

WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING

Stokes Assembly Hall
1039 Wilmington Pike, Westtown Township
February 17, 2016 – 7:30PM

Present

Commissioners – Rodia, Whitig, Pomerantz, Hatton, Lees and Yaw. Absent was Adler. Also present was Township Planning Director Chris Patriarca and those mentioned below.

Call to Order

Mr. Pomerantz called the meeting to order at 7:30 and led those present in the Pledge of Allegiance.

Adoption of Agenda

The Agenda was approved unanimously as amended by Mr. Pomerantz (JL/BW).

Approval of Minutes

The minutes of the Planning Commission (PC) meeting of January 20, 2016, were unanimously approved as presented (SR/SY).

Reports

Mr. Whitig presented the February 1 Board of Supervisors (BOS) meeting. He stated at their workshop presentations were made on the Hawthorne subdivision, Westtown Woods, Deer Creek Malt House and the emergency management ordinances. At their regular meeting the BOS had several departmental reports, an expanded discussion on the Agricultural Security Area Committee, passed the repeal of the Special Use Overlay (SUO), approved Hawthorne, approved both of the emergency management ordinances and paid the bills. Mr. Patriarca presented the February 16 BOS meeting. He stated their workshop consisted of an executive session and at their regular meeting had several reports presented and delayed action on a pair of ordinances.

Announcements

Mr. Patriarca stated the Dunkin Donuts application will be back before the PC at the March 9 meeting. He also briefly discussed several items that the PC will look into relevant to ordinance amendments and provided an update on the status of the comprehensive plan. Mr. Pomerantz followed by wishing a full and safe recovery for Ms. Adler from her recent surgery and this sentiment was echoed by the entire PC. Mr. Hatton stated at a recent Parks & Recreation meeting he attended he learned about how the Oakbourne Mansion/Park is managed and operated. He then formally presented the 2015 PC annual report in its final form to deliver to the BOS.

Non-Agenda Public Comment

There were no non-agenda public comments.

New Business

Historic resources map and ordinance

Mr. Pomerantz opened the discussion and asked the PC for their initial thoughts. Mr. Yaw asked if the issues raised by the County relevant to a formal recognition of the Brandywine Battlefield as part of the amendment was considered. Mr. Patriarca stated this is an issue that will be addressed as part of the comprehensive plan update, but that the listing does include elements of the Battlefield. Mr. Pomerantz followed and asked if there was any reason not to approve the

amendment. Mr. Patriarca stated in his opinion there is not a reason to offer a positive recommendation on the ordinance as the public had over two months to offer comment on the ordinance, with all concerns reasonably acknowledged and addressed. Further he stated it is positive in that it codifies what the Township already requests of developers with regards to consideration of historic properties.

Mr. Pomerantz asked if the proposed ordinance is too “soft” as it will still allow for demolition and/or alteration of historic properties as the owner deems necessary. Mr. Patriarca stated the ordinance has been crafted to reflect the overall original intent of the Historic Commission to document and tell the story of Westtown and provide for another tool to accomplish this. Mr. Hatton then discussed issues from other jurisdictions relevant to the loss of historic properties and asked if the ordinance does not prevent their loss than what is the point of it altogether. Mr. Patriarca stated the ordinance is very worthwhile in that it gives the Township greater ability to require developers to better consider the reutilization of historic properties and balances this with the rights of an owner to enjoy their property as they see fit.

Mr. Pomerantz reiterated the ordinance does not require the resource to be preserved, and Mr. Patriarca stated that although it does not the ordinance does provide another tool to further the mission of the Historical Commission. Mr. Lees stated he did not object to the ordinance as presented, but would have concerns if it further regulated historic properties. Mr. Yaw stated he does not feel a more prescriptive ordinance is necessary at this point and what is presented is a good start. Both Mr. Rodia and Mr. Whitig echoed this sentiment and agreed the proposed ordinance is appropriate for adoption.

Mr. Whitig made the following motion, seconded by Mr. Rodia and approved unanimously:

The Planning Commission has reviewed Ordinance 2016-2 relevant to the historic resources map and listing and offers no objection to both the ordinance and map and further the Planning Commission would like to commend the Historical Commission for their ongoing efforts to document the history of Westtown.

1131 South Chester Road – Gifford property

Mr. Patriarca gave a brief overview of the request and circumstances surrounding the potential zoning change requested by Dave Gifford, the owner of the property at 1131 South Chester Road. He stated the property has been utilized as both a photography studio with an apartment on the top floor. Although he no longer lives at the property, how it is being utilized meets and has previously been approved by the Township under major home occupation standards. Mr. Gifford is requesting consideration of a “professional office” as a potential major home occupation use at the intersection of two arterial roads. Mr. Patriarca further stated what is discussed will only apply to major home occupations at the intersection of two arterial streets and not all major home occupations throughout the Township.

Mr. Gifford then provided for a history of the property. He stated the structure was initially constructed as a school and wants to see the property to continue to thrive going forward. As such he would like a potential buyer to be able to utilize the building as a professional office as it is not attractive as only a residential use. He noted the building is in good shape but does need to be updated. He first described its location at the jurisdictional boundary, with Thornbury have the property across the street from him zoned commercially.

Mr. Gifford next presented a series of photographs illustrating the building at the time of purchase, followed by ones illustrating when it collapsed and followed with that images of it post-

reconstruction. At present, the first floor of the building is utilized as a photography studio and the basement as office area with the second floor being an apartment. Mr. Patriarca then noted that a previous suggestion made by John Snook to promote utilization of historic properties is in the allowance of additional uses to make them more economically viable.

Mr. Pomerantz asked first who the amendment would be for the property or the property owner and if this constitutes good planning. Mr. Gifford stated the property in of and itself is very unique in its nature and this is what makes commercial uses be more attractive. Mr. Pomerantz followed by asking if a change was made, what would be the worst case scenario. Mr. Patriarca stated he agrees with the overall sentiment of how Mr. Gifford views the property, and further suggested the area is a historic crossroads community that has always had a commercial element. He concluded by stating the PC should consider if a small office use is or is not appropriate for this location.

Mr. Lees asked what types of restrictions could be placed on the property to control any amended uses. Mr. Patriarca stated that as this would be an ordinance amendment, the BOS and PC does have the ability to craft it in such a way as to limit the overall scope of what could be done. Mr. Lees stated he has visited the property previously and indicated that he does not feel the property could be expanded due to its location and other site constraints. He also stated parking could also pose to be an issue if utilized as an office, but did not object in concept to looking into an ordinance amendment. Mr. Gifford stated that he is not so much concerned with possible restrictions placed on the use as long as the use is ultimately allowed. He then stated that he had drawings created illustrating a proposed addition to the structure, and indicated he could see a future owner look to expand it in the future as well.

Mr. Rodia asked how many parking spaces could reasonably be placed on-site. Mr. Gifford stated the layout and overall size of the property lends itself to potentially being large enough for additional parking if needed. Mr. Lees then noted the property is serviced by septic and well water. Mr. Patriarca then made mention of a conversation had with Mr. Whitig suggesting that any potential sale of the property as a professional office be done in such a manner as to require the zoning change prior to final sale. He stated this may give the Township more comfort in authorizing a zoning change with a known use in place. Mr. Whitig stated that he did agree with the notion of a potential user coming before and requesting a zoning change as part of an agreement of sale instead of an ordinance being developed without one in hand.

Mr. Gifford next discussed what exactly is defined as a professional occupation. He just want some assurances the property could be utilized as a professional office when he puts the building up for sale. Mr. Whitig then reiterated that he does not necessarily disagree with the proposed change, but rather he would like to see a specific user in place before making any zoning change. Mr. Lees stated it may be problematic for a potential buyer of the property if the zoning is not in place at the time of sale and possibly impact its sale price. Mr. Pomerantz followed by leading a discussion on what would be some possible restrictions associated with a possible amendment. Mr. Patriarca first stated a home occupation of professional office employing more than three non-residents is prohibited, and posed the question as to what would an appropriate number be if greater than three. He then spoke to the unique nature of the property with the photography being operated as a major home occupation with the residence being non-owner occupied. Mr. Gifford followed by giving a history of how this came to be through a previous ordinance amendment process with the Township.

Mr. Hatton expressed his concern that ultimately the apartment will be utilized as a commercial

office and questioned why an amendment was being considered to address Mr. Gifford's situation under the home occupation section of the ordinance instead of rezoning the property commercially. Mr. Patriarca stated commercial uses could be considered, and that a rezoning from R-1 to R-3 would be an uphill climb. Mr. Hatton suggested the possibility of rezoning A/C and looking at adding the appropriate use to that district.

Mr. Pomerantz asked Mr. Patriarca to prepare a listing of pros and cons for a possible zoning change for the PC to consider if Mr. Gifford decides to proceed formally with an amendment. Mr. Pomerantz stated the overall sentiment of the PC on this issue is to come back with a formal amendment for consideration.

Zoning Hearing Board – Variance Applications

Mr. Patriarca started by introducing the Marzano variance request to allow for a two foot encroachment into the side yard setback for a detached garage. The structure is not on a permanent foundation, but rather a stone base. The request is being made as the garage was installed without a permit and was discovered to be in the setback where installed. Mr. Pomerantz asked if the impacted neighbor is fine with the encroachment, why the PC should object. Mr. Rodia asked why the structure could not be moved in order to meet the minimum setback requirement as it is not on a permanent foundation.

Mr. Pomerantz then asked each of the PC members how or if they should respond to this application. Mr. Yaw, Mr. Lees and Mr. Pomerantz did not feel comment was necessary as the impacted neighbor does not object to the encroachment. Mr. Rodia, Mr. Whitig and Mr. Hatton each felt the PC should comment that the garage should be moved instead of variance relief granted. As the PC was tied in their opinion, no comment was offered.

Mr. Patriarca next introduced the Young variance request to allow for a new home to be constructed at a distance of only 41 feet from the top of a streambank instead of the required 75 feet on a vacant lot. He then expressed his concerns with the required setback from an ordinance standpoint as well as the potential of a "taking" if the property is not granted relief. Mr. Rodia asked if the proposed encroachment would impact the flood zone to which Mr. Patriarca stated a flood study was completed and the proposed dwelling would not impact it. Mr. Whitig asked why this is not being treated as a required riparian buffer. Mr. Patriarca stated the request is for a zoning setback, but that the riparian buffer would need to be complied with as part of the stormwater ordinance which can result in a buffer of less than 75 feet.

Mr. Hatton stated he feels the Township should have a riparian buffer standard that exceeds that of state/federal standards to promote water quality. Mr. Patriarca stated that the proposed home will be subject to stormwater management regulations that will both control the flow as well as improve the quality of the runoff returning to the stream. Mr. Pomerantz asked if the applicant is generally correct in their statement that the property would be rendered unusable without variance relief granted. Mr. Patriarca stated that he is unsure on this as he is not certain that what is being requested is the minimum necessary to make the property developable.

Mr. Lees stated he is not in favor of the application as it appears a home could be constructed elsewhere on the site and be closer to, if not meet the existing zoning requirements. Mr. Whitig, Mr. Rodia, Mr. Yaw, Mr. Hatton and Mr. Pomerantz also echoed this sentiment in denying the requested zoning relief.

Old Business

Draft sign ordinance

Mr. Patriarca first stated the draft before the PC had been vetted by John Snook and will be ready to forward to the BOS subject to any final comments by the PC. Mr. Yaw stated the ordinance was very thorough, and stated the enforcement section should be amended to include language that specifically states that reasonable legal costs may also be recouped by the Township for enforcement action.

Mr. Pomerantz followed with his concern that the proposed ordinance is not prescriptive enough by not requiring the Township to remove abandoned signs after notice is given to the owner. Mr. Yaw stated the language provides the BOS discretion in how to enforce the ordinance on a case-by-case basis. Mr. Pomerantz then asked if there is a way to make the ordinance more prescriptive and retain discretion as needed, and Mr. Yaw reiterated the need for the BOS to have discretion on issues like this.

Next discussed were on the comments submitted by Brandolini Companies (owners of the Westtown Marketplace) on the draft sign ordinance. The first issue discussed was sign illumination, and its limitation on 24 hour businesses. The PC agreed that an exception needs to be made for businesses that operate 24 hours (i.e. Wawa, Giant, Planet Fitness, etc.). Next discussed was how sign area is calculated and its impact on the Marketplace as it is shaped like an "L" with a portion of the center that does not face Route 3. The PC agreed that some accommodation needs to be made for this situation with frontage being calculated along the main façade facing the primary parking area.

Next discussed was a concern with having additional signage denoting the name of the center, and there was some agreement that additional signage should be considered for this situation. Relevant to lighting of window signage to being only neon, there was agreement that other forms of lighting should be permissible. There was also agreement that fifteen feet for maximum sign height is acceptable and consistent with what is present in Westtown. At the conclusion of the discussion there was an overall consensus of the PC that the overall size and scope of the ordinance is appropriate and will serve the Township well.

Public comment

There were no public comments.

Adjournment

9:30 pm (SR/SY)

Respectfully submitted,

Chris Patriarca
Planning Commission Secretary