

**NEW HANOVER TOWNSHIP  
PLANNING COMMISSION  
REGULAR MONTHLY MEETING  
DECEMBER 9, 2015**

The New Hanover Township Planning Commission held its regular monthly meeting on December 9, 2015 in the New Hanover Township Municipal Building, 2943 North Charlotte Street, Gilbertsville, PA 19525. Chairman Agliano called the meeting to order at 6:35 PM and led in a Salute to the Flag.

ROLL CALL - Present – Philip Agliano  
Susan Smith  
Michael Millman  
Kurt Zebrowski

Absent – Scott Rath

Also present were Township Manager Kevin Tobias, Solicitor Paul Bauer, Adam Supplee, David Leh and Eileen Pogany.

**TOWNSHIP BUSINESS**

MINUTES - *November 11, 2015* - Kurt Zebrowski **moved** to approve the minutes of the November 11, 2015 meeting. Motion was **seconded** by Michael Millman and **carried 4-0**.

**BUSINESS FOR DISCUSSION OR ACTION:**

N.H.T.P.C. No. 787 SARAS PARTNERSHIP – LAND DEVELOPMENT PLAN

Mr. Stolfus, partner, presented a revised landscape plan. Mr. Supplee stated that he had not had an opportunity to review the plan presented and that he needs to assure that Class “C” buffer requirements are demonstrated and review the calculations. Applicant was asked to provide a revised plan, calculations and issue a revised letter prior to the next Planning Commission meeting to allow sufficient time for review by the Township.

N.H.T.P.C. No. 779- RENNINGER PROPERTY SUBDIVISION

Mr. Michael Gambone was present to address seeking an additional waiver to allow for an 8% grade on certain driveways and 3-4% grade on remaining driveways. He explained that the plan was approved in preliminary form in 2013 and that he is now seeking final plan approval for Phase B. He stated that he had previously appeared before the Board of Supervisors and that the Board asked that he appear at the Planning Commission for a recommendation on the waiver to allow for several 8% grades on driveways and also for a recommendation for final plan approval. Engineer Leh stated that he supported approval of the waiver request and request for final plan approval. Susan Smith **moved** that the additional waiver request listed in the December 1, 2015 letter submitted by Chambers Assoc. be granted by the Board of Supervisors. Motion was **seconded** by Michael Millman and **carried 4-0**. Kurt

Zebrowski **moved** for a recommendation for Phase B final plan approval, conditioned upon compliance with the Township's consultants comment. Motion was **seconded** by Susan Smith and **carried 4-0**.

N.H.T.P.C. No. 771 GIBRALTAR ROCK

Mr. Christopher Mullaney moved that the Resolution adopted by the Board of Supervisors on June 8, 2015 be dismissed since the 90-days to meet conditions of resolutions has expired. Solicitor Paul Bauer stated that the motion is inappropriate, that applicants have never been asked to request an extension of time and all applicants need to be treated the same and does not recommend any action. Mr. Bauer added that if a "bad faith" case was attempted and the applicant prevailed, the applicant could have an automatic approval. It was noted that the Exhibit A of the Resolution shows 3 parcels North of Hoffmansville Road (168.3 acres) and the exact number of acreage is in question. The Environmental Hearing Board requires a renewal of the 2005 permit for non-coal surface mining. In response to the Gilmore review letter of December 3, 2015, Mr. Harris agreed to provide deed descriptions to the center of the road Hoffmansville, Colflesh and Church roads and agreed to dedicate the legal right-of-way and of questioned the deed descriptions. Ms. Rice, of Stout Tacconelli Associates, Inc. had questions about the deed descriptions and asked about the ultimate right of way running through the house at the corner of Hoffmansville and Rt. 663. Mr. Harris stated that the legal right-of-way will be dedicated but the ultimate right of way will not be dedicated at that site but Gibraltar will add a condition that the ultimate right of way will be dedicated if the house is destroyed; the bike path in front of this home narrows to a 4' width and is 8' wide elsewhere. Bob Meyers of 2345 Little Road stated that the berms were not in compliance when installed and Mr. Harris stated that the berms were placed in accordance with the DEP mining permit, Ms. Rice questioned if the berms are now in the correct place and Mr. Harris advised that the non-coal mining permit pre-empts placement of the berms and that they are considered an operational aspect of the quarry. Mr. Bauer asked Mr. Harris if the cost to move the berms is significant, Mr. Harris responded by saying "yes" and wants to let existing berms in place; Mrs. Rice questioned not knowing the exact location of the existing berms. Adam Supplee stated that berms are to be located 30' from property line and Mr. Harris agreed that if a berm encroaches into the ultimate right-of-way Gibraltar will be required to relocate them and ultimate right of way will be dedicated to the Township with stakes being placed along the right of way and a note added to the plan. Mr. Bill Miller of 325 Layfield Road complained that he hasn't been able to hear the comments of persons speaking, said berms were installed prior to the appropriate time and that he and his wife have health problems which he attributes to the water contamination. Lois Pettigrew of 3817 Church Road asked why plans do not show what is being agreed upon and doesn't want to have problems after the fact. Mr. Bauer stated that the Township has been in litigation for years and that the courts monitor issues with the DEP, quarries are regulated by the State and municipalities can only regulate certain things. Mr. Bauer added that in instances of litigation there were times when the court ruled in favor of Gibraltar and also times when the court ruled in favor of New Hanover Township. Items in Planner Supplee's letter were reviewed and responded to by Mr. Harris. Susan Smith of 568 Buchert Road asked about compliance with Township's noise ordinance and was told that the crushing would primarily take place during daytime hours but that blacktop and paving operations take place during nighttime hours since construction takes place during those times and materials are required. Mr. Harris stated that often times back-up alarms and jake brakes cause the most disturbance and these can be remedied; there will be potential for nighttime operations and that the quarry is preempted from compliance with the Township's noise ordinance. Celeste Bish of Finn Road asked Mr. Harris if he could name quarries in which dust does not go outside the quarry – Mr. Harris named numerous quarries. Mrs. Bish said she sees quarries where dust covers cars and windows. Susan Rice asked if the record plan would be adjusted to show what was discussed and agreed upon during the meeting and was told that Mr. Harris will coordinate with Mr. David Leh, Gilmore Assoc. and the Schwartz tract will be separated out; buffering and berm issues to be addressed. David Minnich of 1930 Deep Creek

Road asked if the Township modified its ordinances due to the ground water contamination and Mr. Bauer responded by stating that the Township has not done any rezoning and that ground water contamination will be overseen by the DEP. Susan Rice asked about the 10' fence and was told it is an operational issue and Township ordinance is preempted; she also mentioned that a cease and desist order had been issued previously and asked if compliance with natural resource requirements have been met.

Mr. Harris stated that technical issues outstanding will be complied with by Gibraltar and asked for a recommendation to the Board of Supervisors for final plan approval subject to compliance with consultants' comments, providing a clean plan and renewal of mining permit by DEP. DEP needs to identify the contamination problem and document the fix. Cleanup of contamination was questioned and Mr. Harris stated that a clean-up plan and a mining permit will be in place prior to asking for Board of Supervisors approval, signature on plans and recording of plans.

Mr. John Auman of Church Road suggested the Planning Commission defer a recommendation until issues are resolved. Lois Pettigrew asked that a meeting with DEP could be scheduled by video conference since the DEP seems reluctant to schedule a meeting to include the public and Mr. Pettigrew added that the DEP doesn't seem to want to help Township residents. Mr. Bauer stated that the Township will try to assist with problems or homeowners may contact the DEP or their State Representatives.

Kurt Zebrowski **moved** to recommend approval to the Board of supervisors conditioned upon compliance with the review letters of McMahon Traffic Engineers dated December 3, 2015, KMS letter of December 2, 2015, Gilmore Engineering Letter of December 3, 2015 and the Montgomery County Planning Commission review letter of November 18, 2015 and also conditioned upon the applicant not seeking final plan approval until after the mining permit has been issued, contamination in the quarry site is cleaned up and dedication of ultimate right of way with note stating that if home is in right-of-way and is destroyed the ultimate right of way will be dedicated, and agreed to relocate berms if in right of way. Susan Smith **seconded** the motion.

Comments from the audience included Mr. Bill Miller stating that he doesn't believe Gibraltar will do what Mr. Harris said and believes a vote should be taken from the public. Mr. Auman stated that he believes the plan should be turned down due to concerns regarding noise, contamination, multiple industrial uses, believes the township has too much residential development for a quarry operation and believes the Board of Supervisors relies heavily on Planning Commission recommendations. Mr. Meyers stated that he agrees with Mr. Auman and wants to know what needs to be in place for the contamination cleanup. Sherry Knight of 2416 Jessica Drive asked for an explanation regarding land development and Mr. Agliano provided a summary of how planning commission deals with land use. Susan Rice stated that she is surprised the Planning Commission is even considering final plan approval since no cleanup plan is in place and compliance with Penna DOT has not been addressed. Celeste Bish of 2504 Finn Road asked if anyone is capable of cleaning up the contamination and Mr. Bauer stated that it is up to DEP to control and that attempts are being made to arrange a meeting for the public and DEP and that Senator Mensch and Representative Toepel are also assisting in getting a meeting set up. Mr. Mullaney stated that DEP is failing the Township and believes the DEP is protecting the quarry rather than Township residents; he suggests plans be resubmitted which addresses all comments. Question was asked if transcriptions are available to the public. Lois Pettigrew invited everyone to her house to drink the water and to shower. Vote was called for and carried 4-0 to recommend final plan approval with conditions.

**90 DAY TIME LIMITATION WAIVERS** – Michael Millman **moved** to recommend approval of the 90-day time limitation for N.H.T.P.C #787 Saras Land Development to the Board of Supervisors. Kurt Zebrowski **seconded** the motion and it **carried 4-0**.

**Planning Component 4A's - None**

**NEW BUSINESS - None**

**ADJOURNMENT** – Kurt Zebrowski moved to adjourn at 9:37 PM and the meeting was declared adjourned.

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Kurt Zebrowski, Secretary