CERTIFIED TRANSCRIPT

BEFORE
THE BOARD OF SUPERVISORS
OF MAIDENCREEK TOWNSHIP

IN RE: Public Comment Hearing Regarding
New Zoning Ordiance and Zoning Map
Proposed Ordinance No. 243

Date: Monday, March 27, 2017

Time: 9:00 a.m.

Place: Maidencreek Township Municipal Building
One Quarry Road
Blandon, PA 19510

Board: Joseph Rudderow, III Chairman
Claude Beaver
David Franke

COMPUTERIZED REPORTING SERVICES, INC.
By: M. Ellen Valent, RMR
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ORIGINAL

APPEARANCES:

Orlando Law Offices, P.C.
By: Christopher M. Garrell, Esquire
2901 St. Lawrence Avenue
Suite 202
Reading, PA 19606
For Maidencreek Township Board of Supervisors

ALSO PRESENT:

Diane Hollenbach, Township Manager
Thomas Unger, Engineer
Ed Kopicki

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P R O C E E D I N G S

THE CHAIRMAN: I would like to call to order the public hearing for Maidencreek Township.

At this time, if we could rise and Pledge the Flag, please.

(Whereupon, the Pledge of Allegiance to the flag was recited.)

THE CHAIRMAN: Good morning. Thank you for coming. At this time, we're having a public hearing. And I will turn this over -- our meeting over to our Acting Solicitor at this time, Chris.

MR. GARRELL: Good morning. Christopher Garrell on behalf of the Township.

As Chairman Rudderow stated, we are here for a public hearing on a Proposed Ordinance, No. 243, which is with regard to proposed Zoning Ordinance amendments as well as Zoning Map amendments.

I would like to first go over exhibits and read them into the record. The first is Proposed Ordinance 243. It's a summary of Proposed Ordinance 243 which amends the Zoning Ordinance and Zoning Map of the Township established by Ordinance 136 dated January 27, 1993, as amended.

We will have this marked B-1.

The second exhibit is Proof of Publication --

an attested copy of the Proof of Publication in the Reading Eagle on February 27, 2017 as well as March 7, 2017 providing notice of today's public hearing. We will have this marked Exhibit B-2.

The third exhibit we'll have marked Exhibit B-3 is an Affidavit of Posting confirming notice of this public hearing was posted at various locations throughout the Township as listed on the Affidavit of Posting.

The fourth exhibit is going to be marked Exhibit B-4. This is an Affidavit of Katelyn Gruber, the receptionist of the Township of Maidencreek, confirming that she posted notice of this public hearing in the Maidencreek Township Building on February 24, 2017.

The fifth exhibit, we will have it marked Exhibit B-5, is an Affidavit of Mailing of Notice of today's public hearing stating -- confirming that receptionist Katelyn Gruber mailed notice of this public hearing to each affected property owner as listed on Exhibit B-5.

I will say the Township Engineer is here to answer any questions you may have. Although, generally, these are limited to public comment where you would stand up, provide public comment or a limited query about the proposed amendments; and then a response from either the

Board, myself as Solicitor, or the Township Engineer.

At this time, we will open it up to public comment. If you do have any questions or comments to make, I will ask that you raise your hand. We'll start in the back of the room and work forward. Please rise and state your name, your property address, and then you can make your comment at that time.

Does anyone have any public comment to offer?

Yes, sir.

MR. WITMAN: William Witman, 1363 Pleasant Hill Road.

My biggest question is what would be the purpose after all these years of rezoning? And to what benefit is it of the Township to do it?

The properties aren't changing. They are not going to be built on any smaller or any bigger. You know, what would be the purpose of doing all this?

MR. GARRELL: Do you want to provide a limited response?

MR. UNGER. Sure. The purpose of it was to clean up some of the zoning districts as to property lines so that we don't have zoning districts going through the middle of a property. So we did a lot of cleaning up, putting the zoning lines to match property lines.

There are some new regulations that came out that required some new zoning regulations as far as marijuana use and some other things. There is some new uses that had just come up and things we have had problems with in the Township that we added, some regulations for outdoor furnaces, solar, and things like that.

And then there is just a little bit of zoning changes to match what is actually out there. Some of the zoning districts what is actually physically there does not match the zoning districts. So we did some changes to better match what is physically there.

MR. GARRELL: Does anyone else have any public comment at this time?

MS. SCHANKWEILER: Dawn Schankweiler, 159 Sabre Lane, a private lane.

We were here a few years ago when this whole zoning thing came up because I have a double-zoned property -- had a double-zoned property at that time.

And we had a hearing. And the whole purpose of that was to match the Township Map with the County Map of zones.

At that time, it was determined that my whole property would then become Agricultural instead of Agricultural and R-2. It also became aware that we would

name our private lane as a side effect of the meeting.

Now, I receive a letter that says it is consideration of changing my property's zoning to Agricultural Preserve. I do not understand what that means as far as the use. And why are we here again? Because I thought this was taken care of at the last meeting.

MS. HOLLENBACH: She came to the Planning Commission meeting where the Planning Commission was reviewing it.

MR. UNGER: Right. At that time, nothing was acted upon at that time. That was just an informational meeting.

The Planning Commission meets to put together recommendations to this Board. This Board has the final jurisdiction as to whether to adopt it or not.

The Ag Preservation is just a name change. I don't think there was any change really to the zoning regs from Ag to Ag Preservation. It was just a term to better meet the definition of the Ag Zoning District. So it is Ag Preservation.

At that time that you came to the Planning Commission meeting, there was no action taken by any of the Boards at that time.

MS. SCHANKWEILER: So from that time until

now, my property still is double zoned?

MR. UNGER: Correct.

MS. SCHANKWEILER: Until we take care of what we are doing today, correct?

MR. UNGER: Correct.

MS. SCHANKWEILER: Okay. So --

MR. UNGER: I am going to say, if that's your understanding. I'm not looking at the maps. I can't determine that. But if that's your understanding. Nothing changed from then to now.

MS. SCHANKWEILER: Okay. So the difference between an Agricultural Zoning and an Agricultural Preserve is what?

MR. UNGER: Name change. The zoning -- the zoning regulations, I don't believe -- do you know, Ed? It's the same regulations?

MR. KOPICKI: All the Agricultural area changed to Ag Preservation.

MR. UNGER: Ag Preservation. There is no change in the regulations. It is a name change.

MR. KOPICKI: There are not two of them, not an Agricultural and Agricultural Preserve.

MS. SCHANKWEILER: I was just going by the letter I received that explained to me what I understood it to be. I didn't know if there was a different

restriction or a different change because it was -- preserve makes me think something else. That's why I am asking.

No different restrictions then?

MR. KOPICKI: No.

MR. GARRELL: Does anyone else have any public comment at this time?

Yes, sir.

MR. YOUNKER: James Younker, 77 Richmaiden Road, Fleetwood.

I've got three properties that are in part Richmond Township, part Maidencreek Township.

Now they are being zoned in Maidencreek Township RI which is Recreational Institutional.

One of them properties has the development rights sold off of. It is Agricultural Preserve. It is definitely going to change my setback. Going into a Recreational or Institutional will set my setback lines probably for manure management, for how I can farm, how I can haul manure, where I can haul it, how many feet to a property line to -- and part of it is in Richmond Township.

So the front half of my property, the road frontage part, is in Richmond Township is zoned Agriculture. The back half falls into Maidencreek

Township.

Like I say, I have the development rights sold off part of it, not off the other two parcels. But I am really concerned because if it changes my setback lines, I won't be able to haul anything on that side of the street.

And it is going to change my nutrient management and everything else by 20-plus acres. It is going to really throw a wrench in it for me.

I am just wondering, Why? We farmed it all these years. I intend to keep farming it. And why now all of a sudden it has to be in this here where it is going to change my regulations.

MS. HOLLENBACH: Tom, that's an overlay. It is still zoned Agriculture. It is the overlay.

MR. UNGER: That's what I am looking at.

Your zoning district -- underlying zoning district is still Agriculture. Okay. The Recreational Institutional is strictly an Overlay District that allows for certain additional items. But --

MR. YOUNKER: If they change this here, and it changes -- it may be zoned Agricultural today.

MR. UNGER: Right.

MR. YOUNKER: But it is also in the overlay.

MR. UNGER: Yes, correct.

MR. YOUNKER: And 10 years down the road when yous may not be in command and somebody else is and they say, We want to make this all Recreational and no Ag, it is going to really change things for me on these three properties.

MR. KOPICKI: You're talking 10 years down the road. That's whether -- you still own the land. It is still Agricultural. You can still do with it what you were doing. It is an overlay.

Should you sell the property, and someone else decides to do a recreational activity on that property, then they would be able to.

As long as you own the land, it is what it is.

MR. YOUNKER: But if this property here -- what I am saying is: If this property here is sold and is -- they decide they are going to change that into something else, and they change that into something recreational and they say -- what are the guidelines for recreational?

If these -- if this here changes, what are the guidelines for manure regulations and --

MR. KOPICKI: I don't think --

MR. UNGER: Wait. Manure regulations are on your property. Okay. What happens adjacent to the --

adjacent to your property does not impact your property. It impacts what you may do as far as manure management. That is on your property.

So whatever the manure regulations are for your property, that's the way it stays.

MR. YOUNKER: Now if they change this to something else, this property right next to mine --

MR. UNGER: It doesn't matter.

MR. YOUNKER: And they drill three wells down through --

MR. UNGER: Yes.

MR. YOUNKER: -- I can't haul shit next to it.

MR. UNGER: Okay. That's their property. They have the right to use their property as you have the right to use yours.

So if someone else does something adjoining that that impacts your manure management; then, yes, you have to follow your regulations that impact you.

MR. YOUNKER: All right. I still say this will come back to haunt me down the road.

You know, you say, well, this is 10 years, this is looking out into the future. But we have looked out into the future for the last 15 years.

MR. UNGER: Is the adjoining property the

golf course?

MS. HOLLENBACH: There is one golf course. Then there is one farm that is owned by people. I think they are in Lancaster. It is like a partnership between relatives. And currently that's just being rented out to farm, and the house sits along 222, and that is vacant.

MR. YOUNKER: Yes.

THE CHAIRMAN: So, Tom, for clarity then, there is no negative impact to the current landowner in the current use that they are using with this Overlay District?

MR. UNGER: I would say, Joe, that the sewer management that he is dealing with on his property, he has to follow the regulations that allow him to function and do that use.

THE CHAIRMAN: But in his question, if that zoning overlay changes -- he is currently Agriculture. He is currently allowed to do that. He follows a manure management program.

MR. UNGER: Correct.

THE CHAIRMAN: And if that property changes hands next to him, and they decide to do something else, that becomes no more burdensome to him in his current operation?

MR. UNGER: I don't know the regulations, the

manure regulations good enough, Joe, to be able to answer that question yes or no.

THE CHAIRMAN: Is that regulated by the State?

MR. UNGER: By the County.

THE CHAIRMAN: By the County, not the State. The County has reviewed our --

MR. UNGER: -- our plan.

THE CHAIRMAN: -- our plan. They are aware of these proposed changes.

MR. YOUNKER: Like I said, one of these properties, we have the development rights sold off of. I was told if for some reason, because this will be in Recreational Institutional, if they decided that they were going to put a park and they wanted to make part of my -- they could condemn part of my property for a walking trail, because it is still open space.

MS. HOLLENBACH: No.

MR. YOUNKER: That's what I was told.

MS. HOLLENBACH: Who told you that?

MR. YOUNKER: Well, it was through the Ag Preservation.

MS. HOLLENBACH: No one here?

MR. YOUNKER: No, nobody here. But through the Ag Preservation, because they weren't -- they said

they didn't know anything about this. Because I asked them because, you know, the County and the State actually owns part of that ground. And, you know, they said, in theory, you know, it possibly could happen.

THE CHAIRMAN: Just in addition, the Right To Farm Act is a very strong act. And that really takes precedence over a lot of things.

So just be assured that, you know, the fact that you're currently farming, you have that behind you, as well.

MR. YOUNKER: Okay. All right. Thank you.

MR. GARRELL: Does anyone else have public comment to offer?

Yes, sir.

MR. PETERS: Jason Peters. I live up in Treetop Estates, which is in an R-2 -- you know, Residential, more moderate subdivision area. I was hoping maybe you guys can take something into consideration.

I read through your Zoning Ordinance. It seems like it's pretty well much comprehensive and takes care of a lot of stuff in regards to fencing and trash not being out on the property.

But the other thing you see, not only through that area, but -- you know, not so much that area, but as

you go further down in the other residential areas throughout the Township, you know, people not maintaining their properties, grass, snow removal. And that doesn't get -- like not saying somebody that lives there, but some of your other, like, detention basin areas.

I mean, in my area, I have to pay, I think it's $125 for the guy to maintain the detention basin. I can count twice maybe he mowed the basin all summer long. He shoveled no snow. He did no snow removal on the sidewalks.

You know, that could be a really problematic time when the new MS-4 requirements start hitting the areas for stormwater management.

But, you know, getting back into some kind of property maintenance stuff, you know, call out that basically says, you know, you got to mow your grass; you got to shovel your sidewalks; don't leave the trash laying outside your houses and your properties would be nice to see.

I came from the Lehigh Valley. I moved out this way because it is beautiful. Try to keep it beautiful. Thank you.

MR. UNGER: Those items that you mentioned are actually in different, what we call, standalone Ordinances. So those things are covered in different

Ordinances --

MR. PETERS: Perfect.

MR. UNGER: That are generally not covered in Zoning.

MR. PETERS: Right.

MR. UNGER: As an example, the Township has a Property Maintenance --

MR. PETERS: Yep.

MR. UNGER: -- Code --

MR. PETERS: Great.

MR. UNGER: -- that they adopted.

MR. PETERS: I have seen some Townships where it's just this thick of a book, and it's not covered anywhere. I have seen properties in a couple different areas. And so I wanted to make sure if it wasn't covered here, it is covered somewhere.

MR. UNGER: Generally it is.

MR. PETERS: Perfect. That's all I am looking for.

MR. GARRELL: I can also comment in that regard. The Township has had limited success in enforcing the Property Maintenance Code based on the current District Justice. I know we have been before the District Justice several times.

And small fines have been imposed. Not

really any deterrent effect. So that's what we are up against from that standpoint.

The Township can proceed to instruct the Enforcement Officer to enforce the violations, but we may not be able to get any significant fines or anything from the District Justice. It is out of the Township's hands in that regard.

MR. PETERS: Right.

MR. GARRELL: We can enforce. But, again, there is another judicial body that has a part in this, as well.

MR. PETERS: Yeah, I'm not looking for fines, but just for action just to see if something is there. A lot of times just a knock on the door, and people take care of their issue.

I'm not looking for anything in regards to the fines or anything like that. But, you know, it's nice to come to an area, a municipality, a township that is really nice. I mean, this is a great place to bring up a family.

I really appreciate that. If you can direct me where it is, I can look on online or anything of the Township Code enforcementwise.

MS. HOLLENBACH: The Code of Ordinances is a link on the front page of the Township website.

MR. PETERS: Great.

MS. HOLLENBACH: It will take you right to it. It is in E Codes, General Code.

MR. PETERS: Great. I appreciate it. Thank you so much.

MR. GARRELL: Also in that regard, if you come to the monthly meetings and there are any properties that you feel are falling short of property maintenance, any sort of issues like that, bring it to the Board's attention, and they will address it.

MR. PETERS: Like I said, my biggest concern was the one with the basin we have to pay -- everybody in our area has to pay for, you know, maintenance on this property. It is part of the stormwater big basin for that part of the subdivision.

There is like no maintenance. It's overgrown, brush laden. That's going to cause an issue for stormwater management down the road. You know, it is just not something good. From what I've heard from the other neighbors -- I mean, I am newer to the neighborhood, but that has caused issues with their homes. So, you know, having people maintain their property is a good thing.

MR. GARRELL: Okay. Thank you for your comment.

THE CHAIRMAN: That community is part of a homeowners' association, so the homeowners' association is responsible for that.

MR. PETERS: It's not a so-called homeowners' association. It's a guy that owns the property. Unless it got changed in the last year or so, I mean, the guy bills me. He is the property owner for the property itself. It is not a homeowners' association like --

MS. HOLLENBACH: John Fielding is still acting as a trustee because the homeowners never resolved their issues and came together to develop their homeowners --

MR. PETERS: Not to divert off of that. It is their -- I know with the new MS-4 stormwater requirements that are coming out, is there any pressure for you guys to the take over the property and off the trustee?

MS. HOLLENBACH: That's a decision the Board will have to make.

MR. PETERS: Yeah. Thank you.

MR. GARRELL: Does anyone else have any other public comment to offer?

MS. SCHANKWEILER: I just have a quick question.

Since he veered off for a second. Are there

Ordinances, and where can I access anything that relates to private lane maintenance?

MS. HOLLENBACH: No, we have nothing. There is no Ordinance.

MS. SCHANKWEILER: Nothing that can be done about right-of-way maintenance?

MS. HOLLENBACH: No. Private lanes are a private property issue between you and the other homeowners.

MR. GARRELL: Yes, sir.

MR. KERPER: Richard Kerper, 930 Maidencreek Road. I just have a few questions.

My children have 4-H animals. We are zoned Agricultural right now. And they have 4-H animals. If that zoning changes, are they are going to still have their animals?

And Number 2, it is going to decrease the value of my property because it is a small farmette. There is plenty of horse-and-buggy Mennonites in the area that would possibly buy that in the future if we want to sell.

If you change it to Residential, and we sell, even if we are grandfathered, their animals would not be grandfathered. So now my property is not worth what it would have been if you change it.

MR. GARRELL: Do you want to provide an answer?

MR. UNGER: What was your address?

MR. KERPER: 930 Maidencreek Road.

MR. UNGER: I am trying to visualize it in my head where that is.

MS. HOLLENBACH: As you come down Pleasant Hill, you make a right. The first small narrow property, the property is about 2 acres. It goes straight back towards the golf course.

MR. UNGER: Again, those properties were zoned to meet what was there. So that was the reasoning behind rezoning.

MS. HOLLENBACH: Correct me if I am wrong, his other issue is, grandfathered uses continue to be grandfathered as long as they are not vacated for 18 months.

MR. UNGER: Correct.

MS. HOLLENBACH: Regardless of the property owner.

MR. UNGER: Correct.

MR. KERPER: So if it changes hands --

MS. HOLLENBACH: It doesn't matter.

MR. KERPER: Less than 18 months, it doesn't matter.

MS. HOLLENBACH: Right.

MR. GARRELL: Is there any other public comment to be offered?

As there is no one else who has indicated any indication -- given any indication that they want to comment further, at this time, I will close the public hearing and turn it over to Chairman Rudderow for the Board to either take action on this Ordinance -- Proposed Ordinance at this time or not at the Board's pleasure.

(Whereupon, Board Exhibits Nos. 1-5 were marked for identification.)

(Whereupon, the public comment portion of the hearing concluded at 9:24 a.m.)

CERTIFICATE

I, M. Ellen Valent, hereby certify that the proceedings and evidence are contained fully and accurately to the best of my ability in the notes taken by me during the hearing of the foregoing cause, and that this copy is a correct transcript of the same.

M. Ellen Valent

M. Ellen Valent, RMR

COMPUTERIZED REPORTING SERVICES, INC.

Notary Public in and for the
Commonwealth of Pennsylvania

My Commission expires December 9, 2017.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Mary Ellen Valent, Notary Public
Spring Twp., Berks County
My Commission Expires Dec. 9, 2017
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES