

**PLAINFIELD TOWNSHIP  
PLANNING COMMISSION REGULAR MEETING  
MARCH 18, 2019**

A regular meeting of the Plainfield Township Planning Commission was held on Monday, March 18, 2019 at the Plainfield Township Municipal Building located at 6292 Sullivan Trail, Nazareth, PA, 18064.

Chairman, Paul Levits, called the meeting to order at 6:59 P.M.

The Pledge of Allegiance was performed.

**ROLL CALL:**

The following Commissioners answered roll call: Chairman, Paul Levits, Vice Chairman, Robert Simpson, Robin Dingle, Terry Kleintop and Jeffrey Beavan.

Also present were Secretary, Paige Stefanelli, Township Manager, Tom Petrucci, Zoning Officer, John Lezoche, Solicitor, David Backenstoe, and Township Engineer, Jeffrey Ott (filled in for Mr. Mike Kukles)

**APPROVAL OF MINUTES:**

1. APPROVAL OF THE FEBRUARY 18, 2019 REGULAR PLANNING COMMISSION MEETING MINUTES:

**ACTION:** Motion was made by Jeffrey Beavan and seconded by Terry Kleintop to approve the February 18, 2019 regular Planning Commission Meeting Minutes as presented. *Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public.* Motion approved. Vote 5-0.

2. APPROVAL OF THE FEBRUARY 21, 2019 SPECIAL PLANNING COMMISSION MEETING MINUTES:

**ACTION:** Motion was made by Robert Simpson and seconded by Terry Kleintop to approve the February 21, 2019 special Planning Commission Meeting Minutes with the changes presented. *Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public.* Motion approved. Vote 4-0-1 with Jeffrey Beavan abstaining.

**TIME EXTENSIONS:**

1. ALICE FRIEND (5866 SULLIVAN TRAIL, NAZARETH, PA 180674) MINOR SUBDIVISION/LOT LINE ADJUSTMENT:

**ACTION: Motion was made by Robert Simpson and seconded by Robin Dingle to approve a Time Extension through May 31, 2019 for Alice Friend Minor Subdivision Plan Review. Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public. Motion approved. Vote 5-0.**

**NEW BUSINESS:**

1. WERNER AND SONS WELL DRILLING (576 FRABLE STREET, NAZARETH, PA 18064) SPECIAL EXCEPTION:

On behalf of Werner Well Drilling, Attorney Jeremy Clark, stated that his client currently has a preexisting non-conforming use as an excavation company. He noted that the applicant also has a Well Drilling Service as well.

The applicant did not realize that there were Zoning Issues at hand. Attorney Clark added that the intent of the applicant is just to continue the current non-conforming use. Attorney Clark stated that the well drilling service is just a branch of excavation and is not considered as a totally separate use. Werner and Sons Well Drilling wishes to maintain the current approved use and to only add another use.

Solicitor, David Backenstoe, stated that the applicant currently has a lawfully non-conforming use and at some point, this became a modified non-conforming use. One way to rectify this issue is to obtain a Special Exception. He noted that the Planning Commission would need to review the Special Exception provisions. Attorney Backenstoe stated that this would be one lawful non-conforming and transitioned into another lawful non-conforming use. Commissioner, Terry Kleintop, questioned whether the applicant will argue hardship. Solicitor Backenstoe stated that the applicant would not be requesting hardship as the standard being requested is different.

The Planning Commission will need to recommend to Zoning Hearing Board. He added that generally, the Planning Commission will need to find if the proposed modification is met within spirit of ordinance and comprehensive plan and other State/Federal regulations. Commissioners will determine whether this use is suitable for this area and is not detrimental to the public health and safety of residents. Conditions for recommendation to the Zoning Hearing Board can also be made as well.

Commissioner, Terry Kleintop, stated that that some point, there needs to be a stop to the continuous additions or branches made to the current lawful non-conforming use.

Solicitor Backenstoe noted that the Planning Commission only has the authority to recommend.

Zoning Officer, John Lezoche, stated that the subdivision has over 20 acres and 3 out of the 20 acres are being used for business.

Mr. Simpson questioned whether the applicant will be switching uses from excavating to well drilling. Attorney Clark noted that the uses all go hand in hand and the applicant is not intending to switch from one use to another. Additionally, this is not an expansion of the use. Attorney Clark stated that there will be less activity than what was previously taken place. Solicitor Backenstoe stated that this will be one lawful non-conforming use to another which the ordinance dictates an individual can on you can only do that by a Special Exception.

Mr. Terry Kleintop brought up an issue of the trailer currently located on the property. This trailer was to be removed via a court order. The applicant, Mr. Scott Beers, stated that he is not in objection to this and will remove the trailer as requested. Ms. Robin Dingle noted about the Easton location and whether materials are stored at that location as well. Mr. Scott Beers noted that there is material there, however, he plans on moving all materials to the new Frable Street location.

Alternate Township Engineer, Jeff Ott, wanted to make the applicant aware that the site plan submission checklist has not been signed or completed.

Mr. Kleintop questioned about the remaining area of the lot that is not being proposed for use. Mr. Beers stated that they are only intending to mow the remaining lot.

Solicitor Backenstoe questioned Mr. Lezoche on whether this is really a lawfully non-conforming use since there was a variance that was granted previously. Mr. Lezoche stated that this situation is different based on the fact that this use was granted by a variance prior to the existing Zoning Ordinance. Mr. Lezoche provided an example stating that a variance granted in 2002 would remain a variance to this day. Any change of use would need to be an additional variance. This current application is considered to be a special exception because the current use is lawfully non-conforming as it was originally granted in 1980 as a variance. Solicitor Backenstoe respectfully disagreed with Mr. Lezoche's determination, however, Mr. Lezoche's ruling stands. Ms. Dingle questioned what the last owner used the property for. Mr. Nolder, the previous owner, used the property for trucking and excavation uses.

Mr. Simpson questioned that if Mr. Lezoche were to make a ruling that an additional variance is required, this process for approval would be a lot more stringent. Solicitor Backenstoe noted that this in fact would be a more stringent process for approval. Mr. Terry Kleintop questioned that when this matter goes in front of the Zoning Hearing

Board, isn't it the duty of Solicitor on the Zoning Hearing Board to discuss the Special Exception and then address what needs to be accomplished by the Zoning Hearing Board. He also questioned whether the Zoning Hearing Board would be able to rule against the decision of the Zoning Officer decision. Solicitor Backenstoe noted that this is possible, however, a member of the Zoning Hearing Board would need to make a case that Mr. Lezoche's determination is incorrect.

Chairman, Paul Levits, stated that there are a lot of simple drafting issues that were presented. He questioned whether the applicant will address these issues. Attorney Clark stated that they will be revising the plans and resubmitting. Mr. Simpson questioned Solicitor Backenstoe on whether nuisances are addressed under Special Exceptions. Solicitor Backenstoe confirmed that nuisances are addressed. Attorney Clark added that there will be no increase in dust or noise other than what has already been preexisting. Mr. Simpson noted that the Planning Commission will need to determine whether the applicant meets all of the requirements of a Special Exception. Attorney Clark noted that he is not in agreement with Mr. Lezoche's determination and added that the applicant is currently doing all of the same work within Excavation. Mr. Kleintop stated that it is clear there are many concerns that the residents have and such issues need to be addressed.

Mr. Scott Beers is the Manager of Werner and Sons Well Drilling (Beers Group, LLC). He purchased the property October 31, 2018 from Mr. Josh Nolder which use was Excavation. Mr. Beers noted the various types of vehicles that will be used on the property including but not limited to tractor trailers, an excavator, and a wheel loader. Materials are also stored on site. Types of jobs Mr. Beers would conduct include but are not limited to digging out basements, trenches, etc. Mr. Beers noted that he has been in the industry for over 30 years. Specifically, he has five (5) trucks on site that require a Commercial Driver's License (CDL). The intensity of use from previous owner will not change as Mr. Beers does not have as many trucks on site. He added that when trucks are currently being used at a job site, the vehicles will stay there. Once the job has concluded, the trucks will be brought back to the 576 Frable Street property. Mr. Beers does not intend to expand any more than what is already currently being used/operated. He has no issues with putting in screening as requested by engineer.

Additionally, he will not be installing exterior lights or signage on the premises than what is already there. No digging or grading will take place on property. He stated that he will not be using any materials that are hazardous. Fuel will not be stored on the property. No harm will be done to wildlife or ground water. The machinery will be used for storage, loading, and unloading. Mr. Beers will be storing rock and sand on the property. There will be no harmful fumes or anything else that would be detrimental to public health and welfare. Mr. Beers stated that he will make sure to be in compliance with the DEP. Mr. Beers also stated that he holds a business license by the State of Pennsylvania. He has

never been cited by the DEP at the Easton location and believes that Well Drilling and Excavation are two of the same uses. A hydrant is located on the property. There will be no onsite running generators. His business hours are from 9AM to 5PM. He added that he will only be operate during normal business hours. Seasonal work will also be conducted including snow plowing and paving blacktop. Such jobs for paving include paving on the Pennsylvania Turnpike. Mr. Beers stated that the only time he will be operating anything after hours is when there is an issue or something needs to be fixed in a pinch.

Township Manager, Tom Petrucci, stated that it was unclear of how snow plowing and paving go under excavation as he does not see the correlation between the various jobs. Zoning Officer, John Lezoche, noted that excavation is not directly defined by Plainfield Township's Zoning Ordinance but it is a very broad term. Mr. Simpson questioned what all will be included within the excavation use because before it was excavation to well drilling, however, many additional uses were introduced. Mr. Simpson noted that with his expertise, he deals with these types of businesses on a daily basis and well drilling is not excavation. He added that there are many different machinery/trucks that are used which each use.

Solicitor Backenstoe and Mr. Lezoche cross-examined findings of a Special Exception. Ms. Dingle noted that she has an issue with the plowing and paving as the hours of operation for those types of tasks are not normally during regular business hours, rather, those types of hours are during the night and into the early morning. Mr. Lezoche noted that he understands Ms. Dingle's concerns, but use wise, it is essential to go back to what the previous owners of the properties did. Plowing and paving were some of many things that were done by previous owners. Chairman, Paul Levits, questioned which property owner obtained the original variance for the property. Mr. Lezoche stated that Mr. Leroy Lieberman obtained the variance. Mr. Beers stated that maintenance of the machinery and trucks will be conducted in the garage on site. Additionally, there will not be an office located on the property. Mr. Levits questioned Mr. Beers on how many hours will be dedicated for maintenance each week. Mr. Beers stated less than 20 hours will be used towards maintenance. In the summer months, the garage doors will be open because there is no air conditioning set up in the garage. Specific to lighting, there is one light on the front of the building and one on the back which is directed towards the ground.

Ms. Dingle noted that she sees issues with dust on the property. She questioned whether there is any way for the applicant to mitigate the dust issues. Mr. Beers stated that he can water down the dust to mitigate the issue. Attorney Clark mentioned that his client may pave the beginning of the driveway in order to mitigate the dust issues next to abutting properties.

Mr. Petrucci questioned whether the change of use for this property would trigger Act 537 requirements. Mr. Ott stated that the Sewage Enforcement Officer (SEO) would need

to confirm this in a letter. Ms. Dingle questioned whether the applicant would be willing to put in a privacy fence. Mr. Beers will look into the possibility.

Chairman, Paul Levits, questioned the applicant on whether there are any existing signs on the property. Mr. Beers noted there are no current signs and he has no intention of erecting any signs. Members of the Board questioned Mr. Beers on how many times a week loads of material will be dropped off on site. Mr. Beers noted there would be an average of 2-3 loads a week. Reloading would be the same as well. For restrooms, Attorney Clark will research this matter further.

Mr. Simpson questioned what type of dirt will be used and how much will be stored on site. Mr. Beers stated that it can range from a couple hundred yards but generally, it would be under 500 yards. The applicant may store salt on the property as well with approximately 20-40 tons which would be in a bin and tarped. Mr. Simpson questioned whether this would be regulated by the Department of Environmental Protection (DEP). Further research will need to be done with this matter as the Planning Commission has expressed concerns with storing salt on the property.

At this time, Mr. Levits allowed residents present on behalf of 576 Frable Street to discuss their comments/concerns.

Resident, Jacquelyn Foti, currently resides at 573 Frable Street and has been a resident there since 1999. Ms. Foti is familiar with the previous businesses that were located at the 576 Frable Street property. She stated that since Warner's Well Drilling has been operating there, there has been an increase in noise and dirt and other issues that were present before them have now doubled. Ms. Foti noted that the homes on Frable Street are modular homes and are poorly insulated. As a result, there is a lot of noise that can be heard from the business.

Ms. Foti stated that tractor trailers travel on their road in order to make deliveries to the business which takes up the entire road. The business operates at all hours of the night and into the morning. This occurs especially in the winter season when the trucks need to be started. Maintenance on trucks go on into the weekends. They hear air guns all day. She added that after some research, the company's website does not indicate any of the extra uses that the applicant is currently proposing except for the well drilling use.

Ms. Foti stated that the applicant has burned something on the premises in the past which generated black smoke. In terms of a buffer, she does not believe there is much that the Planning Commission/Zoning Hearing Board can put in place you can do to really mitigate the trucks entering and exiting the property. Recently, there was an issue where a FedEx truck was coming through to do a delivery to the business and the FedEx truck took down phone lines because the height exceeded what was allowed for that area. Ms. Foti added that this new business has completely altered the neighborhood and she is not

happy with it. The Foti's along with other residents have voiced their concerns and issues to the property owners and nothing was done in return.

Ms. Foti stated that there are many children who play in the area of Frable Street. She added that there are endless issues to be discussed and this is not a nice place to live anymore. She has multiple videos of proof for the times that the business is operating including the weekends and during the middle of the night. Additionally, there is a driveway that is currently being utilized on the property that is not within the portion of the lot being dedicated to the business. This driveway exceeds the 3 acre portion being used/proposed. If the driveway were to be placed somewhere else on the property, there would be even more issues that arise. All of these issues have come about once the new property owner took ownership and began his business. Mr. Simpson questioned about the trucks idling and whether it takes place during all seasons. Ms. Foti confirmed the idling does take place during all seasons. Ms. Dingle questioned whether school buses are on this route. Ms. Foti stated that there are no busses that go onto Frable Street. Mr. Foti added that the applicant unloads materials in the middle of street from the property.

Resident, Mr. Thomas Fulmer, stated that an 18 wheeler has recently used the driveway and yard of the property in order to exit the site. This business is in operation 7 days a week. Additionally, there are straight pipes on site as well.

Resident of 573 Frable Street, Mr. Fred Foti, stated that the last video he has of the business running after hours took place at 3:00 A.M. and the owners were outside hollering and yelling. He added that before the current owners purchased property, Mr. Foti went to the Township and requested the Township to warn the potential buyers that they cannot buy the property. He stated that the Township did not do anything in terms of notifying the property owner that they cannot purchase the property. However, the Township cannot restrict the right to purchase property.

Resident, Herbert Campbell, stated that his wife is in very bad health as well as some of the neighbors. He noted that if they owners were going to operate their business from 9 A.M. to 5:00 P.M., this would not be so bad. However, this business currently operates in all hours of the night and through the day. This business and their operations have been negatively effecting nearby residents and their health. He stated that when his grandchildren come over, he has to make sure that they do not get close to the road or they run the risk of getting hit because the vehicles coming in and out of the property speed on their road. He simply does not want his grandchildren hurt. Mr. Campbell has major issues with this business and its operations.

Resident, Don Moore questioned whether the Solicitor has updated his opinion regarding his disagreement with the Zoning Officer's decision. Solicitor Backenstoe stated that the

citizens have the right to challenge this per section 407.3.C which states that altering or extending an existing nonconforming use.

Resident, Mr. Nolan Kemmerer, noted that there are issues with another excavating company right next to 576 Frable Street. He added that the other company has been in operation as well and half of the noise and trucks are being contributed from the other business located within the same area. Zoning Officer, John Lezoche, noted that a letter has been sent to that property owner and is currently being investigated. Mr. Kemmerer added that this other business uses the same road and also operates large trucks in and out of Frable Street. Mr. Lezoche added that the result of that issue is yet to be determined and is currently in discussion with the owner.

Resident, Mr. David Silfies, stated that he has been having many issues with the current business. He has almost been hit a number of times. He added that the employees nor the property owner care about the adjoining property owners and their safety/quality of life.

Chairman, Paul Levits, concluded comments from the public.

Mr. Terry Kleintop questioned the applicant on how long Mr. Beers was renting property before he purchased the property. Mr. Beers was renting it for approximately 8 months to a year. Mr. Beers was fully aware of what needed to be obtained by the Township prior to purchasing the property.

Mr. Levits questioned what the opinion of the Board was. Ms. Dingle noted that based on the resident's concerns/comments, this is the reasoning for why the Township does not allow for commercial uses in residential areas. Ms. Dingle added that she has some serious concerns with the current submission and the expressed issues from abutting residents. There is a very good chance that as the application stands, it may be denied by the Zoning Hearing Board. She concluded that based on the review tonight, this type of business does not seem to be a good fit for this area.

Members of the Planning Commission members were in agreement that there is an hourly issue with the business. Mr. Simpson added that this is a full scale construction operation. He added that a rose of this type does not support commercial use.

Mr. Kleintop does not see any good recommendations based on tonight's discussion. The Planning Commission recommended to the applicant to revise the plan and submit a revised plan at a later date which should address all of the concerns discussed at tonight's meeting including:

1. Hours of Operation
2. Delineation of acres
3. Address all Zoning comments
4. Dust Mitigation Strategies

5. No trucks/vehicles/machinery blocking the roadway
6. No idling on site
7. No unloading materials/machinery within the roadway

The applicant will commit to revising the plan with the details discussed. Members of the Planning Commission added that the applicant will need to be able to adhere to the conditions that the Planning Commission sets forth. Additionally, there must be no operations during the weekends. Ms. Dingle added that the applicant must be honest with himself on whether he can operate his business based on such conditions (and possibly additional conditions). There will be very strict limitations put forth. Attorney Clark stated that he will create hours that fit best for the business and will bring those proposed hours to the Planning Commission. The Planning Commission members added that there are many issues to be addressed including parking, hours of operation, dust, and they would like to see the driveway paved for the first 100 feet from the roadway.

Ms. Foti questioned the Planning Commission on what the property owners should expect until the next meeting. Mr. Petrucci stated that if residents have any issues to call the Township.

**ACTION: Motion was made by Robert Simpson and seconded by Terry Kleintop to approve a Time Extension through June 30, 2019 for Werner and Sons Well Drilling Special Exception and Site Plan Review and to hear the above referenced project at a Zoning Hearing Board meeting. *Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public.* Motion approved. Vote 5-0.**

**ACTION: Motion was made by Terry Kleintop and seconded by Robin Dingle to table Werner and Sons Well Drilling Special Exception Review. *Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public.* Motion approved. Vote 5-0.**

2. ASGCO MANUFACTURING (730 BANGOR ROAD, NAZARETH, PA 18064)  
SPECIAL EXCEPTION:

Engineer, Ms. Nicole Galio, stated that she has an update regarding their request from PennDOT. The applicant has heard back from PennDOT, however, they were unable to make the appropriate changes based on the short timeframe they had until the meeting.

The applicant has added ADA detail to the plan but requested a determination on the parking spaces required. Ms. Galio added that there are two additional issues added onto the most recent review letter that were different from what was previously discussed. The applicant intends to go for a variance on the total number of parking spaces. The existing

site has a loading dock. They are currently maneuvering setbacks which will be a variance that they will be requesting as well. In total, the applicant will be requesting two variances from the Zoning Hearing Board.

Ms. Galio provided the Township with the most recent packet of the green card signatures. There were still a few that were not received, however, she went onto the postal website in order to ensure that the letters were delivered and it was confirmed that they were delivered.

Mr. Jeff Ott read aloud the most recent review letter by Ott Consulting dated March 13, 2019.

Mr. Ott does not see any major issues with the plan for the purpose of the Special Exception. Any remaining items to be addressed will be provided on the Final Land Development Plan. Additionally, since there is only one shift for the facility, there does not seem to be an issue with respect to vehicles entering and exiting the facility.

The applicant has provided multiple parking options of what could be added. Ms. Galio stated that they will be able to provide 209 parking spaces if needed. There will be approximately 90 employees total. There will be about 50 manufacturing employees and 40 office employees. Mr. Ott stated that in terms of the parking/employee ratio, the Township has a very high rate. Ratio of 3 to 5 would be more sufficient. Ms. Galio added that the surface trucks are reserved in a garage located on property and are not included on the parking space count.

Mr. Kleintop requested Ms. Galio to clarify #21 on the review letter. Ms. Galio noted that this section will be a variance that is going to be requested of the Zoning Hearing Board. If the applicant does not obtain this variance. The amount of required parking spaces would increase and landscaping would also need to be increased. Ms. Galio added that the plan currently shows what makes the most sense for what the applicant needs for operations.

Ms. Dingle Robin noted that in reference to the second variance being requested, where the drainage area is located. Ms. Galio stated that the existing road is elevated towards the outside and there is a high point that runs along the western edge. The water then gets collected into two inlets and into the basin. Ms. Dingle requested to see the earth and berm on the plan. Ms. Galio added that there is not much room to build a berm on the property. The current stormwater management plan is flowing offsite. The Conservation District does not have any issues with this because they were existing outfalls. The applicant was aware of the erosion and are inclined to research putting in a rock apron to slow down the stormwater on site.

Mr. Ott added that there may be more stormwater issues currently especially with runoff onto the trail because there is no building on the site currently which ultimately changed the runoff direction. He added that having a new building in the prior location will likely solve many of the water issues. During the new construction, the applicant is not intending on using the wet pond basin. Once the construction has been completed, the applicant does not need to alter anything.

At this time, the Planning Commission is in agreement to recommend to the Zoning Hearing Board to grant the Special Exception request from AGSCO Manufacturing, Inc.

**ACTION: Motion was made by Robert Simpson and seconded by Robin Dingle to recommend to the Zoning Hearing Board to approve the Special Exception Use/ Site Plan including the conditions set forth within the review letter from Ott Consulting dated March 13, 2019. Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public. Motion approved. Vote 5-0.**

**ACTION: Motion was made by Jeffrey Beavan and seconded by Terry Kleintop to table ASGCO Manufacturing Land Development Plan Review. Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public. Motion approved. Vote 5-0.**

Township Manager, Tom Petrucci, will obtain an Extension of Time from the applicant at a later date.

3. SYNAGRO UPDATE:

Mr. Petrucci stated that in reference to the next Synagro meeting, he will send out a revised survey for mid-April of available dates.

Solicitor Backenstoe wanted to make clear that if the applicant is required to obtain variances and does not show that they will be in compliance or are intending to apply for the variances, this application must be denied. The applicant would most likely appeal the decision. The court has the options of remanding back to the Planning Commission or deny the appeal. The applicant must argue that the Planning Commission does not fully comprehend the zoning that a determination is not possible. However, if all conditions are met, the application must be approved (possibly with conditions).

Going forward, Mr. Simpson requested that Attorney John Embick submit official written review letters to the Township so the Planning Commission members have something to reference during the meeting, especially because of the recommendations he has been previously providing to the Planning Commission.

4. CONSERVATION DEVELOPMENT ORDINANCE- DATED 1/7/19 *DRAFT*

**ACTION: Motion was made by Robert Simpson and seconded by Jeffrey Beavan to table the Conservation Development Ordinance Review Draft dated 1/7/19. Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public. Motion approved. Vote 5-0.**

**ADJOURNMENT:**

Having no further business to come before the Planning Commission, motion was made by Terry Kleintop and seconded by Jeffrey Beavan to adjourn the meeting. Motion approved. Vote 5-0.

The meeting adjourned at 10:42 P.M.

Respectfully submitted,

Paige Stefanelli  
Planning Commission, Secretary  
Plainfield Township

DRAFT