

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
MARCH 14, 2023

CALL TO ORDER

Chairman Abruzzo called the March 14, 2023 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:03 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. He advised that all public meetings are recorded for providing accurate notes. After the pledge of Allegiance, a role call was performed.

IN ATTENDANCE:

SUPERVISORS

E. Christopher Abruzzo, Chairman
Natalie L. Nutt, Vice Chairwoman
Carter E. Wyckoff, Secretary-*Absent*
Richard D. Zmuda
Michael P. Corado-*By Phone*

ALSO PRESENT:

Peter Nelson, Township Solicitor
Chuck Emerick, Director of Community Development
Robert Piccolo, Assistant Director of Public Works
Chief Garth Warner, Police Department
David Sassaman, Hershey Volunteer Fire Company
Alison Jacobine, Director of Hershey Public Library
Zach Jackson, Director of Parks & Recreation
Eric Stumpf, HRG Engineer
Becky Sweigart, Public Outreach Coordinator
Julie Echterling, Recording Secretary

Public in Attendance:

Kenny Hinebaugh, Daryl Barry, Gregory Rogalski, Tracy Brown

VISITOR/PUBLIC COMMENTS:

There were no comments offered.

CONSENT CALENDAR:

Supervisor Zmuda made a motion to approve action on the following items on the consent calendar:

1. Adoption of the Board of Supervisors Meeting Minutes for the February 28, 2023 Regular meeting.
2. Approval of March 14, 2023 Accounts Payable of \$212,528.01 and Payroll of \$340,704.02

Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

NEW BUSINESS:

TIME EXTENSION- PLAN FOR PA STATE POLICE ACADEMY & BESO, PLAT 1352:

Mr. Emerick stated the Board initially approved Plat 1352, plan of the PA State Police Academy and Bureau of Emergency and Special Operations (BESO), in June 2022, conditional upon several items being addressed no later than December 14, 2022. In November 2022, the applicant, requested an extension of time until March 23, 2023, to address the outstanding conditions of approval. The applicant, again by way of their legal counsel, has requested a second extension of time, until May 23, 2023, to address the remaining conditions of the December 6, 2022 extended approval. The second extension request proposes no changes to the details of the previously approved plan or to the waivers and deferrals that were granted.

Vice Chairwoman Nutt made a motion that the approval of the Preliminary/Final Subdivision and Land Development Plan for PA State Police Academy and BESO – Modernization, Plat 1352, is extended to May 23, 2023, subject to compliance with the following items:

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1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than April 14, 2023. The Applicant shall continue to satisfy and pay all outstanding Township Professional Consultant invoices in relation to the Plan in accordance with §503 of the MPC.
 2. The Applicant shall agree to and execute a Development Agreement in a manner and form acceptable to the Township no later than May 23, 2023.
 3. The Applicant shall provide 2 originals of the signed and notarized Development Agreement no later than May 23, 2023.
 4. The Applicant shall agree to, execute, and have notarized 2 originals of a Declaration of Covenants for the deferred improvements regarding additional right-of-way and/or cartway widening and curbing installation in a manner and form acceptable to the Township no later than May 23, 2023.
 5. The Applicant shall agree to and execute an agreement with the requisite accompanying exhibit for a right-of-way easement along Swatara Road in a manner and form acceptable to the Township no later than May 23, 2023.
 6. The Applicant shall agree to, execute, and have notarized 2 originals of a Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township no later than May 23, 2023.
 7. The Applicant shall agree to and execute a property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township and provide a copy of the same no later than May 23, 2023.
 8. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
 9. The Applicant shall record the Development Agreement, or a Memorandum of the same, concurrently with the Plan.
 10. The Applicant shall record the Declaration of Covenants for the deferred improvements regarding additional right-of-way and/or cartway widening and curbing installation concurrently with the Plan.
 11. The Applicant shall record the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
 12. The Applicant shall record the property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
 13. The Applicant shall record the agreement and exhibit for a right-of-way easement along Swatara Road concurrently with the Plan.
 14. The Applicant shall record the Landscaping Plans (Sheets STE-L-001 through STE-L-511) and Lighting Plans (STE-L-601 through STE-L-611 and STE-E-102 through STE-E-113) concurrently with the Subdivision and Land Development Plan.
 15. The Applicant shall comply with all the conditions and requirements set forth in the Derry Township Zoning Hearing Board Decisions under Case Numbers 2022-05 and 2022-06.
- Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

PROJECT MILTON, PLAT #1362-MODIFICATIONS TO STORMWATER PLANS:

Mr. Emerick stated at the Board's meeting on February 14, 2023, The Hershey Company sought permission to record Plat 1362. At that time, it was suggested that they continue discussions with the Township Solicitor. The Hershey Company is requesting that the PennDOT Highway Occupancy Permits be deferred until after plan recording. He noted that there were 16 conditions that should be attached to any action with two of them being completed recently.

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Mr. Greg Rogalski, Pennoni Associates, and Mr. Kenny Hinebaugh, Hershey Company, spoke to the Board about their request of wanting to record the plan so they could perform foundation work prior to having the PennDOT HOP permit for stormwater. Mr. Rogalski stated they submitted the requested information to PennDOT a week and half ago and expect to hear something back in six weeks. He explained the work that would be done including approximately \$1 million in improvements to move stormwater, that has flooded the area including residential homes, to the other side of the tracks. They are doing this as a benefit to the community instead of as a requirement. He has read the comments from PennDOT and none of them were difficult to address. He noted the six weeks would make a difference for the project. He also noted they received their approval from Norfolk Southern. Mr. Hinebaugh noted the project has the Governor's Action Team behind this project and helped with the DEP approvals. Solicitor Nelson asked him if he was sure the permit would be issued. Mr. Rogalski noted that there were no real major issues.

Mr. Emerick noted there is an amendment to the Developer's Agreement that the occupancy permits will be held until the HOP approval is received. They have also provided indemnity to the Township with this request. He explained the SALDO and ordinances and the changes made in the past. Chairman Abruzzo expressed concern about setting a precedent with allowing this to go through without all the required outside approvals. He asked if we have allowed others this request and Mr. Emerick noted that no one has asked for it. Solicitor Nelson stated legally speaking each development is different and granting permission is more of a political issue rather than a legal issue. Discussion ensued.

Chairman Abruzzo made a motion to revise the conditions of approval of the Preliminary/Final Stormwater Management and Land Development for Project Milton, Plat 1362, subject to the following conditions:

1. The Applicant shall agree to and execute a revised Development and Financial Security Agreement AND/OR a Supplement to the Development Agreement in a manner and form acceptable to the Township no later than May 22, 2023.
2. The Applicant shall provide the necessary legal description (Exhibit A) for the Agreement and Grant of Easement for the portions of the 8-foot-wide porous bike path that extend outside the right-of-way of Reese Avenue on both the north and south sides in a manner and form acceptable to the Township no later than May 22, 2023.
3. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's 'Land Development Review Letter #8', dated February 14, 2023, EXCLUDING Item 1 listed under the 'Required Agency Approvals' heading regarding providing a copy of two PennDOT Highway Occupancy Permits, and Item 1 under the 'Highway Occupancy Permit Plans' heading regarding a concurrence letter from PennDOT, no later than May 22, 2023. A copy of the subject letter is attached hereto and specifically incorporated herein by reference.
4. The Applicant shall comply with and/or otherwise satisfy the comments in the DTMA review letter dated February 22, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than May 22, 2023.
5. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the final plan no later than May 22, 2023.
6. The Applicant shall provide 2 originals of the signed and notarized revised Development and Financial Security Agreement AND/OR a Supplement to Development Agreement no later than May 22, 2023.
7. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.

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8. The Applicant shall record the Plan, subsequent to satisfying the conditions of approval set forth herein.
9. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.
10. The Applicant shall record the indemnification agreement for the waiver of Section 174-17.A.(7) [Prohibiting Unauthorized Access] concurrently with the Plan.
11. The Applicant shall record the Agreement and Grant of Easement for the portions of the 8-foot-wide porous bike path that extend outside the right-of-way of Reese Avenue concurrently with the Plan.
12. The Applicant shall record the Declaration of Covenants for the deferred improvements regarding the installation of sidewalk along the Millard Street frontage of the Property concurrently with the Plan.
13. The Applicant shall record the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
14. The Applicant shall record the property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.

Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

2023 LOVE INC 5K RACE ON SATURDAY, JUNE 24, 2023:

Supervisor Zmuda made a motion to approve the request to conduct the 2023 Love INC 5K race on Saturday, June 24, 2023, starting at 8:00 a.m., over various Township roadways on a route approved by the Derry Township Police Department. Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

CORRESPONDENCE BOARD/COMMITTEE INFORMATION AND REPORTS:

There was no information shared by the Board. Mr. Piccolo stated the recycling hours have changed based on daylight savings time.

VISITOR/PUBLIC COMMENTS:

Mr. Daryl Barry, 1769 Church Road, was thankful for the changes made to Church Road with the markings and asked about the status of the study for the stop sign. Chief Warner believes the majority of it is done and will present its findings at the next Board meeting. Mr. Barry asked about speed bumps to slow traffic. Supervisor Zmuda spoke about the usefulness of them, however, there are many areas in the Township that they could be helpful. He does not foresee this happening on Church Road. Chief Warner spoke about enforcement and a plan they are working on for enforcement throughout the Township that will be completed soon.

Ms. Tracy Brown, 319 Park Avenue, asked about All Things Diversity and Board members being part of their Board. Chairman Abruzzo spoke of former Supervisor Cort being on that Board in the past. He spoke of supporting the group in the beginning and now that it is established, allowing for non-governmental people to serve on their Board.

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ADJOURNMENT:

Supervisor Zmuda made a motion to adjourn the meeting at 8:03 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary