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Planning Commission (PC) Meeting
Wednesday, December 7, 2022, 7:30 p.m.

In-person attendance: Commissioners Gary Summers, John Hess, Sean Rafferty, Rob Miller, Mickey Bailey, Matt Murphy. Consultants – Kristin Camp, Solicitor; Craig Kologie, Zoning Official. Commissioner Paul Cardell did not attend.

Public in-person attendance: 4

1. **Call to Order:** Summers called the meeting to order at 7:30 p.m.
2. **Public Comment Non-agenda Items:** no public comment.
3. **Zoning Hearing Board Application James Guinan and Meghan Guinan, 3 Taylor Chase Lane, West Chester, PA 19382; Tax Parcel 63-4-167.2A ("Application"):** Michael Neilio of Anthony and Sylvan Pools appeared before the PC to present the Application. The Applicants seek zoning relief in the form of a variance from Section 250-04.A(3) to allow a 40-foot setback for a new in-ground swimming pool in lieu of the 100-foot setback. A special exception is also sought pursuant to Section 250-19.C(3) to permit impervious coverage on the property to be 20.4% in lieu of the 15% maximum allowed to permit construction of the in-ground pool, spa, pool deck, pool equipment pad, and stormwater management facilities. Neilio presented that the in-ground pool is typical of a residential pool with the dimensions 18' X 38' or approximately 600 square feet of surface water. He noted the pool decking is closer to the patio. A 3-foot walkway will go around the pool. Rafferty asked and Neilio confirmed that the other property line setbacks can be met Road frontage is what is at issue. Discussion included the fate of a row of trees and to what extent the leaf-out provides privacy in the event a 6-foot tall privacy fence, marked for removal on the site plan, is in fact removed. Camp requested clarification on the Zoning Requirements Chart listing 95.7 feet for the existing front as it is not clear what is designated for the dwelling. Neilio explained that the location of the house is such that there are 2 front yards – Taylor Chase Lane and Street Road. Kologie noted that the Pocopson Code provides that whatever road the house or dwelling faces is considered the front yard. Miller asked why a 100-foot setback from the front yard is required in accordance with the Township Code. Kologie offered that the placement of a pool in the front yard may be a distraction to travelers on the road or passersby. He added that zoning ordinances account for the potentiality of activity that may be a safety risk such as diving into a pool from a roof or a window. Camp offered that generally, a homeowner would want pool activity to be private. Neilio offers that the location is the rear yard with no other houses within view. Murphy commented that he is familiar with the property, and it would appear from the site plan that the pool will be a higher elevation than Street Road. Neilio expressed that pool setbacks in Pocopson are extravagant given that other municipalities cite 10 feet as the setback. Camp stated that impervious coverage is the second request. She recognized that the site plan shows in gray shading the calculation for slopes and steep slopes on the lot. She asked if Neilio was aware that the Township Code provides that it is the discretion of the Zoning Hearing Board to allow up to 30%. Neilio noted that pool and patio design has kicked the calculations beyond the 30%. Commissioners noted that certification of the location of the on-lot septic system was not provided with the Application and suggested that the homeowners obtain same from the Chester County Health Department. Miller and Summers commented a visual barrier including maintaining the tree line, is important, particularly if the stockade fence is removed

as shown on the plan. Neilio offered that there will be a post and rail/wire fencing around the pool as required by the building code. He stated the homeowner will consider a decorative aluminum fence as well. MOTION: Miller moved, Rafferty seconded, to not take a position on the Application but to recommend that if the Zoning Hearing Board grants the relief requested, that the Applicants maintain the 6-foot-tall privacy fence along the boundary adjacent to Route 926; motion carried.

4. **Pennsylvania Fireworks Law/Chapter 78 Pocopson Township Code:** Camp reviewed the summary of the actual law enacted in July. She noted that the state law remains applicable but now allows municipalities to enact conditions, prohibitions, and limitations on the use and sale of consumer fireworks that do not conflict with state law. Summers and Commissioners discussed the difficulties in enforcement generally for any restrictions imposed by an amendment to the Township Code. They noted the concerns raised with regard to the effect of fireworks on pets and livestock and noted that there are measures for desensitizing pets and livestock. Commissioners agreed to that it would be beneficial for Camp to provide a legal analysis of the current Chapter 78 juxtaposed with the changes in the state law enacted in July. The PC will re-list the discussion for the next PC meeting. PUBLIC COMMENT: Srilakshmi Mamillapalli commented that she is a resident and many in her community celebrate Diwali which includes setting off consumer fireworks as part of the celebration. She voiced concern that proposed amendments might restrict the use of fireworks during the celebration. Camp explained that the state law gives consumers the right to purchase fireworks and that will not change. Summers added that consumer fireworks are permitted with Code compliance regarding setbacks from structures and property lines.

Kologie reported that a concern was raised during this past election season by Stephanie Hoopman regarding political signs on private and public property as well as the location of political signs generally. Hoopman raised the concern within days of the November election and her concern was discussed with the Township Solicitor. Kologie asked if the PC would look at the current ordinance regulating signage. Camp offered that similar concerns were raised in other municipalities this year, including the placement of signs in public parks. Kologie also noted that while the current ordinance is clear as to the timeline for posting signs before and after an election, the inclusion of the mail-in ballot has brought ambiguity to that timeline. Commissioners agreed that the current ordinance was written to provide for free speech and to allow displays of personal opinion on private property. Camp offered that she'll reach out to other solicitors to obtain copies of legal memorandums on political signage.

5. **Commission Reappointments:** Secretary reviewed the Commissioner appointments for the January 3, 2023 reorganization meeting. John Hess and Sean Rafferty expressed interest in continuing on the Commission and being reappointed by the Board.
6. **Approval of September 7, 2022 Meeting Minutes:** PC did not meet in October or in November. MOTION: Hess moved, Rafferty seconded, to approve the Minutes as distributed; motion carried. Secretary reviewed the public meeting schedule for 2023. PC determined no conflicts. Commissioners agreed to meet in January if needed.
7. **Adjournment:** at 8:00 p.m. Miller moved, Hess seconded, to adjourn the meeting.

Susan Simone, Secretary

Gary Summers, Chairman