



MOUNT JOY TOWNSHIP

• Lancaster County, Pennsylvania •

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Minutes of a Special Meeting of The Mount Joy Township Zoning Hearing Board Wednesday, February 15, 2023

1. Chairman Thomas N. Campbell called the meeting to order at 6:00 P.M. in the Elizabethtown Area School District Middle School Auditorium, 600 East High Street, Elizabethtown, PA 17022.

2. Meeting Attendance:

- Members Present: Thomas N. Campbell, Gregory R. Hitz, Sr., and Robert F. Newton, Jr.
- Members Absent: James E. Hershey
- Alternate Member Present: None
- Township Representatives: Josele Cleary, Esq., Township Solicitor and Justin S. Evans, Township Manager/Zoning Officer
- Lancaster County Court Reporter: Veronica Sandbakken
- Zoning Hearing Board Solicitor: John P. Henry, Esq. of Blakinger Thomas

3. Approve & ratify the minutes of the January 17, 2023 meeting

A motion was made by Gregory R. Hitz, Sr. and seconded by Robert F. Newton, Jr. to approve and ratify the January 17, 2023 meeting minutes. All members present voted in favor of the motion.

4. Mr. Evans, Township Zoning Officer, stated that a Public Notice was published in the January 31, 2023 and February 7, 2023 editions of the LNP. The subject property was posted on January 24, 2023.

5. Procedural briefing by the Zoning Hearing Board Solicitor

6. Swearing-in of all potential witnesses by the Court Reporter

Additional members of the public requested party status to the hearing. Attorney William Cluck, representing Joelle Myers, noted for the record that the public was locked out of the building during the first hearing. The following individuals requested standing as a party:

- Diane Edmond, 2622 Mount Pleasant Road – lives on the corner of Mount Pleasant Road and Schwanger Road

A motion was made by Thomas N. Campbell and seconded by Robert F. Newton, Jr. to grant standing as a party to Diane Edmond. All members present voted in favor of the motion.

- Andrew Goodman, 2337 Mount Pleasant Road – lives near the subject property
- Ryan Spahr, 2588 Mount Pleasant Road – lives near the subject property

A motion was made by Thomas N. Campbell and seconded by Robert F. Newton, Jr. to grant standing as a party to Andrew Goodman and Ryan Spahr. All members present voted in favor of the motion.

The above parties and the applicant's witnesses were sworn in.

7. Old Business: NONE

Zoning Case #230001: [Continued from the January 17, 2023 meeting]

- a. Applicant: PDC Northeast LPIV, LLC
- b. Landowner: Franklin B. Greiner, Jr.

- c. Property Location: 2843 Mount Pleasant Road, Mount Joy, PA 17552; Tax Parcel ID #461-89922-0-0000
- d. Zoning District: LI, Light Industrial District
- e. Special Exception Requests:

- 1) Chapter 135, Article XVII, §135-163.B & §135-163.C to permit an industrial use on the subject property.

Attorney McCombie noted they were requested to re-open their testimony for cross-examination. Attorney Cluck submitted his entry of appearance and objected to the hearing due to the unavailability of his client, Joelle Myers, and of the Mennonite community due to church services. He also stated that his client was denied access to the January 17, 2023 hearing transcript.

Applicant's witness Joe Peters, Development Manager for Panattoni Development Company was introduced by Attorney McCombie. Mr. Peters addressed concerns about air pollution by acknowledging compliance with state statutes that prohibit tractor trailer idling for extended periods. Additionally, he testified to future adherence to the performance standards contained in Section 135-326.F-M that cannot be addressed through documentation until the facility is operational.

Attorney Cluck cross-examined Mr. Peters. He challenged the status of PDC LPIV, LLC as an equitable owner without sufficient documentation having been certified. Exhibit Myers-1, Attorney Cluck's entry of appearance, was accepted for the record.

Bobbi Thompson, 8226 Elizabethtown Road, asked Mr. Peters to clarify whether the application is for one building or for multiple buildings. A single warehouse on the subject property was confirmed as the subject for the hearing. She questioned site design with respect to nearby wells, specifically those on her adjacent farm.

Donna Bucher, 680 Cloverleaf Road, asked if the proposed project would receive some sort of tax relief. Mr. Peters said it would not. What type of warehouse will it be? It will not be a distribution center. Is it a fulfillment center? No. Is it a high-cube fulfillment center? Ms. Bucher stated that the ordinance intended for a different type of warehouse as opposed to what is proposed here. Is it a modern cross-docking center? Yes. Is it a traditional long-term facility? It is a speculative warehouse, and the end user will comply with applicable requirements. She asked about the size of the building. Approximately 1,000,000 sf. In which hours will the warehouse operate? The question was not answered. She submitted Exhibit Bucher-1.

Randy Stevens, 2541 Mount Pleasant Road, asked for clarification on the applicant's claim of compliance with Sections 135-326.G-M without any documentation to substantiate it. Additionally, he called attention to a letter from Landworks Civil Design, LLC dated January 4, 2023 referring to the facility as a warehouse but also as a Class A cross-docked building. The main concerns are with the assumptions used in the traffic study based on a warehouse versus a cross-docked facility. Mr. Peters explained that a cross-docking facility has trucks pull in one side of the building and exit through the opposite side. He could not testify to the specific operations of an end user. Mr. Stevens asked for proof of compliance with the safety performance standards. Attorney McCombie noted that Mr. Peters' testimony to that effect is satisfactory for the purposes of the hearing.

Michelle Kennedy, 2635 and 2619 Stauffer Road, asked whether Greiner's 10.9-acre property is part of the project. It is not. What is the distance between her property to the proposed shrubs and trees on site? Mr. Peters did not know the distance without looking at the plans.

Sarah Haines, 1489 Grandview Road, asked for more information how the project would not negatively affect the community from a health and safety perspective. Attorney McCombie reiterated the applicant will comply with the applicable performance standards, but that Mr. Peters cannot testify to what a tenant would do in the future.

Andrew Goodman, 2337 Mount Pleasant Road, requested to cross-examine the applicant's traffic expert. He was unable to hear the original call for parties at the first hearing and did not get an opportunity to cross-examine him. Those questions are best suited for Mr. Neal and not Mr. Peters. Discussion took place regarding Mr. Goodman's ability to question the applicant's witness Mr. Bittinger. Limited questioning of Mr. Bittinger was allowed for Mr. Goodman. He asked several questions suitable for other witnesses.

Mr. Campbell asked for a definition of the term speculative as it applies to a warehouse. Mr. Peters generally stated that the structure will be built with certain typical standards set forth by the owner but some customizations will be made for the specific end user. It is a concrete structure. Aspects like office space are determined once a lease is signed. Attorney Henry asked if the applicant, as a condition to approval, would submit the facility's lease after it is executed with the agreement. Attorney McCombie did not object, assuming that the business terms would be redacted. Attorney Cluck

clarified whether the lease must be submitted before or after a decision. It would be a condition to approval if such approval is granted.

Mr. Campbell called attention to the applicant's testimony that they will not take responsibility for the tenant following through with compliance to the testimony. Attorney McCombie clarified that the applicant will require the tenant's compliance and enforce the standards in place but cannot prevent violations from happening. Will Panattoni be the on-site landlord? Mr. Peters replied at the time the tenant takes occupancy, yes. Once a lease is in place, the owner may use a third-party property manager who may or may not be regularly on-site. Those specifics were not known. Mr. Hitz asked for more details on how frequently and often the property manager would visit the facility. Attorney Henry asked what the means are for enforcing the lease. Mr. Peters stated that a different department in the company handles the creation and execution of leases. Therefore, this is not his area of expertise. Mr. Campbell requested that the applicant provide contact information for the company's department that handles leases, if approved. Attorney Cleary asked the Board to confirm when this information would be provided. Mr. Campbell clarified the Board's expectation for those documents to be submitted if zoning approval is granted.

Jarred Neal, applicant's traffic engineer with Traffic Planning and Design was reintroduced for cross-examination. Attorney Cluck called attention to a letter from Mr. Neal to Mr. Evans dated December 22, 2022. Was this submitted as Exhibit A-12? Yes. Was there an Exhibit A-13? Yes. It is the Steel Way/Cloverleaf Road plan dated January 11, 2023. Why was it not provided to the parties or placed on the Township website? Why was his client denied access to a transcript? A discussion took place about posting the exhibits on the website and the availability of the transcript. The December 22, 2022 letter was submitted as a supplement to the application then introduced as part of the applicant's exhibit package at the January 17, 2023 hearing.

Mr. Neal acknowledged his letter using the terms sketch plan and concept plan interchangeably. He was unable to explain the discrepancy in dates between the December 22, 2022 letter and the alleged attachment dated January 11, 2023. Did Mr. Neal receive any determinations from the Zoning Officer about the application? Attorney Cluck referenced a statement in the applicant's materials about a determination regarding setbacks and operating hours. Mr. Neal did not receive a determination from the Township regarding traffic. Attorney McCombie acknowledged receipt of a zoning determination but that it does not pertain to traffic.

Attorney Cluck requested the Township submit proof of publication and posting of the property for both hearings as exhibits. He asked Mr. Neal to explain trip generation and peak traffic. The December 22, 2022 letter contained an estimate of the traffic resulting from the proposed facility as he understood its use to be. Based on his opinion, the use will be accommodated in a safe and efficient manner. Can it be done without improvements to local roads? Improvements are proposed to the State route, Steel Way, and Cloverleaf Road as part of this project. With those improvements, traffic can be accommodated in a safe and efficient manner. Improvements such as increased radii at intersections and construction of a new road are proposed.

What roads are referred to in Table 2 and Table 3? What is peak hour traffic on Saturday? Mr. Neal explained they do not use Saturday estimates for this type of facility, instead they study the A.M. and P.M. peak hours and average weekday. Are more than 100 trips anticipated by the development? Yes. Is a traffic impact study required? No. What triggers a traffic impact study? It is not required by Section 135-383.B(2). Attorney Cluck called attention to Section 135-310 and its language requiring traffic impact studies. He then asked about Mr. Neal's company's potential conflict of interest through its work on behalf of the Township. Mr. Neal did not believe there was a conflict of interest due to the nature of his knowledge of the area and his compliance with a professional code of ethics. A discussion took place about the company's internal ethics policies and those of Mr. Neal's professional certification. No specific parties involved in or the details of internal conversations regarding a conflict of interest were provided.

Attorney Cluck moved to strike Exhibit A-12 and Exhibit A-13 on the basis that the witness's company has a conflict of interest under professional standards and there is no credibility for his testimony or for his exhibits. Attorney McCombie reiterated that the witness and his company reviewed the matter and determined there is no conflict. Attorney Henry overruled the request to strike.

Attorney Cluck asked about the peak hour traffic to be generated by the warehouse. The traffic study determines the peak hour of the generator based on national standards. It considers the peak hour of the adjacent street since that is likely the most impactful time of the generator. There will be an increase in truck traffic and that of passenger vehicles. Is there a quantification of the truck traffic that will be generated by the use? The A.M. peak hour will produce approximately 20 additional trips, 10 entering and 10 exiting; the P.M. peak hour will produce approximately 30 additional trips, 16 entering and 14 exiting. What is the percentage increase of truck traffic over existing truck traffic? The percentage cannot be determined at this time. Does an increase in truck traffic of 1% or more create a safety hazard? Not that he is aware of. A traffic study is not required at this time to determine the percentage.

Attorney Cluck disagreed that the traffic study is not required to be part of the zoning hearing application. Why was land use code 150 selected for this project? It is standard for the industry and PennDOT to use this code for a speculative warehouse. Is this warehouse proposed to be greater than 200,000 sf. of gross floor area? Yes. Does it have a ceiling height of 25' or greater? Mr. Neal was unsure but was notified by his team that it will be. Will it be used primarily for the storage and/or consolidation of manufactured goods? Possibly but this is speculative. Was the potential tenant identified as an electrical supply distributor at the January 17, 2023 hearing? Attorney Cluck explained that he used the definition of a high-cube warehouse as the basis for his questioning. Is the proposed structure going to be a high-cube warehouse?

Mr. Campbell questioned Mr. Neal about data collection for the trip generation estimates. Equations are developed based on actual sites' traffic data and use information. ITE uses that information to develop the equations, and users input the details of a proposed development to determine the estimates. He then provided an overview of the traffic study process, including field work, projections, and coordination with agencies such as PennDOT and the municipality. This process usually takes place during the land development process and is not required by the Zoning Ordinance. The smaller report was provided in the interim for the zoning hearing to help satisfy the Ordinance's general criteria pertaining to traffic.

Mr. Hitz asked whether traffic can be routed without adding trips to Mount Pleasant Road. Mr. Neal discussed several physical means to restrict traffic from turning onto Mount Pleasant Road and confine them to using Steel Way. Attorney Cluck referred to the language in Section 135-310 for traffic impact studies.

Mr. Goodman asked if Mr. Neal had expertise in pavement. Limited. What will the impact of 6,000 more trips on Mount Pleasant Road's pavement be where the trucks cross it? He will need to research this but acknowledged that PennDOT will have requirements in this regard. Will an overlay be necessary? That has yet to be determined but they anticipate some level of improvement will be required. Is there a plan for truck drivers sleeping at the facility? No. What about a restriction on overweight trucks? Unknown, though the required improvements will be determined before occupancy is granted.

Mr. Goodman requested to question the applicant's civil engineering expert, Jeramy Bittinger. He attested to being an E.I.T., or Engineer in Training. It is not a licensure, but rather a registration that must be completed before professional certification. Mr. Goodman challenged the credentials of Mr. Bittinger as an expert. Attorney Henry stated that the Board accepted him as an expert witness at the prior hearing. Mr. Goodman then asked if Mr. Bittinger has ever been arrested for the purpose of determining credibility. The question was not answered.

The Township stated that it was not presenting evidence but wished to correct a misstatement by Attorney Cluck that Exhibit A-13 was not posted on the website. Attorney Cleary stated that the applicant's exhibits were posted on the website as presented by the applicant at the January 17, 2023 hearing. There was a discussion as to exactly what was provided by the applicant. Attorney Cluck asked for the exhibits with tabs from the court reporter. The set of exhibits does not have exhibit markings, instead it has a table of exhibits as a cover sheet.

Diane Edmond, 2622 Mount Pleasant Road, provided her testimony in the form of oral comments and a presentation on the electronic display boards. She expressed concern with the short distance between the Cloverleaf Road/Route 283 interchange and the Cloverleaf Road/Steel Way intersection, specifically as it relates to vehicles making turning movements from Steel Way Road. She displayed photographs during a period when many vehicles were leaving the Greiner Industries facility through the Cloverleaf Road/Steel Way intersection. She described the pictures and videos showing traffic congestion and turning movements, expressing safety concerns with directing the warehouse's additional traffic through the Steel Way intersection. Her concerns also extended to property damage resulting from turning movements at the Mount Pleasant Road/Schwanger Road intersection. Additional issues with water quality, groundwater, and surface water flooding were also expressed.

Attorney McCombie cross-examined Ms. Edmond, determining through a line of questions that she is not an expert in traffic, studying traffic speeds, or other related matters. A discussion took place about the ongoing earth disturbance and a new driveway installed into the construction site. It was determined that the land development activity noted in Ms. Edmond's testimony has been taking place on an adjoining parcel, not the subject property.

Attorney Cluck cross-examined Ms. Edmond. She marked her residence on an aerial map for the purpose of future testimony. The location was generally described as the last house on the right at the corner of Mount Pleasant Road and Schwanger Road when heading from the proposed warehouse location. Her property is zoned Agricultural and is adjoined by other residences and an Amish farm. The character of her neighborhood is one that contains no industrial uses. She is aware that the warehouse would operate 24 hours per day, 7 days per week. Her use of the property for the enjoyment of her family would be interrupted by increased traffic from the site.

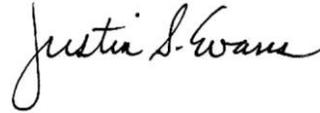
Attorney McCombie asked if it would be helpful if the new truck traffic would be diverted back to Cloverleaf Road? Yes, but she believes the trucks will not do it.

As the clock approached 9:00 p.m., Attorney Henry stopped the testimony. Since a date could not be determined at this time, the continued hearing must be advertised and re-noticed for a date to be determined.

Thomas N. Campbell announced a continuance of the hearing to a later date under the terms discussed. All members present voted in favor of the motion.

10. Next meeting is scheduled for Wednesday, March 1, 2023, beginning at 7:00 p.m.
11. A motion was made by Robert F. Newton, Jr. and seconded by Gregory R. Hitz, Sr. to adjourn the meeting at 8:55 p.m. All members present voted in favor of the motion.

Respectfully Submitted,



Justin S. Evans, AICP
Township Manager/Zoning Officer

For: Gregory R. Hitz, Sr., Secretary
Mount Joy Township Zoning Hearing Board