

Planning Commission (PC) Meeting Minutes
Wednesday, December 5, 2018, 7:30 P.M.

Commissioners in Attendance: Gary Summers, Mickey Bailey, Rob Miller, Matt Murphy, Paul Cardell, Sean Rafferty, John Hess.

Consultants in Attendance: Kristin Camp, Solicitor; Craig Kologie, Zoning Official.

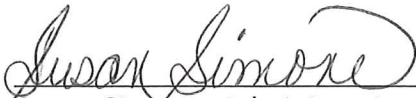
1. **Call to Order:** Summers called the meeting to order at 7:30 p.m.
2. **Public Comment on Non-agenda Items:** none.
3. **Zoning Hearing Board Applications:**
 - a. Chetty Builders of DE, LLC, 604 West Creek Road, Tax Parcel 63-4-91.3 - Summers recognized that no one was in attendance representing the Applicant Chetty Builders. Camp confirmed that John Jaros, Attorney for the Applicant, indicated that he was not going to attend the meeting. She had expressed to him that the PC meeting is an opportunity for the Applicant and it is most unfortunate, if not disrespectful on the part of the Applicant, to choose not to attend. Summers recognized that while the PC is a recommending body, Applicants are encouraged to attend so that they have the opportunity present their proposed plan and collateral material. Summers and the Commissioners agreed that choosing to not attend is both arrogant and discourteous on the part of the Applicant. During the call for public comment on the agenda item, the following residents commented publicly in opposition to the Application: Lynn and Phil Stephens described the location of their property in relation to 604 West Creek Road. They submitted indexed photographs showing the destruction and damage caused by Chetty Builders when Chetty Builders began to grade the site without permits approximately 3 years ago. During review of the photographs, it was noted that significant damage has occurred to the Stephens' property, including but not limited to damage to the barn, paddocks, and pasture. They explained the number of measures they have taken to try to remediate the damage. In addition, Mr. and Mrs. Stephens presented that the stormwater runoff from 604 West Creek Road was exacerbated by Chetty's removal of trees and vegetation in 2015 without a grading and erosion permit from the Township or the County. The photographic index presented showed grading equipment crossing the stream and no evidence of silt fencing or other stormwater control measures. Mr. and Mrs. Stephens offered that Chetty representatives routinely accessed 604 West Creek Road via their property; trespassing, as Mr. and Mrs. Stephens gave no permission for such access. Brenda Tilley Glisson described the location of her property in relation to 604 West Creek Road and offered support for the public comments. She also noted incidents of trespassing by Chetty Builders to access the site and voiced concern that the removal of the mature trees and vegetation is causing significant damage to the roadbed. Camp and Kologie discussed the access issues with the site, noting that the lot was created as part of a subdivision and that no rights or easements were retained regarding access via a parent parcel. Given the steep slopes and removal of the mature trees on the lot, the PC discussed a possible location for a new dwelling that might perhaps minimize the environmental impact to the area. Because access is possible via West Creek Road, the parcel is not landlocked. Rafferty noted that given

the topography of the lot, runoff is likely whether the lot is developed or not. Residents did not disagree but the photographs clearly indicate that the runoff and damage to neighboring parcels intensified with the removal of the mature trees and grading operations by Chetty Builders. Summers and the PC noted the frustrations of the residents and offered that they should plan to attend the zoning hearing board hearing. MOTION: Miller moved, Summers seconded, to recommend that the Board of Supervisors oppose the Application (1) given that the Applicant did not attend the meeting to discuss and demonstrate evidence that it was entitled to the substantial relief it requested; (2) the request for substantial zoning relief and concerns expressed by the neighbors; (3) a more suitable location to build a new dwelling closer to West Creek Road which would require less disturbance of sensitive environmental features and minimize the amount of zoning relief; motion unanimously approved.

- b. **Keith and Linda Mock, 5 Bragg Hill Road, Tax Parcel 63-1-8.2 - David Damon, P.E. and Keith and Linda Mock** appeared before the PC to discuss the Application for relief to construct a two-story single-family dwelling, driveway and outbuildings. Damon noted that they were before the PC several months ago with a Sketch Plan, at which time the PC recommended contacting PennDOT for a highway occupancy permit (HOP) via Unionville-Wawaset Road (Route 842). Following submission of an HOP, sight distance discussions, and data collected via a speed study, PennDOT denied the HOP for a driveway design via access from Route 842. The Applicants are proposing driveway access via Bragg Hill Road which was represented at the time the subdivision was approved by the Township. Camp and Kologie noted that there is only one buildable area: the 3± acre (net) on the 16± acre parcel (gross). Damon reviewed the site plan noting the percentages of steep slopes, wooded areas, and the area of natural features restored with the assistance of the Brandywine Conservancy in accordance with the conservation easement. He recognized that the Applicants are pinched in terms of developing a lot that will be compliant with the Code. Damon pointed out elements on the plan that will capture runoff and drywells for overflow which will be piped directly to the remediated wetland area. Commissioners discussed at length, percentages of allowable disturbance of steep slopes and moderately steep slopes per the various sections of the Zoning Chapter 250 of the Code. Cardell and Hess noted per the proposed plan, potential impact of a portion of the land within close proximity of the property line on the north side. Miller voiced concern that while disturbance of the area is unavoidable in order to construct a single-family dwelling, have all agencies and the Brandywine Conservancy weighed in on identifying whether or not the engineered elements on the plan will address erosion and stormwater runoff and provide protections for the riparian buffer. Kologie responded that an NPDES Permit issued by the Chester County Conservation District will be required before a building permit is issued by the Township. Camp noted that there will be a thorough agency review of the engineered elements of the plan in accordance with the relief requested. Most notable is that during construction, stormwater management controls will be in place above and beyond that which is on the plan and that agency inspections will confirm that the measures approved during construction are maintained. The stormwater elements constructed and in place as part of the building permit application and grading plan (including but not limited to outfalls, retaining wall, piping, and drywells) will serve to alleviate and control runoff going forward. Mr. and Mrs. Mock have been working with Jillian Pyle, Conservation Steward with the Brandywine Conservancy, for quite some time in reseeding slopes and naturalizing the meadow area. They noted an understanding of the importance of protecting the flood plain area and natural features as they construct the improvements. Murphy agreed that the first concern is identifying the environmental impact and recognized that it would appear, with the relief requested by Mr. and Mrs.

Mock, that they are proposing the least invasive means so as to minimize any adverse impact. MOTION: Murphy moved, Hess seconded, to recommend support for the Application provided the Township Engineer confirms that the proposed improvements to the Property can be constructed without adverse impacts on neighboring properties, road, or the environment; motion unanimously approved.

4. **Planning Commission Member Term Reappointments:** Secretary noted that terms for Murphy and Miller expire December 31, 2018. Both have confirmed their interest in being reappointed during the annual reorganizational meeting January 7, 2019.
5. **Public Meeting Schedule:** Secretary indicated that the regular meeting of the Board of Supervisors is December 17th. Planning Commission will meet on Wednesday, January 16, 2019.
6. **Approval of Meeting Minutes:** Murphy moved, Hess seconded, to approve the November 7, 2018 meeting minutes as submitted; motion carried.
7. **Other Business:** no other business.
8. **Adjournment:** At 8:25 p.m., Rafferty moved, Cardell seconded, to adjourn the meeting; motion carried.



Susan Simone, Administrative Secretary



Gary Summers, Chairman