state regulations for day care centers, and institutional group homes. There are no regulations for rehabilitation for drugs and alcohol group homes.

The Day Care Center Section in the Township Code only references children. Under the Home Day Care Section, it says "4-6 children or adults". They discussed adding adults to the Day Care Center Section. Solicitor Crotty suggested removing the square footage for outdoor play area under adult day care center. They also discussed removing the requirement for a fence around the outdoor area. They felt the fence requirement should remain in the ordinance.

They discussed removing day care center from being allowed under R-1 and R-2 Zoning Districts. After discussing, the Planning Commission members thought that day care centers should not be allowed in the R-1 and R-2 Zoning Districts and should be removed from the ordinance.

3. Ordinance 27-1703, 1, D (1) and (2) "Intensive Agricultural Uses" - Discussion.

Solicitor Crotty recommended not addressing agricultural uses. He discussed a new law called "Acre" passed in 2008. This new law permits the Attorney General to sue a municipality if it perceives that its ordinance is regulating agricultural uses in a way that is trumped by state law. Pennsylvania's definition of intensive agricultural use compared to a municipality's definition of intensive agricultural use are vastly different. They discussed some actual court cases that

addressed intensive agricultural uses. Solicitor Crotty stated that unless there is a particular issue the Planning Commission would like to address, it is not worth changing the ordinances. There was a discussion about farm animal allowances which are under Section 27-1702. Solicitor Crotty commented that “large domestic animals” is not defined in the Township Code. After discussion, the Planning Commission decided not to address the Agricultural ordinances.

Chester County Planning Commission (CCPC) Official Map Grant Awarded.

Dennis Crook announced that East Fallowfield Township was awarded a Vision Partnership Plan (VPP) Grant for the upcoming official map project. Mr. Crook thanked John Nielsen for his work on the project and the grant application. The timeline for the project was briefly discussed. Solicitor Crotty stated this isn't required to be put out to bid. They discussed using Ray Ott as the consultant because of his work on the Comprehensive Plan. They will review the proposals that were previously collected.

At 8:03 pm, Joe Perzan left the meeting.

Follow up Review of Ordinance for Pods, Dumpsters, and Temporary Storage Units.

Solicitor Crotty said he will look for models and examples to look at. Solicitor Crotty said the Commission can approach this topic by not allowing it. However, some residents may find this disallowance is too restrictive for those who own large properties. A balance can be found by allowing them if they are buffered and screened from neighboring properties. The definition of “temporary” is also an issue. Solicitor Crotty said not to put much stock in the temporary component of it. Sue Monaghan spoke about the need to define terms such as portable storage unit, dumpster, and pod. Defining temporary vs. permanent was also discussed. John Schwab spoke about the importance of defining temporary to avoid anyone from circumventing the regulations. The Planning Commission has collected sample ordinances from other municipalities. Sue Monaghan is working on consolidating the samples into one ordinance. The following will be addressed in the draft ordinance: size, time frame, location, duration, contents, definition, frequency of emptying, use and maintenance, no hazardous materials and address commercial and residential separately.

Condemnation Properties – Safety – Abandoned.

Dennis Crook spoke about the lack of ability to address abandoned and unsafe buildings in the Township. He said the Township needs something halfway between a property maintenance code and nothing so the Township can address the abandoned buildings that are a safety risk. Dennis Crook and Sue Monaghan said there are more details to address this problem in the historical section of the Township Code. There was a discussion about options for addressing this issue that would be in between a property maintenance code and no restrictions. Solicitor Crotty discussed the definitions of abandonment and uninhabited. Solicitor Crotty also discussed the difficult procedure for pursuing maintenance of an abandoned property. Sue Monaghan briefly discussed a current situation that has occurred with the old school house on Strasburg Road. The consensus was that the current Board of Supervisors are not in favor of a property maintenance code. Solicitor Crotty explained the “Knock Rule” or “Front Door Rule” regarding property maintenance.

New Business.

1. **Tax Parcel # 47-2-20** – Dennis Crook discussed the property on West Chester Road that was deeded to the Township. The tax parcel id is 47-2-20. There is no address. The property is 30.65 acres. The surrounding properties have their own tax parcel numbers and are deeded to the Brinton Station Homeowner's Association. Sue Monaghan stated she thought she recalled it was non-buildable land and was deeded to the Township for future park and recreation use. Solicitor Crotty looked up the deed and discussed the allowable uses listed on the deed.

Adjournment.

MOTION: Sue Monaghan made a motion for the October 16, 2017 Planning Commission workshop meeting to adjourn at 8:40 pm. John Schwab seconded. **VOTE:** 4-0.

Respectfully submitted,



Lisa Valaitis
Township Secretary