

**PLANNING COMMISSION MEETING MINUTES**  
**August 17, 2023**

**Members:** Chairman Steve Groff, Vice Chairman Garrett Weaver, Jim Nagle, Andy Toms, Matt Warfel, Mary Stoltzfus and Scott Riekers.

**Staff:** DeeDee McGuire, Township Manager; Geoffrey Beers, Township Supervisor; Chuck Haley, Township Engineer; Michele Neckermann, Planning/Zoning Officer; Kim Yepremian, Planning/Zoning Officer & Recording Secretary.

**Call to Order:** Chairman Groff called the meeting to order at 7:01 pm, with the Pledge of Allegiance.

**Minutes Approval:** Garrett Weaver made a motion, seconded by Andy Toms, to approve the July 20, 2023 minutes as submitted. Motion passed 6-0, with one abstention from Chairman Groff.

**Public Comment for Subjects Not on the Agenda:** none

**Conditional Use Application (for comment only): 500 Strasburg Pike - WL2023-CU-002:** Esq. Tomas Nehilla of Barley Snyder LLC, Todd Vaughn of DM/A and Steve Smucker of Smucker Welding, presented a Conditional Use application for a Farm Services Business on a 30-acre agricultural lot along Strasburg Pike.

- Steve Smucker is the applicant, whose shop is currently in East Lampeter Township.
- Welding shop, engine and farm equipment repair, custom machining, blacksmithing; Amish employees (6).
- Previous conditional use approval of June 2020 has expired.
- Applicants state Plan is exactly the same as last approval.
- Zoned Agricultural; subdivide 4.9-acre portion off a 30-acre parcel from Mr. King; I/M district is to the east.
- Develop property to accommodate a 1.5-story building to be built in two phases – the first approx. 9,000-sf and the second 5,800-sf. The limit by ordinance is 15,000-sf. The business will be served by a private well and on-lot septic.
- Mr. Smucker anticipates only one semi-truck daily to deliver steel supplies. Smaller trucks will be entering and leaving several times a day.
- Commissioner Warfel asked for clarification on the function of the “retail area” on the plans. Mr. Smucker stated that the area will basically contain stock parts for farm equipment maintenance and repair, so it is more of a parts department and not a hardware store.
- Todd Vaughn gave a brief overview of the plan. A PPL easement with towers bisect this 30-acre farm, and the easement basically forms the northern boundary of the future Smucker Welding lot.
- The Applicant will need an HOP permit from PennDOT for the accessway; the ROW width is 30-feet from the center of Strasburg Pike.
- The plans include a detached 10-ft x 20-ft power room building and a horse run-in stall for transportation.
- The north side of the building is where the loading and unloading of trucks and supplies will occur, which will be stored inside the building.
- Perks and probes were conducted along southern section of lot; a Planning Module will be required; site has high nitrates and applicants will work with the Township SEO and DEP to obtain on-lot septic approvals.
- Private well will meet the 100-ft isolation distance.
- Two stormwater management facilities are planned for the site – a basin in the southeast corner and a shallower basin in the northeast corner, under the PPL Right-of-Way.
- Sight distance for the access drive will have to meet PennDOT HOP requirements.
- Applicants will add the 100-ft truck parking setback measurement to the plans, as well as the buffers.
- The Zoning Ordinance permits only one building to be dedicated to the farm services business; the Board of Supervisors did not consider the power building to be dedicated to the farm services business in 2020 decision, but Applicant will add it to main building if necessary. The horse run-in shed was not considered a building.
- An ADA parking spot will need to be added to the plan; proposed are 30 parking spaces.
- The 30% cap on impervious area will be met; the business will be agricultural or residential in appearance.
- New equipment awaiting shipping and delivery or equipment waiting for repairs will be stored outdoors on the western end of the building. Mr. Smucker also stated his wish for outdoor display of farm equipment in front of the building, along Strasburg Pike.
- Commissioner Nagle gave concern over the loading and unloading of steel supplies, farm equipment and dumpsters under the PPL right-of-way. Township Engineer, Chuck Haley, also voiced concern for safety.
- There will be a paint booth installed inside the building
- Hours of operation will be Monday through Friday from 6am to 4:30pm; the Parts Department will have Saturday morning hours until noon; Noise, odors and glare will not be an issue for neighboring properties.
- A 10-sf business sign, per the ordinance, is proposed for the business.

- Mr. Smucker does not anticipate any more than six (6) customers visiting the site at any one time, nor more than 12 to 25 customers per day. There is parking for 24 customers and the 6 employees. Once the addition is built, more employees will be hired. Commissioner Riekers questioned the high number of parking spaces provided. DMA responded that our Zoning Ordinance required it, but could not reference the details of the requirement.
- Landscape screening will be provided where necessary, especially around outdoor storage areas and to buffer neighbors. This will be addressed during the land development process.
- Previous conditions imposed by the BOS are again acceptable to the Applicant.
- Chuck Haley mentioned that ELA has received word that new PPL infrastructure was going to be installed in the existing easement and cautioned that new tower locations may affect their plans.
- Chuck Haley pointed out that once the addition is built, it will take the place of the outdoor storage area, and emergency vehicles and personnel will need to be able to access and navigate around the entire building, so they will need to show plans for the outdoor storage area once the whole building is completed.

**Prelim/Final Subdivision and LD Plan for 2504-2506-2508 Willow Steet Pk -WL2023-PP-004 (for comment only):**

Keith Heigel of Light-Heigel & Associates, Inc. and Applicant Anil Jivani appeared to present a Preliminary Subdivision and Land Development Plan for three adjacent properties in the Main Street Limited Zoning District, for comments by the Commission.

- In December 2022, the Zoning Hearing Board granted variances so that the property could be redeveloped.
- The two residential buildings and the current convenience store will be demolished and all three lots will be combined. Nothing will change in the vicinity of the gasoline pumps, canopy or tank field areas.
- A new convenience store and Dunkin' Donuts will be constructed and positioned towards the south.
- The Traffic Impact Study has been submitted to PennDOT and the project is moving into the HOP process.
- There will be one way in and one way out on both the northbound and southbound lanes of Willow Street Pike.
- The Dunkin' Donuts will serve customers via a drive-through with a 9-car stack and will also have a bypass lane.
- Zoning comments will be addressed including the building size, dumpster location, setbacks.
- An underground piping system for stormwater will be located in the parking lot, under that area of the current building. Test pits and borings have been performed.
- A sidewalk will be installed along the eastern boundary onto the site from the south. There was discussion regarding the need for a crosswalk, but Keith stated they did not feel a crosswalk would be safe at this location. Applicant will request a deferment for sidewalk along the northern and southern boundaries.
- Commissioners asked if the gas pumps would remain open during the demolition of the buildings – applicant won't be allowing the public to drive into or through a construction site however, when they can safely allow gasoline sales, they will.
- Commissioner Weaver asked about the stages of construction, and Mr. Heigel stated that the house demolition will occur first, so that the convenience store can stay open as long as possible.
- Truck turning movement diagrams have been generated and submitted to PennDOT.
- Truck deliveries to the store will occur outside hours of operation.
- Commissioner Nagle voiced concern regarding clear sight for northbound drivers entering the site and encountering cars leaving the drive-through lane. Mr. Heigel stated that consultants spent a lot of time with PennDOT officials in coming up with the plan for best visibility and traffic flow.
- ELA asked that the Snyder Funeral Home sidewalks and access drive be added to the plan.
- ELA mentioned that the stormwater management facility discharge line will need to be connected to the existing PennDOT stormwater system.

**Zoning Ordinance Amendment Discussion**

**Public Comment**

- Steve Appel, owner of 527 and 531 Beaver Valley Pike (Appel Butcher Shop), does not agree that his properties should be rezoned from Commercial Highway to the Agricultural zoning district. He asked why this recommendation has been made and why didn't the Township send him a letter? Staff is following the requirements of the PA Municipalities Planning Code, and advice from Legal Counsel and consultant ARRO, to evaluate isolated areas of zoning in conjunction with the WLT Comprehensive Plan, the availability of public utilities, traffic and roadway infrastructure, the surrounding environment and adjoining land features and uses, in order to update the Zoning Map and bring it into compliance. Township staff also discussed ramifications of a possible validity challenge. Map changes have been discussed in public meetings since February 2022, and the Zoning Ordinance Amendment has appeared on BOS Work Session and Planning Commission agendas throughout the year. Letters will be sent to affected property owners once the Board of Supervisors acts to advertise the Draft and send it on to the Lancaster County Planning Commission and WLT Planning Commission for review.

Mr. Appel also stated that when power goes out, PPL looks at the Zoning Map to prioritize power restoration efforts. He has never lost power for longer than 3 hours – which would be devastating to his inventory – because PPL prioritizes the commercial zoning districts.

- Ryan Ebersole, son of Jay Ebersole who owns 527 and 529 Strasburg Pike, Conestoga Country Kitchens; Ryan is in the process of buying the business from his father and he does not want the properties re-zoned from I/M to Agricultural because it will decrease his property value and ability to sell the business. He feels it is more likely that a lawsuit will result from rezoning against a landowner's will. Ryan presented Chairman Groff a letter that was signed by Jay Ebersole – Conestoga Country Kitchens, Lee Smucker – Smucker Associates, and Donald Frank Sr. – LH Brubaker Appliances. The letter states that if the Township rezoned their properties, especially to Ag District, they will take legal action to protect their property values as their current zoning was legally obtained by former boards in the 1960's.
- Don Frank Sr., 334-350 Strasburg Pike, owner of L.H. Brubaker Appliances; states that the store was there before the surrounding R-1 zoning districts and residential uses and established in 1932. His land was rezoned from Commercial Highway to Commercial Neighborhood during the last rezoning. His "spot" is the result of the residential development around his store. It will devalue his land if the property is again reclassified from Commercial Neighborhood to R-1 low density residential.
- Rosalyn Ebersole Geyman, daughter of Jay Ebersole of Conestoga Country Kitchens; she and brother Ryan are currently in a real estate transaction on behalf of their father, and they are going to get the full value of the land and business for him. Ms. Geyman asked if there was legal language that could be written into the Ordinance to protect land owners and the Township from old spot zoning issues that may arise.
- Lee Smucker, 543 Strasburg Pike, Smucker Associates; expressed displeasure over not being notified that his property was being evaluated for re-zoning; stated that it is more likely the Township will be sued by 8 people over the rezoning of their businesses than for a spot zoning validity challenge.
- Staff explained the Special Exception process for changing from one non-conforming use to another.
- Staff explained that new approvals are already necessary for a change of use, regardless of the zoning district.
- Maynard Shirk of 521 Beaver Valley Pike, Manor Fuels Inc., feels that Township is trying to fight small business instead of empowering them and strongly disagrees that his property should be rezoned Agricultural.
- Mr. Appel asked if West Lampeter was being forced by the State or County to rezone? DeeDee McGuire and staff explained that the Zoning Ordinance was outdated and must be reviewed for consistency with the new WLT Comprehensive Plan. The process is much more involved than just updating the zoning map.
- Ms. Geyman expressed even if not required, the lack of notice to the affected parcel owners appears secretive and unprofessional.
- Supervisor Geoff Beers addressed the public in explaining that this process started a few years ago with the new WLT Comprehensive Plan. It was widely advertised that the Township would be working on updating the Comp Plan and public input was welcomed. It was advertised at the West Lampeter Fair, in the newspaper, on the Township website and newsletter. Overall, public input was minimal. He explained that we then started the Zoning Amendment and Map update process last year by hiring a consultant, and we have had advertised meetings on the matter since February. The Township has to consider all 18,000 residents while working through this process. He is sensitive to the issues brought up by the public today and staff will continue to research map options.
- Chairman Groff reiterated that Staff is taking notes of concerns and will address them with the Committee and Supervisors.
- **Post meeting note:** Supervisor Beers was presented a letter dated 8/17/23 from local business owners, regarding the proposed rezoning of their properties (attached).

**Definitions** – the group went through the rough draft definitions.

- Staff will be rearranging the order of definitions and replacing some with more up to date definitions.
- Definitions will be cross-checked with SALDO and UCC Ordinance definitions, and recent case law.
- Staff has a list of definitions that still need to be added.

### Map Rezoning Discussion

Commissioner Riekers stated concern that the Township, based on the Solicitor's advice, is looking for a solution to a problem that may not exist. How many lawsuits over spot zoning have taken place over the past year or so, how many zoning maps have been invalidated, what have the outcomes been and what is the measurable risk?

Commissioner Weaver would like to Township to find out if there is language that we can add to the Zoning Ordinance to limit the Township's risk to allow these 8 or 9 spot zoned properties to remain. Staff stated that our Solicitor has confirmed that a property does not gain rights or status to retain its spot zoning, regardless of the length of time it has been zoned that way.

Commissioner Toms stated concern over appearances that the public was not informed of the potential rezoning.

Commissioner Nagel understands that some of the businesses were established prior to zoning and that rezoning may affect their property values, but we also need to think 70 - 80 years into the future and get our Zoning Map in line with the Comprehensive Plan. Although unfortunate, we need to start whittling down some of the spots.

DeeDee McGuire explained that there is more of a risk of someone suing the Township to add parcels to the spot zones, rather than suffer a validity challenge over fifty year old zoning decisions.

Commissioner Stoltzfus recommended researching if there is a way to limit future intensity on these lots without rezoning them. Staff replied that may be considered exclusionary.

Commissioners questioned if there is hard data that can be obtained to determine if rezoned properties will truly be devalued. Commissioners asked if there is a way to rely more heavily on the Comprehensive Plan – exhibits, recommendations, maps – to let the public know why the rezoning has been recommended.

## **Community Development Updates**

**Zoning Ordinance Amendment** Proposed Timeline – Draft copy of Ordinance is expected to be delivered to staff by August 24<sup>th</sup>

- Edited Draft issued to the PC & Committee on/about September 13 for individual review
- PC Agenda for discussion/edits - September 21

### **Adoption of a Short-Term Rental Ordinance**

#### **Amendment of the On-Lot Ordinance:**

- We have approximately 575 on-lot systems to track for compliance.
- Propose change from specific 3-year pumping anniversary due date to a “pump year” so we can notify on-lot owners through mass mailings instead of monthly with specific due dates, as currently being done.
- Updating requirements for reserving a replacement area if current on-lot system fails, as well as align our ordinance with DEP requirements.
- Modernize the triplicate paper form submission requirements.

#### **Lampeter Meadows – Conditional Use Decision - 24 conditions including:**

- Requiring a 25-ft wide, macadam drive to be owned and maintained by the HOA.
- Applicant shall redesign the internal street system to fully comply with §240-25
- Extend the stub street all the way to the property line and install a visible barricade.
- Requiring a one-year period to obtain plan approval or the Conditional Use expires; currently our zoning ordinance has time limits approvals in §285-11G: After a variance, special exception or conditional use approval is officially authorized, then zoning & building permits shall be secured by the applicant within 12 months approvals expire, unless applicant submits written request for an extension.

**DWD Landscaping Stormwater Management Plan** – Previously approved but unrecorded plan – Applicant requested a SWM waiver modification, which was approved.

**Special Exception Application** for an approx. 0.6-acre Solar Field for the Rohrer Farms was heard and approved at the August 8<sup>th</sup> ZHB meeting. A Stormwater Management Plan is expected to be submitted in time for the September 21<sup>st</sup> Planning Commission meeting. The Decision for the 25-acre Solar Field will be announced at the September 12<sup>th</sup> meeting. Discussion centered around the soil classification, and the seasonal/intermittent presence of the sheep on the site.

#### **LD Plans Accepted for September 21st Planning Commission Agenda:**

- Parkside at Lampeter – Final Plan for Phase One
- Stormwater Management Plan for a poultry barn at 1214 Beaver Valley Pike
- Final Subdivision Plan to adjust lot lines on 509 & 513 Lampeter Road
- 2504-06-08 Willow Street Pike - Preliminary Plan

**Adjournment:** Andy Toms made a motion, seconded by Jim Nagle, to adjourn the meeting. Motion approved 7-0. Meeting adjourned at 9:45 pm.

Strasburg Pike Lancaster Properties  
Conestoga Country Kitchens  
Smucker and Sons

August 17, 2023

Regarding the rezoning of our properties

While we would rather not fight over this, you are forcing us to reconsider when you would rezone our property from industrial to agricultural (costing you and us). The first thing a buyer asks is "what is the zoning". If the zoning is changed to agricultural, our property value would be greatly reduced! So, while you are trying to guard against a future hypothetical court case forcing you to spot zone, you are going to force us to use the same system for a certain legal case now. Our zoning was obtained legally through your own former zoning boards in the 60's, and have been paying industrial taxes for 30+ years. Rather than undo what a prior zoning board approved, I would ask you to consider (as you said "our businesses are grandfathered in") to leave our zoning as it is currently zoned for over 50 years, and write stronger legal language into your zoning laws to protect against future spot zoning and wording that would say "because a prior board approved our industrial zoning it is grandfathered in", thus avoiding a legal fight now, and a hypothetical one in the future.

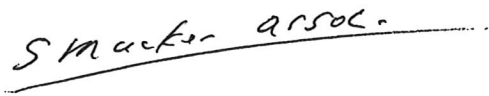
Thank you

 Presently owner

Conestoga Country Kitchens



Smucker and Sons

 Smucker Assoc.

 Donald L. Frank Sr

L H BRUBAKER APPLIANCES