

# LEHIGH TOWNSHIP PLANNING COMMISSION

Minutes of April 8, 2024

Present: David Shulman, Chairman  
Bill Jones, Secretary  
Tim Bartlett  
Cynthia Miller  
Liz Amato, Zoning Officer  
Michael Corriere, Solicitor  
Lori Lambert, Planning & Zoning Secretary  
Mike Muffley, Township Engineer

Absent: Todd Rousenberger, Vice Chairman

## CALL TO ORDER

## READING OF THE MINUTES

Cindy Miller made a motion to approve the minutes and waive the reading of the minutes from the March 11, 2024, Planning Commission meeting. Bill Jones seconded the motion. All voted aye. Motion carried.

## TIME EXTENSION

***John & Dennis J. Moyer, 3951 Mountain View Drive, Preliminary/Final Lot Consolidation & Land Development Plan - Expires: April 30, 2024, Extension request until October 31, 2024***

Dave Shulman questioned why the time frame for the extension is so long. Bernard Kuchera, Engineer, stated that if the plan is approved at tonight's meeting and approved at the next Board of Supervisors meeting, the time extension is not needed. The Board had a discussion on reducing the requested extension time frame to a 3-month period. Dennis Moyer revised his time extension request until July 31, 2024.

Cindy Miller made a motion to grant the time extension until July 31, 2024, for the John & Dennis J. Moyer Lot Consolidation & Land Development Plan. Bill Jones seconded the motion. All voted aye. Motion carried.

## ADVISORY TO ZONING HEARING BOARD

***Katherine Mack-Perich, owner of 3774 Peach Drive, Danielsville, is requesting special exception approval and a favorable interpretation or variance in the alternative for temporary farm employee housing.***

Katherine Mack-Perich and Attorney Stanley Margle were present to represent this special exception request. The applicants had a stenographer present.

Attorney Margle stated that his client has owned her property for many years. Over 20 years ago, her and her husband applied for a special exception for an accessory apartment for a family member. This current special exception request has been necessitated by a notice of violation she had received from the Zoning Officer alleging that the individual who is housed in her residence is not compliant with the existing zoning, not a family member. This property is located in the A/RR zone, this is currently a farm with 9 animals, she currently has a rescue (501.3.C. on the property called Burro Manor Miniature Donkey Conservancy) and the residence is a distance relative of her deceased husband.

One way to handle the situation of the individual that is a family farm hand, which he believes does not apply to this circumstance, would be to place a mobile home to the rear of the property for the farm hand to reside in. There are strict provisions that would need to be complied with and they feel they would not meet the requirements. Attorney Margle stated that if you do a stick reading of the Ordinance, he feels that this would be allowed to continue as a special exception. The purpose of the resident's month-to-month lease; which is year-round, is to provide assistance to the family farm.

Katherine Mack stated that in 2003 she and her late husband constructed an addition to the home for his hunting memorabilia. Shortly after, her mother-in-law moved into the residence due to her health conditions. At that time, because Katherine is held to a higher standard being on the Zoning Hearing Board, she applied for relief for an accessory apartment, which was granted. After her mother-in-law passed away, her step son lived there for a while and then he had moved out. Korie Kalavoda then moved in and she is a distant relative to her late husband. The zoning violation said that she didn't have a relative living there. She considered her deceased husband's relatives her relatives and Korie has been living there for 12 years, it didn't cross her mind to ask Korie to leave after her husband passed away. As part of the agreement that they have; Korie takes care of the animals and the property, she is the farm help.

Katherine Mack stated that if Korie ever leaves, because she is a young woman with her own business, she knows that she would not be able to get another relative to come live with her and help on the farm. Since this is the case and to address the violation, she would like to apply for a special exception for a farm helper. Since she already has the accessory apartment, she doesn't want to have to put a mobile home on the property. Attorney Margle stated that in the alternate, they have asked for a variance for the mobile home. It would nearly be impossible to get a mobile home to rear of the property due to topography and site

characteristics (trees, stream). There would be no modifications made to the house for the special exception proposal.

Dave Shulman stated for clarities sake; the owner of the property is Burro Manor Miniature Donkey Conservancy; Katherine Mack would be the representative (President) of the organization. Katherine Mack stated that the property was placed into an irrevocable trust while her husband was living and everything goes to animal charities. After he passed away, she requested to have the trust broken; however, the property had to go into a charitable trust. This why the property is in the name of Burro Manor. Due to her and her current husbands ages, a farm helper is helpful because the farm needs to be maintained as status quo.

A review letter has been received from the Township Sewage Enforcement Officer, Chris Noll of Keystone Consulting Engineers, dated April 1, 2024. The existing sewage disposal system was designed for a 4-bedroom dwelling. The system does not have capacity for the proposed additional flow; the system will need upgrading to accommodate the additional flow. Katherine Mack stated that this would be a requirement if the mobile home would be added. There are currently 3 bedrooms in the house and 1 in the apartment. The septic was redone approximately 10 years ago.

Cindy Miller stated that the tenant has been there for the past 12 years, is there a W-2, does she get paid? Katherine Mack stated that she has very low rent and when she does work for her, she takes money off of her rent. There is no employee of sanctuary. Cindy Miller questioned why the request is being made now if she is a distant relative and has been living there for 12 years; why is the request being made for a farm hand? Katherine Mack stated that because she was given a cease and decess from the Zoning Officer stating that she is not a relative living in the accessory apartment. Katherine Mack stated that she has an agreement with Korie listing her duties. A copy of the responsibilities was provided to the PC. Cindy Miller read the definitions of farm and sanctuary, which to her are two different definitions. Attorney Margle stated that the property has been approved as a sanctuary. Cindy Miller read the definition of temporary farm employee. This is her primary residence; this is her permanent domicile; this is not temporary.

Attorney Margle stated that under the law he feels that she is still a relative farm hand even though Katherine Mack's husband passed away. This is accessory to the farm that she runs and is permitted as a special exception in the Ordinance. Katherine Mack stated that Korie helped with her disabled husband and helped with the farm work. Cindy Miller stated that she feels that Katherine Mack is stretching it, she got turned in for a

violation, she is the head of the Zoning Hearing Board and she is stretching the law to accommodate what she wants it to be. Katherine Mack stated that she is asking for the relief because she was told that she can't have Korie living there any longer because she is not a relative, this is why she had a cease and desist against her. If her husband had died while her mother-in-law and step-son were living there, would she have to throw them out because they no longer are a relative? This is the first time in the 40 some years that she is on the Zoning Hearing Board that the relationship of a resident of an accessory apartment is being questioned. Cindy Miller stated that this will set a precedent if the Township doesn't address it. Katherine Mack stated that every zoning hearing is a stand-alone hearing. In her opinion, there were no conditions set in her original decision. Cindy Miller questioned how many Board members were present when the decision was made. Katherine Mack stated that at that time there were 3 board members, only 1 was present to hear the case. Bill Jones questioned if rent is paid. Katherine Mack stated that there is minimal rent paid, it is in the agreement.

Barry Haydt, 3479 Mango Drive, Danielsville. At the last Zoning Hearing meeting Katherine Mack was told to recuse herself because she allegedly submitted a complaint regarding a case being heard that night. Barry Haydt questioned who submitted the complaint against Katherine Mack? Why doesn't Cindy Miller have to recuse herself tonight for turning in Katherine Mack? Cindy Miller stated that she does not have to recuse herself and under the right-to-know act, the name of the person making the complaint cannot be disclosed.

Monica Brown, 1430 North Cottonwood Road, why would you add an apartment with the restriction that the person living in the apartment has to be a relative. Why would you not just add the mobile home to the property then remove it when they leave. Attorney Margle stated that since the accessory apartment was approved in 2002, the circumstances have changed and tenants have changed. The now resident has gone from taking care of Mr. Mack; being his care taker, to now taking care of the conservancy. Monica Brown stated that this is not correct.

Dave Shulman stated that he does not see the necessity for a mobile home as long as the person is a farm employee. He doesn't see why the person can't live in the accessory apartment with the restriction that the accessory apartment not be rented out except for farm employees. The name of the farm hand and rental agreement/contract with their duties should be provided to the Township when the farm hand changes.

Bill Jones questioned how we would handle someone coming in and saying my in-laws died and now we want to rent out the accessory apartment. Dave Shulman stated that in most cases we recommend that the Zoning Hearing Board impose the restriction that the accessory apartment cannot be rented out. Bill Jones questioned if estoppel law would apply? Michael Corriere doesn't feel that it would apply.

Sandy Hopkins, 1187 Oak Road, questioned how the offset of rent is accepted with the Sanctuary. Katherine Mack stated as a donation; donations go towards upkeep and repairs. Katherine Mack pays the taxes for the Sanctuary.

Charles Perich, 3774 Peach Drive, stated that this is a Sanctuary. Animals that they bring in, come there to die. They do not breed or sell them.

Tim Bartlett made a motion to send a recommendation to the Zoning Hearing Board, recommending that the special exception request be approved, subject to the following: that there not be a necessity for a mobile home, the rental unit shall only be for farm employees and that the applicant shall provide any lease or employment agreement to the Township every time there is a change of occupancy in the rental unit. Dave Shulman seconded the motion. Bill Jones stated that he is not against this but he doesn't feel that this meets the definition of farm hand. Dave Shulman stated that this will be a determination that the Zoning Hearing Board will have to make. Cindy Miller stated that we also can say we deny the request and state the reasons why. Tim Barlett voted aye. Dave Shulman voted aye. Cindy Miller voted no. Bill Jones voted aye. Motion carried.

#### PLAN REVIEW

#### ***John & Dennis J. Moyer, 3951 Mountain View Drive, Preliminary/Final Lot Consolidation & Land Development Plan***

Dennis Moyer and Bernard Kuchera, Engineer, were present to represent this plan.

A review letter has been received from the Township Sewage Enforcement Officer, Chris Noll of Keystone Consulting Engineers, dated April 1, 2024. No new sewage is being generated; therefore, no sewage planning related issues exist.

A review letter has been received from the Northampton County Conservation District dated March 21, 2024. The district has determined the erosion and sedimentation control to be adequate for normal weather conditions.

A review letter has been received from the Township Engineer, Mike Muffley of Hanover Engineering, dated April 8, 2024. Section 147-9.A.(6), a waiver is being requested from the requirement to provide all existing features within 50 feet of the tract boundary. Section 147-9.A.(10) and 10.A(16), a waiver is being requested from the requirement to provide the location of all manmade features within 50 feet of the project boundary, including inverts, size, material of utilities, etc. Section 147-12.B(3), a waiver is being requested from providing the location, size, arrangement and capacity of all areas to be used for motor vehicle access, off-street parking, off-street loading and unloading, including location, dimensions, grades and materials proposed for paving and curbing. The applicant is requesting a waiver from the paving requirements for a new driveway. Bernard Kuchera stated that the existing areas of the business are stone, the proposed driveway is 20' x 50', they are proposing to stone the new area. Mike Muffley stated that we can't require the existing area to be paved; he does not have any opposition to allowing the proposed area to be stone. The Zoning Hearing Board has made their determination on the special exception request dated February 8, 2024. Dave Shulman questioned if we will see the landscape plan prior to approval. Mike Muffley stated that they will provide the landscape plan prior to construction and/or building permits. Dave Shulman questioned the paper streets. Mike Muffley stated that they are not vacating the paper streets; the unopen streets are within their title and not on the neighbors. If the neighbors turn up and say they have a right to use the property, that is a personal issue between property owners. There is nothing on this plan that will restrict or block access. A copy of the 2008 Bruce A. and Martina Biechy Subdivision plan was provided to Mike Muffley, this comment should be removed from the review letter. There were no further questions or comments in regards to the plan.

Bill Jones made a motion to grant the waiver of Section 147-9.A(6), Section 147-9.A(10) and 10.A(16), and Section 147-12.B(3), which are in the Township Engineer's letter dated April 8, 2024. Dave Shulman seconded the motion. All voted aye. Motion carried.

Cindy Miller made a motion to grant conditional Preliminary/Final approval, conditioned upon the developer complying with the comments in the Township Engineer's letter dated April 8, 2024. Dennis Moyer stated that we previously discussed the recreation fee (Section 147-28) of \$2,000 and he thought that it did not apply. Mike Muffley stated that we did discuss

whether it would apply to the entire tract of just the area being developed; it was the consensus that it would apply only to the area being developed. It is the PC's recommendation that the \$2,000.00 recreation fee be paid; however, the Board of Supervisors should review the Ordinance to determine if it's applicable. Bill Jones seconded the motion. All voted aye. Motion carried.

#### GENERAL BOARD DISCUSSION

##### ***Draft Medical Marijuana Ordinance***

Michael Corriere provided the Board with an amendment to Chapter 180-85.1, entitled Medical Marijuana Facilities to add the Medical Marijuana uses to Section 180-37, entitled "off street parking requirements". The Board did not have any questions and/or comments on the amendments.

Cindy Miller made a motion to recommend to the Board of Supervisors that they adopt the proposed amendment to Chapter 180-85.1, Section 180.37, as prepared by Michael Corriere. Bill Jones seconded the motion. All voted aye. Motion carried.

#### PUBLIC COMMENT

Cindy Miller questioned if Chapter 94 referenced in the Recreational Marijuana Ordinance refers to the State Chapter? David Backenstoe is in the process of reviewing the Ordinance and this was questioned as part of the BOS discussion. Michael Corriere stated that it is the Senate Bill, he can reach out to David Backenstoe to have this corrected in the proposed Ordinance. Lori Lambert stated that she provided the Senate Bill, Chapter 94, to Alice Rehrig; whom has forwarded it to David Backenstoe for his review.

#### ADJOURN

Cindy Miller made a motion to adjourn. Bill Jones seconded the motion. All voted aye. Motion carried.