

**FRANKLIN TOWNSHIP
YORK COUNTY
BOARD OF SUPERVISORS
WORKSHOP MEETING MINUTES
May 23, 2018**

ROLL CALL

Present were Supervisors David Sprigg, Naomi Decker, Kevin Cummings, Eric Stonesifer and Michael Ryan, Solicitor Bret Shaffer, Engineer Phillip Brath, and Secretary Teresa Adams, the meeting was held at the Franklin Township Municipal Building, 150 Century Lane, Dillsburg, York County, PA. Visitors please refer to attached sign-in sheet.

PLEDGE OF ALLEGIANCE AND PRAYER

Chairman Cummings led the Pledge of Allegiance and gave the opening prayer the workshop meeting was called to order at 6:30 PM.

PUBLIC COMMENT

Chairman Cummings said after reviewing the agenda he realized there wasn't a place indicated for public comment and therefore he would like to start the workshop meeting with public comment for issues on the agenda and he would give five minutes to each person that would like to speak. Mrs. Gingrich ask if there would be another opportunity during the meeting for public comment. Chairman Cummings explained the purpose of the workshop meeting was to address the steep slope ordinance and to try to get it to a point where a vote could be done so the ordinance could be sent to York County planning commission for review. Chairman Cummings said he would allow another opportunity for public comment after the work was completed on the steep slope ordinance.

First order of business is Ordinance 5-2002 – Requiring all persons to obtain permits prior to connecting or paving driveways to public road or performing excavating or other work in public roads; requiring the submission of plans in compliance with PennDOT and township design requirements prior to the issuance of permits; providing for the disapproval of plans where connection or work would result in improper drainage or noncompliance with PennDOT and township design and construction requirements; providing for the payment of permit fees; and providing penalties for violations.

Motion was made by Chairman Cummings to adopt Ordinance 2018-1 of Driveway Permit. Discussion on the correct Ordinance number ensued, engineer Brath said he found some old information within the ordinance and solicitor Shaffer said the old items should be reviewed and changes made at the same time.

Motion was withdrawn by Chairman Cummings to adopt ordinance 2018 – 1.

Supervisor Decker had a question under section 9 of ordinance 5– 2002; from time to time, the Board of Supervisors may adopt, by resolution, such additional driveway and or excavation specifications and requirements, and may supplement or modify the driveway and excavation specifications set forth in this ordinance. So, would this not qualify for a resolution instead of the ordinance. Solicitor Shaffer said he has thought about that, and it's probably better to have it in

the ordinance as it deals with the same thing and it's creating a more stringent standard in some ways. It seems to be on here to add something less than incidental, not being an ordinance amendment. He said he sees where you can make provisions to ordinances by way of resolutions and he thinks this is placed in there, so you can make a patch to the ordinance, but it doesn't get you around where you must do subsidence provisions by the ordinance. Supervisor Decker said at the top of the ordinance it reads all driveways to public roads or performance excavating, need a permit, doesn't this cover that everybody needs to have a permit. Solicitor Shaffer said the intent is that permits were not being issued until additional steps were taken.

Supervisor Ryan said the biggest concern of the road crew is that property owners are not completing the driveway paving at the end of the driveway and are not putting in berms and pipes and therefore the water runs off the driveway on to the road which creates severe icing and the road crew must deal with the issues caused by that icing.

Chairman Cummings asked if the Township were locked into the \$1000 penalty mentioned in section 11 of the ordinance. Supervisor Ryan said it's a per day fee and the maximum amount for the penalty is \$1000.

Discussion ensued regarding paving at the end of the driveway, why is it 25 feet. Supervisor Ryan said there are occupancy permits being handed out and the paving is not being completed. Vice Chairman Sprigg asked why it's 25 feet that must be paved and where did the number come from. Discussion ensued on how the 25 feet is being measured, from the edge of the road, the middle of the road or the right-of-way.

Engineer Brath said there are some other issues with PennDOT numbers. Solicitor Shaffer said section 6.D makes a reference to the PennDOT publications, and engineer Brath said again in section 8.O and 8.A it mentions about blasting which is no longer in section 203 it's under section 207. Engineer Brath said these are just minor things that can be expected in a residential ordinance.

Chairman Cummings said he doesn't have an issue with measuring from the center of the road onto private property, but he does have an issue measuring from the edge of the road to 25 feet onto private property.

Supervisor Ryan ask about replacing pipes that are only 16 feet off the road, who will replace them the property owner or the Township, property owner will want the Township to replace the pipes. Supervisor Ryan said the road crew is fixing the roads, so the water management is the residents responsibility and not the Township's responsibility, he said there needs to be adequate drainage at the point of entry to the road, so it doesn't ice up and create a hazard to the rest of the residents in the Township. Chairman Cummings said it should be addressed by the resident's engineer to fix an issue. Vice Chairman Sprigg read Section 6.E; Drainage. All driveways which are installed on any public road will be required to install either a drainage pipe (culvert) or constructed drainage swale as directed by the Township representative and he said under section 6.I; owner's responsibility, it puts all the responsibility of maintaining, repairing, replacing the culvert back on the owner, so why isn't this being enforced. Supervisor Ryan said this is with the assumption the water is coming from the driveway onto the road and he explained in his own yard he has a spring that can create excess water to be discharged onto the road. Supervisor Ryan said there needs to

be a change to the section to help control water runoff onto the road. Vice Chairman Sprigg said he doesn't see why a change needs to be made as the requirement is in section 6.E and the responsibility is in section 6.I which falls back to the owner of the property. Supervisor Decker also said she doesn't see why a change needs to occur for the same reason. Vice Chairman Sprigg said the ordinance just needs to be enforced. Vice Chairman Sprigg said the fees and penalties are already in the ordinance of up to \$1000. Discussion ensued on water entering a road from a driveway and possible solutions to correct the problem. Chairman Cummings said unless a driveway is crowned to divert into a culvert then there's water entering the road. Solicitor Shaffer said when he was asked to write the ordinance he read and understood section 6.E and 6.I to be excess storm water runoff, when he drafted the ordinance under section 6.B.1 says no storm water runoff and his understanding in order for there to be no storm water runoff you would need the 25 feet, the ordinance doesn't need to say anything about design standards because whatever's being paved up to the right-of-way has to pass the review, so by extending the distance you're giving discretion to the roadmaster for however long the paving is, as to how it gets constructed. Chairman Cummings read from the stormwater management ordinance section 4, regarding the paving at the end of the driveway and access onto a public road. He said there may have to be some changes to the stormwater management ordinance as well and said the board may want to table this until another time. Supervisor Decker said she believes there is enough information in the driveway ordinance and it just needs to be enforced. Vice Chairman Sprigg said that he agreed. Supervisor Ryan clarified that it is the board's opinion the driveway ordinance just needs to be enforced and that the ordinance would be enforced going forward.

REVIEW OF ZONING ORDINANCE ON STEEP SLOPE

Chairman Cummings said two letters were received, one from Mrs. Trygg and one from the Zinns, the letters will be part of the meeting minutes and both are in opposition of any changes to the current ordinance draft.

Chairman Cummings asked if there were any comments by the engineer or solicitor at this time. Engineer Brath said he had no additional comments or corrections. Solicitor Shaffer said language given to the Township for section 205 is going to fit into the ordinance amendments that he circulated and that's where to find additional amendments putting a definition of steep slope in the definition section and taking away any references on the current zoning map to slope overlay. If the board were to adopt section 205 they wouldn't need those definitions anymore. Solicitor Shaffer said the floodplain overlay is out of date on the zoning map as well and since the Township adopted what the state puts forward as floodplain insurance there is a separate map. Supervisor Ryan said the overlay map would disappear once the ordinance is adopted.

Supervisor Stonesifer wanted to know if there were a penalty section to the ordinance. Solicitor Shaffer said yes, there is. Solicitor Shaffer explained the numbering on the draft. Chairman Cummings asked what gets sent to York County planning for review. Solicitor Shaffer said section 205 gets inserted into the ordinance and the entire ordinance would go for York County planning review.

Supervisor Decker said she thought that she saw a conflict within some of the sections. She said it seemed that section 5 in section 6 were saying the same thing and didn't make sense. Solicitor Shaffer said it's cross-referencing. Solicitor Shaffer said as you're reading through the ordinance

under the different sections it will cross reference to section 205 for further explanation. Engineer Brath said section B.3 gives the calculation of steep slope which gives you the limits. Supervisor Ryan said it talks about vertical rise and run divided by 100, engineer Brath said yes, with three consecutive 2-foot vertical contours. Engineer Brath said the plateau issue that was discussed is in section B.7. Chairman Cummings said in section H.1 it talks about building lot of a minimum of at least 5000 square feet. At this time Chairman Cummings opened the floor to the public for comments.

PUBLIC COMMENTS

Mrs. Gingrich spoke at this time. Mrs. Gingrich said she had several concerns with several of the provisions; specifically,

1) H.1 - no building lot shall be created unless it contains at least 5000 square feet or more of buildable area within slopes 25% or less. (1) contains or is within a steep slope, (2) contains or is within a part of a steep slope, or (3) creates a steep slope that is not correct upon timely completion of the development. That doesn't make any sense.

2) Mrs. Gingrich said at no point does the amendment discuss access, particularly in areas that are plateaus, specifically and generally this ordinance fails to take into consideration the wealth of information that has already been presented about why any amendment to the existing steep slopes amendment is ill advised for the health welfare and safety of the Township. The information provided to the Township residents about what the new best management practices for storm water are available as compared with the ones given in testimony as what the former engineer stated would not work in the Township particularly with respect to South mountain, there's been no information about the fact that any of those best management practices have been tried in the Township and have been proven successful, nor has there been any information about why there is a need to change this in light of the fact that there was a legitimate reason with existing problems within the Township with respect with erosion, storm water, and inability to manage stormwater. Mrs. Gingrich said she thinks it would be a nice opportunity for the people in the Township to review this and add additional comments to it.

Chairman Cummings said regarding the plateaus there is a section in the ordinance under section B.7, a proposed area of development may itself be on a plateau surrounded on one or more sides by steep slope, as measured and calculated herein, such that if the surrounding steep slope where the proposed area of development, it would meet one of the first three criteria in number one, above. Therefore, where a proposed use involves the creation of impervious area of 100 square feet or more within 30 feet of the steep slope (as measured and calculated herein), the proposed use shall be considered a regulated plateau and the proposed use shall be considered a use involving the disturbance of steep slopes, subject to the restriction in this section. So, any access or disturbance of 15% or greater includes the access. Chairman Cummings said he didn't know how Mrs. Gingrich was saying the access was left out of the plateaus.

Mrs. Gingrich gave the definition of plateau as 100 square feet or more within 30 feet of a steep slope. Mrs. Gingrich said she is aware that there are some plateaus on the mountain more than an acre or more of ground, there is an existing roadway to it and the person takes the position that it's not going to be disturbed, and there is a situation where this occurred and there weren't any permits secured, you're going to have the down slope people being affected by the runoff.

Chairman Cummings and Mrs. Gingrich debated over engineering best management practice pertaining to a driveway over 15%. Chairman Cummings said the engineers design is still working today.

Zoning Officer Fahey thanked the Board, he said anything under 1,000 square feet doesn't require SWM and this fixes that issue.

Lon Strayer said he has several pieces of property on the mountain that he is not able to sell. If he can't sell his property due to steps the Township takes in this matter, then he needs to take steps to see about getting the Township to purchase his properties that he can't sell due to the steep slope issue.

Mr. Grove said that Mr. Balsavich did testify he got soil samples from run off. He said his testimony would be in the recording.

Solicitor Shaffer said the wording in section H.1 needs to be changed. Discussion ensued on the wording in this section. The wording was changed to say, no building lot shall be created unless it contains at least 5,000 square feet of buildable area not containing slopes of greater than twenty-five percent (25%) or (1) contains or is within a steep slope, (2) contains or is within a part of a steep slope, or (3) creates a steep slope that is not corrected upon timely completion of the development.

Chairman Cummings said a question was raised regarding Township liability, but it is already covered in the ordinance under section 112.

Motion was made by Chairman Cummings to send to the York County Planning Commission for their comments on Section 205, Steep Slope Ordinance, Ordinance 2018-1.

Second by Supervisor Stonesifer.

Discussion Supervisor Ryan said he feels the motion should be held until the BOS meeting to allow the residents a chance to review and comment.

The motion was approved 4-1; Supervisor Sprigg opposed.

OTHER BUSINESS

1. Discussion ensued regarding legal notices not being advertised properly and not receiving proof of advertising as requested from the Dillsburg Banner. Supervisor Ryan and Secretary Adams to set up meeting with the editor to resolve issue.

2. Fleming Conditional Use Hearing set for Wednesday, June 13, 2018 at 6:30 p.m., property lines to be verified by Zoning Officer Fahey prior to the hearing.

3. Northern York County Road issues meeting with Representative Dawn Keefer was held at the Representatives office on Baltimore Street, Dillsburg, prior to the BOS Workshop Meeting.

4. PennDOT Meeting Minutes were submitted by Supervisor Ryan in the Workshop packet.

5. West Greenhouse Bridge Project bid results were received thru Penn bid website. A bid of \$50,218 for the repair was received from Mar-Allen Concrete Products. Supervisor Ryan said the amount was too much, he said he spoke with the Liquid Fuels guy and he believes the Township could save money by doing it themselves.

Motion was made by Supervisor Stonesifer to reject the West Greenhouse Bridge Repair bid of \$50, 218.

Second by Supervisor Ryan.

Discussion ensued on bids, first round of bids, there were no bids received, second round was for the bid being denied. Supervisor Ryan said this job is labor intensive.

The motion carried.

EXECUTIVE SESSION:

The BOS entered executive at 8:03 p.m. with an action to be taken. Supervisor Decker abstained from the session. The BOS returned at 8:13p.m. Discussion on legal matter to seek outside legal counsel advice on the case 2018-SU-001-068, Decker vs. Franklin Township York County Zoning Hearing Board.

Motion was made by Chairman Cummings to adjourn at 8:15 p.m.

Second by Supervisor Stonesifer

The motion carried.