

EDGMONT TOWNSHIP BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
December 16, 2009

Work Session – Ronald Gravina, Chairman, Joseph Conan, Vice-Chairman, the Township Manager, and the Assistant to the Township Manager attended an advertised work session, which began at 6:30 p.m. Those in attendance met with a representative from the Brandywine Conservancy and, also, generally discussed matters on the agenda. No action was taken.

1. Pledge of Allegiance & Open Meeting: Mr. Gravina called the meeting to order at 7:30 p.m. with the Pledge of Allegiance. In attendance were Ronald Gravina, Chairman; Joseph Conan, Vice-Chairman; Kenneth Kynett, Esq., Township Solicitor; Michael Conrad, P.E., Township Engineer; Samantha Reiner, Township Manager; and Christopher Bashore, Assistant to the Township Manager. David Malman, Esq., Alternate Township Solicitor, was in attendance to represent the Township for a matter on the agenda. Wm. “Chip” Mackrides, Member, was in attendance, but arrived at approximately 8:30 p.m. Edward Theurkauf, Township Land Planner, was absent. There were 11 guests.

2. Public Comment: There was no public comment at this time.

3. Minutes:

- November 18, 2009: Mr. Gravina made a motion to approve the minutes for the November 18, 2009 regular meeting of the Board of Supervisors as presented. Mr. Conan seconded the motion. There was no further discussion and the motion approving the minutes passed unanimously.

4. Bill List: Mr. Gravina noted that the bill list for the month totaled \$173,891.27. Mr. Gravina made a motion to approve the bill list for the month. Mr. Conan seconded the motion. Mr. Bashore stated that the Township had received its first reimbursement check for the Valley Road paving project and that the second bill had been mailed to the PA Dept. of Transportation (PennDOT) for reimbursement. There was no further discussion and the motion approving the bill list passed unanimously.

5. Reports: Mr. Gravina stated that reports for the month were available in the meeting room or at the Township office during regular business hours. Mrs. Reiner read her report onto the record, noting the pending adoption of 2010 budget, the 2010 Census, parking during snow events, and Christmas tree recycling at Wedgewood Gardens.

6. Old Business:

a. Public Sewers:

- (1) Act 537 Plan – Mr. Gravina stated that representatives from Edgmont met with Upper Providence Township and Sewer Authority representatives to review a desire to revise their Act 537 Plans and send all sewage flows generated in Edgmont through Upper Providence via a trunk line in Providence Road. Upper Providence Township council will review this possibility and let Edgmont know if they are willing to pursue the concept further by authorizing engineer studies and entertaining an agreement with DELCORA. There has been no change to the appeals filed by Aqua.
- (2) CDCA – Mr. Gravina stated that the CDCA board met on December 8, 2009. A summary from CDCA representative Lindsey Conan, Esq. was provided to the Board. Edgmont will sign a check in the amount of \$51,327.24 to CDCA for the 2009 Capital Budget. Mr. Gravina noted that the figure amount must be clarified with the engineers in order to verify that the Township is paying what was agreed for infrastructure. Figures for 2010 are \$89,702. DELCORA just released an announcement that their treatment rates are increasing significantly.

(3) Sewer Project/DELCORA update – Mr. Gravina stated there was no change in the status and the Township Solicitor still needs to prepare an Agreement between Edgmont Township and DELCORA.

Mr. Gravina stated that he and Mr. Kynett attended the meeting of the Newtown Township Board of Supervisors and it appears that Edgmont Township is correct in moving forward with exploring alternatives solutions to the issue of public sewers.

c. Comprehensive Plan Update Task Force: This matter was tabled to a future meeting.

d. Budget 2010: Mr. Gravina stated that the Township Manager provided a summary of the budget. Mr. Gravina noted that there are no increases in staff salary proposed, but there is a provision for an end of the year bonus, which will be approved by the Board and is contingent on the state of the economy. The mounting costs of the sewer project and other expenses resulted in an increase of the Township millage rate for 2010.

Mr. Gravina made a motion to approve the 2010 Budget as advertised and presented. Mr. Conan seconded the motion. There was no further discussion and the motion approving the budget passed unanimously.

e. Edgmont Country Fair
Trattoria Giuseppe Land Development
2nd meeting

Plans dated 10/30/09, last revised 12/4/09

Present: Joseph Damico, Esq., Applicant's Attorney
Richard Johnson, P.E., Applicant's Sewer Engineer
Brett MacKay, P.E., Applicant's Engineer
Paul deBotton, Land Owner/Applicant

Mr. Damico stated this is the applicant's second appearance before the Board. Revised plans have been received by the Township, as well as a letter outlining the changes made to the plan. The plans have a last revised date of December 4, 2009 and consist of sheets 1 through 4. Among the changes include the addition of fire lane markings, updated parking information, an addition to the building for a customer waiting area, and crosswalks for safe pedestrian access.

Mr. Damico stated that he has reviewed section 1101.G.1. of the Edgmont Township Zoning Ordinance in terms of the outdoor dining area on the subject property. He believes the applicant meets the criteria of the established requirements. Due to the existence of a cartway, the applicant is proposing the installation of bollards near the roadway to provide protection for patrons. Mr. Damico stated that the PA. Dept. of Environmental Protection (DEP) rejected the Sewage Facilities Oversight Agreement filed with the Planning Module application and a revised version was submitted to DEP. Mrs. Reiner stated that she had forwarded the document to DEP and it has been approved, but this does not mean the Planning Module has been approved.

Mr. Gravina questioned the storage on the site and the outdoor storage of food. Mr. deBotton stated that there will be no outdoor storage of food on the site. Mr. Gravina asked if the expansion area will be used as primarily a restaurant or banquet facility. Mr. Damico stated that it has been designed as a banquet facility, but will be used for overflow in certain situations. Mr. Conan asked if a patron could travel between the restaurant and the banquet area internally. Mr. Damico stated that there is an indoor doorway. Mr. Conan noted that it is not indicated on the plan. Mr. Gravina stated that the language on the plan must be amended to indicate the correct use of the expansion, the storage use, and clarification of the patio landscaping. Mr. Conan asked if it would

be used for restaurant overflow. Mr. deBotton stated that the sewage facilities have been calculated for 64 seats of overflow. Mrs. Reiner asked if that was indicated in the Planning Module. Mr. Johnson stated that it was not indicated in writing, but was in the flow calculations.

Mr. MacKay stated that the applicant has agreed to comply with the review letter of Yerkes Associates dated December 11, 2009 and the e-mail of Edward Theurkauf, Township Land Planner, dated December 16, 2009. Mrs. Reiner summarized Mr. Theurkauf's e-mail correspondence. Mr. deBotton stated that the numbers originally discussed assumed there was going to be a large amount of tree removal. Mr. Conan asked about the new handicapped parking spaces and stated that there are no ramps. Mr. Conrad stated that the south entrance to the restaurant has a depressed curb. Mr. deBotton stated that depressed curb will be installed at the entrance to the banquet facility and the bollards will be placed between the sidewalk and the building. Mr. Conan stated that the bollards should be moved to be between the sidewalk and road. Mr. Damico stated that a note should also be added to the plan for the depressed curb and the entrance area.

Mr. Gravina expressed concern over people waiting in the street on multiple sides of the building because of the additional patios. Mr. deBotton stated that the new patios are being installed as a smoking area. Mr. Gravina stated that the current plan does not indicate the proper location of the proposed bollards, there is no sidewalk for people to walk around the building, there is an increase of impervious coverage on the parcel, and there is general concern of the misuse of the patio areas. The Board requested assurance from the applicant that what currently occurs on the parcel will not continue. Mr. Gravina stated the plan must be amended to indicate the proper location of the bollards, safe passage for customers to travel between the entrances, the installation of a handicapped ramp at the proposed banquet facility entrance, the plan must show that it is a building extension leading to the banquet hall entrance, no food service tables on the south facing patio, and reflect existing non-perishable food storage. Mr. Gravina stated that the applicant must clarify the language of the use of the expansion. Mr. Damico asked where the bollards should be placed. Mr. Gravina stated that they should be no more than 8-inches behind the 8-inch raised curb.

Discussion then turned to sewage disposal for the site. Mr. Johnson stated that he has spoken with Stuart Pollock, Edgmont Township Sewage Enforcement Officer (SEO), about his comments dated 12/14/09 and he will be providing details about the extension rings for the proposed grease trap. The proposed grease trap indicated on the plan is an HS-20 loading grading tank. Mr. Johnson stated that the SEO was concerned about the depth of the proposed tank. Mr. Johnson stated that everything will be raised approximately 4 feet. Mr. Conan asked how much will be above ground. Mr. Johnson stated that there will be approximately 6 inches above ground which will be protected by a dome and surrounded by curbing. Mr. Conan asked if a generator will serve the pump station. Mr. Johnson stated that there will not be a generator. Mr. Gravina asked if a generator currently serves the building. Mr. deBotton stated that there is no generator serving the building. Mr. Gravina stated that everything must be approved by DEP and the Township will enforce this approval. Mr. Johnson stated that the banquet facility was calculated for 164 seats and he is under the understanding that if a banquet is occurring, there will be no overflow seated in the expansion area. Mr. Conrad asked about storage and how long it would take to fill the existing storage tank. Mr. Johnson stated that it is a 1,110 gallon tank that would take approximately 5 hours on average flow. Mr. Conrad asked if this was outlined in the Declaration of Conditions for the Planning Module. Mr. Johnson stated that it was.

Discussion then turned to a Developer's Agreement due to the installation of public improvements. Mr. Malman stated that he believed that the conditions of a Certificate of Occupancy would be sufficient to satisfy that everything was completed to plan. Mr.

Damico noted that in re-doing the sewer agreement, Mr. Malman desired a clause inserted that said that if all conditions of the agreement were not met, then the Certificate of Occupancy would be lifted. Mr. Malman stated that if the pump station overflows, the applicant must be required to install an expansion tank in order to ensure that it does not overflow again.

Mr. Gravina made a motion to approve the Preliminary/Final Plan for the expansion of the Trattoria Giuseppe restaurant and parking lot improvements for property located at 4799 West Chester Pike in Edgmont Country Fair. The plans, prepared by Chester Valley Engineers, dated October 30, 2009, last revised December 4, 2009 consisting of sheets 1 through 4, depict the existing conditions of the site, as well as the proposed changes to create a 164 seat banquet/restaurant facility. This motion also grants the following waivers:

- Section 302.X. of the Edgmont Township Subdivision and Land Development Ordinance requiring preliminary plan approval
- Partial waiver from Section 811.E.1. of the Edgmont Township SLDO requiring landscaping around non-residential buildings

Approval is granted with the following conditions:

- All improvements and documentation shall be submitted, implemented, and approved prior to the issuance of a Certificate of Occupancy;
- Complete compliance with the Yerkes Associates review dated Dec. 11, 2009 and (as to comment #10) the Planning Module application will include the Declaration of Acceptance of Conditions that was executed by the applicant to address SEO's memo of Nov. 2, 2009; and (as to comment #12) patron queuing has been identified as problematic, applicant to provide a dedicated, safe patron queuing area satisfactory to the Township;
- Complete compliance with the TCA comments received via e-mail dated 12/16/09 with the exception of the partial waiver and agreed by the developer during this meeting.

This plan shall serve as the approved landscaping plan and will be the basis upon which the compliance of future land development plans for this parcel shall be determined.

- Complete compliance with the Fire Marshal review dated Dec. 11, 2009;
- Complete compliance with the review of the Township SEO dated Dec. 14, 2009;
- Receipt of PaDEP approval of Planning Modules for these changes;
- The applicant agrees that there will be NO future installation of tents to enclose outdoor eating areas;
- No Certificate of Occupancy will be issued for this use until all of the improvements proposed on this plan are completed to the satisfaction of the Township;
- No outside tables on the new patio areas;
- Bollards shall be moved to an 8-inch maximum behind the curb as approved by the Township Engineer;
- Provide safe walking between both entrances to Guiseppe's as approved by the Township Engineer;

- No outside food storage other than in approved refrigerators and freezers as shown on the plan. Expand notes on the plan to that effect;
- Installation of handicapped access ramp at the proposed banquet facility entrance;

Document façade changes at banquet entrance on the revised submission of the plan including clarification as to preservation of existing tree

Mr. Conan seconded the motion. Mr. Gravina amended his motion to include the installation of a handicapped access for the proposed banquet facility entrance and the plans to be revised to accurately depict the facade changes on the building. Mr. Conan seconded the amended motion. There was further discussion and the motion approving the preliminary/final plan for the expansion of Trattoria Giuseppe passed unanimously.

7. Public Hearings

I. 4949 West Chester Pike

Conditional Use Hearing

Present: Michael Lyons, Esq., Applicant's Attorney
 Angelo Capuzzi, P.E., Applicant's Engineer
 Joseph Valerio, Equipment Salesman
 Stephen Videon, Applicant/Land Owner

Mr. Gravina made a motion to open the Conditional Use hearing for 4949 West Chester Pike, Frank C. Videon Dodge. Mr. Conan seconded the motion. There was no further discussion and the motion to open the hearing passed unanimously.

Mr. Gravina stated that the applicant is seeking to add an autobody repair facility as a use to an existing structure currently utilized for automobile sales, washing, and repairs. The property is located in the C-2 Highway Commercial zoning district. This use is permitted under section 1001.A-C.1.a of the Edgmont Township Zoning Ordinance. The existing building will be modified to accommodate the proposed uses, which are as follows:

- Automobile body shop
- Automobile paint booth
- Automobile rental agency

It should be noted that a body shop was located on this property between 1973 and 1983.

Mrs. Reiner entered the following exhibits onto the record for the Board:

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| B-1 | Proof of Publication |
| B-2 | Conditional Use application for 4949 West Chester Pike to operate a body shop on the premises along with the existing permitted uses on the property |
| B-3 | 4949 West Chester Pike plan prepared by Chester Valley Engineers dated October 30, 2009, last revised November 23, 2009 |
| B-4 | Planning Commission 'draft' minutes from December 14, 2009 recommending approval with conditions |
| B-5 | Environmental Impact Assessment report prepared by Chester Valley Engineers dated October 30, 2009 |
| B-6 | Conditional Use narrative prepared by Chester Valley Engineers dated November 23, 2009 |

- B-7 Yerkes Associates review dated December 10, 2009
- B-8 TCA review dated December 9, 2009
- B-9 SEO review dated November 24, 2009
- B-10 Fire Marshal review dated November 30, 2009
- B-11 Notes from December 1, 2009 teleconference between Samantha Reiner, Stuart Pollock, Richard Jensen, and Angelo Capuzzi
- B-12 Evans Mill Environmental report on existing septic system dated 8/29/06
- B-13 Photograph of erosion
- B-14 Photograph of tires, shed, and 24-yd. dumpster

Mr. Capuzzi entered the following exhibits onto the record for the Applicant:

- A-1 Revised plan with a last revised date of 12/15/09
- A-2 Revised Conditional Use narrative dated 12/7/09
- A-3 Body repair and paint process outline
- A-4 Environmental Impact Assessment report
- A-5 Paint booth details
- A-6 Environmental Services Agreement
- A-7 Certified Mail delivery confirmation receipts

Notes of Testimony for this hearing are available on file.

At the conclusion of testimony, Mr. Gravina made a motion to close the Conditional Use hearing for 4949 West Chester Pike. Mr. Conan seconded the motion. There was no further discussion and the motion to close the hearing passed unanimously.

8. New Business

- a. Escrow Release Requests
 - 1. YBH – Release Request #3: Mr. Gravina stated that this is the third release request for YBH. The applicant is requesting the release of \$57,257.50 for PennDOT improvements at the intersection of Providence Road and West Chester Pike and \$1,202.50 in overage. A meeting was held on December 9, 2009 with representatives from the contractors working for YBH, PennDOT, and municipal officials. It was determined that there were several outstanding items that must be completed. Notes from this meeting have been provided. A PennDOT inspector must approve the completed improvements before the Township Engineer can issue a recommendation for release. In a letter dated December 11, 2009, Yerkes Associates recommends that the Township deny the requested release of funds for the PennDOT improvements. The Township Engineer does, however, leave the issue of the release of the overage funds to the Township's discretion.

Mr. Gravina made a motion to deny escrow release #3 for YBH in the amount of \$57,257.50 based on the letter of Yerkes Associates dated December 11, 2009. The necessary PennDOT improvements have not been completed and approved by a

PennDOT inspector. Mr. Conan seconded the motion. There was no further discussion and motion denying the escrow release request for YBH passed unanimously.

Mr. Gravina made a motion to authorize the release of overage funds not to exceed \$1,000 conditioned on the approval of the Edgmont Township Financial Administrator. Mr. Conan seconded the motion. There was no further discussion and the motion authorizing the release of overage funds passed unanimously.

- b. YBH Plan Amendment: Mrs. Reiner stated that a meeting was held between Township officials, PennDOT officials, and representative from M.H. Services, the contractors working at YBH Volkswagen/Audi, on December 9, 2009. It was discovered that the contractor had installed the approved intersection improvements opposite from the originally approved intersection plan. Mr. Gravina stated that the applicant must indicate to the Board how this improvement satisfies the requirements of their Conditional Use approval. No action was required.
- c. Resolution 09-33: Tax Levy Resolution: Mr. Gravina stated that Resolution 09-33 will establish the Township tax rates for 2010. Mr. Gravina made a motion to adopt Resolution 09-33, establishing the tax rates for property in the Township for 2010. Mr. Conan seconded the motion. There was no further discussion and the motion adopting Resolution 09-33 passed unanimously.
- d. 4949 West Chester Pike – Conditional Use decision: This matter was continued to December 21, 2009 at 4:15 p.m.

9. Miscellaneous Discussion

- a. H2O PA Grant Agreement: The Board was presented with a grant agreement for the \$871,000 grant the Township received for the sewer project from the Commonwealth Financing Authority. Mr. Gravina expressed concern over language in the agreement. Mr. Kynett stated that he had reviewed the Agreement with the Manager who would advise the Board of his concerns. No action was taken.
- b. PSATS Convention: Mrs. Reiner stated that she had received information regarding the 88th annual convention of the PA State Association of Township Supervisors. Mr. Conan and Mr. Gravina expressed interest in attending.
- c. “Welcome to Edgmont” Signage: Mrs. Reiner presented a second sample of the proposed “Welcome to Edgmont Township” signs to be placed on the Township's boundaries. The sample was provided by the HA Wiegand Sign Company. The Board approved the signs with the word “Naturally” removed.
- d. Tree dedication plaques: Mr. Bashore presented pricing guides for five (5) tree dedication plaques for trees planted on the Township's property to recognize, or in memory of, individuals. A 40 sq. in. sign was presented. The Board recommended that an 18 sq. in. be purchased. The staff will present prices for 18 sq. in. signs. No action was taken.
- e. Arbors update: Mrs. Reiner stated that the Township received a Notice of Violation from DEP for late Discharge Monitor Reporting for 4 months that the Township was not in control of the plant and 1 month when the report would have been mailed to DEP over last Christmas holiday. A response was mailed to DEP on November 20, 2009. No action required.

10. Announcements

- a. The Board of Supervisors will meet at 5:00 p.m. on Monday, January 4, 2010 for their annual organizational meeting. All staff appointments will be made at this time. The

Board of Supervisors will meet at 7:30 p.m. on Wednesday, January 20, 2010 for their regular meeting, with a work session at 6:30 p.m.

- b. The Planning Commission will meet on Monday, January 25, 2010 at 6:30 p.m. for a work session, and at 7:00 p.m. for their regular meeting.
 - c. The Zoning Hearing Board will not meet in December as no applications were received. If any applications are received, the next meeting will be held on January 26, 2010 at 7:00 p.m.
11. Executive Session – During this time, the Board discussed the matters of Keinath v. Edgmont; Edgmont v. Kelly; the Township's contract with the Delaware County SPCA; and Zoning Hearing Board member terms. One seat on the board is open. After the Executive Session, the Board reconvened and discussed appointing Neal Wasserstein as Zoning Hearing Board member for a three year term to begin January 2010, and asking Kevin Coyne to continue service as alternate.
12. Continuance: Mr. Gravina made a motion to continue the meeting to Monday, December 21, 2009 at 4:15 p.m. Mr. Conan seconded the motion. There was no further discussion and the motion to continue the meeting passed unanimously.

Respectfully submitted,

Samantha Reiner
Township Manager

ACTION ITEMS

December 16, 2009

Samantha Reiner	Tree plaques – Price up tags Welcome signs – Order signs; get better tree logo YBH Escrow request #3 – Verify amount released YBH Intersection improvements – get resolved
Ken Kynett	H2O PA Grant – Review and make recommendations and changes