



Allen Township Board of Supervisors

Meeting Minutes October 11, 2022 7:00 P.M.

A General Meeting of the Allen Township Board of Supervisors was held on Tuesday, October 11, 2022 at 7:00 P.M. at the Allen Township Fire Company Building, located at 3530 Howertown Road, Northampton, PA. Mr. Hassler led the audience in the Pledge of Allegiance to the Flag.

1. Roll Call:

Present: Dale Hassler; Gary Behler; Tim Paul; Jason Frack; B. Lincoln Treadwell, Jr., Esq; Ilene Eckhart, Manager; and Stan Wojciechowski, PE, CME.

Absent: Paul Link; Maurin Ritinski, Admin. Asst.; and Andrea Martin, EIT.

2. Announcements and/or Actions to Add New Items to Current Agenda: Ms. Eckhart questioned if the Board would like to consider adding an item to the agenda relating to the fireworks request at the Lappawinzo Fish and Game Protective Association. Mr. Behler made a motion to add the fireworks authorization request to the agenda, seconded by Mr. Frack. On the motion, by roll call vote, all Supervisors present voted yes.

3. Public Hearings: Mr. Treadwell stated that there is a public hearing scheduled tonight for the Inter-Municipal Liquor License transfer request for Setter Hill Beverage, LLC. Mr. Behler made a motion to open the public hearing, seconded by Mr. Frack. On the motion, by roll call vote, all Supervisors present voted yes.

Anthony Giovannini Jr., associate attorney with Broughal & Devito, LLP, introduced himself and explained that his office is representing Setter Hill Beverage LLC. Mr. Giovannini explained that the purpose of the Public Hearing is to receive comments and testimony from interested individuals residing within the Township concerning the proposed transfer of this Liquor License. Setter Hill Beverage, LLC is requesting the approval of an economic development license transfer within Northampton County in accordance with Section 4-461 of the Pennsylvania Liquor Code (47 P.S. 4-461).

Mr. Giovannini's first witness was Lisa Check, Member-Manager of Setter Hill Beverage LLC and Allen Township resident. Ms. Check authorized her husband, Ronald Check, to speak on her behalf. Mr. Giovannini's second witness, Ronald Check identified himself as being an Allen Township resident residing at 20 Country Road. Mr. Check indicated that the purpose of Setter Hill Beverage LLC is to hold a Pennsylvania Liquor License. Setter Hill Beverage LLC does not currently hold a liquor license. Mr. Check stated that Setter Hill Beverage LLC is looking to acquire an R license which is a restaurant license. Mr. Giovannini stated for the record that this license is known as Liquor License No. R12097, LID #97823. Mr. Check indicated that Setter Hill Beverage LLC is currently under agreement to purchase this Liquor License from the current owner, Dadalu, LLC, located in Easton, PA. Mr. Check confirmed that the sale of this Liquor License is contingent on the transfer into Allen Township. Mr. Check indicated that Dadalu LLC currently utilizes this license at 683-685 Walnut Street, Easton, Pennsylvania. Mr. Check further specified that the purpose of this Public Hearing is to request the approval of an Inter-Municipal Liquor License transfer for use by Setter Hill Beverage LLC. The use of this license will occur at the premises located within Allen Township at the new special event facility located at the physical address 639 Old Carriage Road Northampton, Pennsylvania 18067 (Tax Parcel Number K4-29-2-0501). Mr. Check specified that the owner of the property located at 639 Old Carriage Road is Setter Hill Farm LLC, of which Mr. Check identified himself to be the Managing Member.

Mr. Check explained that he plans to construct a special event center at 639 Old Carriage Road. The events held at the center will be private functions for special events, including weddings and private parties. Mr. Check provided additional background on the construction plan for the special event center. In addition to special events Mr. Check noted that the property will also house retired race horses for the purpose of being a horse rescue. Mr. Check indicated that food will be prepared on-site in a kitchen to be served to guest patrons of the special event center. Mr. Check stated that he will be seeking a valid health license for the premise. The facility will not run as a typical bar or tavern and will only be open during special events rentals and only for the patrons of these events. Mr. Check explained that traffic generated by the special event center is not a concern and that PennDOT has classified the driveways for the property to be low-volume. Mr. Check stated that the special event center will comply with the Township noise ordinance with noise ceasing at 10:00 PM.

Mr. Giovannini and Mr. Check reviewed the Pennsylvania Liquor Control Board licenses that are active in Allen Township. The active licenses and types consist of: Willow Brook Golf Course, a Privately-Owned Public Golf Course Restaurant License; Lappawinzo Fish & Game Protective Association, Inc., a Catering Club License; and the Seemsville Pub & Grill, a Restaurant License. Mr. Check assured the Board that any bartenders employed at the special event center will have completed the required Responsible Alcohol Management Program (RAMP) training and any managers of the special event center will have completed the required Managerial Responsible Alcohol Management Program (RAMP) training. Mr. Check stated that this liquor license will not negatively affect the welfare, health, peace, and morals of Allen Township or its residents.

Mr. Behler expressed his satisfaction that Mr. Check is committed to ceasing operations at 10:00 PM per the Allen Township ordinance. Mr. Treadwell questioned if the kitchen will be a raw foods to prepared foods kitchen. Mr. Check clarified that it is a raw food to prepared food kitchen. Mr. Check further explained that this is different than what he represented to the Planning Commission a few weeks ago. He explained that upon review of the options of catering versus preparing food on-site, he decided it was in the best interest of the business to prepare foods on-site. Mr. Check intends to have a chef prepare the food for special events only. He confirmed that the site will not have regular hours and will only be open for planned special events.

There were no public comments or questions regarding the Inter-Municipal Liquor License transfer request for Setter Hill Beverage, LLC.

Ms. Eckhart informed the Board that if they decide to approve the Inter-Municipal Liquor License transfer request for Setter Hill Beverage, LLC, that this approval would be in the form of a resolution and which would be known as Resolution 2022-019.

Mr. Behler made a motion to close the public hearing, seconded by Mr. Frack. On the motion, by roll call vote, all Supervisors present voted yes.

Mr. Behler made a motion to adopt Resolution 2022-019 as it relates to the Inter-Municipal Transfer of Liquor License No. R12097, LID #97823 to Setter Hill Beverage, LLC, seconded by Mr. Frack. On the motion, by roll call vote, all Supervisors present voted yes.

4. Public to be Heard: Gene Clater, 75 Arrowhead Lane, commented that he has sought out legal advice and has had his concern under legal review. Mr. Clater explained that he was speaking tonight to give the Board a chance to do what is right by reversing their decision. Mr. Clater explained that the Township would be given notice of action within the next few days. Mr. Clater stated that Ms. Eckhart was made aware in March 2022 of the developing situation at the Aqua Pool facility on Kreidersville Road. Mr. Clater explained that the previous owner of the property, Donald Hall, had been granted a variance with conditions for a home occupation to conduct his business. Mr. Clater reported that he had requested the records for the variance. He explained that at the time this was a non-conforming use and Mr. Treadwell's current legal opinion would have applied at that time. Mr. Clater reported conducting case law research which he stated that he had shared with Ms. Eckhart and Mr. Treadwell. He explained that case law states that when a variance is granted it precludes categorizing that

use as a non-conforming use. He explained that the right for business expansion no longer applies because of this. Mr. Clater shared copies of the case law opinion with the Board. Mr. Clater informed the Board that he was giving them a chance to do what is right. Mr. Clater is requesting that the Township issue a cease and desist violation notice to Aqua Pools. He believes that Aqua Pools should appear before the Zoning Hearing Board. Mr. Clater stated that upon the receipt of the notice, the Township will have 30 days to remedy the situation or else the matter will be taken to court. Mr. Clater believes that the Township has set a very bad precedence by allowing the legal violation to persist by re-categorizing the use. Mr. Clater believes that the business has evolved from a home occupation by the previous owner to an industrial use contracting business with the current owner. Mr. Clater stated that the Township cannot have a Zoning Ordinance and choose when to enforce it. Mr. Clater stated that Mr. Treadwell's legal opinion is based on false assumptions.

5. Approval of Minutes: Mr. Behler made a motion to approve the minutes of September 13, 21, and 27, 2022; seconded by Mr. Paul. On the motion, by roll call vote, all Supervisors present voted yes.

6. Reports – All Reports with exception of the Treasurers Report noted as “on file”.

A. Treasurer: Mr. Behler made a motion to approve the Treasurers Report and the Paying of the Bills; seconded by Mr. Frack. On the motion, by roll call vote, all Supervisors present voted yes.

B. Solicitor: On file.

C. Engineer: On file.

D. Planning/Zoning/Code Enforcement: On file.

E. Road Superintendent/Public Works Leader: On file.

F. Fire Company: On file.

G. Emergency Management Coordinator: On file.

H. Parks: On file.

J. Nazareth Council of Government: On file.

K. First Regional Compost Authority: On file.

L. Stormwater: On file.

7. Unfinished Business

A. Rockefeller Lot #5 – Security Release Request: Mr. Wojciechowski reported that they received a release requested. Mr. Wojciechowski also reported that the maintenance bond that was established in April 2021 is set to expire. He reported that upon inspection of the site they found that all of the trees have been installed and maintained. Mr. Wojciechowski explained that the request is to authorize the release of improvement security in its entirety and allow the maintenance bond to expire with no action. Mr. Wojciechowski explained that due to all required work and documentation being satisfactorily addressed, he recommends that the Board of Supervisors acknowledge that no further action is necessary with regards to the Maintenance Period. The original security amount was \$8,112,379.81. The current security amount after Release No. 2 is \$356,212.37. Additionally, Rock-Lehigh Valley, LLC has requested a release from the Maintenance Security for Lot 5. The maintenance security is being held by the Township through a Subdivision Maintenance Bond issued by the Travelers Casualty and Surety Company of America in the

amount of One Million Two Hundred Sixteen Thousand Eight Hundred Fifty-Six & 97/100 Dollars (\$1,216,856.97). Mr. Frack made a motion to allow the maintenance bond to expire with no action and release the balance of the maintenance bond, seconded by Mr. Behler. On the motion, by roll call vote, all Supervisors present voted yes.

8. New Business

A. JW Development Business Center – Phase 2 Request for Extension: Mr. Treadwell explained that this request is in regards to Lot 3, located on the west side of Howertown Road. Mr. Treadwell stated that the request is to extend the 5 year MPC approval through December 31, 2026. This request is in response to the finalization of access for the lot involvement of a third party. Mr. Treadwell indicated that none of the Township ordinances or subdivision land development have changed since the initial approval. Mr. Behler questioned the five year time frame. Mr. Treadwell explained that because there are no new requirements that the process would be the same with the same information showing that the current plan meets the requirements. He further clarified that this process is to memorialize and protect the approval without requiring the landowner to go through the process again. Mr. Behler was agreeable with the extension. Mr. Frack made a motion to approve the extension until December 31, 2026; seconded by Mr. Behler. On the motion, by roll call vote, all Supervisors present voted yes.

B. Setter Hill – Preliminary/Final Land Development Plan: Ronald Check addressed the Board to request approval of the Setter Hill Farms LLC preliminary/final land development plan for a special event venue. Mr. Check reported that the Planning Commission had recommended approval of the plan. Mr. Check explained that there are several waivers being requested. He also noted that he pledged at the Planning Commission that he would set aside funds for curbing and sidewalk. He reported that he is working on this agreement. Mr. Wojciechowski indicated that the Planning Commission recommended preliminary/final conditional approval. Mr. Wojciechowski read through the requested waivers. The requested waivers from the Township Engineer’s review letter, originally dated September 15, 2022, revised September 19, 2022, are as follows:

“WAIVERS REQUESTED

The following waivers have been requested on the plans and in the waiver request letter:

- 1. SALDO §22-502.1 and §22-503.1. These sections requires that a Preliminary Plan separate from the Final Plan be submitted for all subdivisions and land developments, except for minor subdivisions. The Applicant has requested a waiver from the requirement to obtain a Preliminary/Final Approval. We have no objection to this request.*
- 2. SALDO §22-502.2(A) and §22-503.2. This section requires the scale of the drawing to be 50 feet to the inch. We find the 100 scale plans are adequate to show the entire tract, and the 60 scale plans generally provide sufficient detail to construct the improvements. We would not object to a waiver of section provided the Design Engineer provide additional detail(s) and notes as may be requested during the Land Development process.*
- 3. SALDO §22-406. This section requires that all new streets and cul-de-sacs, and widened portions of all existing rights-of-way, intended for public use, shall be dedicated to the Township or State, subject to final acceptance. The Applicant has requested a waiver from dedicating the Ultimate Right-of-Way to the Township between the PennDOT (Old Carriage Road) and Township right-of-way (School Road) beyond the 10.2051 Acre Agricultural Conservation Easement exclusion area. We have no objection to this request.*

4. *SALDO §22-406.J. This section requires that collector roads shall have a sixty-foot design right-of-way minimum, at least two twelve-foot traffic lanes, and two eight-foot paved shoulders. Curbs and sidewalks are required on all collector roads. The Applicant has requested a waiver from providing roadway improvements and curb and sidewalk along the entire frontage of Old Carriage Road because the area/properties surrounding Setter Hill Farms, LLC do not have significant/established roadway improvements or curb and sidewalk.*
5. *SALDO §22-406.K(1). This section requires that local streets shall have a sixty-foot design right-of-way minimum, two twelve-foot traffic lanes, two eight-foot parking/gutter lanes, a total paved width of 40', and concrete curb and sidewalk. The Applicant has requested a waiver from providing roadway improvements and curb and sidewalk along the entire frontage of School Road.*
6. *SALDO §22-407.2. The Applicant has requested a waiver from providing the widening of the eastbound cartway of Old Carriage Road, the widening of the southbound cartway of School Road, from providing curb and sidewalk along the frontage of the Agricultural Conservation Easement, and from providing a fee in lieu of this construction.*
7. *SALDO §22-502.4.C. This section requires that the Ultimate Right-of-Way be shown on the plans. The applicant has requested a waiver from the establishment of the Ultimate Right-of-Way across the frontage of Old Carriage Road and School Road beyond the 10.2051 Acre Agricultural Conservation Easement exclusion area. We have no objection to this request.*
8. *SALDO §22-502.4.I. This section requires that the plans include building restriction lines with distances from the right-of-way line. The applicant has requested a waiver from the establishment of front yard setback lines measured from the Ultimate Right-of-Way lines for Old Carriage Road and School Road beyond the 10.2051 Acre Agricultural Conservation Easement exclusion area. We have no objection to this request.*
9. *SMO§8-231.8.F.(3). This section requires that interior slopes of detention basins shall not be steeper than a ratio of 4:1 horizontal to vertical to minimize the negative visual impact of detention basins. The applicant has requested a waiver from this requirement and the need for fencing. Since the applicant is providing a safety ledge within the basin, we have no objection to this request.*
10. *SMO§8-231.8.G.(4). The applicant has requested a waiver from the requirement of interior basin side slopes being steeper than a ratio of 5:1 horizontal to vertical and the need for fencing. Since the applicant is providing a safety ledge within the basin, we have no objection to this request.*
11. *SMO§8-231.8.K. This section requires that the minimum slope of the bottom of a detention pond shall be 2% toward the outlet structure. The applicant has requested a waiver from this requirement for Basins A, B, and C because they are being utilized as wet ponds, are designed to always retain water, and not designed to have an outlet structure. We have no objection to this request.*
12. *SMO §8-231.8.I. This section requires an access ramp of 10:1, 10 feet wide, to allow maintenance equipment to reach the basin floor for storm runoff detention facilities. The applicant has requested a waiver from this requirement for Basins A, B, and C because they are being utilized as wet ponds and are designed to always retain water making them non-accessible via an access ramp.*
13. *SMO§8-232.7.M. This section requires a minimum pipe slope of 0.5% for stormwater collection systems. The applicant has requested a waiver from this requirement because the pipe runs*

between I-8 and I-4 are being utilized as a subsurface infiltration bed that requires a flat bottom surface.”

Mr. Wojciechowski stated that the Planning Commission recommend approval of waiver requests numbers 1 through 3 and 6 through 13. He further indicated that the Planning Commission recommended a deferral with a fee in lieu of for request number 4 (relating to Old Carriage Road). Mr. Wojciechowski explained that the Planning Commission recommended a deferral with no fund contribution for request number 5 (relating to School Road). Mr. Behler questioned if the fee in lieu of was reversed. He explained that he recalled that it was for the areas outside of the Agricultural Conservation Easement area. Mr. Check stated that the fee in lieu of was for both Old Carriage Road and School Road for the portion of the property that is excluded from the Agricultural Conservation Easement area.

Mr. Check stated that minor geometric changes will be made to the plan that was before the Planning Commission which had received a recommendation for approval. He explained that no changes are being made to stormwater or impervious coverage. He continued to explain that he would like to rotate the position of buildings on the plan. Mr. Check indicated that the updated plan with the geometric changes will be presented to the Board for recording. Mr. Paul questioned if the size of any buildings will be changing. Mr. Check explained that the buildings will only be reoriented to in order to take advantage of the view.

Mr. Treadwell explained the Board’s options. He stated that the Board may choose to wait to see the minor geometric changes that Mr. Check is making to the plan or that the Board may also choose to approve the plan tonight. Mr. Treadwell explained that Ms. Eckhart, Mr. Wojciechowski, and himself would review the resubmitted plan and bring any significant concerns to the Boards attention prior to the recording of the plan.

Mr. Behler made a motion to approval of the Setter Hill Farms preliminary/final land development plan submission as recommended by the Planning Commission with the waivers and deferrals as discussed and with all conditions being met from the Barry Isett letter dated September 15, 2022, revised September 19, 2022. Mr. Behler added to the motion that the revised plan is subject to review from Allen Township professional staff for any significant concerns which may subject the plan to being brought back before the Board of Supervisors for further discussion. This motion was seconded by Mr. Frack. On the motion, by roll call vote, all Supervisors present voted yes.

C. Lappawinzo Fish and Game Protective Association – 1 Hour Firework Request – October 29, 2022 (Item Added to Agenda): Ms. Eckhart reported receiving a request by mail from the Lappawinzo Fish and Game Protective Association. This request is for a fireworks display on Saturday, October 29th. The request letter indicated that the Association will adhere to the one-hour time frame. The proposed fireworks display would begin at 7:00 PM. Ms. Eckhart explained that this request does not violate the Nuisance provision of the Allen Township Code. Mr. Behler believes that as long as the ordinance is being followed then he believes no additional conditions should be placed. Mr. Behler commented that he was in favor of the early 7:00 PM start time so that the display would be completed by 8:00 PM. Mr. Frack also commented that there was no need for further discussion on the matter if the ordinance is being followed.

9. Public to be Heard: Ronald Check, 20 Country Road, stated that he is the sole director of the Homeowners Association (HOA) for the residences on Country Road. Mr. Check explained that it has come to his attention that the street trees (which are pear trees) in the Township right-of-way are in need of trimming. He indicated that it is his obligation to trim the trees. He explained that the trees need to be trimmed from the bottom up so that the trees grow up instead of out. He is requesting approval from the Board to trim the trees at no expense to the Township. Mr. Behler made a motion to add this item to the agenda, seconded by Mr. Paul. On the motion, by roll call vote, all Supervisors present voted yes.

Mr. Behler questioned if this HOA typically notifies residents of any maintenance being done. Mr. Check indicated that this will be the first instance of any need to do maintenance as the HOA. Mr. Check stated that his

attorney explained that as the director for this HOA that he will need to send written notice for any maintenance such as tree trimming with a date the trimming will occur. Mr. Behler expressed his gratitude for Mr. Check coming before the Board to discuss the matter. He indicated that he would have no concerns with the tree trimming as long as the residents in the HOA were notified prior to the work commencing.

Mr. Behler made a motion to authorize Mr. Check, as the director of the HOA, to perform the necessary tree trimming on Country Road after HOA residents have been properly notified, seconded by Mr. Frack. On the motion, by roll call vote, all Supervisors present voted yes.

10. Announcements: Mr. Hassler announced the upcoming meeting dates as follows:

- Planning Commission – Monday, October 17, 2022 at 7:00 PM
- Board of Supervisors – Tuesday, October 25, 2022 at 7:00 PM
- Board of Supervisors – Tuesday, November 1, 2022 at 7:00 PM

Mr. Hassler recognized the schedule change for the first Board of Supervisors meeting in November. He explained that this meeting date was changed due to a conflict with Election Day. He stated that this meeting place is used for voting on Election Day and therefore the meeting date was changed.

There being no further comments or business the meeting adjourned at 7:48 PM.

Respectfully submitted,

Ilene M. Eckhart