

**WHITE OAK BOROUGH
PLANNING COMMISSION MEETING MINUTES
HELD MARCH 4, 2010**

Planning Commission Members Present:

Al Lebedda
Paul McCarthy
Tony Villinger
Glenn Beech
Helen Stratigos

Planning Commission Members Absent:

Others Present:

Wayne Washowich
Don Hultberg, Borough Engineer
Terry Leckman, Borough Solicitor
Bob Deglau, Allstate Mapping and Surveying

Mr. Lebedda: ----- White Oak Planning Commission for Thursday, March 4, 2010. Let's stand for the Pledge of Allegiance.

All: Recited Pledge of Allegiance.

Mr. Lebedda: The members tonight that are present, starting to my far left, Glenn Beech, Tony Villinger, Paul McCarthy, Helen Stratigos is the Secretary, and yours truly the Chairman. To my right is Wayne Washowich the Building Inspector, Don Hultberg the Borough Engineer representative, and Terry Leckman the Borough Solicitor. The minutes for the February 4, 2010 meeting are not available at this time, we will present them next month. The agenda tonight, we have one case, a pre-application conference with Earl Guffey and Robert Deglau, concerning the property at 1528 Lincoln Way in White Oak. Will the representatives please come to the podium, state your name and address as well as stating your case.

Mr. Robert Deglau: Robert Deglau, Allstate Surveying and Mapping, 11639 Route 30, Irwin, representing a request for pre-application for Earl Guffey. He's not able to be here tonight, but in the past couple of days he's sent over a letter, I don't know if you have a copy of that? I have a few extra copies.

Mrs. Stratigos: We have them.

Mr. Robert Deglau: Did you get the site, the 8 ½ X 11 site plan that shows the property?

Mr. Washowich: The survey?

Mr. Robert Deglau: Yeah.

Mr. Washowich: This property survey?

Mr. Robert Deglau: Yeah.

Mr. Washowich: Yeah.

Mrs. Stratigos: Everybody has it yes.

Mr. Robert Deglau: I guess there's really no plan review other than, I just identified the property that he plans to buy, and just to give you some background, this property was a property that was developed for commercial property before the Planning Commission about 3 or 4 years ago, for site plan approval. And what the owner did is they converted it from a home to a commercial retail and put, I think it was 4 parking stalls in the rear, and maybe one or two in the front. And since then, they have the property for sale, and they're trying to liquidate the property and someone talked to Earl about a good idea of buying the property and converting it to student housing. So he wrote in his letter how he feels about that, and I'm just basically presenting it to you for your feedback so that he knows how to proceed if he wants to. Yeah, he hasn't bought the property yet, so there's nothing to lose. It's offered for sale, the only reason he wants to buy it is not for another commercial property, but for this purpose. And I don't know how that fits into your zoning, of course he doesn't either, but it's been offered to him to purchase that, and he's interested in purchasing it for that purpose.

Mr. Lebedda: Ready for the comment? I'm sure there's going to be a few. Any comments from the Planning Commission itself?

Mr. Leckman: Do you want me to --

Mr. Lebedda: Will our Solicitor make some comments?

Mr. Leckman: Or do you want to?

Mr. McCarthy: The only thing I see Bob, is that we were finding a problem where this fits in with the zoning.

Mr. Bob Deglau: Sure.

Mr. McCarthy: There was no place in there that it's really a legal use or a use by special exception. That's our biggest dilemma I think, is the zoning.

Mr. Bob Deglau: Right, so you don't have any guidelines to advise, if there's no clear --

Mr. McCarthy: It just, it appears it's not a legal use in that zoning.

Mr. Bob Deglau: Oh it's not legal, okay. In the commercial.

Mr. Beech: I think one of the concerns was, with the Planning Commission, was that the site is designated as commercial and not necessary looking to revert back to residential.

Mr. Bob Deglau: Right, yeah, it was residential, a lot of those properties were at one time, and then naturally, probably was given an occupancy permit as commercial/retail.

Mrs. Stratigos: It was.

Mr. Bob Deglau: It should still have.

Mr. McCarthy: Right, any property there that's residential is legal non-conforming now. So once you give up that non-conforming use and switch it to another use that is legal in the zoning, I guess it's our opinion you can't really revert back to the use that's not legal.

Mr. Leckman: In addition to that, it doesn't sound like this would be a true reverting back into a private use anyways, because this is multiple people, unrelated living, you know, in a house here –

Mr. Bob Deglau: Right.

Mr. Leckman: So, I think in a nut shell, it's not, you know, you're familiar and have access to a copy of our ordinances, right? Under C-1 it's not a permitted use by right, under 1331.02 a or it doesn't seem to fall in under b, under uses by special exception either. At least that's what the Planning Commission was struggling, finding a –

Mr. Bob Deglau: I guess if Earl were here, he would then ask, because he hasn't purchased the property, he hasn't given a deposit, it's just, like you read in the letter, he owns other properties nearby there, so I don't know the realtor, either who has that for sale, or who he's dealing with, if it's another multi-list agent, but is there any option for him to seek a zoning hearing to revert that? Is it worth his while to do that, since he doesn't own the property?

Mr. Leckman: Well we can't speak on behalf of the Zoning Board, but that would be an issue that would go before them for a change. I think he'd have to demonstrate a hardship, which –

Mr. Bob Deglau: It would have to be a hardship because it doesn't fit in under there.

Mr. Leckman: We kind of debated that, not that we make that, not that that's within our jurisdiction, but it doesn't pop out, there's been other uses for the property so, that were legal, so –

Mr. Bob Deglau: If he was thinking about doing this, he would stand a better chance if it was zoned, what then, R-2 or R-1 or –

Mr. Hultberg: I don't think it's a question of going back and getting it re-zoned. I think it's a question of going to the Zoning Hearing Board and getting a variance on the existing conditions of the zoning for this one particular use, on this one lot.

Mr. Bob Deglau: Oh yeah, on this property, but let's say another property came up for sale, would he stand a better chance, because I have to report back to him. Would he stand a better chance purchasing something in R-2 or R-1 or R-3?

Mr. Leckman: Well I think, from a recollection standpoint, I think R-3 is the first one that gets into multiple dwellings. Then multiple dwellings have their own definition of sanitary and culinary facilities and sleeping facilities in the units. But you can have multiple dwelling units, I think it starts in R-3.

Mr. Washowich: But you also need separate facilities.

Mr. Leckman: Yeah, the separate facilities, yeah, I mean –

Mr. Washowich: Yeah, you just can't have one house with ten bedrooms.

Mr. McCarthy: You need separate kitchens, separate sanitary facilities, separate –

Mr. Bob Deglau: Apartments.

Mr. McCarthy: Separate units, separate apartments.

Mrs. Stratigos: Apartments, right.

Mr. Bob Deglau: Yeah, and the zoning maps available on line, so he can look at that and see where he stands a better chance for a hardship if he wants, or.

Mr. Hultberg: I'll be happy to email you one Bob, that you can either email down to him or you know, stop at the office and I'll give you a copy.

Mr. Bob Deglau: But if he, I don't know Earl that well, or I haven't known him that long, but should I tell him that it would really, that he'd have to prove some multiple hardships to go before the zoning, or is that a different Solicitor?

Mr. Leckman: I'm not, I'm not actually allowed to represent zoning, because that would be a conflict with the Borough.

Mr. Washowich: We can get him to the Zoning. He can request a hearing to the Zoning. Pay the fee. I'll tell you up front, the number one criteria is you got to prove a hardship. They have 8 different criteria that they go through. And that's number 1 on the list.

Mr. Bob Deglau: Yeah, I know when I go to the zoning hearing boards of different townships, it's more the domain of an attorney. So we always try to have an attorney with us because it gets into uh, sometimes multiple hardships, or do this or that, and there's only so much, and then the owner or buyer, since he doesn't even own the property.

Mr. Leckman: Right.

Mr. Hultberg: The Zoning Hearing Board by definition with the state of Pennsylvania is a legal entity.

Mr. Bob Deglau: Yeah.

Mr. Hultberg: And it is a legal process, so. Not that you have to have legal representation at those, but, obviously it's –

Mr. Bob Deglau: I just have to warn him how much, you know, he's putting a gamble out there with the attorney and the application fee, which is how much?

Mr. Washowich \$300.00.

Mr. Bob Deglau: Yeah, okay.

Mr. Leckman: I actually am not allowed to represent them because in theory the Borough could be an opposing party in front of Zoning if they so desire.

Mr. Bob Deglau: That's true. And is there anything else I should tell Earl as far as the application, that would be other than it doesn't fit into the zoning, is that –

Mr. Washowich: Yeah, I mean I can't, I don't think there's anywhere in our ordinance, that that type of thing –

Mr. Leckman: You get into the separate facilities, like the apartment units. They could all be in the same building, if they' satisfy the code, the proper code.

Mr. Washowich: If there was an apartment and he wan't to put, you know, a student in, because then you get into what the definition of a family is. So he could put one student in that building.

Mr. Leckman: He could put two probably.

Mr. Washowich: Two.

Mr. Leckman: Well actually, that's another question. Right now it's a commercial use.

Mr. Hultberg: Yeah at this point, it's not allowed. Should he happen to get the variance from

the Zoning Hearing Board, he would then have to look at what a multiple family dwelling definition is. And basically Bob, it breaks down to you have to have separate sanitary facilities, cooking facilities and living areas. And a family is defined as blood relatives or no more than 2 unrelated people. So for every bathroom, lets say that has a kitchen and a living area, he can put two students in.

Mr. Washowich: I think the other question would be, and I probably have disagreement with some of the Board members, it's was single family occupancy. It was residential usage. Then it went to commercial usage. Had somebody come to me and wanted to take it back to residential, I probably would have granted that, but I may be disagreeing with some of the Board members, I don't know.

Mr. Bob Deglau: Right, yeah, for single family, gotcha. Yeah, I know that he purchases real estate, I know that lots of times, you go across boundary lines in different towns, they all have different ordinances, and Greensburg just had the same problem and they had to draft a whole new ordinance because all the landlords were finding out that Seton Hill couldn't house all the students. Every house was going to become, like what is that Havlit Street down Pitt, or whatever that is, so they had to rewrite everything because there was some loopholes in it, so, but I know that uh, he just basically is looking to purchase, and make a profit, you know, and also run something that in his letter wouldn't be troublesome for the Borough.

Mr. Washowich: Now his other building, which he just purchased, that was residential use in the C-1 district for years, and then it was sold, and it went to commercial. And there was a beauty shop in there, and then there was a grooming in there, and a professional office. And now it's back to residential and I granted them to go back in there as residential, so. I mean, he's probably going to ask you about that.

Mr. Bob Deglau: Right, and I'll explain to him the difference, the way this particular ordinance is written, and I do have the online information. I do have your hard copy ordinance, and I sent him that. I talked to other people that said this is a great idea so that's why he was wanting to get your feedback on it. I appreciate you time tonight.

Mr. Lebedda: Are there any other comments? Before we close I was missing for the members present and I forgot to mention Edward Babyak, he's the Borough Council representative, so I wanted to make sure that his name is there. I'll entertain a motion to close.

Mrs. Stratigos: I so move Mr. Chairman.

Mr. Lebedda: Second please.

Mr. McCarthy: Second.

Mr. Lebedda: A motion's been made and seconded, all those in favor signify by saying aye.

All: Aye. (unanimous)

