

**MINUTES
EXETER TOWNSHIP PLANNING COMMISSION MEETING
MARCH 3, 2009**

The Regular Meeting of the Exeter Township Planning Commission was held on Tuesday, March 3, 2009 at the Township Hall, 4975 DeMoss Road, Berks County, Pennsylvania. Donald R. Wilson, Chairman called the meeting to order at 7:00 p.m. followed by the Pledge to the Flag.

COMMISSION MEMBERS: Donald R. Wilson, Chairman
Paul L. Schwartz, Vice Chairman
John W. Bittig, Secretary
Richard Littlehales
Gary L. Shane
Gregory A. Shantz
Greg T. Unger

OTHERS IN ATTENDANCE: Craig Peifer, GVC Consulting Engineer
Cheryl Franckowiak, Zoning Officer
Linda Cusimano, Recording Secretary

1. MINUTES

MOTION BY Mr. Littlehales, seconded by Mr. Bittig, to approve the minutes of the February 3, 2009 Planning Commission Meeting after correcting a small typographic error on the second page. The motion carried unanimously.

2. AGENDA

MOTION BY Mr. Unger, seconded by Mr. Schwartz, to approve the agenda of the March 3, 2009 Planning Commission meeting. The motion carried unanimously.

The following business was discussed:

- 3. RITE AID PHARMACY – PRELIMINARY PLAN** – Bill Colby
- Mike Swider
- Darryl Kirsch
- Pete Spisszak

GVC reviewed the Rite Aid Pharmacy Preliminary Plan (reference letter dated February 27, 2009).

Mike Swider stated that they made two changes to the plan that was reviewed previously. First was that the Planning Commission asked us to go to PennDOT and get their review on the right in – right out onto Rt 422. PennDOT stated that they were in agreement with that access. The second change was to move the rear driveway further east so it would no longer intersect with Oak Circle, but it would intersect with Oak Parkway. They received a petition from several of the neighbors that lived in the community, that they had strong concerns where it was originally located and it could be used as a shortcut from 422 as it was located in a straight line. By relocating the drive they felt that it was good for the community and for Rite Aid.

Rite Aid continued

It would be an inconvenient shortcut. Mr. Unger stated that they were still bringing out commercial traffic into a residential neighborhood and he had a problem with that. What would happen if they eliminated that? Mr. Swider replied that they would then send traffic on a longer loop to get back to 422. That was bad for a lot of reasons; first they would be sent through several more intersections, sending them past another part of the neighborhood. Secondly, it was a much longer route, wasting gasoline, time, more traffic onto Township roads and he did not feel it was in everyone's best interest. Mr. Unger replied that until he heard from everyone in that neighborhood, then he could not support it. Mrs. Franckowiak stated that it was not Rite Aid's intent; it was our consultant's idea for a lot of reasons. When we had the Fegely's driveway, people would make the illegal left turn and traffic would back up onto 422, not a good idea. It would be a much safer route. Mr. Unger stated that maybe it was not the right site for Rite Aid; maybe it would be better for something less traffic intensive here so we would not have these problems. Mrs. Franckowiak replied that zoning allows for this use. Mr. Unger stated that zoning allows for it but zoning does not allow taking commercial traffic through residential neighborhoods and we could say no. Rite Aid would have to make the decision if this was the right property or not.

Public Comment

Mike Hart, no address given, stated that he believed that this was a much better approach than the previous plan. He understood that delivery trucks would come out through that driveway. He further stated that he appreciated them modifying the driveway, but if he had a choice he would prefer to not have a driveway onto Oak Parkway. He submitted a letter along with a petition back in December explaining the concerns. He then stated that he felt that Rite Aid was a good fit for this location. It had a low projected traffic count, it would not have the high traffic count that you would see at a Burger King or Wawa, etc. The neighbors have discussed this and the fundamental question was what makes this different than what was happening at the intersection of Burger King; unrestricted in and out onto 422 and onto Gibraltar Road? The same with the Wawa and further down at the Dairy Queen and Taco Bell. Mr. Littlehales stated that he found this plan far preferable to what was presented previously. Mr. Hart agreed. Mr. Colby stated that we should keep in mind that this was a business with a low traffic count. Mr. Wilson stated that you also needed to keep in mind that once the shopping center opens there would be a lot more traffic coming from Birdsboro to that shopping center that would come down 47th Street. He felt that it would turn into another bottle neck since it would not be controlled by a light. He did not feel it was a good use for this property. Mr. Schwartz asked if they had any projections on how many cars would come out there and at what times? Mr. Spisszak replied that total site at worse case would generate 78 new vehicles per peak hour, that was the most. Mr. Schwartz asked what the peak hours would be. Mr. Spisszak replied that would be between 4:00pm and 6:00pm. Coming out of the Oak Parkway driveway, they were looking at 1/3 of the traffic using that. Mr. Schwartz stated that the real problem for that intersection was in the morning, not in the afternoon or evening. Mr. Swider replied that their stores typically open at 9am and their peak hours are in the evening. Mr. Schwartz replied that Fegely's was a problem because they opened early for breakfast.

Mr. Colby stated that the first bold item in the review letter concerned deed restrictions related to the southern portion of the site. They researched the deed restrictions and found that they applied to buildings and they were not proposing any buildings on that southern portion. Their position was that the deed restrictions do not apply and they would talk to Mr. Bellwoar concerning that. Item #5 was a variance request; they have prepared the draft of the variance request application, but have not submitted it as they felt they needed to get

Rite Aid continued

past the Oak Parkway issue before they proceeded with the request. Item #6 was an error and would be corrected in subsequent plan submissions. Item #7 was also a variance request and would be a part of the variance application. Item #8 was also part of the variance request. Item #15, that issue was resolved, the back portion of the property would be treated as an existing non-conforming use and the opinion was from the Zoning Officer and the Solicitor. Mr. Kirsch stated that item #18 concerned the tree inventory report and they sent a letter to Mr. Landis who owned the property and had a tree removed. Mr. Bittig stated that he thought there were three large trees cut down that needed to be accounted for in the landscaping. Mrs. Franckowiak replied that we would have to look for that letter from Scott Landis. Mr. Colby stated that the other items were land details with which they would comply. Most of the bold items were zoning issues that needed to be addressed with the Zoning Hearing Board, but they thought it was premature to submit that application because of the Oak Parkway access issue. One of the purposes for coming to the meeting was to get an idea where the Planning Commission sat on the idea of the access onto Oak Parkway. It wouldn't make sense to keep coming back with new plans if this latest revision was not acceptable. They would like to know at this time. Mr. Schwartz asked if they would be able to meet the buffer requirements on that driveway? Mr. Kirsch replied yes, they would be able to meet the 20-ft buffer there.

MOTION BY Mr. Unger, seconded by Mr. Schwartz to propose that for the Rite Aid Pharmacy to proceed, the driveway onto Oak Parkway be eliminated. The motion failed to carry with Mr. Unger, Mr. Wilson voting in favor and Mr. Schwartz, Mr. Littlehales, Mr. Shane, Mr. Shantz, Mr. Bittig voting opposed.

Mr. Wilson stated that the majority of the Board was in favor of the access at the rear of the property.

Public Comment

Thomas Howell, no address given, stated that his observance was that the Township has allowed truck traffic on Hafer Road and Painted Sky Road. People were sent through a residential area, from Fairview Chapel Road, to the traffic light. He felt that precedence should be considered since previously commercial traffic was sent through residential areas.

Linda Focht, 50 Glen Oley Drive, stated that she was concerned about the truck traffic. If trucks were going east on 422 to get to the Rite Aid, how would they get into the site? Mr. Kirsch replied that the truck would enter on 47th street and leave on the driveway in the rear. Mrs. Focht asked how many trucks would be traveling there. Mr. Kirsch replied they would have once a week delivery with a large truck and then there would be other deliveries with smaller trucks. Mrs. Focht asked if they would be traveling east or west. Mr. Kirsch replied that they would get them to the light to travel in whatever direction they would need.

Mr. Bittig asked how much of an offset did they have from that driveway to W 47th street? Mr. Kirsch replied approximately 150 to 160-ft. Mrs. Franckowiak replied that they definitely met the Ordinance requirements. Mr. Bittig asked if it was an arterial or a major collector. Mr. Anderson replied that it was a minor arterial. Mr. Kirsch used Mr. Bittig's scale and stated that it was 180-ft. Mr. Shantz stated that when you looked at the property it was a commercial site and he thought that if you looked at the negative impacts that would come from this, they certainly appeared to be less than what you would see from another commercial use. He felt that it was the least awful to the residents in that area. That shouldn't be the way to look at it, but that was what it was. If we said no to this project, we don't support this plan, even though the Board had the last say, it was a commercial site and this proposed use was the least intensive possible. His thought was what would we

Rite Aid continued

really gain by saying no to the project, what would the residents gain by our doing that? If Rite Aid would pull out and something more intensive came in, they could cram it down our throats and then we would look back and say that wouldn't have been so bad compared to what we were looking at now. Mr. Unger stated that he didn't think the neighbors were opposed to Rite Aid. He just didn't like that access onto Oak Parkway.

Mr. Shane asked if they would have signage showing people how to get back to 422? Mr. Swider replied that they would provide a sign to direct traffic to 422. Mr. Shane asked if the vehicles coming out of the drive in the rear would have their headlights shining into someone's home. Mr. Kirsch replied that it was hitting their swimming pool in the rear yard. Mr. Colby stated that they would submit the application for Zoning relief and that would come before the Planning Commission for comment. While they were submitting the application Mr. Kirsch would meet with GVC to discuss the other outstanding items in the review letter. Hopefully in one to two months they would return with a new plan.

4. FARMERS MARKET DEFINITION

Mrs. Franckowiak stated that, while working with the Farmer's Market committee, some other ideas came up that people would like to see some food stands such as hot dogs being sold and when she looked at the definition and what existed now it was only the producers and the growers of the products that would be allowed there for sale. That would not allow people to be there selling other things. The Farmer's Market committee would like to take another direction and allow for other vendors to be there. But no duplication, they did not want to have three pizza wagons. Mrs. Franckowiak read the definition for farmers market from the ordinance. Mrs. Franckowiak then stated that the idea was to provide an area for Exeter Township residents to go to buy their fresh produce and butcher items. But they were learning that the intent also was to show case Exeter Township farmers and we do not have that many farmers in Exeter. The farmers that we have basically produce feed for animals. We want to be able to have people that would get the product here to set up to sell. At the same time, when people would bring their kids, they would like to be able to get them a soda or something to eat. Flea Market was discussed, but the committee was adamant about not having a flea market. Mrs. Franckowiak further stated Mr. Littlehales was serving on the committee and has lended some great ideas too, like an antique stand. We want variety; we want it to be a hit and something that would be successful. Mr. Littlehales stated that they wanted to look at it as a community market rather than a farmer's market, to make it a family affair. Mr. Bittig replied that he would have no problem with allowing onsite prepared food items. Once you go beyond that it would be a slippery slope. His wife made crafts and went to craft shows. They were now bringing in all these items from China and marketing it as local crafts. Once you would open it up, it could be a problem. Mr. Littlehales replied that we have that under control, it would allow handcrafts but they would have to be juried guild members. Mrs. Franckowiak stated that they have interest from a Pennsylvania winery. Mr. Shane asked if the no duplication would apply to non-produce venders. Mrs. Franckowiak replied that it would apply to the food vendors.

Public Comment

Richard Keim, no address given, stated that the definition given, where was that definition taken from? Because by definition what you read there was not what you were trying to come up with now and were you planning to change the definition? Mrs. Franckowiak replied that was the intent. Mr. Keim asked if there was a grant involved with this and how was the grant stated as to how that money could be used?

Mrs. Franckowiak replied that the money was from a grant and it could be used for legal fees, advertising and other miscellaneous things like that. Mr. Keim asked what the grants definition of a Farmer's Market

Farmers Market definition continued

was. Mrs. Franckowiak replied that she did not know and she would check into that. Mr. Keim stated that it sounded like it would be a little too circus-like; he agreed that having the food offered to keep the children happy made sense. As far as the farmer's market down in Philadelphia or D.C., did they have those types of vendors? Mr. Littlehales replied that some do and some don't. Some were more-fair like than others. Mr. Keim stated that if there would be prepared food onsite, then you would bring the Board of Health into the situation. Mrs. Franckowiak replied that we were aware of that. Mr. Keim stated that then you would need a site that provided water, electricity and sewer. Mr. Wilson stated that these would not be permanent structures so you wouldn't need sewer connections. Mr. Littlehales stated that port-o-potties could be used. Mr. Wilson stated that if they would have a Moore's french fry wagon it was self contained. Mr. Keim stated that everything would have to be self contained, and should be a stipulation. He further stated that those were his concerns and with discussing this he now understood. Mr. Wilson stated that he thought it would be 5 to 10 stalls for a farmers market. At that point we wouldn't need pizza vendors to walk through that amount of stalls. Mr. Littlehales stated that 5 to 10 stalls wouldn't draw in anyone. Mr. Wilson asked where we would put something that big. Mrs. Franckowiak replied that she was meeting with a representative of Boscov's to discuss the potential for setting up initially in the parking lot of the Boscov's Outlet Center. They rarely have a full parking lot and it would be good exposure. A secondary site would be at the East Mall which would also be a good area. They felt that Boscov's would be the best to work with, he's local, he's got the property with highway frontage and he runs the Fairgrounds Farmers Market so he could help us with the set-up standpoint. We weren't looking at a setup like West Reading; we don't have the small businesses with sidewalk frontage.

Public Comment

Jordan Bausher, 391 Ritters Road, one thing he was concerned about was would this affect the ability for farmers to have a farm stand on their own property? Mrs. Franckowiak replied no, certainly not.

Mr. Bausher stated he was also concerned with liability, whoever owned the area that was being used would be liable. The most successful farmers markets were the ones run by the Pennsylvania Farm Bureau, with produce raised by the farmer, taken to the market and then certified. Mr. Bausher asked who would do the certification. Mrs. Franckowiak stated that goes back to the question, what were we doing? Were we just going to provide a place to go and buy the local produce? Mr. Bausher asked if they were just doing produce or would they add french fries? Mrs. Franckowiak stated that they wanted to add more to get the community out there. Mr. Littlehales stated that they did not want to have a carnival atmosphere; just add diversity so more people would be drawn to it. Mr. Bausher asked if they would protect the concept so it would not be overwhelmed by things that were not farmed. Mrs. Franckowiak and Mr. Littlehales agreed with Mr. Bausher.

Linda Focht, 50 Glen Oley Drive, stated that going along with what Mr. Bausher said and what Mrs. Franckowiak said, that we probably wouldn't go with being certified since we would not have enough local farmers able to contribute. If no one would be certified you could be getting anything. Mrs. Focht then asked if we would be selling oranges from Florida and would it be just Berks County produce or could anyone bring their wares? Mrs. Franckowiak stated would it be for the community to come and buy fresh produce no matter where it came from. Mrs. Focht stated that she would rather buy local produce and shop at a market that said it had locally grown produce. Mr. Bittig stated that we would pass that along to the committee. Mr. Unger stated that if we didn't open it up a little, we wouldn't have a draw.

Farmers Market definition continued

Thomas Howell, asked when we were going to check with the people, what if no one showed up? Mrs. Franckowiak stated that we had a poll listed on the website and we got 326 responses. Mr. Howell stated out of 11,000 households. Mr. Howell further stated that the grant was taxpayer's money.

Mr. Wilson asked what we needed to address tonight? Mrs. Franckowiak replied that she wanted to see if the Planning Commission was receptive to supporting an expanded definition? If the Farmers Market Committee would put forward an expanded definition, would the Planning Commission be agreeable to that? The Planning Commission agreed.

5. WELL-HEAD PROTECTION ORDINANCE

Mrs. Franckowiak stated that at the last Board meeting, Michelle Kircher suggested that we should start to look at well-head protection. Joe Rogosky offered that they knew of one municipality in Berks County that did offer such an Ordinance. He provided that for us to share with the Planning Commission to get feedback. Mr. Bittig asked about the two papers we received in our package, one was private and the other was public water supply. One was from Cumru and the other came from Chris Hartman, which one were we dealing with? Mrs. Franckowiak replied that she thought that Michelle's Idea was for the private well-heads.

Mr. Bittig stated that they were entirely different "animals", and asked what was Michelle's intention?

Mr. Wilson replied that Michele's intention was for the private wells. Mr. Schwartz stated that all of that was covered under state regulation. Mrs. Franckowiak replied that's right, it was covered by DEP and the more we were thinking about this, with enforcement and regulation and liability, her personal preference would be to leave it with the State. She further stated that she did not feel there was anyone on staff who was qualified to enforce that. Mr. Bittig replied that, yes that was a concern; someone would need to issue the permit and check on that. Who has the technical expertise to do it and if you hired someone it would cost a bloody fortune. Mr. Schwartz stated that when someone comes in with a plan they have to show the location of the septic system, the well and 150-ft separation. Mr. Unger stated that there was little regulation as to what can be placed around a well, herbicides, etc. they just needed to let DEP know that they were drilling a well. Mr. Anderson stated that was true, the person doing the drilling needed to fill out a form; they needed to supply the location, how deep, what they drilled through and the quality test.

Mrs. Franckowiak stated that the Township has to make sure the water quality was ok before we issued a certificate of use and occupancy. There was considerable discussion about the private well contamination. It was generally agreed that (1) contamination usually originated at some unknown/indeterminate location off-site, and (2) when contamination (generally E. coli) occurred, the well owner had to treat the well water with chlorine or a UV system. Mrs. Franckowiak further stated that it was well meaning and a nice idea, but she wasn't sure what we could do with it. Mr. Bittig stated that he agreed with Mrs. Franckowiak.

Mr. Wilson asked when someone comes in with a plan to build, who checked to see if the separation distance was there? Mrs. Franckowiak replied that we go by the site plan, because we do not regulate it. Mr. Wilson asked if before the Occupancy permit is issued doesn't someone go out to check that it matches the plan? Mrs. Franckowiak replied that the well driller and Berks Envirotech would be out there looking at that.

Mr. Schwartz stated that it sounded to him that the concept is great, but the practicality wasn't there. Maybe someone could check the distance in the field when the final inspection was done. Mr. Bittig stated that we could look to make sure they were on the plan or require a certification for the distances from the builder. Mrs. Franckowiak replied that was a good idea. Mr. Wilson stated that obviously the feeling from the Planning Commission was that, although the idea was nice, we would not have the man power or the finances to enforce it. Mr. Schwartz replied only if the builder was required to provide the distances prior to final inspection.

6. GENERAL DISCUSSION

Mr. Shantz announced that this would be his last Planning Commission meeting as he and his wife just bought a home in Sinking Spring and he enjoyed being on the Board but he tried to buy in Exeter but that didn't come through so they were moving out of the Township. The Planning Commission congratulated him on the new home, but were sorry to see him go.

Mr. Bittig stated that the developer for the Miller II subdivision provided a time extension, but on the one form they just wrote "see attached letter" and the letter only stated granting a 90 day time extension, no date shown. Ms. Cusimano reminded Mr. Bittig that previously developers would provide 30, 60 or 90 day extensions, so we accept either a date or the number of days to extend the due date. Mr. Bittig stated that he did not want to see ourselves getting caught short. Ms. Cusimano stated that this was what would go to the Board and the Board would decide how they want to handle the extension, whether they would grant the 90-days. Mr. Bittig stated that he felt they should provide another time extension form with a date on it.

ADJOURNMENT

MOTION BY Mr. Littlehales, seconded by Mr. Schwartz, to adjourn the March 3, 2009 meeting of the Exeter Township Planning Commission at 8:22 pm. The motion carried unanimously.

Respectfully Submitted,

John W. Bittig
Planning Commission Secretary

lrc

Correspondence to:

BOS: Well-head Protection Ordinance