

**BIRMINGHAM TOWNSHIP PLANNING COMMISSION
MINUTES OF THE MEETING OF JUNE 9, 2009**

Chairman Nick DiMarino declared a quorum at 7:30 P.M. and called to order the regular June meeting of the Birmingham Township Planning Commission. Members present were Scott Boorse, Mary Pat McCarthy, Janet DeCaestecker, Doug Marshall, Debbie Hineman, Eric Hawkins, Solicitor Fronfield Crawford and his Associate Andrew McReynolds.

Minutes of the Planning Commission meeting of May 12 were approved (Hineman, Marshall) with Scott Boorse and Janet DeCaestecker abstaining.

Art Sagnor, attorney for Barbara Boor, displayed a page of a sketch plan for the subdivision of the Boor property at 1128 Dorset Drive in Spring Meadows. Mr. Sagnor asked the Planning Commission if they would look more favorably upon a two-lot subdivision than a three-lot subdivision. Mr. Sagnor suggested that the elimination of the line dividing the current house lot from a proposed lot southeast of the house would result in a large lot with the existing old house and a new lot to its southwest, both lots then being restricted from further subdivision. This would also result in the access being only from Dorset Drive on the North. When Mrs. Hineman objected to being asked for suggestions, Mr. Crawford restated the question. John Carr, attorney for Cynthia Emlet (1130 Dorset Drive), asked if a second access could be explored, one that would not further burden the existing Dorset Drive driveway. Mr. DiMarino deferred Mr. Carr's question until the Public Comment period.

Mr. Hawkins asked what the resulting lot sizes would be; Mr. Sagnor said about 5.75 acres and 2.24 acres, the existing house being on the larger lot. In response to Mrs. DeCaestecker's query, Mr. Sagner showed both lots being accessed from the existing Dorset Drive driveway on the north. Mr. Boorse noted that the smaller lot would be landlocked. Mr. Sagnor pointed out that the trees southeast of the house would be undisturbed in this scenario.

Mr. Marshall expressed concern that this subdivision may actually be part of the larger Spring Meadows subdivision; Mr. Sagnor said it legally is a simple subdivision and can be subdivided on its own. Mr. Boorse asked if the smaller lot (hypothetical Lot 2) would meet all the zoning requirements; Mr. Sagnor said it would have to in order to be approved. Mr. Boorse said he was concerned about implying a favorable response, only to find that further examination would require many changes in the actual future plan; Mr. Sagnor replied that there could be changes and he was unable to be definite before further site investigation.

Public Comment: Robert Schwan, 1114 Dorset Drive, asked the length of the northwest frontage; Mr. Sagnor said the engineer showed it to be about 200 feet. Dr. Schwan asked the width of the driveway; Mr. Sagnor said the plan shows it at 20 feet. Dr. Schwan expressed concern about the safety of the driveway, its ability to accommodate emergency vehicles and still keep the trees that line the drive (as stated in a previous meeting). Dr. Schwan asked that whatever property or properties result (from this plan) be made a true part of the Spring Meadows subdivision and subject to all the regulations that govern the rest of the subdivision. Mr. Crawford asked if the property owners now pay community assessments; Mrs. Emlet said they do.

Mr. Carr (Emlet attorney) asked that the planners explore the possibility of using an access other than the existing drive because it is barely wide enough for one car now. Cynthia Emlet, 1130 Dorset Drive, said she has always done all the plowing and maintenance for that driveway and wants the PC to know that no one has ever offered to help. Mr. DiMarino remarked that this is a common unfortunate situation among neighbors and added that compromise is difficult.

Lloyd Roach, 1025 Meetinghouse Road, said that, in applying for this subdivision, the applicant is taking advantage of a township error; Mr. Sagnor said he “would not call it taking advantage of anything.” Mr. Roach asked what had caused the applicant to go to two lots instead of three; Mr. Sagnor said “We thought it would be more palatable to everybody involved.” Mr. Roach asked, “If you’re willing to go to two lots, why not go to one lot?” Mr. Sagnor said they’re not willing to go to one lot.

Cyndi Emlet asked why the property is priced a million dollars over what other similar properties are priced. After giving examples, Mrs. Emlet asked “If Mrs. Boor has “such a hardship, why doesn’t she just take a million dollars off” the asking price.

Mr. Marshall asked when we can clear up the issue of whether or not this subdivision is part of Spring Meadows subdivision. Mr. Crawford said the applicant can take the position that it is not part of the larger subdivision, but that the PC can say that this plan gives insufficient information because the lot *is* tied to the community, and that would be the basis for a decision. Mr. Crawford said “there’s a logic and an argument that could be tested in court to tie this back to the [original] plan.” Mr. Crawford said that’s a separate issue from the declaration of restrictions focused on in earlier discussions. Mr. Marshall believes the Boor property to be part of the larger community. Mr. DiMarino said the PC is not going to commission a study for a private development, so the applicant will have to go through a lot of work before this issue is resolved. Mr. Crawford said that, if this plan were submitted under the zoning as it stood at the time of the original Spring Meadows subdivision, it would not be approvable because it would be beyond the allowable density; the zoning is now different, but there is a strong argument that this should be examined as part of the larger subdivision. Mr. Crawford said the community dues could at least be a reasonable condition.

Mr. Hawkins asked if the applicant, to appease those concerned, could perform the study of how this subdivision would fit into the earlier larger subdivision; Mr. Sagnor said he could not answer because he does not know the cost of such a study. Mr. Hawkins asked if the owner/s of the lot/s could settle the question and “perfect” the deeds, correcting the earlier omissions, then accept all the Spring Meadows restrictions and covenants. Mr. Sagnor reiterated that whatever the outcome, whether two or three lots, all would be restricted from further subdivision.

Mr. Boorse asked where the southwest driveway ends; Mrs. Emlet said it ends on the lower portion of Dorset Drive. Mr. Sagnor said he would check the title to see if the Boor lot has legal access to that drive.

Chairman DiMarino stated that he would look less favorably on a three-lot plan than on a two-lot plan. Other PC members agreed.

Billboards: Mr. DiMarino asked if, in the way our ordinance covers billboards, we have an ordinance that makes sense from the standpoint of being fair, useful, and enforceable, especially considering the current challenge on Baltimore Pike in Delaware County. Mr. Crawford, having distributed a memorandum on the subject (dated June 9,

2009), responded as follows: The existing ordinance allows billboards in the C-2 and C-3 districts by special exception. We should examine whether or not that is sufficient allocation of land area. We should examine the permissible size; 72 sq. ft. may not be enough. If there are two permitted uses on a single property, a billboard may be the second (conditional) use. One approach would be to say that billboards are the sole principal use allowed on a commercial lot. That would need a lot size imposed. Another possibility is to eliminate the allowance of more than one permitted use by conditional use where the proposed conditional use is a building. Mr. Crawford feels that the ordinance needs remedial action, considering the Delaware County situation.

Mr. DiMarino summarized as follows: The area and height issues may be too restrictive; another issue is places where they might be positioned; the third concern is conditional and multiple uses on the same property. Mrs. DeCaestecker asked if a request for a larger sign would lead to a billboard request. Mr. Crawford explained that a billboard is defined as being off-site and is usually rented, so it is a principal use, not an accessory.

Mrs. McCarthy asked if billboard lighting can be limited; Mr. Crawford said it can. Mrs. DeCaestecker asked if the distance between billboards can be limited; Mr. Crawford replied in the affirmative. Mr. DiMarino suggested that the PC members read Mr. Crawford's memo and that Mr. Crawford suggest some ordinance recommendations for discussion at the next meeting.

Mr. Boorse asked why 72 sq. ft. is not enough. Mr. Crawford explained that, when a township permitted 25 sq. ft., a challenge said the industry standard is 300 sq. ft. The court said national standards cannot regulate what's reasonable in a zoning ordinance; the court decided to let the lower court determine what size is reasonable, and that decision has yet to be made. Therefore we know that 25 sq. ft. is too small and 300 is more than is required. In further discussion of what size is visible at what speeds, it was suggested that PennDOT or the American Planning Association may have research data. Lloyd Roach (1025 Meetinghouse Road) objected to lowering our standards in Birmingham's short 3/10 of a mile, noting that the Dilworthtown Shopping Center sign is very restricted and the Dilworthtown Inn sign has been grandfathered since it advertised the Chester Ferry. He said "Don't give in." Mr. DiMarino said we're attempting to make Birmingham's ordinance less vulnerable. Mr. Crawford said the idea of restricting a billboard to a separate lot is restrictive.

Temporary Signs: Mr. DiMarino said we have an ordinance for temporary signs in the Commercial and Historic Commercial Districts, but we want to be sure that we have a reasonable set of conditions that will permit temporary signs at certain times while meeting the objective of the current ordinances. Mr. DiMarino said the PC may take a look at this issue at the next meeting if the length of the meeting agenda allows. The issue of real estate signs is covered in the ordinance, but we should make sure it's *adequately* covered; price is not addressed in the ordinance.

The meeting adjourned at 8:35 (Boorse, Hineman).

Respectfully submitted,
Jacquie Roach

This document was created with Win2PDF available at <http://www.win2pdf.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.
This page will not be added after purchasing Win2PDF.