

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED MEETING
MONDAY, FEBRUARY 27, 2023**

The regularly scheduled meeting of the Hilltown Township Board of Supervisors was called to order by Chairman James Groff at 7:02 PM and opened with the Pledge of Allegiance. Also in attendance were Vice Chairman Caleb Torrice, Supervisor John McIlhinney, Township Manager Lorraine Leslie, Township Solicitor Jack Wuerstle, Township Engineer Tim Fulmer, Chief of Police Christopher Engelhart, and Finance Director Marianne Egan.

1. ANNOUNCEMENTS: Chairman Groff announced there was an Executive Session prior to the meeting to discuss legal matters.
2. CONSENT AGENDA:
 - a) Minutes of the January 23, 2023, Board of Supervisors Meeting
 - b) Bills List: February 14, 2023
 - c) Bills List: February 28, 2023
 - d) Financial Report: January 31, 2023
 - e) 2023 Fire Protection Agreement: Perkasio Fire Co. No. 1 (Station 26)

Motion was made by Supervisor McIlhinney, seconded by Vice Chairman Torrice, and carried unanimously to approve items 2(a) through 2(e) on the Consent Agenda with Supervisor McIlhinney commenting the information for the Shinners Confirmed Appointment was not part of the packets for the Board of Supervisors for review prior to the meeting. There was no public comment.

3. CONFIRMED APPOINTMENT: None.
4. LEGAL:
 - a) Zoning Hearing Board Appeal 2023-002: Jeremy & Riana Friedman (131 Fairhill Road) – Requesting Variance: Solicitor Wuerstle stated Jeremy & Riana Friedman are requesting a variance for side and rear yard setbacks to construct a detached garage. After research, Solicitor Wuerstle stated the property is part of an older subdivision and there was a deed of consolidation done to consolidate their property with one half acre of the property next door and asked permission to write a position letter to the Zoning Hearing Board, so they are aware of the issue. Motion was made by Supervisor McIlhinney, seconded by Vice Chairman Torrice, and carried unanimously to approve Solicitor Wuerstle to send a position letter to the Zoning Hearing Board regarding the Jeremy & Riana Friedman ZHB Appeal 2023-002. There was no public comment.
 - b) Zoning Hearing Board Appeal 2023-003: Stephen & Sarah Brown (1129 Seven Corner Road) – Requesting Variance: Solicitor Wuerstle stated Stephen & Sarah Brown are requesting a variance to exceed the maximum allowed impervious area with the installation of a pool to create a condition of 16.4% impervious area where 15% is allowed. After discussion, the

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Board of Supervisors stated they do not wish Solicitor Wuerstle to attend the hearing for Stephen & Sarah Brown.

c) Zoning Hearing Board Appeal 2023-004: Waste Management of Pa (300 Progress Drive & 4622 Bethlehem Pike) – Special Exception & Requesting Variance: Solicitor Wuerstle stated Waste Management is requesting a variance to expand the existing non-conforming storage use. Solicitor Wuerstle noted the property has had several variance requests over the years for the non-conforming use but there has since been a zoning change for the area and a Conditional Use application will need to be filed with the Township and not a special exception/variance request. Solicitor Wuerstle asked permission to write a position letter to the Zoning Hearing Board so they are aware of the Conditional Use process. Motion was made by Supervisor McIlhinney, seconded by Vice Chairman Torrice, and carried unanimously to approve Solicitor Wuerstle to send a position letter to the Zoning Hearing Board regarding the Waste Management of Pa ZHB Appeal 2023-004. There was no public comment.

d) Zoning Hearing Board Appeal 2023-005: ESP Investment Group, LLC (430 Fairhill Road) – Appeal from Action of the Zoning Officer & Requesting Variance: Solicitor Wuerstle stated there was significant outside storage in the area which prompted enforcement action. The zoning hearing board application presented three different alternatives for relief. The Board of Supervisors stated they would support a simple variance from an earlier zoning hearing board condition from years ago. Solicitor Wuerstle asked permission to write a position letter to the Zoning Hearing Board stating the Board of Supervisors would support an earlier ZHB variance. Motion was made by Vice Chairman Torrice, seconded by Supervisor McIlhinney, and carried unanimously to approve Solicitor Wuerstle to send a position letter to the Zoning Hearing Board regarding the ESP Investment Group, LLC ZHB Appeal 2023-005. There was no public comment.

Solicitor Wuerstle stated the Comcast Franchise Agreement has been drafted and requested authorization from the Board of Supervisor to advertise the ordinance authorizing execution of the Comcast Franchise Agreement. Motion was made by Vice Chairman Torrice, seconded by Supervisor McIlhinney, and carried unanimously to authorize Solicitor Wuerstle to advertise the ordinance authorizing execution of the Comcast Franchise Agreement. It was noted the ordinance will be available for public viewing at the Township building. There was no public comment.

6. PLANNING:

a) Rosenthal Lot Line Adjustment Subdivision: Tim Fulmer stated the Planning Commission recommended preliminary/final approval for the Rosenthal Lot Line Adjustment Subdivision involving three properties all zoned in the PC-1 District, and all owned by the same entities, to swap land between the properties with no development being proposed and contingent upon Wynn Associates review letter dated January 31, 2023. Ed Wild, Esq. was in attendance, along with the applicant, Wally Rosenthal, and Mark Flaherty, Metz Engineering, and stated all

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items contained in Wynn Associates Inc. letter dated January 31, 2023, are all “will comply.” Mr. Wild reviewed the waivers to defer any improvements or need for additional data to the future, if, and when, there is ever a land development to come forward. Motion was made by Vice Chairman Torrice, seconded by Supervisor McIlhinney, and carried unanimously to grant Preliminary/Final plan approval for the Rosenthal Lot Line Adjustment Subdivision contingent upon the items contained in the Wynn Associates Inc. review letter dated January 31, 2023, including the waivers. There was no public comment.

b) Haberle Realty II, L.P. Land Development Waiver: Tim Fulmer stated the Planning Commission recommended approval of the waiver of land development for the Haberle Realty II, L.P. to permit the construction of a 6,600 SF pre-engineered building for expansion of an existing indoor athletic club contingent upon the items contained in Wynn Associates Inc. review letter dated February 3, 2023. Richard Kapusta, R.A., along with applicants Derek & Larissa Haberle, stated the applicant’s run acrodynamics which is circus acrobatic training along with forms of dance and gymnastic training. Mr. Kapusta stated the existing building is 58,000 SF, it is partially occupied, and the parking tabulation was based on full occupancy. The applicant proposes to temporarily delay the development of parking and have the additional required parking in reserve through a reserve parking agreement. There are 212 parking spaces, and with the new proposed use, and if the current building is fully occupied, the amount of required parking is 231 parking spaces. There is an area where approximately 25 spaces can be built in the future, if needed, after reviewing the parking in the future. Mr. Kapusta stated all items in Wynn Associates Inc. review letter dated February 3, 2023, are “will comply.” Mr. Fulmer added the applicant has met the conditional reduction of parking spaces requirement by showing they can build them, if needed. The Township would have, from the date of occupancy of the new structure, one year to assess the situation regarding the parking. Derek Haberle, 32 Creek View Drive, stated they do not think they will ever use 50% of the parking that is currently there, and they currently occupy approximately 20% of the building. Motion was made by Supervisor McIlhinney, seconded by Vice Chairman Torrice, and carried unanimously to grant a land development waiver to Haberle Realty II, L.P. contingent upon the items contained in Wynn Associates Inc. review letter dated February 3, 2023, and the reduction of the required parking spaces per an agreement including a review of the parking after one year from occupancy. There was no public comment.

c) Quiet Acres II Sketch Plan: Mr. Fulmer gave an overview of the project stating the applicant was before the Planning Commission to present a concept plan of a potential expansion of the Quiet Acres housing community located near the intersection of Orchard Road and Pheasant View. The applicants own two other properties adjoining the existing community, which one has frontage on Highland Park Road and are both in the CR-2 Zoning District. The existing community is zoned in the Mobile Home Park Zoning District. Christen Pionzio, Esq., was in attendance along with applicants Eric & Lee Williams, and Scott Mease, Mease Engineering, and gave the history of the property including the addition of public water, public sewer, a community center, the age restricted designation, along with the proposed expansion of the Quiet Acres use onto the

adjacent property. Eric Williams discussed the type of units and family history with these types of communities. Additional discussion items included the additional land will solve some of the existing problems such as creating a 100' buffer for the neighboring property owners, a full road/emergency access, a voluntary deed restriction area for open space, and possibly re-aligning the older units for better road access. Mr. Fulmer clarified this type of use is not permitted by-right, Special Exception, or by Conditional Use in the CR-2 Zoning District. Ms. Pionzio stated the two parcels could be considered to be re-zoned into the MHP District rather than the Zoning Hearing Board. It was noted the property would be deed restricted for age restriction through a covenant. Ms. Pionzio stated the by-right numbers would be fifteen detached single family homes. Chairman Groff's comments included: the project has potential, concerned about the amount of units that is showing on the plan, and likes the main access road. Mr. Fulmer noted the Planning Commission members questioned the road layout for the cul-de-sac and questioned the possibility of a loop instead. After discussion, it was noted the applicant will look at the design of the plan with the full access road, go back to the Planning Commission, and clarified that the project would be a map revision. No action was taken by the Board of Supervisors.

6. ENGINEERING: None.

7. UNFINISHED BUSINESS:

a) Louisa Hermann – 304 Fox Lane – Fence: Louisa Hermann was in attendance to inquire about the status of her fence permit and stated the neighbor at 302 Fox Lane has a shed in the deed restricted open space. She continued to state they will install a black iron fence on that neighbor's side of their property and a PVC fence around the remainder of the area where the neighbors agree to the PVC fence. Solicitor Wuerstle stated the status of the application is denied because she did not fulfill the condition of having the neighbor's consent. He continued to state there is a limited number of lots in Long Leaf that contains the deed restricted open space. After discussion it was noted there will be a field audit of Long Leaf, the applicant will need to revise the application to move the side yard removable fence out of the deed restricted open space area, but can ask the Board's permission to extend the removable fence into the storm drainage easement area at the back of the property to increase the depth, and the application fee will be waived for the re-submission to the Zoning Officer.

Public Comment: Corinne Keeler, 302 Fox Lane, stated her property was surveyed in 2020 and their fence was installed outside of the deed restricted area. She continued to state there was a permit for the shed that dates back to 2005; three owners ago. She stated she does not have any issues with the color or material, she did not verbally approve the proposed fence at 304 Fox Lane, and does not approve of the current proposed placement.

Solicitor Wuerstle stated the Township is in the process of formalizing the applications to provide the Zoning Officer with some guidance in terms of different types of encumbrances that can effect properties and what the rules of the game are, specifically with respect to each type of encumbrance: via open space, declaration based open space, buffer yard open space, or an easement; for clear direction provided and notice given to the adjacent property owners.

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8. NEW BUSINESS: None.

9. SUPERVISOR'S COMMENTS: Vice Chairman Torrice questioned the removal of trash at Route 113 and Diamond Street going towards Souderton. It was noted the Public Works Department mows the left side of Rout 113 and does not mow the right side and trash removal is the resident's responsibility. After discussion of ownership, it was noted to have the Public Works Department clean up the area.

Terry Shade, 400 Long Leaf Drive, questioned the decision for the Lanning fence in the open space at 402 Long Leaf Drive. Solicitor Wuerstle stated the Board has agreed to let Mr. Lanning move the fence into half of the deed restricted area to the other side of the utilities within the easement. Ms. Shade stated the fence was requested to protect their children and their dog and for the Lanning's to still be able to use and enjoy the open space behind their property, which now none of the neighbors can. The fence was installed four days before the permit was issued, the water and sewer can service the pipeline whenever they need to, the adjoining neighbors were never notified, and they never had a chance to attend a meeting and voice their opinions.

Chris Shinnars, 400 Long Leaf Drive, stated Mr. Lanning did not have the permit to put up the fence which stated it cannot be installed in the open space area.

Chairman Groff stated the Board made a mistake and agreed to a compromise by cutting fifteen feet of the fence off of its current position. Solicitor Wuerstle stated the issue developed with the location of the fence into a utility easement owned by the Water & Sewer Authority, and the Township missed the open space deed restricted area and the declaration for Long Leaf.

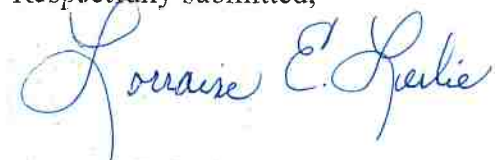
Mr. Fulmer stated the land in question is private, deed restricted open space and part of their deed. It is not an easement for public access and no one has rights to walk through private land.

10. PUBLIC COMMENT: None.

11. PRESS CONFERENCE: None.

12. ADJOURNMENT: Upon motion by Vice Chairman Torrice, seconded by Supervisor McIlhinney, and carried unanimously, the February 27, 2023, Hilltown Township Board of Supervisors regularly scheduled meeting was adjourned at 8:33 PM.

Respectfully submitted,



Lorraine E. Leslie
Township Manager

(*NOTE: These minutes were transcribed from notes and recordings and should not be considered official until approved by the Board of Supervisors at a public meeting).