

Buckingham Township Board of Supervisors
Work Session
Minutes

The work session of the Buckingham Township Board of Supervisors was held October 25, 2023 in the Township Building, 4613 Hughesian Drive, Buckingham, Pennsylvania.

Present:	Paul Calderaio	Chairman
	Maggie Rash	Vice-Chairman
	Jon Forest	Member
	Dana S. Cozza	Township Manager
	Daniel Gray	Township Engineer
	Craig A. Smith, Esquire	Township Solicitor
Not Present:	Luke Rosanova	Bucks County Planning Commission
	Gary Weaver	Township Water/Wastewater Consultant

The work session began at 6:00 p.m.

Request for Waivers from Stormwater Ordinance, Kervick Residence, 3375 Dark Hollow Road, TMP 6-22-6

Dan Lyons, Esquire and Sam Costanza, Van Cleef Engineering were present to discuss waivers requested from the Buckingham Township Stormwater Ordinance on behalf of the property owner, Dan Kervick.

Mr. Lyons explained that Mr. Kervick owns two parcels, totaling 57 acres, under conservation easements with a 2-acre area on each parcel designated for a house. Mr. Lyons said at this time Mr. Kervick is only proposing a single story, modest home for his family, on one of the parcels.

Mr. Lyons said there were four waivers originally requested, and following Knight Engineering's August 25, 2023 review letter, the fourth waiver request was amended.

Mr. Constanza addressed the following waiver requests.

- A waiver from BTSO § 306.D requiring "all stormwater management facilities shall be provided with an emergency spillway or overflow device. Emergency spillways discharging over embankment fill shall be constructed of reinforced concrete checkerblock to protect the berm against erosion".

Applicant is proposing an 18-inch rip-rap emergency spillway in lieu of reinforced concrete checkerblock as a means to protect the proposed basin berm/embankment from erosion.

Mr. Costanza said that Knight Engineering had not objected to this request in their August 25, 2023 review letter.

The Board of Supervisor's supported this waiver request to allow an alternate proposal to the Ordinance requirement as the 18-inch rip-rap emergency spillway offers a substantial equivalent to the Stormwater Ordinance requirement.

- A partial waiver from BTSO § 402.B.2.A.4, requiring a complete survey of the entire parcel.

The survey data contained as part of these plans includes boundary survey, as well as partial topographic survey with supplemental topography. The partial topographic survey was concentrated in the area of the parcel in question intended for development, with said area being fully delineated. A full topographic survey of the entire subject site is not necessary, as the development for the property in question is concentrated to a defined 2-acre building envelope, as agreed to by the applicant and Buckingham Township in the conservation easement.

Mr. Costanza explained they have completed a boundary survey and detailed topography in the area allowed to be developed, in addition to the areas of the driveway, septic system and agricultural barn. He said the balance of the tract was taken from aerial topography.

Mr. Costanza said that Knight Engineering had not objected to this request in their August 25, 2023 review letter.

The Board of Supervisor's supported this waiver request to allow an alternate proposal to the Ordinance requirement as the development for the property in question is concentrated to a defined 2-acre envelope, as agreed to by Applicant and Buckingham Township, and the alternate proposal offers a substantial equivalent to the Stormwater Ordinance requirement.

- A waiver from BTSO § 402.B.2.B.1, requiring an existing resource and site analysis map (ERSAM).

Preparation of an ERSAM is not necessary, as the development for the property in question is concentrated to a defined 2-acre envelope, as agreed to by Applicant and Buckingham Township in the conservation easement applicable to the property.

Mr. Costanza said that Knight Engineering had not objected to this request in their August 25, 2023 review letter.

The Board of Supervisor's supported this waiver request with the understanding that the proposed improvements are to be concentrated within the approved 2 acre building envelope and that there shall be no forest or woodland disturbance outside of the 2 acre curtilage.

- A waiver from BTSO § 301.N, requiring bioretention basin plantings at a ratio of 300 trees per acre and 700 shrubs per acre.

Applicant is seeking relief by proposing planting trees at a reduced rate of 200 trees per acre and proposing planting shrubs at a reduced rate of 400 shrubs per acre, as

the existing and undisturbed portions of the subject tract are wooded, and the proposed landscaping is not being considered for stormwater management purposes with respect to non-structural volume credits.

Mr. Costanza explained they propose planting fewer trees and shrubs, but at a larger size than the minimum seedling or whip size as specified in the Pennsylvania Department of Environmental Protection's Best Management Practices Manual. Mr. Costanza said that three landscape architects at Van Cleef Engineering believed the larger plants will help with the basin infiltration, and not be as crowded as the required number of smaller plantings.

Mr. Costanza said that this request was revised following Knight Engineering's August 25, 2023 review letter where he did not support the complete waiver of the installation of trees in the bioretention basin.

Mr. Gray explained there is no other landscaping proposed within the building envelope. He said they reviewed the waiver request per the Subdivision and Land Development Ordinance requirements, as there is not specific guidance under the stormwater ordinance for landscaping. Ms. Manicone said she had not been asked to review the plan, so had no comment.

The Board of Supervisor's supported this waiver request and clarified that by granting a waiver to permit the proposed reduced quantity of 31 trees and 62 shrubs, the trees and shrubs are to be of the caliper and dimension as depicted on the plan dated September 22, 2023. As such the Board found the waiver is appropriate as offering a substantial equivalent to the Stormwater Ordinance requirement.

Mr. Calderaio explained the request for waivers, as discussed, will be added to the Board of Supervisor's regular business agenda for consideration of approval.

Victoria Park, Lot 2, 4411 New Hope Road, TMP 6-23-8-3, Building Envelope Placement

John VanLuvanee, Esq., Bela Rossman and Mr. & Mrs. Bill Sinclair were present to discuss the building envelope placement, driveway and pond on Lot 2 of the Victoria Park subdivision, which is under a conservation easement.

Mr. VanLuvanee said that he has represented Mr. Sinclair since he settled on the property last August, and has been working since then to get a permit to build a house and pond on the property. Mr. VanLuvanee explained that the conservation easement says they can put the house and pond anywhere as long as it does not significantly harm the economic viability of the subject land for agricultural production. He said the words are not defined in the easement. Mr. VanLuvanee said he had been told that the building envelope had been moved from its original location, and he asked if that was a problem.

Mr. Gray explained that the requirement to show the building envelope and receive approval was a requirement of the approved plan that created the lot. He agreed the conservation easement does not discuss the location of the building envelope; however it does need to be specified before the permit may be approved. Mr. VanLuvanee said that he agreed that the easement says that the location of the building envelope must be approved.

Mr. VanLuvanee distributed packets and described them as follows: 1) the plan prepared in 2008 when the property was put under Act 319 which identifies the areas actively farmed at that time; 2) A 2019 Google Earth image with enlargement to show the area where the pond is proposed, which shows the wetlands. Mr. Sinclair added that the proposed pond area had never been farmed that he was aware of, also a number of trees were removed from that area between 2008-2019.

Mr. Smith said the easement specifies that the construction of ponds intended for farm use is permitted. Mr. VanLuvanee agreed, but said “farm use” is not defined, and this pond is proposed to be used to enhance wildlife habitat as it is tucked back against the woods. Mr. VanLuvanee explained that Mr. Sinclair has been working with the Natural Resources Conservation Services and the Department of Agriculture whose standards say they do not want ponds used for livestock, but have indicated that a pond is a reasonable use consistent with agricultural use. Mr. Smith stated that per the conservation easement, the pond must be for farm use and that “farm use” need not be defined, but rather should be interpreted in accordance with its plain and ordinary meaning and its common and approved usage. Mr. VanLuvanee argued that the woods are littered with dead trees which produce a great wildlife habitat, and if the land is not being farmed, what harm does it do for a pond to be placed to enhance the wildlife.

Mrs. Rash asked if they were saying they were not going to farm the indicated area, so they wanted to place a pond there; because the photographs looked like the area had been farmed in the past. Mr. Sinclair said they intend to farm 90% of the land, however this area has never been farmed. Mrs. Rash confirmed they want to have a 2 acre pond and have the house area with curtilage, on land that the taxpayers spent money to preserve. Mr. Rossman contended that only the development rights were sold and the property was not preserved. Mr. Smith offered that any fair reading of the easement would not support Mr. Rossman’s contention.

Mr. Gray said the pond is not supposed to be in the woods, and they cannot take the woods down. Mr. VanLuvanee said it is in an area that used to be woods, but still is an area that has never been used for agricultural production.

Mr. Smith said that legally, according to the easement, the Board has the right to determine whether the pond is for farm use and thus permitted and, if permitted, the size and placement of the pond. Mr. Smith noted the Board may only give permission if the pond either enhances or does not impair any significant conservation interests associated with the Property. Moreover, the Board may not agree to any activities that would result in the development of any residential, commercial or industrial structures not provided for in the easement. Mr. Smith further noted that permitted uses on the Property have to be conducted in such a manner as to preserve the natural landscape by leaving land and resources which are

not actively farmed, undisturbed in forest wetland or other natural and unaltered state and questioned whether a pond, even on previously unfarmed land, does this.

Mr. VanLuvanee said it had been suggested that they show an alternate building envelope, which they did on the October 10, 2023 plan. He explained the largest piece of ground which has always been farmed is along Smith Road, and they propose to use an area off of New Hope Road which is not as good of a farm field, and make a minor impact on that area in a place suitable for building near the woodlands, with the driveway close to the existing farm lane.

Mr. Gray said his concern with the new building envelope is that it takes out the area behind the house and along New Hope Road from being farmable. He said that unless the house is placed along the right-of-way, the area behind the house will be isolated from farming. Mr. Rossman argued that based on other ordinances in the township, four acres is the required minimum for farming purposes, and they are proposing 6 acres. He said that a tractor can get around the building envelope to farm, if and when it gets built; adding there are no immediate or future plans to build there and until then, it will be farmed or cultivated. Mr. VanLuvanee pointed out the other ordinances do not matter due to the conservation easement.

Mr. Smith pointed out to Mr. Rossman that what governs what goes on here is the conservation easement, not subdivision ordinances. Mr. Smith continued that the Conservation Easement stipulates the location of the Approved Building Envelopes and their driveways may not significantly harm the economic viability of the subject land for agricultural production; and that is a determination to be made by the Board.

Mr. VanLuvanee suggested they remove the second building envelope and come back later, if needed. Mr. Gray noted the approved plan requires that the location of the second building envelope needs to be established prior to being issued a permit for either lot.

Mrs. Rash said the Board agreed on the primary building envelope, but more discussion is needed on the second building envelope as it may be built upon someday. She said it should be tucked up against the trees because the sweeping driveway goes right through the middle of the field disrupting the farming area. Mr. Forest agreed that a farmer will not drive a tractor over a driveway to farm as the equipment will destroy the driveway. Mr. VanLuvanee argued that the proposed driveway and building envelope have no impact on the farming, there is no standard, and the Board does not get the final say unless they go to court. Mr. VanLuvanee asked why hold up the building envelope on lot one while discussing lot two that may never happen. Mr. Smith noted his disagreement with Mr. VanLuvanee's interpretation of the easement and approved plan.

Mrs. Cozza suggested that while the engineering comments are being addressed as noted in Knight Engineering's August 4, 2023 proposed permit plan and stormwater management review, perhaps the items discussed this evening may continue to be discussed.

Request for Waiver of Land Development, Brown Bros. Auction Gallery, 2455 Route 413, TMP 6-10-238

Mr. Blaine Brown, owner of Brown Bros. Auction Gallery, was present to discuss his proposal to update the 1977 building which continues to be used as an auction gallery. He explained the proposal to: (i) change the façade, as he would like a larger covered entrance; (ii) add a small addition to the side for storage purposes; (iii) add a loading dock on the side; and (iv) in the back of the building he would like to add a covered deck as an area for the customers to assemble with a view of the gorgeous back field area.

Mr. Brown said in addressing Knight Engineering's comment regarding impervious surface area, they can replace pervious soil by removing a lot of existing macadam. He explained there is a driveway that once led to a house, which is now gone, but he could use the driveway as a trade-off. Mr. Brown said the driveway is 300 feet long and leads towards the General Green property and he could clean it off and remove it. Mr. Gray confirmed that anything existing in 2011 or earlier may be used as a credit towards the impervious surface allowance; adding that by not increasing the impervious they will eliminate any limestone and stormwater management concerns.

Mr. Gray confirmed the auction gallery is connected to public water and sewer, and Mr. Brown agreed.

Mr. Calderaio had a concern about an increase in traffic on Route 413 as the improvements sound like they will make the gallery more successful. However, Mr. Brown said that would not be an issue.

Mrs. Rash said in her 41 years in Buckingham Township she has never had to stop due to traffic blockage from Brown Brothers.

Mr. Brown continued to address the concerns noted in Knight Engineering's review letter, and explained that they currently have deliveries by pick-up trucks up to U-Hauls, with the largest being an 8' width moving van, and there is an entire driveway for them to turn around in. He also suggested the plan shows an increased driveway, but he could make that less if it was a concern. Mr. Brown said he would need to remove a tree located where the proposed driveway would be installed.

Mr. Brown said in regards to buffer landscaping, he prefers not to have bushes and hedges for security purposes. He said the police oftentimes sit on his property and they can see the entire building.

Mr. Brown said they may want to add one more light, but didn't need too much, and certainly do not need the sign lit as they are not there after dark. Mr. Calderaio said if they do add a light, it needs to be very directed.

Mr. Brown explained that volume is low as the general public comes on Wednesday's and deliveries are constant throughout a week and not bunched into a single day or time.

Mr. Brown said he had always been very careful about stormwater management, and has directed water coming off the road into the side yard into a pond which slowly seeps into the ground. He also has major Oak and Maple trees whose root systems help drain the water.

Mr. Gray asked about handicapped access. Mr. Brown confirmed they have that along with marked handicapped parking spaces. Mr. Gray recommended they show that on their plan.

Mr. Gray said that his review letter outlines the waivers from the Subdivision and Land Development Ordinance that Mr. Brown may wish to request relief from, such as the additional buffer, stormwater management and the limestone ordinance. He suggested that Mr. Brown call him and they will work through the review letter comments and bring the formal waiver request back to the Board for consideration.

Request for Waiver of Land Development, Bank of America, Exterior Lighting, 167 Carousel Lane, TMP 6-14-53-1

Ms. Denise Koster, Project Manager for Project Expeditors Consulting Corp. was present.

Mr. Gray explained that the Bank of America in Peddler's Village on Carousel Lane, submitted a lighting plan about a year ago to install safety improvements per the Bank of America plan. He said the site is currently non-conforming as some of the Peddler's Village lights are more than the zoning ordinance allows. However, this proposal confirms they are not making the existing non-conformity any worse.

Mr. Gray said they request to replace eight canopy lights, plus two on the building and two on poles. He explained they also want to do some tree clearing and limbing them up to provide a safer visual, but they are not removing any trees.

Mr. Gray said the applicant has addressed all of the Knight Engineering issues and Knight Engineering is supportive of the request. Mr. Gray confirmed when the light work is done, they will have an installation inspection to verify it was done per plan. He said there are no conditions attached to their recommendation to approve the request.

Mr. Calderaio explained this request will be added to the Board of Supervisors' regular business agenda for consideration of approval. Ms. Koster expressed her gratitude.

7:30 p.m. The Work Session adjourned.

9:02 p.m. The Work Session resumed.

Budget – Fire Companies

Mrs. Cozza said in discussing the request for money from the fire companies to purchase large items, such as new trucks, would the Board want to consider a referendum to increase millage? Mr. Calderaio suggested the formation of a committee to review the options and make a recommendation to the Board of Supervisors. He said personally, he

felt a referendum is a way to have the community involved, and Mrs. Rash agreed saying this way the residents can vote on their own tax increase.

It was discussed if the referendum should be on the Primary or General Election ballot. Mr. Smith said the Board would need to pass a resolution in January as it must be submitted to the Board of Elections at least 45 days prior to the election. Mr. Calderaio said that would be problem as it appears the primary is being moved to March for the presidential election, so there would not be enough time.

Mr. Forest asked what kind of millage increase might be considered. Mrs. Cozza said currently they are at $\frac{3}{4}$ of a mill; adding that a mill is approximately \$300,000, and the township currently has \$290,000 in the 2024 budget designated for the fire companies. She said the fire companies were requesting an increase to 3 mills, which would come to approximately \$900,000. Mr. Forest said then 2 mills would be around \$600,000.

Mrs. Cozza said the options then are to have a referendum to increase the millage, or just increase the millage, or provide them with an additional payment out of the general fund or fund balance. She said the township needs to split the money according to the current percentage in their yearly contracts. The Board leaned towards having a referendum in the 2024 general election.

Budget – General

Mrs. Cozza asked if the Board had comments on any other areas of the proposed budget, and they did not.

9:32 p.m. The Board of Supervisors retired into Executive Session to discuss police personnel.

10:30 p.m. The Work Session adjourned.

Approved by the Board of Supervisors on the 15th day of November, 2023.

Buckingham Township Board of Supervisors

Paul Calderaio, Chairman

Attest:

Maggie Rash, Vice-Chairman

Dana S. Cozza, Township Secretary Jon Forest, Member

Minutes respectfully submitted by Lori Wicen.