

**East Fallowfield Township
Planning Commission Meeting
Approved August 5, 2019 minutes
6:35 p.m.**

Attendees:

Dennis Crook, Chairman
John Nielsen, Vice Chairman
Michael Domboski
Joe Perzan
John Schwab
Sue Monaghan
Township Manager Scott Swichar

Not Present:

Alfred Wright

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

Discussion on Order of Agenda Items.

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

Approval of August 6, 2018 Planning Commission Meeting Minutes.

MOTION: Dennis Crook made a motion to approve the August 6, 2018 Planning Commission meeting minutes as presented. Joe Perzan seconded.

VOTE: 6-0

Township Manager Scott Swichar reported that he has a meeting with the Brandywine Conservancy next week to discuss permitted uses for the Township owned property on Goosetown Road. He said that there is a conservation easement on the property.

Approval of September 10, 2018 Planning Commission Meeting Minutes.

MOTION: Dennis Crook made a motion to approve the September 10, 2018 Planning Commission meeting minutes as presented. Sue Monaghan seconded.

QUESTIONS AND COMMENTS:

- a. John Nielsen cited a correction on page 3, in the Office-Industrial (O-I) and Multi-Use (M-U) Zoning Districts section, under the discussion about the "300 acres owned by Arcelor Mittal and leased to Allan Myers." John Nielsen stated the statement should state 150 acres and the portion of the property leased to Allan Myers is 10 acres.

VOTE: 5-0 (Joe Perzan abstained.)

Approval of October 15, 2018 Planning Commission Meeting Minutes.

MOTION: Dennis Crook made a motion to approve the October 15, 2018 Planning Commission meeting minutes as presented. John Nielsen seconded.

VOTE: 4-0 (Sue Monaghan and Michael Domboski abstained.)

Approval of November 5, 2018 Planning Commission Meeting Minutes.

MOTION: Dennis Crook made a motion to approve the November 5, 2018 Planning Commission meeting minutes as presented. John Schwab seconded.

VOTE: 4-0 (Michael Domboski and John Nielsen abstained.)

Colorized Zoning Map.

Dennis Crook asked if the Building and Zoning Code Officer Rob McLarnon received an enlarged colorized zoning map. Township Manager Swichar stated that Rob McLarnon does have an enlarged colorized zoning map. Township Manager Swichar said that there is a colorized zoning map on the website. Dennis Crook said that it would be helpful to have an enlarged colorized zoning map in the meeting room. Township Manager Swichar will check on what maps Ray Ott provided to the Township.

Approval of December 3, 2018 Planning Commission Meeting Minutes.

MOTION: Dennis Crook made a motion to approve the December 3, 2018 Planning Commission meeting minutes as presented. John Nielsen seconded.

VOTE: 5-0 (John Schwab abstained.)

Dennis Crook said he will follow up with Solicitor Mike Crotty to determine if he changed the definitions of “family” and “group home” in the Township Code.

Agricultural Security Area Application - Tax Parcel #47-4-6.6 - Ruth D. Doutrich/Scott Farm Estates, LLC.

Dennis Crook asked Township Manager Swichar if Ruth Doutrich’s Agricultural Security Area Application was referred to the Planning Commission by the Board at the last Board of Supervisors meeting. Township Manager Swichar confirmed that the application was referred to the Planning Commission at the July 23, 2019 Board of Supervisors meeting. The Planning Commission discussed the Doutrich application. Dennis Crook stated the Doutrich property (tax parcel id 47-4-6.6) is located north of Strasburg Road and west of Mt. Carmel Road. John Schwab stated that the Doutrich property is not in the Agricultural Security Area. A Conservation Easement is separate from Agricultural Preservation. The Township’s Conservation Easement area is 4,006 acres and 91 parcels. The Township’s Agricultural Preservation area is 1,457 acres and 101 parcels. John Schwab stated that Weaver Mulch is in the Agricultural Preservation area and they run a commercial agricultural operation which has grown considerably. Because Weaver Mulch is a commercial agricultural operation, the Township cannot control Weaver’s mulch production. John Schwab discussed the possibility of the Doutrich property running a commercial agricultural operation in the future if it is approved to be in the Agricultural Security Area. John Schwab said he is concerned that this property may not be an appropriate location for a commercial agricultural operation. There was a discussion regarding what constitutes a commercial agricultural operation. Sue Monaghan asked what the benefits are to a property owner to be in the Agricultural Security Area. Dennis Crook said there are tax incentives for the property owner. Township Manager Swichar stated the owner may also be able to get grants.

Dennis Crook stated the Doutrich property has previously gone through a subdivision and land development application for the Scott Farm Development. He said the Scott Farm Development’s subdivision and land development application was approved and the Board of Supervisors signed off on the final plans. However, the developer did not take the signed approved plans to the County to be recorded because a sewer moratorium was thrown in due to lack of sewer capacity. Dennis Crook also stated that the original farm, house, and barns was sold off without subdividing after the final plans were approved. This one-acre property with the house on it is not included in the Agricultural Security Area Application.

There was a discussion about permitted agricultural uses under crops, livestock, and livestock products. There was a discussion regarding what is currently being done with the property. John Nielsen stated that corn is currently being farmed on the property. Dennis Crook said that half of the land is wooded which is considered an agricultural use. There was a discussion regarding the 250-acre requirement and determined that was referring to creation of the Townships’ total Agricultural Security Area. The minimum acreage requirement for a property to be included in the Township’s Agricultural Security Area is 10 acres.

The Planning Commission discussed the advantages and disadvantages to the Township if this property was added to Agricultural Security Area. John Schwab said that the Township could gain an additional 70 acres in preserved land, open space, or farmed land. He said he is concerned about the type of intended agricultural use because the property is in a Residential Zoning District. John Schwab discussed the definition of nuisance which excludes agricultural uses. The concern is that the Township could end up with an agricultural commercial operation considered a public nuisance the Township cannot regulate. Joe Perzan stated the Pennsylvania Law stated a municipality may not control nuisances and the Handbook states that a municipality may control nuisances for the health and safety of the public. Dennis Crook discussed the homes on the north side of Strasburg Road that were counting on public sewer with the Scott Farm Development. John Schwab asked if the Township could approve an Agricultural Security Area Application with conditions. Joe Perzan said the State would supersede any Township conditions.

The Planning Commission discussed what course of action to take. Dennis Crook stated that the Planning Commission needs to consult with legal and engineering regarding soil studies. The Planning Commission members also determined that they want the applicant to attend the next Planning Commission meeting to discuss proposed agricultural uses for the property. The Planning Commission should determine if the application meets the criteria of the Agricultural Security Law. There was a discussion about page 10, Section 907 - Factors to be considered, number (2) "use of land proposed for inclusion in an agricultural security area shall be compatible with local government unit comprehensive plans. Any zoning shall permit agricultural use but need not exclude other uses." The Doutrich property is zoned Residential (R2) and is not zoned Agricultural. Sue Monaghan asked if the zoning would need to be changed. John Nielsen discussed page 10, Section 907 - Factors to be considered, number (3) "the landowner may propose to include all of his land, regardless of zoning, in an agricultural security area." John Nielsen said that this indicates that the zoning does not need to be changed. Sue Monaghan said a property in the Agricultural Security Area cannot be developed for seven years. There was a discussion about Section (a) - Review by governing body on page 13. Dennis Crook asked if the property was ever included in the Agricultural Security Area before proposed as a development. Joe Perzan discussed the Agricultural Security Area Handbook. They discussed whether a property owner is permitted to remove their property from the Agricultural Security Area in the future. The governing body (Board) may grant that request. There was a discussion regarding the Clean and Green Program. Sue Monaghan stated it would be helpful to know the applicant's intent.

Township Manager Swichar discussed Solicitor Crotty's paragraph about the criteria the Planning Commission should use to review the Agricultural Security Area Application. "The property should be useable for agriculture. Cropland, woodland, and pastures are all viable lands to include in an Agricultural Security Area. At the minimum, half of the land that comprises the entire Agricultural Security Area should be in soil capability classes I-IV, as defined by the Chester-Delaware County Soil Survey. The property must be zoned for agricultural use." Joe Perzan discussed a section in the Agricultural Security Area Handbook revised in 4-11-2016 regarding criteria, "up to 9 contiguous properties provide that each is at least 10 acres in size or has anticipated annual gross income of at least \$2,000 from agricultural productions, crops, livestock, and livestock products on such parcel." Joe Perzan stated the Handbook also lists the same criteria that was in Solicitor Crotty's paragraph.

Township Manager Swichar stated that the hearing is on September 24, 2019 and the Township's Agricultural Security Committee meeting will need to meet before the Board of Supervisor hearing. Township Manager Swichar will inform the Planning Commission of the Agricultural Security Committee's meeting date once it is scheduled. Township Manager Swichar discussed page 8-9, Section (d) - Report by Planning Commission in the Agricultural Area Security Law that explains the responsibilities of the Planning Commission regarding review of an Agricultural Security Area Application. The Planning Commission is responsible for submitting a review report to the Board of Supervisors within 45 days. Failure of the Planning Commission to submit a report to the Board of Supervisors will result in a deemed approval by the Planning Commission. There was a discussion about page 11, Section 908 - Decision on proposed area, (b) notification by governing body of reasons for rejection. Township Manager Swichar said that the Board of Supervisors has 180 days to review the application. If the Township does not decide within 180 days, the Agricultural Security Area Application is deemed approved. There was also a discussion about reasons why the Township is not utilizing the entire 180 days. Sue Monaghan said the Board of Supervisors are holding a hearing on September 24, 2019 but not necessarily deciding at that hearing. Dennis Crook asked if the Agricultural Security Committee has 45 days to review an Agricultural Security Area Application. Township Manager Swichar stated the Agricultural Security Committee does have 45 days to review an Agricultural Security Area. There was a discussion about when the clock date started for the Planning Commission's 45-day review period. The Township received the Agricultural Security Area Application on June 10, 2019. The application came from Chester County. Sue Monaghan said she thinks the 45 days starts with the date of the Township Board of Supervisors meeting (July 23, 2019). She cited a section of the Agricultural Security Area Law on page 8 in support of her statement.

The Planning Commission determined that they did not have enough information to make a recommendation on the Doutrich Agricultural Security Area Application. The Planning Commission decided to write a letter to the Board of Supervisors requesting expert advice from the Township's Agricultural Security Committee, Township Solicitor, and the Township Engineer or soils expert. A discussion ensued regarding whether the Township Engineer and soil experts are needed to make a recommendation on the Agricultural Security Area Application. They would also like to request that the applicant attend the next Planning Commission meeting.

MOTION: Dennis Crook made a motion for the Planning Commission to write a letter to the Board of Supervisors for further information and more professional feedback from five difference sources: the owner, Agricultural Area Security Committee, Township Solicitor, Township Engineer or soil experts and the County to advise them. John Nielsen seconded.

VOTE: 6-0

Discussion on Multi-Use (MU), Office Industrial (O-I), and Village Commercial (VC) Zoning Districts.

Dennis Crook reported that the Board of Supervisors are moving ahead with searching for businesses to come into East Fallowfield Township. One business example is Wawa. Dennis Crook stated he has concerns about bringing in businesses before the Township Ordinances are reviewed and updated. Dennis Crook said the Township's Zoning Map agrees to the Township Ordinances. The uses listed in the Township Zoning Ordinances for the Multi-Use, Office-Industrial, and Village Commercial Zoning Districts should be reviewed and updated to reflect desirable businesses. Sue Monaghan suggested working on one zoning ordinance at a time. John Nielsen said the Village Commercial Zoning District can be worked on separately, however the Multi-Use and Office-Industrial Zoning Districts overlap. There was a discussion about the meaning of the top purpose of the Village Commercial District which is to mix the uses at a scale consistent with the historic character of the villages. Dennis Crook stated that the Village Commercial Zoning District Code is poorly written with most of the business uses required to go through conditional use approval. There was a discussion about whether more uses by right should be added to the Village Commercial Zoning District or if the current Village Commercial Code is sufficient. Joe Perzan suggested using Chester County 2020 and other municipalities to assist with updating the Township Zoning. Joe Perzan asked Township Manager Swichar if there are any grants that could help with this project. Township Manager Swichar reported that he applied for a Vision Partnership Program Grant in June for a Village Master Plan for the Newlinville section of East Fallowfield Township. Part of the grant would be looking at making specific zoning amendments for the Multi-Use and Office-Industrial Zoning Districts. Dennis Crook discussed whether to continue with distinct zoning districts or implement an overlay district. John Nielsen said an overlay district would be separate zoning on top of existing zoning. Dennis Crook stated that an overlay district could encompass both the Multi-Use and Office Industrial Zoning Districts and could also be applied to the Village Commercial Zoning District. The Planning Commission decided to review the Village Commercial Zoning District Code and discuss it at the next Planning Commission meeting. They will also look at potential expansion of the Village Commercial Zoning District.

Old Business.

Meeting Minutes - There was a discussion regarding catching up the meeting minutes. Township Manager Swichar said that five sets of meeting minutes were submitted. Progress is being made.

Adjournment.

MOTION: Dennis Crook made a motion for the August 5, 2019 Planning Commission meeting to adjourn at 8:38 p.m. Sue Monaghan seconded. VOTE: 6-0.

Respectfully submitted,



Lisa Valaitis
Township Secretary