

**WHITE OAK BOROUGH
ZONING HEARING BOARD MEETING MINUTES
CONTINUEANCE OF SEPTEMBER 30, 2009**

Zoning Hearing Board Members Present:

Terry Farrell
Phyllis Spiegel
Keith Reigh, Alternate

Zoning Hearing Board Members Absent:

Others Present:

Wayne Washowich, Code Enforcement Officer
Wayne Weinstein
Gene Sabol

Mr. Farrell: We're going to reconvene the meeting that we continued, which was held Wednesday last, September 30th I believe that was. And the purpose of the continuance was for this Board to have an opportunity to go out and view the site location that the applicant has applied for a variance from the 5 acre minimum size lot to develop a multi-dwelling project. I'm speaking only for myself, I found the particular property, the topography kind of difficult that there'd be much development in that area as it is right now. But having said that, I am going to make a motion, I usually allow for our members to do that, but they've asked me to do it since I sort of lead the discussion in the back room. But the motion is going to be that we would grant the variance to the area that the applicant submitted to us on a couple conditions. One, that White Oak Borough vacate or abandon whatever interest it has, if any, in Gypsy Lane so that the acreage in the rear off of Gypsy Lane, going up the hill, is contiguous immediately to the area where the actual structure, or the lot where the actual structure is going to be built. Secondly, that we receive a favorable recommendation from the Planning Commission to move forward with a special use, that is that this applicant then will proceed from this variance, if we grant it today, to go before the Planning Commission and they will then make a recommendation back to us for, whether or not to approve a special use. And thirdly, that this variance is only limited to this particular applicant. In other words, that if this project does not go forward, that whatever we approve tonight would not apply prospectively to this property. It just follows this particular applicant for this particular project. Having said that, that's my motion.

Mrs. Spiegel: (inaudible)

Mr. Farrell: I vote for it. Let me ask you, all in favor of the motion? Is there any

discussion? Is there a second on the motion?

Mr. Washowich: You need a second.

Mr. Farrell: I need a second? Okay. Is there any further discussion on the motion?

Mr. Reigh: No.

Mr. Farrell: Okay. Then I would ask that we take a roll call vote, and I will ask you first, Ken (Keith Reigh)?

Mr. Reigh: I vote for it.

Mr. Farrell: And Phyllis?

Mrs. Spiegel: I vote for it.

Mr. Farrell: And I third –

Mrs. Spiegel: With the stipulation.

Mr. Farrell: -- will vote for it also. And so with that having been said, we will grant the variance for this particular project with the conditions that we have noted, going forward and with a very strong recommendation from the Planning Commission that this project should proceed.

Mr. Washowich: And you'll have a written within the next 45 days.

Mr. Farrell: Yes, we'll have a report, a written report, within the next 45 days.

Mr. Wayne Weinstein: I have a question. This isn't in regards to the action that was taken, it's in regards to the time taken. I know you have 45 days to issue the report, but I'm wondering if you could estimate (inaudible)

Mr. Farrell: 44 days. No, I would hope I could get to it right away Wayne. Because I know there's some urgency, and I would like to ask you a couple questions, just a couple further questions, I'm glad you – yes would you please? There's been some discussion among us whether or not this project is tax-free on the tax roles.

Mr. Wayne Weinstein: It is not.

Mr. Farrell: Is not?

Mr. Wayne Weinstein: It will pay real estate taxes and that's one of the attractions of it.

It pays real estate taxes, but is not physically taxing on the taxing authorities. By that I mean, you'll seldom ever need police service, you won't need school service, so.

Mr. Farrell: But will it pay taxes on Allegheny County's Fair Market Value or is there some abatement, or some sort of a, because it is –

Mr. Wayne Weinstein: Probably there will be an abatement on the White Oak real estate taxes because I believe this is in the LERTA period.

Mr. Washowich: Right.

Mr. Wayne Weinstein: And that's for a period of time, at the most 5 years. They will immediately pay school taxes and county taxes.

Mr. Farrell: Based upon the fair market value? There won't be any type of special privilege or exemption because it's a Federally funded type of project?

Mr. Wayne Weinstein: No I don't think such a thing exists, frankly.

Mr. Farrell: Pardon me?

Mr. Wayne Weinstein: I don't think such a thing exists, frankly. And if it is, I'd be looking for it. I'm pretty sure there's no such tax abatement.

Mr. Farrell: Okay.

Mrs. Spiegel: How do we find out?

Mr. Farrell: Well I think that's our due diligence, and if we do find something out, we need to at least let the Planning Commission know, who is going to make the next leg of this approval process. All we've done today is said that there's a project that wants to go forward and granted the variance from the total acreage that's required. We still have to come back and look at this again as a special exception, and the Planning Commission surely has to make a strong recommendation that they would support that type of a project in that type of an industrial area.

Mr. Wayne Weinstein: And this is pretty customary, we certainly have to go to the Planning Commission in any case to get site plan approval and that's pretty comprehensive. They look at all those setbacks, and the parking ratios, and all that stuff, and have input. Sometimes they suggest changes, sometimes they don't. If it meets all of their requirements right away, they probably wouldn't, but they're favorable action on the, what did I just say?

Mr. Farrell: Site plan.

Mr. Wayne Weinstein: Site plan, yeah, is a prerequisite to your granting the special exception for the use.

Mr. Farrell: Yeah, and there's certainly some issues that you need to work out with Mr. Sabol, as far as rights-of-way across Rainbow Drive, or whatever they call that now.

Mr. Wayne Weinstein: Well, Mr. Sabol is a very cooperative person, as you've seen, and as a matter of fact he's sitting here.

Mr. Farrell: He's biting at the bit to stand up.

Mr. Wayne Weinstein: He's welcome to.

Mr. Farrell: Okay, thank you very much Wayne. Would you identify yourself for our record please?

Mr. Gene Sabol: Gene Sabol.

Mr. Farrell: And you're a neighbor up there Mr. Sabol?

Mr. Gene Sabol: Beg your pardon?

Mr. Farrell: You're the neighbor --

Mr. Gene Sabol: Yes I'm the neighbor.

Mr. Farrell: -- with the storage sheds?

Mr. Gene Sabol: Yeah, I got one little question, do we got to abandon Gypsy Road? Because I feel like I'll be landlocked on some of my property.

Mr. Farrell: Well I think we do need to see that abandoned so that these two lots are contiguous, and I mentioned to Wayne Washowich that that would then require, because you own both sides of Gypsy Lane, most of it at any rate, would require you to work out an arrangement or a right-of-way across their parcel of property in the rear. And I don't know, who owns to the right?

Mr. Gene Sabol: I own to the right, and I own to the left on both sides.

Mr. Farrell: On Gypsy? The whole side all the way down?

Mr. Gene Sabol: Yeah.

Mr. Wayne Weinstein: Back to where Gypsy and Rainbow intersect.

Mr. Farrell: What's our other fellow's name that's selling this property though?

Mr. Reigh: Zona.

Mr. Farrell: Zona? He owns on the lower –

Mr. Wayne Weinstein: (inaudible) a company, five Zona brothers (inaudible)

Mr. Farrell: But he's on the lower side?

Mr. Wayne Weinstein: On the lower side of Rainbow.

Mr. Farrell: Of Rainbow, right. So –

Mr. Gene Sabol: Right, yeah, we wouldn't be bothered by that, but see, when I go up it, you know, I'll be bothered, I'll be landlocked –

Mr. Farrell: Yeah, and I understand that, but, and I think that can be worked out, as I said with a right-of-way, you know, they're going to need, it appears to me that if the Borough doesn't accept Rainbow Drive as a public roadway, they're going to require a right-of-way for people to have access to this proposed dwelling unit.

Mr. Gene Sabol: Yeah.

Mr. Farrell: We're going to require that the lots be contiguous, the front lot be contiguous with the back lot. That means they touch each other. And the only way that's going to happen is if they abandon that roadway. And I'd, Wayne and the Borough are not sure whether they even have an interest in the roadway. That's for their Council to decide and to make a determination. But I think that when you folks are all discussing a right-of-way across Rainbow Drive that the dwelling units will need to get to Lincoln Way, you need also to discuss a right-of-way across the rear of that lot, the middle of the rear lot anyhow –

Mr. Gene Sabol: Yeah.

Mr. Farrell: -- so that your folks can come up and down that –

Mr. Gene Sabol: Yeah.

Mr. Farrell: -- what used to be Gypsy Lane.

Mr. Gene Sabol: Yeah, but all I'm saying, Gypsy when you come up Gypsy okay now, they got that one little spot that's only 100 feet wide, okay?

Mr. Farrell: That's right.

Mr. Gene Sabol: And I don't own both sides of it.

Mr. Farrell: That's right.

Mr. Gene Sabol: What would be nice, and I offered them, you know, to buy my property there, if they would buy the length of that property that they need, and then shoot that property all the way back, it would give them enough of room, they wouldn't need a variance, you see what I'm talking about?

Mr. Washowich: They've already been granted the variance.

Mr. Gene Sabol: Yeah, they'd be right in.

Mr. Washowich: But they've already been granted one, so.

Mr. Gene Sabol: Yeah, I know, but they wouldn't be coming up here, you know, wasting time, your time, you know, whatever. And they turned it down, because she asked me at the last meeting if I was going to sell them some property, and I says I've already been through that, and they don't want to buy it.

Mrs. Weinstein: I do remember asking you that.

Mr. Gene Sabol: Yeah. And –

Mrs. Weinstein: My question was ---

Mr. Farrell: Well then, I think that's why we've made this approval subject to White Oak abandoning, as I said, whatever interest they have on Gypsy Lane. And as I said, I'm not clear that that's even a public street, but we're not here to make that determination.

Mr. Gene Sabol: Right, right.

Mr. Farrell: It's being shown on the maps here, and we certainly walked that property all 3 of us walked all the way up to your property line.

Mr. Gene Sabol: Right.

Mr. Farrell: As a matter of fact, we notice a number of markers up there, we're assuming those were all done by this developer, none of –

Mr. Gene Sabol: Yeah, yeah.

Mr. Farrell: Okay. And so, it's unlikely that Gypsy Lane would be used by anybody but you and this project, and this project probably has no really use for Gypsy Lane as it is, unless, except for what you might use it for, so –

Mr. Gene Sabol: Yeah.

Mr. Farrell: But I think that's a minor issue to this whole project and I think you two can work that out with relatively little problem, frankly.

Mr. Wayne Weinstein: I agree with that, I think you're absolutely right.

Mr. Farrell: Yeah, it's not a major problem for –

Mr. Gene Sabol: As long as I got a right-of-way to go up and down through there, like I said, I'm happy, you know, I don't care as long as I got my right-of-way going up and down my property.

Mr. Farrell: Yeah.

Mr. Wayne Weinstein: Actually, it's, I don't know if you can even call it a right-of-way now, it's an abandoned street. It was a street at one time, it's never officially been abandoned. It was taken by PennDOT, but again, PennDOT never officially condemned the roads, only the lots in all these areas. And of course they tore out the utilities, they tore out the storm water drains and the sewers and everything like that, utilities that were there. And the Borough said, I don't want it back.

Mr. Farrell: I think we're, Wayne, I think we all understand the particular issues that have been raised on that particular street, we're not, we're not here to really argue over those, but those are the things we need to have done in order to have the variance, for him to be in compliance with the variance that we're issuing tonight, limited to this particular applicant and for this particular project.

Mr. Wayne Weinstein: Fine.

Mr. Farrell: Any further comments? I will try to get that report out as soon as I get it typed and over to me, I'll try my best to get it out to you folks.

Mr. Wayne Weinstein: I'd appreciate that very much and thanks to all of you.

Mr. Farrell: Thank you very much and thank you Mr. Sabol for coming in. Does anybody else want to speak tonight? Hearing no others, meeting adjourned. Motion for adjournment? Motion to adjourn?

Mrs. Spiegel: I so move.

Mr. Farrell: There you are.

Mrs. Spiegel: There we go.