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Board of Supervisors Meeting Monday, August 28, 2023, 7:00 p.m.

In-person attendance: Supervisors Elaine DiMonte, Ricki Stumpo and Raymond McKay; Mark Knightly, Public Works Director; Consultants - Amanda Sundquist, Solicitor; Craig Kologie, AICP, Zoning Official; Ken Hoffman, Township Engineering.

Public in-person 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:** DiMonte and McKay attended a technical demonstration via Zoom for a texting platform. Stumpo and McKay attended the Longwood Fire Company Town Hall.
3. **Announcements:** no announcements.
4. **Public Comment on Non-Agenda Items:** no public comment on non-agenda items.
5. **Work Session:** DiMonte noted cancellation of the August 23rd work session. She announced that the 2024 Budget Work Sessions will be held at 3:30 p.m. on September 20th, October 18th, and November 15th.
6. **Yuntao Zhu & Huajun Zhou Final Minor Subdivision Application ("Application"); 1040 Ballintree Lane; Tax Parcel 63-5-159:** the matter was presented on behalf of the Applicants by James Fritsch, P.E., Regester Associates, Inc., and Arthur Sagnor, Esquire. Board members received Recommendation and/or Comment and Review Letters from Chester County Planning Commission, Pennoni Township Engineering, Township Planning Commission, and Craig Kologie, Castle Valley Consultants, Inc., Township Zoning Official. Fritsch reviewed the particulars of the Application which proposes to create 2 lots, served by public water and onsite septic, located in the RA District. He noted the proposed Application mirrors the previously approved creation of Lots 27 and 28 for the recorded subdivision plan - Courts at Longwood - which were consolidated in 2004. Fritsch cited Township Code Section 250-19.C as guiding in allowing the proposed subdivision. He added that the Township Planning Commission Recommendation Letter supports approving the Application. He reported that Sagnor and Sundquist are both in agreement as to interpretation of Code Section 250-19.C in allowing subdividing the current lot. DiMonte asked if the Courts of Longwood Homeowners Association approved the proposal. Fritsch noted no neighbors attended the Planning Commission meeting on July 5th and no neighbors were in attendance this evening. Stumpo inquired as to response from the fire company. McKay asked for clarification as to the lot size being less than 2 acres. Fritsch reviewed the 1997 recorded subdivision plan for Courts of Longwood noting lot size as just over an acre under the cluster option of the Township Land Development Chapter. The lots subject of the Application are under 2 acres. Sundquist reviewed the actions that the Board may take, which may include calling out the conditions in the Engineering and Zoning Letters dated June 16th and June 20th respectively. Fritsch provided clarification with regard to the square feet of impervious cover per General Comment #16 of the Engineering Letter and offered that the plan will be revised slightly accordingly. Hoffman acknowledged acceptance based on the presentation this evening and previous conversations. There was no public comment. MOTION: DiMonte moved to approve the Application and grant Final Minor Subdivision Approval for 1040 Ballintree Lane as presented with terms and conditions of approval as recommended and read by the Township Solicitor; McKay seconded; by voice vote DiMonte, McKay vote yes; Stumpo voted

no; motion carried. Sundquist will issue a letter to the Applicants. Stumpo expressed a no vote based on Township Engineering recommendation that re-subdividing an existing lot may set a precedent for other existing lots in the Township with a similar situation. Stumpo noted that the 2-acre minimum requirement in the Township Code aims to preserve the desirable rural setting. DiMonte does not disagree, however, given the totality of the Code citations for treatment of preexisting lots, there is an understanding that the subdivision is possible through the provisions of the recorded subdivision plans.

7. **Findora Conditional Use Application, 15 Davidson Road, 63-1-50:** Stumpo reported no action required this evening. The Conditional Use Hearing is scheduled for Tuesday, September 12, 2023, at 1:00 p.m., here in the Township Building.
8. **Gamble Zoning Hearing Board Application, 1861 Lenape Road, 63-3-145:** the matter was presented by Gina Gerber, Attorney for the Applicant and by the Applicant Raymond Gamble. Gerber presented that the property is under an acre, over 100 years old, and not in very good condition. Short-term goal is to renovate the dwelling to just over 1,000 square feet of living space which remains small by today's standards. Gerber reviewed the engineered site plan which includes modernizing the interior to accommodate 3 bedrooms and a 2-story addition to the rear which includes a 2-car garage at the basement level. A deck will be added to the eastern side of the residence. Property will be connected to public water and a new septic field is proposed. Applicant will take advantage of the slope of existing footprint which will decrease amount of impervious cover. Net neutral calculations will be realized with removal of pavement and reconfiguring the driveway. A significant number of variances are requested due in part to the nonconforming nature of the lot and dwelling with regard to the setback from Lenape Road (Route 52). She asked the Board members to look at the Application with the proper perspective as the Applicant is not asking to build in the flood plain or to exceed allowable disturbances of steep slopes. The hardships are created by the existing lot. Gerber referenced the engineered site plan to point out the areas of steep slopes and steep slope margins, the existing cesspool and proposed new septic field. She offered that the Applicant is working with the Chester County Health Department to make sure the soils will accommodate the new system. DiMonte expressed concern that no backup septic field is shown on the plan. Gerber responded that there is no backup system on the parcel. McKay asked for clarification as to the location of the cesspool and the proposed septic field required for the additional bedrooms. Gerber pointed out the flood plain area on the site plan and confirmed that there will be no disturbance in this area. Gamble presented a narrative offering the family's roots in the community, why the property is under contract to purchase, his professional career as a real estate agent, homebuilder, and master carpenter. Photographs of the dwelling and property accompanied the narrative which conveyed the disrepair and inadequacy of the living area. If the structure is not rehabilitated it will continue to deteriorate in its blighted condition. He answered questions posed by the Board such as the width and connection of the addition to the existing structure, the nature of the proposed gravity septic system, identifying suitable area for a secondary septic field, and other alternatives to handling onsite septic such as excavating and bringing in suitable soils which would be a last resort and challenging, and the potentiality of the County approving a tank system with a pump and haul (which may not be possible for residential). DiMonte asked if the 3-bedroom design is for 3 people or 6? Gamble indicated that he is proposing 3 bedrooms and the County Health Department septic design policy is based on the number of bedrooms. DiMonte acknowledged receipt of a letter from Brittan Anderson, Ballintree Lane. Anderson voiced concern that there will be

an increase in the flooding that occurs naturally along the stream at the rear of the property and adjacent to her property. Her concern is that the site grading will increase the waterflow of the stream which is several feet from her property. Gamble offered that there will be no increase in the waterflow as development of the site includes stormwater management measures that will reduce or have no effect on increasing the waterflow. In fact, given the age of the property, there are no stormwater management facilities in place at this time. DiMonte and McKay offered concern as to what steps would be taken to remediate an increase in the waterflow in the event the stormwater management measures are insufficient. McKay noted that during heavy rain the area floods more toward the vicinity of the entrance to Waterglen Subdivision. Using photographs, Gamble explained the slope disturbance proposed. Sundquist noted that no stormwater management features are shown on the plan in the sloped area of disturbance. Gamble says that the area of disturbance is less than 1,000 square feet. Sundquist recognized that the septic field is a challenge and asked with regard to their communications with the County Health Department, what is the accommodation for a future owner, 20 or 25 years forward, on a parcel with no backup septic field? She also asked if the distance of the proposed septic field from other water sources is in compliance with standards. Gerber responded they are in communication with the County Health Department on all compliance concerns. Supervisors suggested that a stipulation should be made that there is no backup septic field, and it should run with the land for the benefit of future owners. PUBLIC COMMENT: Randy Mims commented that in reality, parcels marketed in the Unionville Chadds Ford School District turn over quickly. Terry Gumpner offered his opposition to any variance but understands that the matter is for the Zoning Hearing Board to decide. Gumpner appreciates instances whereby a dwelling is modified to accommodate an aging parent or family member but not so much beyond that reasoning. He offered his interest in being considered for the next vacancy on the Zoning Hearing Board. Sundquist offered a brief explanation of the terms and appointment to the Zoning Hearing Board. Andrea Gosselin commented that the parcel is a natural piece of earth – it is not a flat piece of plastic. She offered that judgement calls have to be made based on the measurable and mathematical calculations needed to comply with ordinances and codes. It appears to her that the level of impact is part and parcel to the decision-making process. DiMonte read the August 7, 2023 letter submitted by 1051 Ballintree Lane in opposition to the Application. MOTION: DiMonte moved, Stumpo seconded, to take no position on the Application and defers to the Zoning Hearing Board who if find it appropriate to grant the requested relief in whole or in part, should impose conditions recommended by the Board of Supervisors; motion carried. Sundquist will prepare the Recommendation Letter for the Zoning Hearing Board.

Sundquist requested and the Board granted her request to be excused.

9. **Municipal Separate Stormwater System ("MS4") and the Total Maximum Daily Load ("TMDL") Plan Presentation:** Nate Lehigh, P.E., Manager, Water Resources, McCormick Taylor, Township Engineering, provided an update on the TMDL Plan which was initially submitted 2 years ago and is currently subject of DEP review and revisions. The most recent comments from DEP were received in July 2023. Lehigh explained that the MS4 program aims to limit the pollutants discharged into a waterway. Combined with local ordinances and issuance of NPDES permits, water conveyance systems are designed and constructed to maximize the decrease of waterway pollutants. Lehigh reported that the program particulars include a short-term goal for pollutant reduction by 2028 and a long-term goal that must be met 20 years thereafter although specifics have not been confirmed by DEP. Following DEP

approval of the current report, notice will be given soliciting public comment for a 30-day period. McKay added that these are mandated programs. He noted that the Pocopson Creek Streambed Remediation Project ("Project") currently underway represents efforts by the Township to decrease the amount of siltation, sediment, and nitrogen that's discharged into the Christina River Watershed. Lehigh reviewed the site plan for the Streambed Project explaining that the side slopes of the stream are vertical with hanging vegetation. The stream channel and banks are eroded during high flow events. The Project represents an effort engineer the stream to allow it to naturally handle an overflow. PUBLIC COMMENT: Terry Gumpner asked about the source of the pollutants. Lehigh responded that changing hydrology from concentrated storms increases water velocity causing erosion. Other sources include vehicle exhaust, land development projects, upstream silt accumulation, and impervious surfaces. Gumpner then commented that perhaps a significant percentage of loss of open space in the Downingtown area has contributed to the changing hydrology downstream and municipalities should coordinate their efforts. DiMonte expressed that streambed management is mandated on a state and federal level and while it makes sense to coordinate remediation projects there are obstacles in practical implementation. She noted that ARPA funds provided through COVID relief have been allocated to fund the Project which will cost approximately \$300,000.00 to complete. She commented that the Township understands there are potential fines for failure to comply with the MS4 TMDL program particulars. Randy Mims asked how the Project will impact waterflow downstream. Lehigh commented that the work will stabilize the creek banks, reducing the waterflow velocity, which in turn reduces the amount of runoff. McKay added that the Project site was chosen given the stream's sharp bends and deep cuts. Potential sites have been identified for future projects. Steve Meyers commented that it appears the Project is fighting nature as meandering streams straighten out naturally. Lehigh commented that a linear stream is less natural and tends to promote a fast flow that increases downstream sediment. McKay noted that a similar project was completed off of Route 52 behind the old Strodes Mill building. He added that the Township met with County and Army Corp of Engineer Representatives on Friday who acknowledge the Project as straightforward with an overall positive benefit for the environment. It is anticipated the project will be approved this year with construction occurring next year. Stumpo asked if municipalities upstream are working on similar projects. Was not known to Lehigh but he will research the permit database.

10. **Kennett Area Fire/EMS Commission:** McKay reported the group met on August 8th. First time for the group to not have a quorum. Chief McCarthy presented a draft of the budget which included accounting for all the responding companies. Previously, each responding company presented an individual budget. Revisions to the proposed budget will be presented on August 31st here in the Township Meeting Room at 12:00 noon. The Commission continues to develop a position description for an administrator. Kennett Square Borough will be exiting the Commission on January 1, 2024. A negotiating team (McKay, Chief McCarthy, Commission Administrator Cuyler Walker, and Edin Ratliff, Township Manager for Kennett Township) met on August 14th to discuss the ramifications of the exit of Kennett Square Borough from the Commission. To date, the Borough has not been able to identify how they will address EMS coverage. Stumpo noted that they are mandated to identify coverage for their residents. McKay noted the Borough has asked the 3 responders (Longwood, Po-Mar-Lin, Kennett) to meet to negotiate providing coverage without taking into account that the responding companies are now unified as 1. DiMonte offered that the Kennett Fire Company is in an untenable position given the circumstances.

11. Public Works Report:

- a. West Creek Road Gravix Wall Project Bid Award – McKay provided a brief background on the West Creek Road Project. He noted as reported previously, the Township went out to bid initially and all 4 bids were rejected when juxtaposed with the requirements of the Local Share Account Grant received for the project. The project was rebid with a submission deadline of August 21, 2023. Four bids were received and the documents reviewed by the Township Consultants. The lowest bidder is Jurich, Inc., in the amount of \$558,800.00. McKay noted that the Township Engineer has had experience with this contractor. Stumpo noted that the LSA Grant is in the amount of \$500,000.00. Knightly offered that the next steps will be to set up a preconstruction meeting with the contractor. DiMonte commented that she spoke to Marco Sordi, Supervisor of Transportation for Unionville Chadds Ford School District. Sordi told DiMonte that school records indicate 12 students use bus transportation. Sordi provided the bus schedule. Township will work to coordinate activity keeping that schedule in mind. PUBLIC COMMENT: Susan Nichols asked if the Township will continue to provide information to West Creek Road residents by email. Knightly and the Board agreed to do so. MOTION: McKay moved, Stumpo seconded, to award the West Creek Road Gravix Wall Project to Jurich, Inc., as recommended by Gilmore and Associates, Inc., Township Engineering; motion carried. On another topic, Randy Mims asked if the Township was aware of the proposed removal of trees along Denton Hollow Road as it appears many are marked for removal. Township is aware and noted that a number of trees will be removed as part of a PECO project to improve service continuity.

12. Facilities:

- a. Review and Approval of Applications for Payment for New Township Building – DiMonte reported the damaged front entrance door was replaced today. Processing of the final payment may be listed for the September agenda.

13. New Business:

- a. Stormwater Management Best Management Practices Agreement, 40 Bragg Hill Road, 63-4-143.2 – DiMonte noted the property was before the Zoning Hearing Board in April 2023. Applicant cannot proceed with the building permits until the SWM BMP has been recorded. The Agreement was signed on August 4th in accordance with the recommendation of Pennoni Engineers, Township Engineering.
- b. Report from the Zoning Official – Kologie provided an update on the following enforcement matters:
 - i. 551 Crestview Lane – District Judge found in favor of the Township on 2 judgments: operating a major home occupation; and failure to comply with the first judgement. The fines imposed are in excess of \$16,000.00 and have not been paid. A separate court action was filed asking a constable to inventory property on the exterior of the property for the purpose of conducting a sale to satisfy the judgement. Township Solicitor attended a hearing to review the inventory. An agreement was reached with the District Judge and Attorney for the homeowner to remove certain items from the list. The sale or action of the items will be held on September 12th. Stumpo asked about the next-steps if the sale does not net the money owed the Township. Kologie offered that a lien could be considered. DiMonte commented that sale of the inventory may not net the full amount of the judgement, however, the recent legal proceedings may be pointing to a reduction in the level of business conducted on the property. PUBLIC COMMENT: Terry Gumpfer asked if the Township ordinances

- prohibit trailers and boats stored on a property as those items remain at 551 Crestview and twigs and branches are stacked along the fence. Kologie said the Township is taking every action it can to address all the concerns on the property.
- ii. 1415 Lenape Road - Kologie reported that the overgrown grass, weeds, and vegetation on the property is being addressed as he and the Township Solicitor continue to work with the mortgage company/bank. Ownership is in limbo, for lack of a better description. The mortgage company/bank have agreed to assign a crew to clean up the grounds and maintain it thereafter.
 - iii. 919 Pocopson Road - Kologie reported that he is communicating with the property owner who is running a property maintenance business at the site which is next to Lenape Forge. The property owner has been made aware of the zoning requirements and permitted uses for the zoning district. Kologie is discussing requirements such as screening, pervious/impervious coverage, and other provisions of the Code to which the owner must comply. McKay asked if there was a timetable for compliance. Kologie offered that he expects the matters to be addressed by mid-September. Stumpo asked if screening was required. Kologie indicated that yes, screening is required given the narrow width of the property and the setbacks.

Kologie requested and the Board granted his request to be excused.

- c. Eagle Scout Project/Outdoor Bulletin Board - James Noon attended on behalf of Friends of Barnard Station ("FoBS"), seeking approval to replace the free-standing wooden bulletin boards on the Barnard House Property. The idea includes a proposed slightly larger bulletin board that will be resituated to allow ease of access to notices posted by both FoBS and the Township. A proposal was brought to the Board previously with the notion that it would be an Eagle Scout Project. As the Scout who originally proposed the project is not available to proceed, FoBS would like to undertake the project. Board agreed to FoBS proceeding. DiMonte asked if the design and colors could be such to complement the colors of the Township buildings on site, perhaps a blended color and not simply the color white. McKay offered that a metal roof would be a complementing touch as well as changing the shape to a V-shape for 1-sided viewing rather than back-to-back. MOTION: DiMonte moved, McKay seconded, to approve the bulletin board plan for the Barnard House Property as discussed contingent upon design and colors submitted for Board approval prior to construction and installation; motion carried.

14. Old Business:


- a. Elected Auditors RFP External Audit Firm Update - DiMonte reported in January 2023, the Board authorized the Elected Auditors to move forward with a solicitation for proposals from accounting firms for preparation of the 2023 audit. She recognized Randy Mims, Chairman of the Elected Auditors, and he presented as follows: presumably because Pocopson budget is not extensive (no police department, authorities, revenue) one proposal was submitted. He noted that the Township has been utilizing the services of the same audit firm for several consecutive years for various reasons. Mims suggested the Board members reach out to BBD, LLP to review their proposal and the external audit process generally. Following the meeting, the Board members will identify the steps forward in advance of the appointment. Attendees would include the Supervisors as well as the 3 Elected Auditors. Mims recommended not including the Township Treasurer as

it is a potential conflict of interest given it is an external audit of the Township books. Secretary is directed to schedule the meeting with BBD, LLP and Township Officials.

b. Parks Recreation and Trails ("PRT") Committee -

- i. Acknowledging Judy Lovell - Stump read a statement prepared by Jesse Noa, Chairman of the PRT Committee, thanking Lovell for her dedication and tireless service to the Committee. As a result of her resignation, the Committee will not move forward with the festival this fall. Stumpo noted that the Committee is always looking for volunteers and anyone interested should contact the Township Office.
- ii. Proposed Zip-Line - no action taken.

- 15. **Correspondence:** DiMonte reported that the Board signed a letter on July 31, 2023, on behalf of and requested by the Brandywine Valley Scenic Byway Commission in support of their application for a Vision Partnership Program Grant. Board signature was required for concurrence as the Barnard House is owned by the Township.
- 16. **Treasurer Warrants:** MOTION: DiMonte moved, Stumpo seconded, to approve the Bill payment Lists for the period July 25, 2023 to August 28, 2023 recommended for payment by the Treasurer: General Fund: 63 checks totaling \$84,406.95; Liquid Fuels Fund: 3 checks totaling \$455.93; Township Facilities Fund: 3 checks totaling \$11,887.04; Parks and Recreation Fund: 4 checks totaling \$290.38; ARPA Fund: 1 check totaling \$2,040.00; Open Space Fund: 2 ACH transactions totaling \$2,723.92; Fire & EMS Fund: 0 checks totaling \$0; Escrow Fund: 1 check totaling \$8,000.00; motion carried.
- 17. **Approval of Meeting Minutes:** Stumpo moved, DiMonte seconded, to approve the July 24, 2023 Meeting Minutes with edits for clarification; motion carried.
- 18. **Adjournment:** at 8:57 p.m. Stumpo moved, DiMonte seconded, to adjourn the meeting; motion carried.


Susan Simone, Secretary


Elaine DiMonte, Chairwoman