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**Board of Supervisors Meeting
Monday, March 28, 2022, 7:00 p.m.**

In-person attendance: Supervisors – Elaine DiMonte, Ricki Stumpo, and Ray McKay; Consultants – Amanda Sundquist, Township Solicitor; Kristin Camp, Solicitor for the Board/Lindvig Matter; Al Davis, Resident Representative for the Emergency Services Commission; Don McKay, Chair, Historical Committee. Consultants attending virtually via GoToMeeting Platform: Craig Kologie, AICP, Zoning Official; Ken Hoffman, Township Engineering.

Public in attendance: 22

1. **Call to Order:** DiMonte called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.
2. **Sunshine Announcements:** none.
3. **Announcements:** none.
4. **Public Comment Non-Agenda Items:** Scott Nichols asked if the out-buildings washed up on West Creek Road during Hurricane Ida have been tested for hazardous materials and if such hazardous materials exist, do they pose a danger to groundwater. He also asked as to the status of West Creek Road repairs as the road is degrading. Kologie responded that the owners of the Cabin Club Community are working with the DEP with regard to water quality issues for the community water system. The DEP will provide testing for the other damaged properties on West Creek Road. Steve Myers offered thanks to the Public Works Department for the spring chipping service that occurred today. Their work is most appreciated. Attendees inquired generally as to the status of the Office of Representative Craig Williams given the proposed reapportionment/redistricting. Stumpo responded that when approved, Pocopson will be represented by Representative Christine Sappey. Steve Myers acknowledged receipt of the link to the West Creek Road Project Timeline and inquired as to further details. McKay responded that there are a number of projects underway throughout the township, including West Creek Road, as well as routine and annual maintenance tasks. A grant application has been submitted to the Department of Community and Economic Development (DCED) with an ask short of a million dollars for West Creek Road repairs. The grants will be awarded in November 2022 and, of course, there is no guarantee the township will be awarded the grant. Just the same, most of the repair work for West Creek Road is scheduled for 2023. He added that the township is committed to completing the project and will consider contingency plans such as securing a loan to fund the project in the event the grant is denied. DiMonte noted that Public Works is completing a number of the West Creek Road repairs utilizing in-house resources. She thanked Mark Knightly and Gilmore & Associates for preparing the proposal that was uploaded with the grant application to DCED. Linda Moore, representing the Red Hawk Trail Homeowners Association, asked that the link and collateral information regarding West Creek Road Repair Project be sent to her for dissemination to the community and other residents of West Creek Road. Attendees asked if a clean-up has been organized for the Brandywine Picnic Park, West Creek Road, and the Cabin Club Island. DiMonte responded that local elected officials attempted to coordinate a clean-up utilizing area volunteers but there are a number of logistics and insurance concerns that must be addressed. Christina Hack asked if residents may assist with the clean-up. McKay noted that given the nature of the debris, access difficulties, and

the use of heavy equipment required for debris removal, it may not be possible for the general public to participate.

5. **March 23rd Work Session:** DiMonte noted the Work Session was cancelled.
6. **Request for Stormwater Management Waiver - 45 Bragg Hill Road, Parcel 63-1-10 & 63-1-12.1, Kirk and Jeannette Lindvig ("Applicants"):** Applicants presented that they had applied for a waiver because they feel they have reduced the impervious coverage in large part by the improvements they have made to the property since the time of purchase. Applicants provided aerial views from Chester County Archives for 1975, 2000, and 2021 noting the original engineered plan submitted by Register and Associates omitted elements of the property. Applicants acknowledged that the Township Engineer asked for documentation from the time of subdivision to quantify the reduced impervious coverage. David Gibbons, P.E., DL Howell, Engineer for the Applicants, walked the Board through the elements of the revised plan and confirmation of the base plan to accurately reflect the homestead's current condition and impervious calculations. Sundquist noted that it has been helpful to compare the revised plan with a number of historical plan sheets from 2013 and 2020 in order to see where coverage stands today. She noted that the Township appreciates the revised calculations particularly for improvements that have been demolished, removed, or regraded. Hoffman offered that there is concern that stormwater management is deemed adequate for what exists at this time as well as for the addition that is proposed. He asks that the Applicants be mindful of a 5,000 s/f threshold of disturbance and suggests that they stake out the area to confirm the measurement, and if it exceeds 5,000 s/f, that the plan be re-examined. Gibbons responded that the request is acceptable to the Applicants. Sundquist reviewed the elements of a proposed recommendation with the Board. No public comment. MOTION: DiMonte moved, Stumpo seconded, to grant the waivers sought by the Applicants condition upon Comment and Review Letter discussed prepared by the Township Solicitor and in accordance with discussion during the meeting, being conditions #1 through #5; motion carried. Sundquist will prepare a letter to the Applicants confirming the conditions of the waiver granted by the Board.
7. **Zoning Ordinance Amendment Hearing Amending Ordinance 2022-1; Omnibus Zoning Amendment:** at 7:26 p.m., DiMonte moved, McKay seconded, to close the public meeting and open an ordinance hearing; motion carried. Sundquist reviewed the text of the legal notice citing the code sections subject of the amendment. She noted that the Omnibus Zoning Amendment was a year-long project, and that the County reached out to the Board with a number of concerns regarding the new institutional zoning district and its effect on County-owned property. The concerns were discussed during Township Planning Commission Public Meetings as well as discussed publicly with the Board of Supervisors. The proposed amendment this evening addresses the concerns, and it clarifies sections for accessory use in terms of nonconforming height, expansion, and encapsulated changes within other zoning districts. Sundquist discussed the agenda item with representatives from the County who are satisfied with the proposed changes and will not be in attendance this evening. McKay thanked the Planning Commission for their work in drafting the original ordinance and the amendment. No public comment. At 7:35 p.m. DiMonte moved, Stumpo seconded, to close the ordinance hearing and reopen the public meeting; motion carried. MOTION: DiMonte moved, McKay seconded, to adopt Ordinance No. 2022-2 amending and adding text to Sections of Zoning Chapter 250 as announced and discussed during the public meeting; motion carried.

8. Zoning Hearing Board Applications

- a. 1550 Brandywine Drive, West Chester, Tax Parcel 63-4-3.6; Anthony Sylvan Pools; Property Owner Denee Pavese – Michael Neilio presented on behalf of the homeowner Denee Pavese. He addressed the question from the February 15, 2022 Gilmore & Associates, Inc., Engineer Comment and Review Letter regarding the location of the septic system. He offered that the septic system has been staked out and two septic fields located as well as the bull valve. There is an area that can be used as a third replacement area if needed. McKay asked as to the locations of the septic fields. Neilio responded that there are two fields in the front yard. Only one of the two fields is in use by the homeowner at this time. Camp pointed out that the Gilmore Comment and Review Letter raised the question because it is important not to jeopardize septic coverage by installing an accessory structure you do not need. DiMonte noted a number of outstanding engineering review comments and voiced concern as to when those comments will be addressed. Neilio indicated that the comments will be addressed during the permitting process for the pool. No public comment. MOTION: McKay moved, DiMonte seconded, to recommend granting the special exception pursuant to Section 250-19.C(3) to increase the impervious coverage subject to compliance with all conditions set forth in the Engineer Comment and Review Letter dated February 15, 2022; motion carried.

At 7:40 p.m. Board granted the request of Solicitor Sundquist to be excused.

- b. 105 Indian Hannah Road, West Chester, Tax Parcel 63-3-1.2; Ian and Erin Lindvig (“Applicants”) – Gina Gerber, Attorney for the Applicants, walked the Supervisors through the Application including the latest version of the Grading, Erosion, and Sediment Control Application. She noted the property is severely encumbered by moderately steep slopes. The Applicants seek to construct a modest-sized residence to be built “up” rather than out, with approximately 38% of disturbance to do so. She presented that the Applicants seek approval for the future construction of a garage for the storage of vehicles with space to allow for maintenance of those vehicles. No specific timetable was offered for construction of the garage. David Gibbons, P.E., Engineer for the Applicants, indicated on the site plan the locations of the proposed improvements including the stormwater management features. He noted how the slopes would be utilized in order to minimize the disturbance. Gibbons acknowledged receipt of the letter from the Fire Marshal and expressed that the plan has been revised to address the comments from the February 24, 2022 Comment and Review Letter prepared by Township Engineers Gilmore & Associates. Gibbons met with neighboring property owners to work through some of the stormwater management concerns. DISCUSSION: McKay asked if the 38% of disturbance includes prep area for the future garage including the final grading. Gibbons responded that all earth disturbance has been accounted for in the plan. McKay inquired as to the runoff concern that was discussed with the Planning Commission. Gibbons responded that he met with neighbors to discuss what has been historically a water flow concern to the Cadden’s barn and adjacent properties. Gibbons expressed that the plan includes discharge points to alleviate the concern. McKay understands that since the division of the property in 1978, stormwater has been flowing in the direction of the Cadden property for some time and not as a result of activity by the current owner. McKay inquired as to future access via Lot 12. Kirk and Jeannette Lindvig responded that they purchased Lot 12 as a buildable lot for future construction so that they could

reside next to the Applicants - their son and daughter-in-law. Carl "Bunny" Meister handled the sale of the lots and commented with regard to the 1978 subdivision plan that created buildable lots and questioned why with proper engineering the matter need go to the zoning hearing board. DiMonte asked if all the township engineer's comments have been addressed in the latest version of the plan, particularly the location of the driveway. McKay asked how water on the driveway will be managed. Gibbons indicated that a full natural features tabulation has been included. He also noted that there is an underground stormwater vent at the end of the driveway for water infiltration. A full stormwater management review will be handled with submission of the National Pollutant Discharge Elimination System Permit ("NPDES") which will be in line with County requirements as well. McKay noted confidence that the stormwater management can be managed on the property with appropriate testing and in accordance with the NPDES permit. PUBLIC COMMENT: Allen Cadden, 107 Indian Hannah, voiced concern about the water impact on the slope. Stormwater runoff is a significant concern as the runoff impacts the hillscape and creates challenges for him to protect his barn. Cadden noted that the subdivision plan requires a 2200 s/f home and that he has the right to access Indian Hannah Road which the proposed driveway will terminate. He presented that the area beyond the gate he installed will be cut-off once development of the lot begins. Camp asked if Cadden is aware of legal documentation preserving that right of access. She noted that access to a private easement is not a concern for the Board of Supervisors - they do not have jurisdiction in easement issues - but would be handled through the court system for enforcement. The recommendations of the Board are based solely on the application before them. Gerber responded that in accordance with the Applicants' deed, there is no impact for the access. Cadden voiced concern that development of 105 Indian Hannah may adversely affect Lot 12. Camp responded that is a possibility, but the stormwater measures installed on 105 Indian Hannah may help similar concerns on Lot 12. Meister offered that the deeds for the parcels do not provide rights-of-way access or easements. Camp responded that the matter of an easement is not relevant to the application before the Board. Cadden asked for assistance in understanding how the application can proceed when the ordinance allows up to 25% disturbance of a steep slope. He voiced concern that constructing the house is beyond the percentage of the disturbance let alone the future construction of a garage that will require additional disturbance. He is concerned that as construction proceeds the stability of the slope will be jeopardized. Camp commented that slope stabilization will be handled through the requirements of the NPDES permit. Hoffman commented that the focus of the Comment and Review Letter is the cut-and-fill standards and does not include stormwater management for construction of the dwelling. Cadden voiced concern that the natural ground subgrade of the slope will be infiltrated, and the rate of infiltration will weaken the soils creating a landslide. DiMonte remarked that it appears the Cadden property will be the most impacted by the improvements. Gibbons responded that the plan shows the area upslope will be controlling runoff and capturing it in the infiltration bed. The Applicant is not required to control offsite runoff, but the plan includes measures to do so by extending the level spreader to disburse the water. Cadden offered that it is problematic to build on a lot that is already problematic. Camp offered that a zoning hearing board has the power to grant a special exception. When the application is presented, consideration

is given to avoid creating a harmful situation. A special exception is permissible when an applicant can show that adequate stormwater measures will be installed as well as compliance with the code and other agencies. She added that the NPDES is a strident permit overseen by a stringent regulatory body. DiMonte commented that it is the zoning hearing board that will ultimately evaluate the site development plan. Stumpo commented that it is, in part, between the property owners to understand the means to manage the stormwater on both properties. Camp noted that the Board can support the waivers, oppose the waivers, or take no position. DiMonte queried that it is a most untenable position to make recommendations on a lot that was created in 1978 when the code and agency requirements now before the Board did not exist. Camp agreed that there are any number of buildable lots approved decades ago, during a time when environmentally conscious ordinances did not exist. As municipal codes evolved over time, lot owners are now required to seek relief in order to develop the lots. No further public comment or discussion. MOTION: DiMonte moved, Stumpo seconded, to support the special exception pursuant to Section 250-87.M(3)(c) of the Zoning Code to allow 38% disturbance of the steep slopes pursuant to the revised grading permit, and that Applicants shall address the outstanding comment in the Gilmore & Associates Comment and Review Letter dated February 24, 2022; comply with the Fire Marshal's Letter dated March 22, 2022; and shall consider the concerns of Molly and Robert Morrison, 123 Indian Hannah Road, and Allen and Kathleen Cadden, 107 Indian Hannah Road; motion carried.

At 8:14 p.m. Board granted the request for Solicitor Camp to be excused.

9. **Unionville-Chadds Ford School District/Connection to Riverside Wastewater Treatment Plant ("Sewage Connection"):** Kologie provided a brief overview of the Sewage Connection noting that the Riverside Wastewater Treatment Plant has sufficient capacity to treat and to dispose of the wastewater generated from Pocopson Elementary School. PA DEP requires submission of a Sewage Facilities Planning Module in order to approve the Sewage Connection. DiMonte noted that residents of the Riverside Community have inquired as to the capacity and if the Sewage Connection will affect the sewer fees and overall operation costs. PUBLIC COMMENT: Kapil Sehgal representing the Riverside Homeowners Association, asked for clarification as to the physical connection points. Kologie noted that there is an existing manhole on Radek Court that will be used to connect the system. Sehgal also asked if the increased flow to the Riverside system poses any concern with the long-term health of the operation. Kologie indicated that the Riverside system was designed for a projected 55,000 gallons per day. He also noted that information regarding capacity will be presented in the Planning Module and that the public will have a 30-day comment period. The Planning Module will be submitted to the Chester County Health Department for review, as well as the County and Township Planning Commissions. DiMonte noted that the Planning Module may be listed on the May or June Board Meeting Agenda depending on the work of the reviewers.

At 8:22 p.m. Board granted the request of Kologie to be excused.

10. **Kennett Area EMS Commission:** Davis reported that the Commission met on March 8th at 5:00 p.m. Discussion included establishing a provision for an administrator at an annual salary of \$100,000. McKay noted the matter was tabled to a future meeting due to confusion regarding the tasks of an administrator. Cuyler Walker is the chair of the EMS Commission and performs administrative tasks without compensation. The Commission

also discussed the proposed incentive and retention program. Discussion continues with PoMarLin as to their participation in the volunteer incentive program.

11. Public Works Report:

- a. Appointment of Part-time Public Works Employee - MOTION: McKay moved, Stumpo seconded, to approve the appointment of Dennis Mellinger as a part-time, seasonal employee at the hourly rate of \$15.00 per hour; motion carried.

12. Facilities:

- a. New Township Administration Building
 - i. Update - DiMonte reported construction work may be finished by April 24th.
 - ii. Review & Approval Applications for Payment - MOTION: DiMonte moved, McKay seconded, to approve payments as follows: \$106,851.25 to BSS Contractors General Contractor Construction Services; \$6,943.00 to Gaudelli Brothers for mechanical services; and \$8,100.00 to LGB Mechanical Inc. for plumbing services; motion carried.

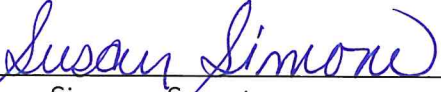
13. Planning Commission Report - March 2nd Meeting: Board acknowledged receipt of the report recounting recommendations for the Zoning Hearing Board Applications.

14. New Business:

- a. Committees
 - i. Parks, Recreation & Trails (PRT) Memorial Request - DiMonte noted the passing of Christopher Conaway, age 62, who served on the PRT Committee for many years. The Township is aware of a memorial service to be held at Northbrook Marketplace with no other specific details. Board acknowledged receipt of the request from the PRT Committee for planting a memorial tree honoring Conaway. Board supports the request from the PRT Committee and added that a discussion with the family as to the location of the planting would be appropriate to determine if there's a special location in the township. MOTION: DiMonte moved, McKay seconded, to approve the suggestion to purchase and plant a tree in memory of Christopher Conaway's service to the PRT Committee and asks that the PRT Committee submit written proposals for the purchase and planting and location for Board consideration at the April 25, 2022 public meeting; motion carried.
 - ii. Appointments to Historical and PRT Committees - MOTION: Stumpo moved, McKay seconded, to appoint Joshua Burry to the PRT Committee and to appoint John Hedrick to the Historical Committee; motion carried.
 - iii. Locust Grove Schoolhouse Open House June 4th - Don McKay reminded attendees that the Open House is planned for June 4th.
- b. Resolutions
 - i. Local Share Accounting/Statewide Gaming Grant - MOTION: McKay moved, Stumpo seconded, to approve and adopt Resolution No. 5 authorizing and designating Susan Simone, Township Secretary, to proceed with application for the LSA/Statewide Gaming Grant in accordance with the details of Single Application ID 202203111969; motion carried.
 - ii. American Rescue Plan Resolutions - MOTION: DiMonte moved, Stumpo seconded, to approve and adopt Resolution No. 6 ratifying supplemental appropriation for the 2022 budget from the unencumbered ARPA disbursements; motion carried. MOTION: DiMonte moved, McKay seconded, to

approve and adopt Resolution No. 7 ratifying supplemental appropriation for the 2022 budget from the unencumbered ARPA disbursements; motion carried.

15. **Old Business:** no old business.
16. **Correspondence:** Board reviewed and agreed to a letter of support as requested by the Kennett Library as part of the Library's application for a PA Local Share Account Grant.
17. **Treasurer's Warrants:** MOTION: DiMonte moved, Stumpo seconded, to approve the Bill Payment Lists for the period February 15th to March 28th recommended for payment by the Treasurer: General Fund: 66 checks totaling \$285,808.58; 4 debit card/ACH transactions totaling \$6,970.13; Historical Committee: 1 check totaling \$9,457.50; Highway Aid Fund: 7 checks totaling \$25,311.81; Township Facilities Fund: 8 checks totaling \$166,864.51; Parks and Recreation Fund: 1 check totaling \$296.00; motion carried.
18. **Approval of February 14, 2022 Meeting Minutes:** MOTION: Stumpo moved, DiMonte seconded, to approve the Minutes as reviewed; motion carried.
19. **Adjournment:** At 8:42 p.m. Stumpo moved, DiMonte seconded, to adjourn the meeting; motion carried.



Susan Simone, Secretary



Elaine DiMonte, Chairwoman