

WEST HEMPFIELD TOWNSHIP SUPERVISORS' MEETING

Minutes of September 1, 2015

The regularly scheduled meeting of the West Hempfield Township Board of Supervisors was held on Tuesday, September 1, 2015 at the Township Municipal Office, 3401 Marietta Avenue, Lancaster, Pennsylvania. Chairman David Dumeyer, Vice Chairman Edward Fisher and Board members Frank Burkhart, Kent Gardner and Naomi Martin were present. Also in attendance were Township Manager Ron Youtz, Chief of Police Mark Pugliese I, Zoning Officer Jodi Heffner, Public Works Director Dale Getz and Brenda Baumbach, Finance/Personnel Director serving as Recording Secretary.

I. CALL TO ORDER

Chairman David Dumeyer called the meeting to order at 7:30 p.m. and led with the Pledge of Allegiance. He also announced that following the meeting, the Board will convene into Executive Session to discuss a personnel issue.

II. APPROVAL OF MINUTES: August 4, 2015

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the August 4, 2015 regular Board meeting minutes as presented. Motion carried, 5-0.

III. COMMUNICATIONS

A. BOARD OF SUPERVISORS

Kent Gardner informed the Board that he attended a meeting of the Chiques Creek Watershed Alliance which was held at the Manheim Farm Show building. He said they are starting to work on a GSI mapping to help with storm water management.

B. MANAGER – No report

C. RESIDENTS

1. No residents commented.
2. Barry Carter, Assistant Fire Chief, apologized for not being able to attend the last three monthly meetings. He presented to the Board copies of the May, June and July fire reports. He stated for those months combined there were 197 calls with a total fire loss of \$6,500.00.

Barry Carter updated the Board on the Federal SAFER (Staffing for Adequate Fire and Emergency Rescue) Grant application the Fire Company submitted. He informed the Board the Fire Company was awarded the grant with the amount just shy of \$500,000.00. The Board members congratulated the Fire Company on the awarding of the grant.

3. The Chairman acknowledge Herb Landau who used to attend our meetings representing the Lancaster Library System. He now serves as the LNP, Inc., liaison.

4. The Chairman introduced Zachary Peirson from Senator Ryan Aument's office. Mr. Peirson thanked the Board for allowing him to attend this evening's meeting to explain the services and resources that his office can provide to the Township and its residents. He and Senator Aument are attending municipal meetings within his Senatorial District. Mr. Peirson continued by suggesting that everyone review Aument's web page as it contains a lot of information. He said it contains updates on the State's budget along with information concerning the avian flu. He explained if anyone is interested and would like to receive an electronic newsletter from his office to enter their email address in the space provided.

IV. SUBDIVISION, LAND DEVELOPMENTS, AND PLANNING MODULES

A. DOLLAR GENERAL STORE – MARIETTA AVENUE – FINAL SUBDIVISION/LAND DEVELOPMENT PLAN

Michael Swank of Steckbeck Engineering and Surveying, Inc. introduced Bob Gage of GBT Realty Corporation, the developer for the Dollar General project. Mr. Swank reminded the Board they have gone through the Conditional Use process and received approval with several conditions and they also received recommendations from the Planning Commission on the Conditional Use as well as on the land development plan.

Mr. Swank explained there were concerns pertaining to the outside architectural appearance of the structure. He said they have looked at other buildings in the Traditional Village area and have prepared two drawings. He continued, saying the one condition was to design a mansard roof. He said they have provided the mansard roof along with the vertical columns that separate the building into three sections. He mentioned that the entrance to the store is on the corner and there are two roofs over the entrance at each corner. He felt that the new drawing addresses the conditions as outlined in the Conditional Use decision.

Edward Fisher asked if the entire roof was all asphalt shingles. Mr. Swank answered no, the portion where the roof bumps out has metal standing seam roofing along with the two awnings at each corner.

Edward Fisher stated that he did not see a lot of color variation in the roof and suggested there could be some contrast color used. Mr. Swank presented a second drawing which has the same building format but it had color in the siding.

Bob Gage stated they would make roof color acceptable to the Township's approval.

Kent Gardner commented that he liked the structure with the brick on the sides of the structure. Edward Fisher also agreed.

Mr. Swank confirmed there are faux windows with open shutters to be installed along both sides of the structure as outlined by the conditional use decision.

Mr. Swank says there was one engineering comment from the Township's Engineer, Ben Webber,

in his July 28 review letter. Mr. Webber felt that Dollar General was altering the flow of storm water on the downstream side of the property. Mr. Swank said that he did provide Mr. Webber with the analysis showing they are not altering the flow, and a letter was received from Mr. Webber dated August 14, 2015 that says he agrees with the analysis.

Waivers Discussion and Approval:

1. Waiver Request of Section 305 - Preliminary Plan Processing:

Mr. Shank stated that the applicant is requesting a waiver of the requirement to process a preliminary plan and, in the alternative, proceed directly to final plan. He mentioned that the Planning Commission also recommended approval of this waiver.

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the waiver of Section 305 - Preliminary Plan Processing based on the justification provided. Motion carried, 5-0.

2. Waiver Request of Section 404.A.1 and 405.A – Plan Scale:

Mr. Shank stated that the applicant is requesting a waiver of the requirement to provide a plan at a scale of one (1) inch equals twenty (20) feet and one (1) inch equals fifty (50) feet. In the alternative he proposes a plan scale of one (1) inch equals thirty (30) feet and one (1) inch equals sixty (60) feet. He mentioned that the Planning Commission also recommended approval of this waiver.

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the waiver request of Section 404.A.1 and Section 405.A - Plan Scale based on the justification provided. Motion carried, 5-0.

3. Waiver Request of Section 602.B, 602.K, and 602.K.6 – Reconstruction of Existing Streets

Mr. Shank stated the applicant is requesting a waiver of the requirement to doing reconstruction of Marietta Avenue. Dollar General is replacing the shoulder and putting a curb along Marietta Ave as well as curbing the radius turns back into the private access drive. The request is not to reconstruct Marietta Avenue but to only make those improvements requested by PennDOT. He mentioned that the Planning Commission recommended the denial of the waiver but recommended deferment of those improvements.

Motion: Edward Fisher moved, seconded by Kent Gardner, to deny the waiver of Sections 602.B, 602.K and 602.K.6 - Reconstruction of Existing Streets but to allow the applicant to defer the installation of the required improvements subject to the applicant entering into an agreement with the Township, outlining the schedule and responsibility for future improvements to Marietta Avenue and the private access drive, and the establishment of a pedestrian easement for the sidewalk outside of the right-of-way. Motion carried, 5-0.

4. Waiver request of Section 602.M – Curbing

Mr. Shank stated the applicant is requesting a waiver from the requirement to install curbing along the private access drive.

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the waiver of Section 602.M – Curbing from providing curb along existing access drive. Motion carried, 5-0.

5. Waiver Request of Section 602.N - Sidewalks

Mr. Shank stated the applicant is requesting a waiver from the requirement to installing sidewalks along the private access drive.

Edward Fisher asked if there is a link from the sidewalk along Marietta Avenue to the front entrance. Mr. Swank answered yes there is sidewalk installed and a bike rack is also provided.

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the waiver request of 602.N – Sidewalks from providing sidewalk along the existing access drive and based upon the alternative provided. Motion carried, 5-0.

Frank Burkhart asked for clarification of the storm water controls installed. Mr. Shank stated the site naturally slopes towards the southwest corner of the property and Dollar General is proposing to sheet flow the water from the parking lot and the building into a storm water facility that forms an L shape. With smaller storms the water will filter back into the soil. He explained the water from larger storms will be collected and dispersed from the basin and will flow across the existing properties as in the manner it does today.

Plan Approval:

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the final subdivision/land development plan of the Dollar General with the condition that any remaining and all outstanding comments are addressed to the satisfaction of the Township Engineer and Township Staff. Motion approved, 5-0.

B. SAINT ANNE’S – 3952 COLUMBIA AVENUE – FINAL LAND DEVELOPMENT PLAN

Elizabeth Werner of ELA Group informed the Board they have received a letter dated August 20th from Rettew and feel they can comply with the engineer’s comments. Saint Anne’s is looking forward to working with the Township by meeting all the requirements and also seeking approval of the Final Land Development Plan.

Edward Fisher asked if the comments outlined in the Engineer’s review letter can be complied with. Ms. Werner stated they can meet the requirements and are working with all the utility companies.

Ron Youtz, Township Manager, reminded the Board that the waivers were addressed at a previous meeting and working with the ELA Group on the outstanding requirements has been good.

PLAN APPROVAL

Motion: Kent Gardner moved, seconded by Frank Burkhart, to approve the Final Land Development Plan for Saint Anne's located at 3952 Columbia Avenue with condition that the applicant satisfies all comments and requirements to the satisfaction of the Township Staff and Engineer and posting of the financial security. Motion carried, 5-0.

V. OLD BUSINESS

A. BUILDING COMMITTEE UPDATE – SEEKING AUTHORIZATION TO RELEASE REQUEST FOR PROPOSALS FOR ARCHITECTURAL

Chairman David Dumeyer explained to the Board members that the Committee has completed the draft for requesting proposals for architectural services. He stated the Committee has submitted a copy that lists seven names of architectural firms to be considered.

Edward Fisher asked if additional names could be recommended. Chairman David Dumeyer stated that the Committee had narrowed the list down to seven of the eleven that were submitted.

Motion: Kent Gardner moved, seconded by Frank Burkhart, to approve the list of seven architectural firms as provided and to release the RFPs to those firms. Motion carried, 5-0.

VI. NEW BUSINESS

Chairman David Dumeyer asked since there are two Conditional Use Hearings scheduled for this evening, he would read the Statement of Procedure once, as long as there was no objection. Neither applicant objected to the one time reading of the Statement of Procedure.

Chairman Dumeyer opened the Conditional Use Hearing and announced that the Board will conduct the Hearing in accordance with the requirements of the Pennsylvania Municipalities Planning Code. He further stated that in conducting the Conditional Use Hearing, the Board of Supervisors must function like a court. State laws requires a stenographer to record the proceedings. A court reporter is present this evening for that purpose. He also stated that if anyone wants to speak, they will be recognized, and at that time they will need to speak clearly and give their name and address. Only one (1) person will be permitted to speak at a time.

Chairman Dumeyer described the first order of business will be to determine the parties to the hearing. The Applicant and Township Staff are automatically parties to the hearing. He explained that other persons may seek to be recognized as parties to the hearing. He expressed that you do not have to be recognized as a party if all you wish to do is ask a question or make a statement. If you wish to have the right to appeal the decision of the Board of Supervisors to the Lancaster County Court of Common Pleas, you should seek to be recognized as a party.

Chairman Dumeyer explained that only persons who have standing can be recognized as parties. In order to be recognized as a party, you must demonstrate that the use of the property affects you in a way that is different from all other persons in the Township. The fact that you believe that a person should comply with the Zoning Ordinance or that a proposed use is good or bad is not sufficient to grant standing. If you live or own land in the vicinity of the property which is the subject of the application, then you probably will have the right to become a party. The Applicant has the right to object to the standing of any person seeking to be recognized as a party.

Chairman Dumeyer stated that the Applicant will present evidence in support of the application. All witnesses will be sworn and affirmed. All parties will have the right to cross examine each other's witnesses. Any person in the audience who wishes to ask questions of such witnesses will be given the opportunity to do so.

The Chairman stated that once all evidence and public comments are received, the Board will close the record. The Board has forty-five (45) days after the close of the hearing to issue a written decision which will be made at a public meeting. He also made known that the members of the Board cannot consider information presented outside of the hearing.

A. CONDITIONAL USE HEARING – GEORGE AND LORRAINE LEWIS – 1725 CLEAR SPRING ROAD

Chairman Dumeyer called the Conditional Use Hearing to order and identified the applicant of the property is George M. and V. Lorraine Lewis, 1725 Clear Spring Road, Mount Joy, PA 17552. The applicant requests to modify a condition previously imposed in a Conditional Use decision dated December 7, 1982, relating to the property identified as 1725 Clear Spring Road. Applicant seeks the modification to enable the subdivision of the property into two lots of 1.45 acres and 3.84 acres. Applicant also seeks Conditional Use approval pursuant to Zoning Ordinance Section 301.2.C.1 to create a residential lot in the Rural Agricultural District exceeding 2 acres.

Chairman Dumeyer asked if anyone in the audience wished to be recognized as standing party on the application of George M. and V. Lorraine Lewis, 1725 Clear Spring Road, Mount Joy, PA.

Robert Vasko, 250 Hiestand Court, Landisville, PA asked to be recognized as a party to this hearing. He is an adjacent property owner. Dwight Yoder, Attorney for George and Lorraine Lewis, stated that he had no objection to Robert Vasko to become a standing party.

Motion: Kent Gardner moved, seconded by Edward Fisher, to grant standing to Robert Vasko for this hearing. Motion carried, 5-0.

Greg Schimke, 260 Hiestand Court, Landisville, PA asked to be recognized as a party for this hearing. He is an adjacent property owner. Dwight Yoder, Attorney for George and Lorraine Lewis, stated that he had no objection to Greg Schimke to become a standing party.

Motion: Kent Gardner moved, seconded by Edward Fisher, to grant standing to Greg Schimke for this hearing. Motion carried, 5-0.

Jason Yurchak, 240 Hiestand Court, Landisville, PA asked to be recognized as a party for this hearing. He is an adjacent property owner. Dwight Yoder, Attorney for George and Lorraine Lewis, stated that he had no objection to Jason Yurchak to become a standing party.

Motion: Kent Gardner moved, seconded by Edward Fisher, to grant standing to Jason Yurchak for this hearing. Motion carried, 5-0.

Larry Atkinson, 230 Hiestand Court, Landisville, PA asked to be recognized as a party for this hearing. He is an adjacent property owner. Dwight Yoder, Attorney for George and Lorraine Lewis, stated that he had no objection to Larry Atkinson to become a standing party.

Motion: Kent Gardner moved, seconded by Edward Fisher, to grant standing to Larry Atkinson for this hearing. Motion carried, 5-0.

The Chairman called Jodi Heffner, Township Zoning Officer, to be sworn in and to give testimony on behalf of the Township.

Zoning Officer Jodi Heffner presented seven (7) exhibits:

Township Exhibit #1 – Confirms a legal notice was posted on August 14, 2015 at the Township office.

Township Exhibit #2 – Confirms the property was posted on August 21, 2015 along Clear Spring Road.

Township Exhibit #3 – Provides proof of publication confirming the legal notice was published in the Lancaster Newspaper on Saturday, August 15, 2015 and Saturday, August 22, 2015.

Township Exhibit #4 – Provides draft minutes from the August 20, 2015 meeting of the West Hempfield Planning Commission.

Township Exhibit #5 – Provides copies of letters sent to the property owner and applicant advising them of the scheduled public hearing for Tuesday, September 1, 2015.

The Chairman called upon the applicants and their representatives to make their presentation/case.

Attorney Dwight Yoder of Gibbel, Kraybill and Hess, LLP, stated he is representing the applicants George and Lorraine Lewis. He suggested that he and the applicants be sworn in at one time, and the Oath was administered.

Dwight Yoder explain the reason the application was filed. He is asking the Board to consider a modification of a condition that was imposed in 1982 stating there are two subdividing rights assigned to this five acre parcel, the Lewises at that time had children and they were using the entire five acres parcel for their home and to raise farm animals. At the time the condition was imposed, there was discussion among the Supervisors, suggesting they position the house in a way so that in the future, the lot could be subdivided and another house could be built.

Mr. Yoder continued explaining the Lewises are in a position to subdivide the second lot off the five acres. He says their interpretation of the condition is there are two subdivision rights allocated. The Zoning Officer disagree, saying the Township does not agree with the way the condition reads. The Lewises went before the ZHB and they agreed with the Board's decision. He stated the Zoning Hearing Board suggested they go before the Board of Supervisors and modify the condition, as it did not give the Lewises the automatic right to subdivide that lot.

Mr. Yoder explained that according to the Township ordinance the subdividing into a parcel larger than two acres which the applicant is seeking Conditional Use approval.

Mr. Yoder presented the applicant's exhibits:

Applicant Exhibit #1 – Proof of letter dated May 18, 2015 along with filing the application and fees with the Township Zoning Officer.

Applicant Exhibit #2 - Part of the application, which is better copy of an aerial map which shows the area to be subdivided.

Applicant Exhibit #3 - Proposed Conditions. Mr. Yoder informed the Board that he and Mr. and Mrs. Lewis had met with Township staff to get a better understanding of what the Township's position and concerns would be. He stated there was a list prepared with proposed conditions, if the Board would be inclined to act favorably.

Mr. Yoder asked the Board to look at Applicant Exhibit #2 in order to orient the Board. He also provided a copy of the map to the four neighbors for their review. He says the map shows they are taking the 5 acre parcel and drawing the line to create the single family lot. He felt the concern of the neighbors is the location of the new home and how it would affect their lots. He explained that the rear portion of the lot is rocky and whoever buys the lot would probably take down the pole barn that currently exists on the lot and either construct their home at that site or even with the Lewis's home.

Mr. Yoder explained that included with the application is a full transcript of the 1982 Conditional Use hearing. In it there was some discussion of the location of the home and its position so in the future there would be a second lot with a home on it. Mr. Yoder felt the legal standard to modifying a condition is that there has to be some kind of change as to how the property was used or the conditions of the lot. In this case we have set forth in the application a few reasons. He expressed that the owners are no longer using the property to raise farm animals, and five acres is not a viable lot. There is a swale that runs along the end of property and prohibits the use for an agricultural lot. The lot would be a viable single family lot. There would be no future subdivision of this property.

Mr. Yoder explained that the proposed conditions of Applicant Exhibit #3 includes a payment or contribution to the TDR fund of \$5,000.00. The reason for the contribution is because at one time there were payments made, and the Lewises feel that the subdivision rights attached to this lot were not included in the original contributions.

In closing, Mr. Yoder stated this lot has on lot sewer and water. This is part of the reason the lot needs to be a little larger. He stated the Planning Commission reviewed and recommended approval with conditions as prepared in Applicant Exhibit #3. He welcomed any questions the Board and the public may have.

Chairman Dumeyer announced that now was the time for the recognized parties of standing to the hearing to ask questions.

Robert Vasko asked for clarification of Applicant Exhibit #1 first paragraph. He believes the proposed lot and the remaining lot acreage is reversed. He also stated that the totals listed for each lot does not equal five acres.

Mr. Yoder stated for the record the lot consisting of 3.84 acres and labeled as the "remaining lot" has the existing pole barn located on it and the 1.45 acres parcel labeled as the "proposed lot" is the Lewis's property. In terms of those numbers not equaling five acres, it could be the Engineer looked at right-of-ways, etc., and so there could be discrepancies. He stated this is the first part of the process, and if the Board would grant the conditional use, the Lewises would have to prepare a formal subdivision plan for review.

Larry Atkinson asked for clarification that the parcel will only be subdivided once and it will have one single family residence located on it. He feels that the construction of a new home on the new lot would encroach the rural agriculture zoning district.

Mr. Yoder ensured Mr. Atkinson that it would be one subdivision with one house. Mr. Yoder mentioned that he cannot say exactly where the new home would be constructed, but he feels the new home owner would not want to build their home in view of the adjoining properties. He feels a house on three acres is considered a low density rural use.

Chairman Dumeyer asked if any Board member had questions.

Edward Fisher asked for an explanation of the seventy acres and how the development rights were used.

Mr. Yoder explained that in 1982 when the original application came before the Board, the Township had a very similar ordinance as it does now, which states the Ag zone shall be entitled to a certain amount of subdivision rights based on the size of the parent tract. At that time, the Buckwalter's owned the parent tract which consisted of 121 acres. The ordinance read 1 subdivision right for every 25 acres or portion thereof. He said the 121 acres would be 4 lots for the 100 acres and 1 lot for the 21 acres equaling five lots subdivided from the parent tract. Mr. Buckwalter and the Lewises had this five acre parcel under contract and they were going for Conditional Use approval to allow the lot size to be over 2 acres. As part of the process the Board of Supervisors stated of the 5 subdivision rights we are going to assign two to the five acre parcel and three will remain with the parent tract. Those three subdivision rights were purchased under the TDR program. Mr. Yoder is not asking the Board to create a new subdivision right. The reason the Lewises went before the ZHB was to confirm if those two subdivision rights were

assigned to the 5 acre parcel and would they have the right to subdivide automatically. The ZHB said no, based on the way the condition was written. They would have to apply to modify the condition since it wasn't clearly written that the second subdivision right could be used, even though two subdivision rights were assigned to it.

Edward Fisher mentioned he was not clear as to what the two subdivision rights meant. He noted that one of the conditions used was the \$5,000.00 Transferable Development Rights. He said that amount is considerably lower compared to what TDR's were recently sold for. He felt the amount would have to be re-negotiated.

Mr. Yoder stated their position was that the right was existing and was not for purchase – TDR rights to purchase would have a benefit to the other side, such as density bonus, etc., but here this was a straight subdivision right. It is not being sold to a developer for development rights, and they felt it was a compromise.

Kent Gardner asked for clarification, inquiring are we allowed to get advice from our Solicitor to determine if we are setting a precedent and are we allowed to lower the amount assessed for TDR.

Ron Youtz stated the Solicitor was unavailable to attend this evening's meeting, but she has been consulted on the proposed conditions.

Mr. Yoder explained that in terms of modifying a condition or any kind of zoning decision is based on the facts of each case, and the Lewises are not setting a precedent that undermines the Township Zoning Ordinance as it relates to the use of adding land for subdivision rights. He mentioned in this case, the Lewises are not increasing five subdivision rights and making it six subdivision rights – it was five all along. They ask the question that there were two subdivision rights already assigned, and we are asking what it means. He suggested the Board should review and discuss the amount assessed for TDR with the Solicitor.

Frank Burkhart explained when the Lewises purchased the five acre parcel, it counted as two lots. The Lewises never made it into two lots because they were raising sheep at the time. It was his understanding if they would have subdivided the lot when they originally purchased the parcel, it would be two lots today.

Mr. Yoder felt the two subdivision rights stayed with the land and it gave them the right to subdivide. The way the condition is written, it uses the term (usage), as a noun or verb and it is confusing. He felt it says if there were five subdivision rights and two were assigned to this parcel and they only used one, there would be one left. He believes that was the intent because it specifies to position the home so the Lewises can make use of the other lot.

Kent Gardner questioned if there was a storm water easement located on the property. Mr. Yoder says there is a swale that runs along the property line. He mentioned that during the subdivision procedure the storm water and sewage planning module and all the other issues will have to be addressed.

Kent Gardner mentioned that DEP has changed the 100 year storm models. He asked does that involve a change to the swale. Edward Fisher stated that constructing one single family dwelling would not have any effect and there is plenty of room. They would have to detain more water than what is currently allowed to run off.

Chairman Dumeyer asked if any Board member or any member of the audience had any additional questions to ask the applicant. No one spoke. Chairman Dumeyer asked if any of the four standing parties had any questions or comments.

Jason Yurchak asked if there is a possibility of selling the land to an adjacent property owner. Chairman Dumeyer informed Mr. Yurchak at this time the Board is gathering information as to whether the application meets the requirements for conditional approval.

Robert Vasko was sworn in by the court stenographer. He thanked the Board for allowing him to speak this evening and to express his opinions and concerns. He explained he had read the paperwork and it is his understanding that the application is a request to create two more conditional uses in addition to adding a third use. Mr. Vasko wants to understand the following three topics:

1. Add a home and raise sheep, grasses and crops
2. Subdivide the rural agricultural designated land to add a home
3. Increase the maximum allowable lot area of the newly proposed lot

He asked to comment on the Narrative and the Transcript that was included with the application.

Narrative on Page #1, Line item #2 – The property is located within the RA (rural agricultural) district where, according to Section 301, the agricultural activities should be preserved.

Narrative on Page #2, Line item #6 – In reviewing the transcripts of December 7, 1982, the Conditional Use was granted with conditions with the understanding that:

- a. Transcript on Page 7, Conclusion **Item A** the property was suited for the requested intent, with the intent meaning sheep, grasses and crops. He believes this is called out in different areas of the transcripts where he describes that intent in detail by using the terms sheep, grasses and crops.
- b. Transcript on Page 7, Conclusion **Item E** says the applicant must adhere to the requirements that were set forth, and that was why the conditional use was granted as long as those conditions were followed.

He continued saying that the tract will count against two lots for Mr. Buckwalter but it does not clearly say Mr. Lewis will receive two. He believes the plan was originally intended to take three subdivision rights from Mr. Buckwalter as a form of penalty (for lack of another term). He felt the Board meant to keep intact the intended purpose of the Rural Agricultural District by limiting homes.

Narrative on Page #2, Line item #11 – He felt the Zoning Hearing Board concluded that the conditions did not allow the applicant to subdivide. He asked will this set a precedence to ask the Board to overturn the ZHB decision. He stated the ZHB had read and interpreted the transcript as he did.

Narrative on Page #3, Line item #13 – To modify a condition, there must be an inappropriate condition. He feels that in this case there is no hardship. He stated there must also be injury to others, and again in this case, there would be adverse effects to adjacent property owners. He mentioned there is corn planted on the land today.

Narrative on Page #3, Line item #15 – He said no circumstances have changed. A. The owner knew about the residential subdivision in 1982; B. The discontinuance of sheep is self-induced by choice, not circumstances; C. The property is farmable, is being farmed now, and has been for some time and D. There has been no change in configuration of the property since it was divided in 1982.

Narrative on Page #3, Line item #16 – Allowing an additional home does create a negative impact of hardship on adjacent homeowner(s). The property is not currently used as residential, but as farmland.

Narrative on Page #3, Line item #17 – The proposed additional lot will also exceed two acres, thus contradicting Section 301.3.A.1.

He stated that Section 301.4.A reads that for each parent tract (Buckwalter Farm) there shall be permitted one lot or the erection of one single family dwelling on the parent tract – but not both. His understanding of the ordinance is that this was done and are in sense, maxed out.

- A. Arguably the property is in fact suited for AG
- B. It's not too small because it's farmed now
- C. The house (built by the owners) has not affected the farm
- D. It has bordered a residential community since 1982, when purchased
- E. The property's uniqueness was created as a result of the original subdivision in 1982, not a change since then.

He stated that it is not accurate to say there are changed circumstances.

Narrative on Page #4, Line item #18 – Public service systems access is arguable, as the property does not adjoin the existing single family development. Any police, fire, etc., would need to access via the low side of the Lewis Family residence.

In closing, Mr. Vasko stated that he means no illwill. The scenery is beautiful and the view at the back window of his home is fantastic. He purchased his property with the understanding that the adjacent property was zoned RA and that homes would not be built there. He made a financial investment to live here based upon the Township's zoning and maps. He wanted this experience

for himself, his wife and his three children. This request creates a negative impact for him and his family. This preserved land was absolutely the deciding factor for him to move where he did.

He stated that he is grateful for the Board's time for allowing him to express his feelings and comments. Chairman Dumeyer asked Mr. Vasko if the Board could obtain a copy of his notes. Mr. Vasko said that he would send a copy to either the Zoning Officer or Township Manager.

Justin Yurchak, 240 Hiestand Court, Landisville, PA was administered the oath. He informed the Board that Lancaster County is the leading county in the nation to preserve agricultural land and would hate to see this land developed. As he was growing up adjacent to this parcel he enjoyed when the owners had sheep and other farm animals. He says it was a great experience when he was a kid. He said since the sheep have been gone, they have corn planted and he enjoys watching the tractor. The ag land is cleaner for the environment and turning the land into developments is against what Lancaster County stands for.

Larry Atkinson was administered the oath. Mr. Atkinson stated that he is of the same position as the others that have already spoken. He commented that the reason he purchased the home he lives in is because of the Ag district and he knows that if this request is approved, what makes his lot special will be lost.

Chairman Dumeyer stated that this would be the final subdivision and there will be no further subdivision allowed.

Robert Vasko asked if the Board would approve, which is against his wishes, that there be placed on the subdivision conditions that would show where the home would have to be situated. Chairman Dumeyer stated the Board had heard through testimony the wishes of the adjoining property owners.

Motion: Chairman Dumeyer entertained a motion to adjourn the Conditional Use Hearing. Kent Gardner moved, seconded by Frank Burkhart, to close the Conditional Use Hearing at 9:05 p.m. Motion carried, 5-0.

Chairman Dumeyer announced that all the evidence and comments that were presented during the hearing will be the only items the Board members will review in terms of the Lewis's case.

Kent Gardner asked if the notes from Mr. Vasko's testimony are forwarded to the Township, can the Board members receive a copy. Mr. Yoder stated that the notes were presented as public comment and cannot be considered as evidence. Chairman Dumeyer said they could get a copy from the stenographer but he was trying to make it a little easier. He also agreed that the notes are in graphic form as public comment and will not be viewed as evidence.

Motion: Kent Gardner moved, seconded by Naomi Martin, to postpone any decision on the Conditional Use application for George and Lorraine Lewis until Tuesday, October 6, 2015. Discussion: Kent Gardner asked if he gets a copy of the notes, and he has legal questions, will he be allowed to contact the Township Solicitor. Ron Youtz, Township Manager, informed Mr.

Gardner that he should contact the Township Solicitor directly. Motion carried, 5-0.

B. CONDITIONAL USE HEARING - ST. MARY'S COPTIC ORTHODOX CHURCH – 3602 MARIETTA AVENUE

Chairman Dumeyer called the Conditional Use Hearing to order at 9:10 p.m. and identified the Applicant of the property is St. Mary's Coptic Orthodox Church at 3602 Marietta Avenue, Lancaster, PA 17601. The Applicant is seeking Conditional Use approval pursuant to Zoning Ordinance Section 43.2.C.2 to install a temporary trailer to be used as a Sunday school classroom. The property is located within the Traditional Village District.

Chairman Dumeyer asked if anyone in the audience wished to be recognized as standing party on the application of St. Mary's Coptic Orthodox Church, 3602 Marietta Avenue, Lancaster, PA 17601. Chairman Dumeyer stated no one wished to be recognized as standing party.

The Chairman called Jodi Heffner, Township Zoning Officer, to be sworn in and to give testimony on behalf of the Township.

Zoning Officer Jodi Heffner presented five (5) exhibits:

Township Exhibit #1 – Confirms a legal notice was posted on August 14, 2015 at the Township office.

Township Exhibit #2 – Confirms the property was posted on August 21, 2015 along Marietta Avenue.

Township Exhibit #3 – Provides proof of publication confirming the legal notice was published in the Lancaster Newspaper on Saturday, August 15, 2015 and Saturday, August 22, 2015.

Township Exhibit #4 – Provides draft minutes from the August 20, 2015 meeting of the West Hempfield Township Planning Commission.

Township Exhibit #5 – Provides copies of letters sent to the property owner and applicant advising them of the scheduled public hearing for Tuesday, September 1, 2015.

The Chairman called upon the applicants and their representatives to make their presentation/case.

Daniel Kaldas of 3022 Marietta Avenue, Lancaster, PA was administered the oath. He stated he would be representing St. Mary's.

Mr. Kaldas explained the Church wishes to place a 36' x 24' temporary trailer on the lot. Their current facility is inadequate to hold the existing capacity of students for Sunday school classes. He stated the temporary trailer would be removed when they have finished the construction of a new church that is planned. He mentioned that he is unsure of the time frame for the completion of the new church.

Kent Gardner informed Mr. Kaldas there are new Lancaster County regulations dealing with storm water, and there is a lot of impervious surface being added that would require a storm water plan.

Kent Gardner asked if there would be sidewalks added. Mr. Kaldas answered no, there will be no sidewalks installed. He stated there will be steps to access the trailer. Kent Gardner mentioned that anyone who wants to access the trailer will be walking through rain, mud and/or snow.

Mr. Gardner informed Mr. Kaldas that he served on the Clean Water Consortium for Lancaster County and for the trailer at 864 sq. ft., it is starting to progress towards the storm water requirement. He stated his concern with making the trailer ADA accessible and complying with the Township codes, they will be over the 1,000 sq. ft. impervious service. When that is reached, they will have to have a full storm water management plan.

Kent Gardner asked Board member Edward Fisher would a temporary facility be included in the 167 storm water management plan, would it still be required to prepare a storm water plan.

Edward Fisher stated that any change of land cover will require a storm water management plan.

Mr. Kaldas asked if there is a certain threshold.

Kent Gardner stated 1,000 sq. ft. will require a plan to be prepared. If there would be ramps, sidewalks, etc., it would be required. He stated he is looking at all aspects of the proposed project that includes ADA requirements meeting the Township's various ordinances. He wants to make the church aware of all the rules and regulations that could be a problem and delay the installation of the temporary trailer.

Mr. Kaldas says he will review and meet all the requirements by using the existing impervious lot coverage.

Edward Fisher asked what the existing lot coverage is now and are they over what is permitted.

Mr. Kaldas stated he does not know what the existing coverage is now.

Kent Gardner asked what the ground cover is where the cars are shown on the map.

Mr. Kaldas answered it is paved. He explained years ago there were storage sheds located on the concrete pads. He continued, stating that the cars shown on the map do not belong to the church, they are the neighbor's vehicles. Edward Fisher stated that the map used is not a survey map it is a GIS map so the information shown may not be correct.

Frank Burkhart stated on Sunday mornings in the vicinity of the church, it is risky as the church goes' park at the cemetery and in the Turkey Hill parking lots then try to cross the street from those areas which is very dangerous. He also felt the new church at the area would have been constructed by this time. Mr. Burkhart is concerned with the lack of knowledge for when the new church will be constructed, as there is no time frame established.

Mr. Kaldas stated they are working on the plans at this time for the new church, but unfortunately, he does not have the knowledge for when the church would be finished.

Chairman Dumeyer stated that the Board may consider placing a time limit on the amount of time the temporary trailer may be located on the property.

Frank Burkhart asked if the property with the existing church located on it and the new lot where the proposed church will be built join each other. He stated that he is concerned with the patrons crossing back and forth on the road to get to and come from the church.

Mr. Kaldas answered no, there is a neighbor in between the two properties.

Edward Fisher stated that there is not an easy solution.

Daneen Kemple of 3647 Marietta Avenue was administered the oath. Ms. Kemple stated that she had a comment to express to the Board. She said she is not against the building of the Church or the expansion of the church, but she doesn't think the placement of the temporary trailer should be an endless matter. She felt that there should be a 2-3 year time limit placed on how long the temporary trailer can be allowed so this cannot be dragged on for a long period of time.

Magdi Kaldas, member of the Church Board, was administered the oath. Mr. Kaldas says they have been working with Engineers on the plans for the new church. He said they are looking at starting the church within the next three years, but if all goes accordingly, it could be two years. He said he is hopeful that the plans will be ready within four months and will be ready to submit for review. The reason for the temporary trailer is the fact that the classes are large and are combined in one space in the existing facility.

Laura Sadd, Director for the Sunday school classes, was administered the oath. Ms. Sadd explained she has two grades combined in one room and it is very difficult to teach the children when there are in one classroom. She asked the Board to help with the overcrowding of the classes and to allow the temporary trailer to be placed on the property.

Motion: Chairman Dumeyer entertained a motion to adjourn the St. Mary's Coptic Orthodox Church Conditional Use Hearing. Frank Burkhart moved, seconded by Kent Gardner, to close the Conditional Use Hearing at 9:38 p.m. Motion carried, 5-0.

Motion: Kent Gardner moved, seconded by Frank Burkhart, to postpone any decision on the Conditional Use application for St. Mary's Coptic Orthodox Church until Tuesday, October 6, 2015. Motion carried, 5-0.

C. LANCASTER COUNTY PUBLIC LIBRARY

Travis Anderson, Trustee for the Lancaster Public Library, acknowledged former Executive Director Herb Landau who now serves as the Township's liaison with LNP. He also updated the Board on the current statistics dealing with the public library system. He stated the Lancaster

public library was founded in 1759 and is one of the oldest library systems in the country. There are three branches, with one located in Mountville. The service area entails 14 separate municipalities, 70,000 card holders, with approximately 4,062 card holders in West Hempfield Township. He asked the Board to consider the library association when preparing the 2016 budget.

Dave Dumeyer asked that if we requested, could there be data collected that only applies to West Hempfield Township? Mr. Anderson replied yes, he can collect the data that applies just to the Township.

D. CONTRACT EXTENSION FOR COLLECTION OF REFUSE AND RECYCLING

Ron Youtz, Township Manager, informed the Board of action it took at a previous meeting at which time the Board authorized Staff to work with Republic Services to establish the final extension allowed under the existing contract for collection of refuse/recycling. This extension will run from January 1, 2016 to December 31, 2016. He stated there would be no increase in the rates charged to residents.

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the second and final extension allowed to the contract with Republic Services for a one year period from January 1, 2016 to December 31, 2016. Republic Services will continue collecting refuse/recycling through 2016 with no increase in rates. Motion carried, 5-0.

E. G. GRANT SHULTZ – 2531 IRONVILLE PIKE – REQUEST FOR SPECIAL EVENT

Township Manager Ron Youtz informed the Board that he received a request from G. Grant Shultz asking permission for the Lancaster Ski Club to hold its 8th Annual Ski and Snowboard Swap Event on Saturday, October 17th and Sunday, October 18th at 2531 Ironville Pike. He also mentioned that for the second year in a row, the club has donated \$500.00 to West Hempfield Fire and Rescue Company.

Motion: Kent Gardner moved, seconded by Edward Fisher, to approve the request by G. Grant Shultz to hold the 8th Annual Ski and Snowboard Swap, to permit the placement of signs along various roads, and to waive the temporary sign permit fee for the placement of the banner. Motion carried, 5-0.

F. FIELD OF SCREAMS – REQUEST SERVICES FROM POLICE DEPARTMENT

Police Chief Pugliese stated that he and event owners Jim and Jeff Schopf of Field of Screams have met and discussed this year's event. Chief Pugliese stated that the owners have again utilized the services of Flagger Force to help with the flow of traffic on busy nights.

Chief Pugliese stated that the owners have listed West Hempfield Township as additionally insured on their \$1 million liability insurance policy with a \$2 million aggregate.

Chief Pugliese also stated that the event owners have again requested the presence of an officer to be on duty on their busiest nights which are October 10th, 17th, and 24th. The owners have agreed to reimburse the Township for the use of a police officer who helps during the event. Edward Fisher asked if an electrical sign from PennDOT could be used on Route 30 to make drivers aware of the event and maybe discourage them from taking the exit. Chief Pugliese stated he would ask the owners to contact PennDOT and request the use of a mobile sign.

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the request by the Field of Screams owners for our police officers to assist with the event on those dates requested. The Township will be reimbursed for all overtime expenses. Motion carried, 5-0.

G. MANHEIM TOWNSHIP – REQUEST FOR FIRE POLICE SERVICES

Chief Mark Pugliese informed the Board that he received a written request from the Manheim Police Department requesting the use of the Township's Special Fire Police to assist with two events held by both entities scheduled for Saturday, September 19, 2015.

Motion: Edward Fisher moved, seconded by Kent Gardner, to approve the use of our Fire Police to assist with the "East Petersburg Day" event being held by East Petersburg Borough and the "Car Show" event being held later that day by Manheim Township. These events are both scheduled for September 19, 2015. Motion carried, 5-0.

H. REQUEST AUTHORIZATION TO SIGN CONSOLIDATED CONTRACT WITH THE WEST HEMPFIELD POLICE ASSOCIATION

Township Manager Ron Youtz informed the Board that during the 2012 negotiations of the Police Association and Township, the MOU which listed a few amendments was signed, but the actual contract was not. The solicitors for both parties have finally reviewed that agreement and the final document has been printed. He has asked the Board to authorize the Chairman of the Board and Secretary to sign the Agreement.

Motion: Kent Gardner moved, seconded by Frank Burkhardt, to authorize the Chairman and Secretary to sign the Agreement between West Hempfield Township and The West Hempfield Township Police Association. Motion carried, 5-0.

I. AUTHORIZATION TO SELL EXCESS EQUIPMENT AT THE LANCASTER COUNTY AUCTION

Ron Youtz, Township Manager, informed the Board there are a few items from the Police and Road Departments that staff would like to include in the Lancaster County Excess Property Auction scheduled for Saturday, September 19, 2015. The items are:

Road Department:

1. 1999 Ferris 3-wheel riding mower (Mower is inoperable as is and was used as a parts mower.)
2. Ford 930A, 3-point high mower deck (This mower deck has not been used for many years.)
3. 1992 Mauldin 690 asphalt paver (We have not used this paver in a few years because of ongoing maintenance issues.)

Police Department:

1. 2011 Ford Crown Victoria, 4 door sedan (Mileage in excess of 101,000. This vehicle has been a mechanical issue since its purchase and was replaced by a 2015 Ford Police Interceptor SUV.)
2. Approximately 12 bicycles. (These bikes are in various conditions and were recovered and/or found in the Township.)

Motion: Frank Burkhart moved, seconded by Kent Gardner, to approve these items as requested to be included in the Lancaster County Property Auction scheduled for Saturday, September 19, 2015. Motion carried, 5-0.

VII. ORDINANCES AND RESOLUTIONS

1. RESOLUTION 3-15 TO AMEND TRAFFIC SIGNAL PERMIT AT HEMPLAND ROAD AND STONY BATTERY ROAD

Ron Youtz, Township Manager, explained that the Resolution is to authorize and direct himself to sign and submit the Application for Traffic Signal Approval to the Pennsylvania Department of Transportation on behalf of the Township.

Motion: Edward Fisher moved, seconded by Kent Gardner, to adopt Resolution 3-15 as presented. Motion carried, 5-0.

VIII. APPROVAL OF PAYABLES

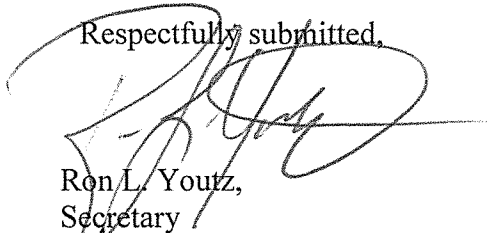
Motion: Kent Gardner moved, seconded by Frank Burkhart, to approve payment of all bills between August 1 through August 31, 2015 and any residuals. Motion carried, 5-0.

Payroll/Taxes.....	\$184,623.69	Electronic Payment
General Fund.....	\$172,611.73	Checks 26626 - 26720
Sewer Fund.....	\$ 0	Checks
Refuse Fund.....	\$103,395.67	Checks 2302 - 2311
Street Light.....	\$ 4,424.80	Checks 389
Fire Hydrant.....	\$ 247.28	Checks 204
Escrow Fund.....	\$ 6,889.09	Checks 147
State Fund.....	\$ 57,143.98	Checks 3001 - 3009

IX. ADJOURNMENT

Motion: Chairman David Dumeyer called for a motion to adjourn into Executive Session to discuss a personnel issue. Kent Gardner moved, seconded by Frank Burkhart, to adjourn the meeting at 9:45 p.m. and to go into Executive Session to discuss a personnel issue. Motion carried, 5-0.

Respectfully submitted,



Ron L. Youtz,
Secretary

