

# WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING

Stokes Assembly Hall  
1039 Wilmington Pike, Westtown Township  
September 6, 2017 – 7:30PM

## **Present**

Commissioners – Embick, Rodia, Adler, Pomerantz, Hatton, Lees, and Yaw. Also present was Township Planning Director William Ethridge, and those mentioned below.

## **Call to Order**

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

## **Adoption of Agenda**

The Agenda was approved unanimously (SR/JL).

## **Approval of Minutes**

Mr. Rodia asked that the Reports section of the August 23 minutes be corrected to show that he did not participate in the Board of Supervisors workshop. Mr. Ethridge noted the correction.

The minutes of the August 23, 2017 Planning Commission (PC) meeting were approved unanimously. (SY/EA)

## **Announcements**

Mr. Ethridge noted that the Floodplain Ordinance was approved by the Board of Supervisors (BOS) and that State Senator Killion's office had asked to see a copy of the Township's Draft Residential Chicken Keeping Ordinance.

Mr. Pomerantz noted that 9/28 is the next Comprehensive Plan Update Task Force (CPTF) meeting which will include preparing for the 10/11 public meeting. The public is being invited to the 10/11 meeting to comment and give input on the work of the Task Force including the plan's goals and priorities. He also noted that Mr. Snook would be providing the Task Force with the results of a public survey associated with the CPTF.

Mr. Hatton noted that the fallback Movie Night would be at Oakbourne Park on 9/29. On 9/19 the Crebilly Conditional Use Permit public hearing would continue at Rustin HS. Westtown Day is 10/1, Coffee with a Cop is 10/4 from 9-11:30am at the Dunkin Donuts in Goshen Village Center, and finally the CPTF update meeting will be 9/28.

## **Public Comment – Non-agenda items**

None.

## **New Business**

Mr. Pomerantz prefaced the discussion regarding the Planning Commission's attempt at updating various language in the Zoning Ordinance by thanking Commission member Adler for putting together an updated list of issues with short notice.

Mr. Hatton commented that his desire was to have an ongoing list of issues that the PC could reference to include riparian buffers, sidewalks, a funding mechanism for Open Space, clarify the language that refers to “in lieu of”, parking requirements for residential multi-family development, whether 3 lots or less subdivisions should require a landscaping plan, and finally whether swimming pool concrete (or other materials) pads should be required to remain outside of the 25’ setback to property lines.

Ms. Adler added that she recalled the PC wanting to take a comprehensive look at the ordinance’s parking requirements adding that “in some cases we thought we had too much, in other cases we thought we had too little” and in those cases where there may be too much parking “it definitely impacts impervious coverage and stormwater runoff issues.”

Mr. Pomerantz then discussed the outline of the document Ms. Adler developed prior to the meeting, adding those issues just mentioned. He then reiterated that there was some concern from the BOS that the PC might be “running amok” because the PC was taking on issues without being asked to. He asked Mr. Ethridge if the BOS had asked for a copy of the list of issues that the PC would address with the intention of approving or prioritizing the list. Mr. Ethridge replied that he had not been told that the BOS wanted to vet or prioritize the issues the PC intended to address, only that they wished to be informed.

Mr. Ethridge then informed the PC that he had asked Kevin Matson from McCormick-Taylor to contribute to this discussion with issues he had made a note of in his work with the Township. Kevin submitted a 3 page memo outlining updates, typos, waivers, and other issues he felt the PC and ultimately the BOS might want to address in the Zoning Ordinance and Land Development regulations. The PC entered his memo into the record and allowed Mr. Matson to present his memo.

Mr. Pomerantz asked Mr. Matson who prompted him to prepare the memo. Mr. Matson replied that Mr. Ethridge asked him to do so.

Ms. Adler commented that while many of the topics addressed by Mr. Matson are very technical she believed these issues should be placed into three categories; correcting typos or inconsistencies, topics which the Zoning Hearing Board (ZHB) has indicated they would like to discuss with the PC, and everything that has been mentioned.

Mr. Embick commented that the BOS has requested the PC address updating the Zoning Ordinance many times. There was then some discussion regarding the lack of legal counsel at the PC meetings discussing Zoning Ordinance updates.

Mr. Pomerantz asked the PC which of the three categories they would like to attack first. Mr. Yaw asked Mr. Ethridge to separate Zoning topics and Subdivision topics when creating a master list.

Mr. Matson noted that the Comprehensive Plan Update Task Force (CPTF) was also supposed to look at making recommendations on improving the Zoning Ordinance and wanted to know if the PC’s work would coalesce with the work being done by the CPTF. Mr. Pomerantz indicated that he did not believe the CPTF had addressed any of these issues yet.

Mr. Hatton indicated that he believed the CPTF consultants would create a list of issues to address similar to what the PC was doing now.

Ms. Adler commented that the PC should focus on the issues the ZHB has indicated they would like to discuss so that any necessary research can be conducted prior to the 10/4 meeting. Ms. Adler started the discussion about Accessory Dwelling Units with some brief history on their adoption into the code in the 1990's. She noted that one concern the ZHB had was with the definition of an ADU. There were two aspects she noted that made a space a bonafide dwelling unit; a complete kitchen and a separate entrance. She asked Mr. Ethridge if the ZHB had made any of their concerns about ADUs to him.

Mr. Ethridge replied that the ZHB had expressed concerns about what happens to an ADU when either the family member or care-taker moves on or no longer needs the ADU. The concern was about them becoming rental units. He noted that in his readings of contemporary planning issues, that many communities were dropping their previous objections to ADUs becoming rental units because of a recognized need for affordable housing. He also added that the prevalence of ADUs would increase as the age of the population reaches a point where there will be a large number of adults who prefer independent and/or private living but cannot do so without a caretaker or the option of moving in with their adult children.

Ms. Adler commented that in her memory, the ZHB once added a requirement that a kitchen be removed from an allowed ADU if the family member ever moved out. She asked Mr. Ethridge if it would be possible to add that as a requirement to the Zoning Ordinance.

Mr. Ethridge replied that while he has seen the removal of a kitchen added as a restriction in decision letters from previous Zoning Hearing Boards, the inclusion of that requirement as a condition in the Zoning Ordinance was an interesting legal question.

Ms. Adler commented that many homes have a second kitchen in the basement or another part of the home which was why the requirement for having a second entrance was put into the ordinance for ADUs.

Mr. Pomerantz commented on the growing need for multi-generational housing as well as the economics of assisted living and retirement communities. He also noted the trend of adult children moving back in with their parents. He noted the difficulty in the Township determining when the legitimate use of an ADU ends, and the cost of removing the kitchen or another feature of the ADU. He asked Commission members if they believed there was a significant risk of ADUs being rented out after their legitimate use ends.

Ms. Adler and Mr. Rodia commented that they believed it would be. Ms. Adler added that the Township's proximity to West Chester University made this possibility more likely.

Mr. Embick asked what were the problems associated with ADUs and if there were any mitigation steps available to address these problems.

Ms. Adler commented briefly about a situation where a home was converted into apartments for college aged students and the number of cars that were subsequently parked at the home as well as the noise.

Mr. Rodia added that parking, noise, and "unfriendliness" from renters could be issues, whereas a property owner is more apt to being cooperative with his or her neighbors.

Mr. Ethridge agreed that traditionally complaints against ADUs being converted to rentals have revolved around nuisance issues of traffic, parking, and noise. He also emphasized that his office is complaint driven, and only responds to citizen reports.

Mr. Lees asked again, besides parking and college students, what is the harm in allowing ADUs to become rentals.

Mr. Pomerantz asked Mr. Ethridge if he's received any complaints related to ADUs since he has been employed by the Township. Mr. Ethridge replied that he had not.

Ms. Adler commented that in her experience, there have been a lot of complaints. She also noted that many ADUs are created within the Township without permission and that we only find out about them when a neighbor complains.

Mr. Rodia asked Mr. Ethridge what action he typically takes when he hears about an unregistered ADU. Mr. Ethridge explained that he visits the property, speaks to the inhabitants, speaks with the property owner, establishes some basic facts about the property, then compares the use to what is allowed by code, and if he determines there is an unregistered ADU, he asks the property owner to remove the ADU anywhere from 30 to 90 days depending on their level of cooperation and how it might negatively impact the inhabitants. Mr. Ethridge added that if the property owner doesn't cooperate he then works with the Township Manager to send a notice of violation including a threat of District Court action if the property owner doesn't comply, typically within 10-14 days.

Mr. Yaw then explained to the Commission the process that takes place at the District Court level, which can include a written decision, fines levied per day, the appeals process, and the court of common pleas.

Mr. Pomerantz then asked Mr. Ethridge if the ZHB has provided him with anything in writing to indicate what they would like to discuss on 10/4. Mr. Ethridge replied that he did not have anything in writing yet.

Ms. Adler suggested there might be an historical list of previously approved ADUs and that Mr. Ethridge might try to locate it.

Mr. Pomerantz asked Mr. Ethridge to reiterate what the ZHB was looking for as far as language regarding ADUs. Mr. Ethridge replied that he believes the ZHB would like the PC to indicate whether or not ADUs should cease after the current occupant leaves, or if they should be allowed to become rental units, versus the current situation where the ZHB has to write conditions into their decision letter calling for the removal of the kitchen or some other important feature of the ADU, once the previous occupant leaves.

Ms. Adler followed up by asking Mr. Ethridge if the ZHB had an opinion on whether or not it mattered that an ADU would be connected to the home or detached, such as an addition over a detached garage. She added that in a previous PC meeting, the PC had wanted to prevent the proliferation of mobile homes coming to the Township, or mobile homes becoming ADUs.

Mr. Ethridge replied that the ZHB had not indicated any concerns regarding whether or not an ADU was attached or detached, and that he believed the ZHB agreed with the position that mobile homes not be encouraged in the Township.

Mr. Pomerantz asked the other members if their position on ADUs would be influenced at all by their impact on increasing Affordable Housing in the Township. He added this was because it had been brought to his attention from the BOS, particularly as it applies to teachers, police, and firefighters.

Mr. Hatton disagreed that permitting ADUs would resolve the lack of affordable housing.

Mr. Embick asked if Westtown had a rental properties ordinance. Mr. Ethridge replied that he did not know. Mr. Embick commented that if the PC is looking to legalize ADUs after their permitted occupants leave, then the Township should consider a Rental Properties Ordinance to regulate them and control the nuisance issues.

Mr. Hatton commented that he wanted to make sure that an owner or an owner's relative would be required to stay on the property to keep the renters in line. He also agreed that a Rental Properties policy or ordinance would be a good idea.

Mr. Pomerantz asked Mr. Embick what the scope of a proposed Rental Ordinance would include. Mr. Embick replied that it might restrict the number of occupants in a unit, require an annual inspection, and/or require the lessor obtain and maintain a license.

Mr. Pomerantz agreed with those requirements, however, he emphasized his frustration with the Township's inability to enforce many of its current regulations, and he questioned whether the Township would be able to enforce a proposed Rental Ordinance.

Mr. Ethridge commented that in the jurisdictions where he has worked previously, those communities utilized an ADU registration process to allow homeowners to rent to anyone once the initial tenant moves out or leaves. He noted that the registration fee could be tailored to allow the process to pay for itself and not become a burden to the Township.

Mr. Embick suggested that the Township could regulate this issue provided the will exists to do so. He also noted that evidence suggests this issue exists in our community now.

Mr. Ethridge added that a grace period of 1-2 years could be granted to allow owners of grandfathered nonconforming ADUs to register and thereby legalize their ADUs.

Mr. Pomerantz then polled the members to determine if more information was needed from the ZHB or if they should agree to hold a joint meeting on 10/4 anyway. Mr. Yaw commented that while he would like to have more information from the ZHB, he did not see an issue with holding a meeting on 10/4 to discuss these issues anyway. Mr. Lees stated he would like to get an agenda of issues to discuss from the ZHB. Mr. Embick indicated he would like to meet, Mr. Rodia would like more information, Ms. Adler agreed to meet, and Mr. Hatton agreed to meet with the ZHB.

The PC re-emphasized to Mr. Ethridge the need to get more information from the ZHB on the specific issues they would like to discuss and he agreed to communicate with the ZHB members again.

Mr. Pomerantz then polled the PC members for their views on allowing ADUs and their

regulation as rental units. Mr. Embick was in favor of allowing rental units and regulating them. Mr. Rodia agreed, Ms. Adler believed that regulation would be better than not and agreed, Mr. Yaw disagreed and felt that ADUs should not be allowed to become rental units and believed that the Township should improve its enforcement ability of the existing code. Mr. Lees questioned what was to become of the ADU once it is vacated from its original purpose. He commented that he was in favor provided the PC implement strong restrictions on their use.

Mr. Embick commented that the Township would be wise to draw on the experience of neighboring jurisdictions in writing strong regulations.

Mr. Hatton indicated he was in favor provided smart, enforceable regulations were put in place. Mr. Pomerantz agreed.

The PC then moved on to Accessory Structures.

Mr. Pomerantz asked Mr. Ethridge to brief the PC on the ZHB's concerns on the issue of Accessory Structures. Mr. Ethridge informed the PC that he believed the ZHB would like to discuss the possibility of relaxing the setback requirements for storage sheds from the current distance of 15' to allow homeowners to go closer to the property line without having to seek a variance.

Mr. Pomerantz asked Mr. Ethridge and Mr. Matson about their previous work experience as it applies to storage shed setbacks. Mr. Ethridge commented that in his experience storage shed setbacks have been graduated; the taller the shed the greater the setbacks and vice versa, but with the caveat that the setback could not be set less than the height (or fall distance) of the shed so that if it collapsed, it would not cross the property line.

Mr. Matson then commented that in his experience, shed setbacks have traditionally been based on the lot size; the larger the lot, the greater the setbacks and vice versa.

Mr. Rodia asked what options the PC should consider regarding the size and aesthetics of storage sheds. He noted his concerns when a neighbor builds a shed out of size or character with their home or the surrounding community.

Mr. Ethridge noted that the code currently allows a homeowner to build a shed larger than their home provided they have the lot size and can meet setbacks, and also that the code doesn't regulate aesthetics such as paint color or building materials.

Mr. Embick indicated that he believed there should be a set of size and setback standards for sheds and their placement. He supports the "fall-down" setback standard and wants to avoid subjective standards.

Ms. Adler commented that she believed there was a provision in the code that prohibits changes to the principal dwelling that would be out of character with the neighborhood and asked if a similar standard be applied to accessory structures.

Mr. Yaw commented that there was language in the Special Exception standards whereby a modification to a dwelling cannot be out of character with the neighborhood.

Mr. Lees asked if the same standard could apply to sheds. Mr. Yaw replied that instead of the

ZHB, a building inspector would make a judgement as to the aesthetic of the dwelling which would make it highly subjective. Mr. Yaw suggested the setback should be related to lot size, shed size, and height. Mr. Lees agreed. Mr. Hatton agreed as well but wanted to talk about “accessory structures” in a larger context.

Mr. Pomerantz added that in his experience, the fall-down rule was what he was most familiar with. He then commented about a scenario where he remembered a lot with an accessory structure being built that was quite larger than the principal dwelling. Mr. Hatton added he would also like to address that allowance.

Mr. Pomerantz then asked Mr. Ethridge to combine Elaine’s, Kevin’s, and the ZHB’s lists of issues and to add issues from this list to the PC’s agenda whenever the PC has a short agenda.

### **Public Comments**

None

### **Reports**

Russ Hatton indicated that when he arrived for the BOS workshop, the Board indicated they needed to do something quickly which would take 5 minutes. 45 minutes later they invited him in to being the workshop. The BOS did not discuss the Sign Ordinance. A gentleman named Ray D’Andrea from the Fair Districts group asked the BOS to support an initiative to reduce the gerrymandering that occurs in the community. One Board member was visibly against the idea. He was then asked by the BOS about the Floodplain Ordinance, why the PC wanted it. He indicated to the BOS that the PC would like to review it again after it is passed because the PC felt rushed and was up against a deadline to adopt it. He noted that the Police budget was being increased 5.9% from last year; the police chief has asked for body cameras. At the regular meeting road paving is 95% done, Westtown Day is looking for volunteers, West Chester Library returned for their annual fundraising, an escrow release #2 of \$27,000 was approved, snow removal contract was approved, the Floodplain Ordinance was approved, Cedarville Engineering presented some slides on the next phase of the FEMA pollution reduction program, its estimated to cost the Township \$500,000 over the next 5 years. Due to changes in the law, the Township can create a SWM fee and charge all parcels a fee to manage the stormwater issues which will include schools and churches. He added that Westtown has over 30 miles of streams all listed in the “impacted” category. Bills were paid and the meeting adjourned.

### **Adjournment**

Mr. Pomerantz adjourned at 9:10pm. (JL/SY)

Respectfully submitted,

William Ethridge  
Planning Commission Secretary