

MEETING MINUTES

March 28, 2023

7:00 PM

A meeting of the New Britain Township Planning Commission was held on March 28, 2023, at the Township Administration Building, 207 Park Avenue, New Britain Township, PA beginning at 7:00 p.m. In attendance were Chair Marco Tustanowsky, Vice Chair Jim Scanzillo, Secretary Deborah Rendon, Board Liaison Stephanie Shortall and members Michelle Martin, Theresa Rizzo-Grimes, Kenneth Onsa and Kristen Ives. Township Assistant Planning & Zoning Officer Ryan Gehman, Township Director of Planning & Zoning Dave Conroy and Township Engineer Craig Kennard were also in attendance.

I. Pledge of Allegiance

II. Approval of the Minutes from the Meeting of January 24, 2023

MOTION: Upon motion of Ms. Martin, seconded by Ms. Rizzo-Grimes, and unanimously carried, the January 24, 2023 meeting minutes were approved.

III. 120 Liberty Ln – Conditional Use Application

Rob Cunningham of Holmes Cunningham Engineering introduced himself as the engineer for the applicant and owner of 120 Liberty Ln, Docs Health. Cunningham stated that the applicant is proposing an outside storage use accessory to the current industrial warehouse building.

Cunningham noted that the applicant received conditional approval of an Amended Final Plan for a proposed building addition roughly 2 years ago. He further clarified that the applicant's plans have changed and they will not be pursuing the building addition at this time, but plan to in the future. The proposed outside storage area is for the same purpose as the building addition, which is to store vehicles containing medical equipment for the operations of Docs Health.

Cunningham stated that the proposed impervious for the stone paving lot has already been accounted for in the stormwater design on site, so no additional controls are required, and that the proposed outside storage area is compliant with the size restrictions required by the Zoning Ordinance.

Cunningham described the operations of Docs Health, noting that they are a mobile healthcare company that travels across the country in RVs and trucks equipped with medical equipment. He further clarified that the equipment in the vehicles is valuable, hence why the applicant is seeking to store them in a more secure space. Cunningham noted the existence of similar outside storage uses in the immediate area, including on other properties along Liberty Ln.

Mr. Kennard noted that his office did not provide a review of the proposed plans, though they were involved in the previous land development that Cunningham referenced. Mr. Conroy stated that as long as there are no concerns from a health, safety or welfare standpoint, he does not have any objection to granting the Conditional Use.

Cunningham noted that Dejana trucking, the property located at 121 Liberty Ln has a similar outside storage use. Mr. Tustanowsky stated that the use would be appropriate for the surrounding area, being in the Industrial Office (IO) district.

Ms. Rendon asked if the new impervious area is accounted for in the stormwater design. Cunningham stated that the basin was sized to account for this expansion during the development of the Business Park.

MOTION: Upon motion of Ms. Martin, seconded by Mr. Scanzillo, and unanimously carried, the Planning Commission recommended approval of the Conditional Use.

IV. 396 King Rd – Preliminary/Final Plan

Rob Cunningham introduced himself and Joe Casadonti of Casadonti Homes, the applicant for the King Rd application. Mr. Tustanowsky noted that the applicant previously appeared in front of the Planning Commission when the plan was in the Sketch Plan phase. Mr. Kennard noted that there are very minimal changes from that plan, and the details are largely the same.

Cunningham gave some background on the project, stating that the applicant is proposing a 6-lot subdivision of the 36-acre parcel with the creation of 5 new homes. There is 1 existing home that is to remain. Cunningham noted that the proposed lots are in excess of the acreage requirements, and that the existing drive onto the property is proposed to be used as the access drive for the houses rather than installing a new road.

Cunningham stated that the applicant is hoping to keep the rural feel of the property while still developing to current engineering and building code standards. He noted that the proposed improvements are primarily on the existing agricultural fields and noted that the existing stream along King Rd and its buffer will remain intact. Cunningham stated that the existing culvert at the driveway over will be replaced to meet current standards.

Cunningham noted that no storm sewer or significant widening is proposed on King Rd, which will require waivers. He stated that the applicant wishes to provide a 2' shoulder at the direction of the Township's Public Works Superintendent, which will provide slightly more width but not change the character of the road.

Cunningham stated that on-lot sewer and wells are proposed for each lot, and that the proposed on-lot stormwater facilities were designed to allow for future improvements on each property such as garages and patios.

Mr. Kennard noted that the Zoning Ordinance requires a minimum lot area of 1.8 acres in the WS district. Ms. Rendon asked what the potential buildout could be, to which Cunningham responded that after considering septic and well separation, the applicant could potentially fit 9-10 lots on the property if he desired. Cunningham stated that the total area of preserved land on the property is over 20 acres. He

noted that the applicant is proposing to plant trees or install fences that delineate the conservation easement areas on each property to avoid encroachments and help with easement monitoring. Cunningham stated that the applicant is requesting a waiver from providing radial or straight lot lines. If this waiver were granted, the delineation marking would be important due to the irregular lot shapes. Cunningham stated that he will comply with whatever delineation styles were preferred by the Planning Commission, Engineer and Zoning Office.

Cunningham further explained why the applicant was requesting the waivers and a discussion ensued regarding the shape of lots 2 and 3 on the plan. Mr. Kennard stated that he would recommend a waiver subject to identification of the turns and boundaries approved by the Engineer's office.

Regarding the waiver requested from providing public improvements along King Rd, Mr. Kennard stated that the applicant is honoring the request by the Township's Public Works Superintendent for only slight widening. As part of this waiver, the Township Engineer recommended reviewing areas of erosion along the stream near King Rd. Cunningham stated the stream will be walked and permits will be obtained to resolve any erosion issues. Cunningham noted that permits from DEP will be required to replace the existing culvert.

Ms. Rendon asked what size the current culvert pipe is. Cunningham responded that the existing pipe is 36" and it will be replaced with a 36" concrete pipe in a way that will hold back additional water to not release additional flows downstream. Ms. Rendon asked for further clarification, to which Cunningham responded that the existing driveway will be built up to remedy overtopping that currently happens, and the new pipe will handle all of the water. Mr. Kennard noted that the proposed on-lot stormwater facilities would hold back additional water as well.

Cunningham noted waiver number 7 on the request letter, which is from milling and overlaying King Rd. He stated that he would like to modify the waiver to instead request a partial waiver to overlay King Rd and add additional thickness, but not mill it. This request was at the direction of the Public Works Superintendent.

Cunningham noted the Township's Ordinances do not classify rain gardens as a stormwater BMP even though DEP does, which necessitates the waiver request noted in D1 in the Gilmore review letter. Mr. Kennard stated that the proposed rain gardens serve the same function as a large basin would, but the individual, on-lot facilities are not recognized by the ordinance like a basin is.

Cunningham went on to discuss the waiver noted in item D6 on the Gilmore letter, which is from providing driveway pipes for each individual driveway where curb and storm sewer are not provided. Cunningham stated that the applicant is requesting a partial waiver as pipes would be provided where necessary, but some lots would not require it due to existing drainage being sufficient. Mr. Kennard recommended a partial waiver subject to the Township Engineer's approval.

A discussion regarding the Water Resource Impact Study ensued. It was noted in the Gilmore review of the Study that the well on proposed lot 2 only pumped 2.69gpm. Any less than 6gpm requires additional storage for long term yield of the well per Township Ordinances. Cunningham stated that the applicant

will make the necessary revisions to satisfy the comments in the Gilmore review of the Water Resource Impact Study and they would not be seeking any waivers with regard to well requirements. Mr. Kennard noted that the applicant is required to sign a well depletion guarantee agreement which provides funds in the event that any new wells cause damage to surrounding wells.

A discussion on the depth of the wells ensued, in which Cunningham stated that the well on Lot 2 was drilled at a depth of 500', and the wells on Lots 3 and 5 were drilled at a depth of 800'. Casadonti stated that they will drill deeper if needed to get the storage that is required.

Ms. Rizzo-Grimes asked about the comment regarding "No Parking" signage on street. Cunningham stated he needs to discuss what is required with the Fire Marshal, but he will comply with his requests. Mr. Kennard suggested possibly installing more decorative signs in keeping with the development if the Fire Marshal approves.

Ms. Rendon asked if the pine trees along the existing road into the site are being counted for the street tree requirements. Cunningham responded that they plan to utilize the existing trees along King Rd to meet the Ordinance requirements, and that 50 street trees are required for the internal road. He noted that the trees along the internal road will be used to meet the requirement in addition to planting trees informally throughout the site.

Ms. Rendon expressed concerns about the existing buffer along the properties frontage. Cunningham responded that they plan to clean out the dead trees in the existing buffer. Ms. Rendon suggested that a landscape architect may be able to design something aesthetically pleasing. Casadonti added that with the amount of trees that were required, they tried to place as many as possible along lot lines to provide adequate buffering. He also noted that trees were proposed at the rear of lots 2 and 3 to provide buffering from the neighboring properties.

Ms. Rendon expressed concerns about the wetlands investigation, noting that the ground is typically very wet in the agricultural fields. Cunningham responded that no wetlands were discovered in the area, and that an area can be wet without being considered a wetland. Ms. Rendon inquired about what makes an area a wetland, to which Cunningham responded that there had to be presence of wetland vegetation, wetland soils and wetland hydrology.

Ms. Rendon expressed concerns about the Water Resource Impact Study, stating that it did not give confidence that the wells are producing a satisfactory yield. Cunningham responded that before seeking any approval from the Board of Supervisors, they will satisfy the comments provided by Toby Kessler, hydrogeologist from Gilmore & Associates.

Ms. Rendon asked if there will be an HOA for the development. Cunningham responded that there would be an HOA created that would be responsible for maintenance of the shared roadway.

Ms. Rendon asked if the property will have to pay rollback taxes when Act 319 status is removed. Cunningham responded that the owner is required to pay the back taxes. Ms. Rendon asked if the portion

of the parcel that is proposed to be in a conservation easement remains in Act 319. Casadonti responded that the whole parcel would be removed from Act 319.

Ms. Rendon asked about the proposed widening of King Rd, stating that while she would not like to see full widening, 2' seems minimal. Cunningham responded that their intention was to keep the existing lane but just add a shoulder. He further noted that PennDOT's standard for a shoulder is 2'.

A discussion ensued about lighting of the proposed homes. Ms. Rendon asked Cunningham if there was any way the applicant could but rules in the HOA bylaws regarding uplighting of the homes. Mr. Tustanowsky indicated that he did not feel the Township could control the lighting of houses. Mr. Kennard noted that there were currently no Township Ordinances regulating uplighting of houses. Casadonti agreed that it would be difficult to regulate the lighting people use on their homes but indicated that he would look into possible solutions.

Mr. Tustanowsky opened the floor to public comment on the project.

Gwyn Robinson of 358 King Rd expressed concerns about uplighting of the proposed homes and asked if it is possible to write rules preventing this into the HOA bylaws for the development. Ms. Robinson stated that she has experienced neighbors on her street using excessive lighting in the past.

Jim Morano of 289 Chapman Rd stated that he felt that the Township should have ordinances in place to prevent light pollution, including prohibiting shining lights above the roof of a house and requiring shielding of lighting to make it shine onto the ground. Mr. Kennard noted that any ordinance of that nature would not impact the project being discussed.

Kathy Keller of 432 King Rd expressed similar concerns about lighting and stated that she was in an HOA that had lighting restrictions. Mr. Kennard reiterated that any restrictions on lighting would have to be agreed to by the applicant as a condition of approval. Mr. Tustanowsky recommended that Ms. Keller bring her concerns to the Board of Supervisors meeting in which the project is discussed.

Lucy Bell Jarka Sellers of 340 King Rd also expressed concerns about light pollution, stating that she feels it matters in maintaining the rural character. Ms. Jarka Sellers also stated that she feels people who move into farmland areas are not aware of the physical characteristics of the rural area they are moving to and may make complaints. Ms. Rendon noted that Act 319 protects nearby farmers from complaints regarding agricultural activity.

Brian Sweigard of 280 King Rd asked for clarification regarding the well depletion agreement, and asked how far from the site does the agreement cover. Cunningham stated that the well depletion agreement covers wells up to ¼ mile or roughly 1,300 feet from the site.

Gavin Laboski, an attorney representing Leo and Kathy Keller of 432 King Rd, asked about the amount money put into escrow for the well depletion agreement and asked who replenishes the escrow if the funds are use to repair a damaged well. Mr. Kennard stated that it is rarely, if ever, used so he is unsure of the specific language in the agreement. He recommended Mr. Laboski reach out to the Township for a sample of the agreement. Mr. Laboski asked for more information on how the well study was conducted. Cunningham responded that there were 5 on-lot wells used for the study on lots 1-5, and 4

off-lot wells on nearby properties that were used for monitoring purposes. Cunningham continued that the wells on the property were subject to a 72-hour pump test to observe draw down of neighboring wells. Mr. Laboski requested a copy of the report.

Leo Keller of 432 King Rd asked for additional information about how the well testing was conducted. Mr. Keller stated that it was his understanding that during the testing, one well stopped producing water after 8 hours. Mr. Keller asked if the failed attempts indicate that there is insufficient water supply. Cunningham responded that that is not necessarily the implication, and Mr. Kennard noted that not every well that is drilled is going to have sufficient pressure, but this does not mean that the water supply is insufficient. Cunningham also noted that the purpose of the pump testing is to stress the system to its maximum, so if the well system cannot be stressed enough to meet ordinance requirements, a new well will be drilled and testing will reoccur.

Bob Goldman of 42 Barner Rd stated that the applicant has been successful in selling homes in the area because of residents that preserve the area and keep it attractive to buyers. Mr. Goldman stated that he did not feel that limiting lighting through HOA bylaws would deter potential buyers, so he requested that the applicant put this language into an HOA agreement. Casadonti responded that if there is some way to limit lighting that makes sense, he is open to hearing it and trying to include it, but that he is unsure how it would be enforced. Mr. Kennard stated that if the applicant is willing to work with the Township, the issue looked into further. Mr. Kennard went on to indicate that the lumens of any uplighting could possibly be regulated by HOA bylaws. Mr. Tustanowsky stated that the Planning Commission is sympathetic to the lighting concerns, but a method of enforcement needs to be determined before imposing conditions.

Mr. Laboski noted that there are dark sky organizations that have model ordinances relating to this issue, as well as companies that address dark sky issues with products that prevent light pollution. Cunningham stated that they will explore the idea and try to find more definitive parameters before presenting to the Board of Supervisors. The applicant stated that he will not agree definitively to the condition at this time as the method of regulation is not determined yet.

Johannes Jarka Sellers of 340 King Rd stated that he felt that the project was put forward in a way that was not community oriented. He continued that he felt the project was put forward by someone who has no intention of living there and who stands to make a lot of profit. He continued that he felt the residents are upset with the proposal, and that the project has issues such as lighting and water supply. Mr. Jarka Sellers also stated that he felt the well test results are unreadable, and that he does not feel that the well depletion agreement is sufficient. He stated that he felt that the water resource impact study report indicated that water supply was inadequate, and that he does not feel there is room for a shoulder on the side of King Rd. Mr. Jarka Sellers continued that he does not feel that there is room for the development while maintaining the rural character of the area. He expressed concerns regarding the placement of trees on the property lines between his property and the site. Mr. Tustanowsky noted that the applicant is willing to work with neighboring residents on tree placement. Cunningham responded that the property is currently owned by the Ferrell family, who will continue to live on Lot 4, and that the Ferrells chose Casadonti specifically to develop their property.

Joe Washington of 300 King Rd stated that he felt putting regulations regarding uplighting of homes in the HOA bylaws would be a more effective solution than having the Township create an ordinance. He also stated that he felt it would be hard to determine if a well from the project site impacted his well years down the line, and asked how he would be able to provide that he was affected. Casadonti

explained that testing would need to be conducted in the event of impact on neighboring wells to determine the cause. He also noted that the testing that was done was at an extreme level that would never be reached through normal use. Casadonti noted the rarity of the well depletion agreement being utilized. Mr. Washington stated that nobody in the area was asked if they wanted to be part of the study, to which Casadonti responded that there was a mailout sent to neighboring properties.

Jeff Berman of 413 King Rd stated that Valley Environmental Services had him fill out the form to test his well but later refused to test the well due to the location of it. He stated that he is concerned about his well being impacted by the new wells based on the Gilmore review of the Water Resource Impact Study. Mr. Berman also stated that he is concerned about erosion in the creek along King Rd. He asked the applicant to keep the homes consistent with the area and do what he can about lighting. Casadonti confirmed that due to the location of Mr. Berman's well, it was not ideal for testing and assured Mr. Berman that the area along the stream on the property's frontage will not be damaged and will likely be improved. Casadonti also indicated that he is open to exploring options to regulate lighting through HOA bylaws.

Elizabeth Worthington of 449 King Rd stated that she was not notified of the well testing. Cunningham responded that all properties within ¼ mile of the site were notified and asked if they wanted their well to be included.

Jim Morano stated that he installed a water source heat pump that requires 9gpm, and he is concerned about any decrease in flow as he is currently right on the edge of that pressure. Mr. Morano also stated that he feels that any lighting restrictions should include both direction and intensity of light. Mr. Tustanowsky noted that any approvals granted by the Board of Supervisors would be conditioned on meeting all Township Ordinances, including well requirements. Mr. Morano asked about the logistics of construction given the truck restrictions on King Rd and Keller Rd. The applicant stated that trucks that cannot access the road will need to use alternate routes or make more deliveries in smaller trucks that are permitted on the roadways.

Bill Houghton of 263 Chapman Rd expressed concerns about the road conditions along his property on Chapman Rd.

Britney Jones of 437 King Rd noted that the King Rd bridge was slated to be completed in 2023 but was delayed due to bridges being washed out in storms. She noted that the project is now slated for completion in 2026 and should be starting construction in 2023 or 2024.

Ms. Rendon made a motion to recommend Preliminary approval subject to the conditions previously discussed. Mr. Kennard recommended that the applicant's hydrogeologist appear at the next Planning Commission meeting the applicant attends.

MOTION: Upon motion of Ms. Rendon, seconded by Ms. Rizzo-Grimes, and unanimously carried, the Planning Commission recommended Preliminary approval of the project subject to compliance with the March 14, 2023 Gilmore & Associates Review Letter, March 1, 2023 Gilmore & Associates Water Resource Impact Study Review, and the stipulation that the applicant work with the Township Engineer and Staff to determine if lighting can be regulated by the HOA.

V. 396 King Rd – Component 1 Planning Module

Kristen Ives left prior to discussion of this item. Mr. Kennard stated that the comments in his office's letter were administrative in nature and not planning related. His office recommended approval of the Planning Module.

MOTION: Upon motion of Mr. Scanzillo, seconded by Ms. Martin, and unanimously carried, the Planning Commission recommended approval of the Planning Module.

VI. Public Comment

There was no additional public comment at this time.

VII. Adjournment

MOTION: Upon motion of Mr. Scanzillo, seconded by Ms. Martin, and unanimously carried, the meeting was adjourned at 9:11 p.m.

Respectfully Submitted,

Marco Tustanowsky, Chair

Ryan Gehman, Assistant Planning & Zoning Officer