

London Britain Township Board of Supervisors Meeting

April 23, 2018 approved 5/14/18 BOS mtg

Board of Supervisors Meeting

Glenn Frederick, Chairman of the Board of Supervisors opened the meeting at 7:04 pm. In attendance were Supervisors Chris Whetham and via telephone Aileen Parrish, Secretary Carolyn Matalon, Treasurer Nette Stejskal, Planning Commission members Les Town, Stephanie Town and Brian Sachs, Park and Recreation member Bill Maslanka and several residents.

New Business

Herr/Small Conditional Use decision/Resolution #18-13- Supervisor Glenn Frederick read the Herr/Small Conditional Use decision.

The Board concludes that the Applicant has not proven entitlement to an Article IV subdivision. Applicant's proof amounts to a personal desire to purchase a 2-acre property to build a residence, and a desire to avoid the cost of an Article VI subdivision. The Applicant did not prove there are features that prevent an Article VI subdivision. On the contrary, the Property is characterized by mature woodlands, steep slopes and crop land, all features worthy of conservation.

Despite Applicant's failure to prove compelling hardship, the Board is willing to permit an Article IV subdivision for one lot, and only one lot, to be used for one single-family detached dwelling, as long as the Applicant complies with all of the conditions set forth herein below. The conditions further the purposes of an Article VI subdivision, while at the same time allow the Applicant to subdivide one lot for his home.

The Board grants the Application subject to the conditions specified herein below. This Decision and Order grant only zoning conditional use approval in accordance with its express terms. Nothing contained in this Decision and Order shall be construed to abrogate or limit the obligation of the Applicant to comply with the applicable requirements of the Zoning Ordinance and Township Subdivision and Land Development Ordinance. Except as expressly augmented and clarified by these conditions, the Property shall be used and developed in accordance with all of the otherwise applicable ordinances, standards, specifications, and regulations of the Township and of all other agencies with jurisdiction over the Property and the proposed use. Any proposed development or use of the Property different in any aspect from the Applicant's proposal which requires a modification of the terms and conditions of this Decision and Order or relief within the jurisdiction of the Board will require application to and approval from the Board.

The Board grants the Application subject to strict compliance with the following conditions:

1. Proposed Lot 1 shall have a minimum gross lot area of 2.00 acres, and shall be configured and located as depicted on Exhibit P-2.
2. Proposed Lot 1 is restricted to residential use and one (1) single-family detached dwelling, residential accessory uses and permitted home occupations. The lot shall not be used for any of the other uses permitted by right or conditional use in Zoning Ordinance Section 402, or successor zoning ordinance. These limitations shall be included in the deed for Lot 1.
3. Proposed Lot 1 shall have a primary and replacement septic absorption area approved by the Chester County Health Department. The replacement absorption area shall be permanently marked in the field by a method approved by the Township Engineer. Disturbance of the replacement areas, except to install a replacement septic absorption area, shall be prohibited in perpetuity. A restriction prohibiting disturbance shall be included in the deed for Lot 1.
4. Lot 2 shall not be subdivided under Zoning Ordinance Article IV or similar successor Zoning Ordinance provisions. Any proposed future subdivision of Lot 2 shall comply with Zoning Ordinance Article VI or similar successor Zoning Ordinance provisions.
5. The steeply-sloped wooded areas of Lot 2 shall be made subject to a conservation easement requiring the areas to remain in their natural condition. The easement shall be held by London Britain Township, the London Britain Township Land Trust or a private conservation organization approved by the Board. The conservation easement shall be satisfactory to the Board in all respects. The Applicant shall pay for an endowment to the holder of the easement for purposes of enforcement, not to exceed \$1,500.

6. The area subject to the easement required by Condition 5 herein above shall be an area of approximately 5 acres on the northeast side of the Property fronting on London Tract Road; and an area of approximately 5 acres on the northwest side of the Property fronting on London Tract Road and adjacent to UPI Nos. 73-6-4 and 73-6-64. The acreage of these conserved areas may be used in the future toward the greenspace requirement if Lot 2 is subdivided in the future in accordance with Article VI.

7. The subdivision of Lots 1 and 2 as depicted on Exhibit P-2 shall comply with the comments and recommendations of correspondence of Ragan Associates, Township Engineer, dated March 5, 2018, Exhibit B-6.

8. Except to the extent inconsistent with any of the foregoing conditions, the Applicant and the use and development of the Lots shall strictly comply with the representations and commitments made in the testimony and exhibits presented at the Hearing.

9. This Decision and Order and the conditions hereof shall bind the Property, Lots, the Applicant, all owners of the Property and Lots and the Applicant's successors and assigns to the Property and Lots.

10. The deed for Lot 1 including the restrictions set forth in Conditions 2 and 3 herein above shall be prepared by the Applicant, submitted to the Township Solicitor for approval. A copy of the recorded deed shall be provided to the Township Secretary by the Applicant immediately after recordation.

11. A memorandum of this Decision and Order satisfactory to the Township Solicitor shall be recorded in the chain of title of both Lot1 and Lot 2 in the land records of the Chester County Recorder of Deeds.

12. The Applicant shall reimburse the Township for all fees and expenses incurred by the Township in preparing for and conducting the Hearing and for professional fees incurred in preparing this Decision and Order and reviewing documents required by this Decision and Order. The fees and expenses shall be paid by the Applicant within 30 days of invoicing by the Township.

The Applicant shall express to the Board in correspondence delivered to the Township office within **10 days** of the date of this Decision its full and complete consent to the conditions specified herein above or the Application is denied; the Board expressly finding and concluding that the Application, in the absence of compliance with the said conditions, is inconsistent with or in violation of the standards, criteria, purposes and policies codified in the Zoning Ordinance. In the event the conditions are not accepted in full or an appeal is taken, the Board shall supplement this Decision and Order with Findings of Fact and Conclusions of Law in support of the denial of the Application.

Glenn Frederick made a motion to adopt Resolution #18-13 as read. Chris Whetham seconded and the motion carried unanimously.

Stipick Conditional Use decision/ Resolution #18-14- Supervisor Glenn Frederick read the Stipick Conditional Use decision.

The Board concludes that the Applicant has proven entitlement to an Article IV subdivision. The Property is only 8 acres and there are no significant environmental features on the Property that could be preserved as greenspace under Article VI. The cost of an Article VI subdivision would be disproportionate to the number of lots that could be developed.

The Board grants the Application subject to the conditions specified herein below. This Decision and Order grants only zoning conditional use approval in accordance with its express terms. Nothing contained in this Decision and Order shall be construed to abrogate or limit the obligation of the Applicant to comply with the applicable requirements of the Zoning Ordinance and Township Subdivision and Land Development Ordinance. Except as expressly augmented and clarified by these conditions, the Property shall be used and developed in accordance with all of the otherwise applicable ordinances, standards, specifications, and regulations of the Township and of all other agencies with jurisdiction over the Property and the proposed use. Any proposed development or use of the Property different in any aspect from the Applicant's proposal which requires a modification of the terms and conditions of this Decision and Order or relief within the jurisdiction of the Board will require application to and approval from the Board.

The Board grants the Application subject to strict compliance with the following conditions:

1. A landscape screen designed in accordance with Zoning Ordinance § 802.A shall be planted and continuously maintained along the property line between Lot 1 and the adjacent property to the north, Chester County UPI No. 73-3-31.2A. The landscape screen shall extend in an East-West direction of sufficient length to screen the view of the new house on Lot 1 from the existing house on UPI No. 73-3-31.2A. The composition and length of the landscape screen shall be designed during the subdivision review process and shall be satisfactory to the Board in all respects. The Township shall have the right but not the obligation to enforce this condition.
2. A landscape screen designed in accordance with Zoning Ordinance Section 802. A shall be planted and continuously maintained along the property line between Lot 3 and the adjacent property to the south, Chester County UPI number 73-3-31.3A. The landscape screen shall extend in an East-West direction of sufficient length to screen the view of the new house on Lot 3 from the existing house on UPI number 73-3-31.3A. The composition and length of the landscape screen shall be designed during the subdivision review process and shall be satisfactory to the Board in all respects. The Township shall have the right but not the obligation to enforce this condition.
3. The proposed house on Lot 1 shall be set back a minimum of 75 feet from the northern property line of the Property.
4. The proposed house on Lot 3 shall be set back a minimum of 75 feet from the southern property line of the Property.
5. Existing Lot 2 and proposed Lots 1 and 3 shall be accessed by a common driveway as generally depicted on the Plan. Separate driveways for Lots 1 and 3 connecting to Flint Hill Road are prohibited.
6. Lot 2 shall grant an easement to Lots 1 and 3 for access and utilities. An easement agreement setting forth the construction, use, maintenance, repair and replacement responsibilities for the common driveway and utilities shall be prepared by the Applicant and shall be satisfactory to the Township Solicitor in all respects. The easement agreement may be included in the declaration of restrictive covenants required by Condition 15 herein below and shall be recorded contemporaneously with the recording of the final subdivision plan.
7. The Applicant shall design and implement a stormwater management plan to prevent stormwater runoff from the common driveway onto Lot 2.
8. The common driveway from Flint Hill Road to the eastern side of the property driveway for Lot 1 shall comply with Zoning Ordinance § 805. D.
9. Further subdivision of Lots 1, 2 and 3 is and shall be prohibited.
10. Proposed Lots 1, 2 and 3 are restricted to residential use and one (1) single-family detached dwelling each, residential accessory uses and permitted home occupations. Lot 1, Lot 2 and Lot 3 shall not be used for any of the other uses permitted by right or conditional use in Zoning Ordinance Section 402, or successor zoning ordinance. These limitations shall be included in the deeds for Lots 1, 2 and 3.
11. Proposed Lots 1 and 3 shall have a primary and replacement septic absorption areas approved by the Chester County Health Department. The replacement absorption areas shall be permanently marked in the field by a method approved by the Township Engineer. Disturbance of the replacement areas, except to install a replacement septic absorption area, shall be prohibited in perpetuity. A restriction prohibiting disturbance shall be included in the deed for Lots 1 and 3.
12. The subdivision of the Property as depicted on Exhibit P-5 shall comply with the comments and recommendations of correspondence of Ragan Associates, Township Engineer, dated March 5, 2018, Exhibit B-6.
13. Except to the extent inconsistent with any of the foregoing conditions, the Applicant and the use and development of the Lots shall strictly comply with the representations and commitments made in the testimony and exhibits presented at the Hearing.

14. This Decision and Order and the conditions hereof shall bind the Property, Lots, the Applicant, all owners of the Property and Lots and the Applicant's successors and assigns to the Property and Lots.

15. A declaration of restrictive covenants shall be prepared by the Applicant including the requirements and restrictions set forth in Conditions 1 through 7 and 9 through 11 herein above. The declaration shall be satisfactory to the Township Solicitor in all respects. The declaration shall be recorded with the final subdivision plan for the Property.

16. A memorandum of this Decision and Order prepared by the Township Solicitor shall be recorded in the chain of title of both Lot 1 and Lot 3 in the land records of the Chester County Recorder of Deeds.

17. The Applicant shall reimburse the Township for all fees and expenses incurred by the Township in preparing for and conducting the Hearing, in preparing this Decision and Order and reviewing documents required by this Decision and Order. The fees and expenses shall be paid by the Applicant within 30 days of invoicing by the Township.

The Applicant shall express to the Board in correspondence delivered to the Township office within 10 days of the date of this Decision its full and complete consent to the conditions specified herein above or the Application is denied; the Board expressly finding and concluding that the Application, in the absence of compliance with the said conditions, is inconsistent with or in violation of the standards, criteria, purposes and policies codified in the Zoning Ordinance. In the event the conditions are not accepted in full or an appeal is taken, the Board shall supplement this Decision and Order with Findings of Fact and Conclusions of Law in support of the denial of the Application.

Glenn Frederick made a motion to adopt Resolution #18-14 as read. Chris Whetham seconded and the motion carried unanimously.

Old Business

Nette Stejskal read the April 23, 2018 Treasurers Report

Bills over \$1000

Alger Oil	\$1,253.39	Brandywine Conserv	\$4,952.50
Buckley Brion	\$2,292.50	D Gargula	\$1,942.50
MSI	\$2,398.00	Ragan Eng	\$1,293.75
Walton Water	\$1,103.99	Sycamore pond farm	\$1,622.50

General Fund- Glenn Frederick made a motion to acknowledge the ACH transaction for payment of interest and principal on the DVRFA loans, payroll taxes, bank fees, and P Card purchases. Chris Whetham seconded and the motion carried unanimously.

General Fund- Glenn Frederick made a motion to pay bills as represented by General Fund M & T with checks# 15181-15205 from the General Fund. Chris Whetham seconded and the motion carried unanimously.

Plgit-General Fund- Glenn Frederick made a motion to pay bills with ck# 7668-7695 from the Plgit General Fund. Chris Whetham seconded and the motion carried unanimously.

Plgit General Fund- Glenn Frederick made a motion to approve the transfers to the Park Fund, Open Space, Capital Fund. Chris Whetham seconded and the motion carried unanimously.

Parks Fund- Glenn Frederick made a motion to pay bills with ck#2815-2817 from the Parks Fund. Chris Whetham seconded and the motion carried unanimously.

Parks Fund- Glenn Frederick made a motion to approve the transfer to the General Fund. Chris Whetham seconded and the motion carried unanimously.

Open Space Fund- Glenn Frederick made a motion to approve the transfer to the General Fund. Chris Whetham seconded and the motion carried unanimously.

Windsor Sewer Fund- Glenn Frederick made a motion to pay bills with checks#1118-1125 noting that ck#1117 is void from the Windsor Sewer Fund. Chris Whetham seconded and the motion carried unanimously.

Capital Fund- Glenn Frederick made a motion to approve the transfer to the General Fund. Chris Whetham seconded and the motion carried unanimously.

Highway Fund- Glenn Frederick made a motion to pay bills with checks# 6636-6640 from the Highway Fund. Chris Whetham seconded and the motion carried unanimously.

Business from the Floor

Bruce DiVincenzo a Township resident from Sharpless Rd left information received from Rep. Roe for the Board's review on the PennDot Agility program. The program provides a streamlined method for municipalities and other partners to work together through agreements where services are exchanged for services, thus developing long-term relationships and cost effective methods to better serve the public

Park and Recreation member Bill Maslanka found a bottle of drugs with no label at Nichol Park in the grass along the path. Liquor bottles were also found. He asked that the State police be contacted to cruise through Nichol Park in the evening. Glenn Frederick stated that the Township will contact the State Police.

Supervisor Chris Whetham lives next to Krause property on Mercer Mill Rd and he learned regrettably that Steve Krause died this past weekend. The family of Steve Krause is in everyone's thoughts.

Adjournment- Glenn Frederick made a motion to adjourn the meeting at 7:55 pm. Chris Whetham seconded and the motion carried unanimously.