

June 13, 1990

The Codorus Township Board of Supervisors met in regular session on June 13, 1990 at 7:30 P.M. in the Township offices. Board members present were: Charles Wehrly, Lamar Glatfelter and Leroy Thoman. Others present were: Solicitor John Herrold, Larry Lucabaugh, Mahlon Stambaugh, Donald Bollinger, Mr. & Mrs. Richard Townsend, Attorney Jeffrey Bortner, George Williams, Mr. & Mrs. Melvin Bricker, Mike Bricker, Mr. & Mrs. James Miller, Ken Mistovich, Richard Hart, and Robert Morris.

Chairman Glatfelter called the meeting to order by the pledge to the Flag.

The minutes were approved as written.

Larry Lucabaugh presented the final subdivision plan for Richard and Julia Townsend. The Townsends propose to subdivide four one-acre lots from a 19.874 acre parcel of land along Miller Road. Since the Miller Road tract has a quota of two building rights, the plan as proposed would include two building rights from the Townsend farm along Krebs Road.

Attorney Jeffrey Bortner, counsel for the Townsends, cited several reasons why the plan should be approved: (1) transfers have been allowed by the township in the past (2) the transfer of building lots is not in violation of any Township ordinance (3) If the Board of Supervisors are against the transfer of lots, the Zoning Ordinance should be amended (4) The Codorus Township Planning Commission led the Townsends to believe that the transfers of these lots would be approved and (5) it would be beneficial to have four lots in one place instead of two at each property since there would be only one bus stop, ease of trash collection and storm water control. Mr. Bortner cited Section 903 of the Codorus Township Subdivision and Land Development Ordinance which gives the Board of Supervisors permission to waive provisions by granting a variance.

In his closing remarks, Attorney Bortner stated that the transfer of lots for the Townsends should be allowed and the plan should be approved.

Supervisor Leroy Thoman stated that one reason for his objection to the plan was the fact that the four lots would be in prime agricultural land. Mr. Townsend replied by stating that the land on the Krebs Road farm was the same soil type.

Chairman Lamar Glatfelter asked for those in attendance that wanted to speak regarding the proposed Townsend plan to state their name. Those that asked to be heard were: James Miller, Donald Bollinger, Ken Mistovich, Richard Hart and George Williams.

James Miller asked why the Townsends had not been required to seek a variance through the Township Zoning Hearing Board. Mr. Miller stated that he is not in favor of the transfer of lots since there would be disadvantages for the neighbors by the impact four homes plan as proposed. He asked the Board to vote against the

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Ken Mistovich asked how many times a plan could be presented to the Planning Commission, since he understood the plan had been twice rejected and then presented the ~~the~~ third time. He is concerned about the water run off onto his property and does not agree with the transfer of lots.

Richard Hart stated he had recently moved to the area because of the rural atmosphere and that the proposed four-lot subdivision plan would bring more traffic to Miller Road. He goes on record as being against the transfer of building rights and is against this subdivision as proposed.

Donald Bollinger, Chairman of the Codorus Township Planning Commission, explained that when Mr. & Mrs. Townsend appeared before the Planning Commission in January, 1990, seeking information on subdividing lots from their two properties, the commission felt that it was a good idea to use all four of their building rights on the Miller Road property. The Townsends were told to proceed with a plan. Later, the Planning Commission members thought this wasn't such a good idea and had second thoughts about approving the plan. Mr. Bollinger later felt that he was morally bound to approve the plan since the Townsends had never been told by the Township to not proceed with the plan. Also, the Townsends had gone to a lot of expense and followed through with everything the Planning Commission had required. The plan was then approved by the Planning Commission at the meeting held May 31, 1990.

George Williams asked if he could read a letter that he had written to the Codorus Township supervisors and Planning Commission members which was dated April 17, 1990. Mr. Williams read the letter which is made a part of these minutes (Exhibit A). He stated he cannot see how the Township could approve this plan and asked the Board to vote its conscience.

Attorney Bortner then replied that he had no dispute with those in opposition of the plan and that the plan was never rejected by the Codorus Township Planning Commission. At one meeting the vote was two for, two against and one abstaining. He feels the Planning Commission led the Townsends on and that he understands there have been lot transfers in the past.

Chairman Glatfelter stated that tonight is the first time that this plan has been before the Board of Supervisors and that the plan would be reviewed and a decision made.

Supervisor Leroy Thoman reported that he feels the transfer of lots would not be fair to other township residents.

Supervisor Charles Wehrly reported that he had talked to Richard Townsend before the plan was first presented to the Township Planning Commission and told Mr. Townsend that he should hold off before proceeding with the plan until he met with the Board of Supervisors. Due to a misunderstanding, Mr. Townsend and Mr. Wehrly never made definite plans for a meeting with the Board of Supervisors.

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Chairman Lamar Glatfelter asked for a motion to approve the Richard and Julia Townsend plan. There was no motion to approve the plan.

Chairman Glatfelter then asked for a motion to reject the plan.

Lamar Glatfelter made a motion to reject the plan, due to four lots not being in compliance with the Codorus Township Zoning Ordinance. Leroy Thoman seconded this motion. A vote was taken. Leroy Thoman and Lamar Glatfelter voted to reject the plan while Charles Wehrly abstained from voting. The plan was rejected by majority vote.

Larry Lucabaugh presented a proposed plan of the Norman and Clara Hillegass property. Mr. & Mrs. Hillegass own a 25.697 acre property with no remaining building rights. They also own a 3.3 acre land-locked wooded tract that is not contiguous with the 25.697 acre tract. They propose to transfer the building right from the 3.3 acre tract to the larger tract. Mr. Lucabaugh stated that he has not been successful in obtaining a right-of-way to the smaller parcel and if this transfer is approved, the small parcel would probably be sold to an adjoining property owner. Mr. Lucabaugh presented each Supervisor a typed request regarding why this transfer should be approved. This proposed subdivision plan had been rejected by the Planning Commission on May 31, 1990.

Chairman Lamar Glatfelter asked for a motion to approve the Norman and Clara Hillegass plan. There was no motion to approve the plan.

The Chairman then asked for motion to reject the Norman and Clara Hillegass plan. Leroy Thoman made a motion to reject the plan, seconded by Lamar Glatfelter. A vote was taken and all three supervisors voted to reject the plan.

Robert Morris, a resident, came before the Board, requesting that the speed limit on Catholic Valley Road be lowered and posted at 25 miles per hour. Mr. Morris had sent a letter to the Board and Solicitor, requesting this speed limit. Mr. Morris is also concerned about the problems caused by patrons of two bars in the area; Creekside Inn and Findley's Tavern.

Mr. Morris was told that before a speed limit could be posted, a traffic study would have to be done by the County Traffic Engineer. After the results of the study, if a speed limit is recommended, the Township would need to adopt an ordinance to set a speed limit for this road.

The Board told Mr. Morris that the problem with the two bars is not a township matter.

Melvin and Mildred Bricker would like to subdivide a lot from their farm. They propose to put the lot along Shaffer's Church Road near the woods on the North side.

At a meeting of the Board of Supervisors held October 12, 1983, Mrs. Bricker was told that they could use one building right from their property along Water Tank Road on their larger tract along Shaffer's Church Road.

When the Brickers sold land to the Township in 1979, there was a verbal agreement that if the Brickers would sell this land to the Township, they would be allowed to move a lot from the Water Tank Road property to their Shaffer's Church Road farm. The Board told the Brickers that due to the verbal agreement and promise made at the October 12, 1983 meeting, the decision should be honored.

Mahlon Stambaugh reported that he had inspected the Michael & Trudy Jones property along Lineboro Road and could find no signs of the septic system malfunctioning.

Mr. Stambaugh also reported that Jake Miller is still in violation of the Sewage Ordinance at the property he owns in Sinsheim and charges will be filed against Mr. Miller.

The Township received notification today that Lawrence and Sharen Vance have appealed the decision of the Board made May 9, 1990. Mr. & Mrs. Vance had requested an appeal and hearing on the refusal of the Sewage Enforcement Officer, Mahlon Stambaugh, to issue a septic permit for a lot along Shaffer's Church Road. The hearing was held by the Board on April 19, 1990 and the decision was rendered on May 9, 1990. The Vances request that a septic permit be issued on the results of a test done in 1986 was rejected. Solicitor Herrold will provide the Court of Common Pleas of York County with the records requested in the Vance appeal.

Solicitor Herrold asked Mahlon Stambaugh to contact the PA Dept. of Environmental Resources ~~to~~ have their office contact him regarding the Vance appeal.

The Board reviewed the proposed amendment to the Zoning Ordinance prepared by Solicitor Malone. This proposed amendment deals with the transfer of building rights. No decision was made on this proposed amendment since the Planning Commission has not reviewed the proposal.

Lamar Glatfelter made a motion to issue a road occupancy permit to GTE for removing poles along Rohrbaugh Road, seconded by Charles Wehrly. This motion passed.

The secretary reported that Jesse Garver called on June 4, stating that he did not wish to go through with his proposed subdivision plan that was approved by the Planning Commission on May 31, 1990. The secretary will have Mr. Garver put this request in writing for the records.

The bills were presented to the Board. Charles Wehrly made a motion to pay the bills, seconded by Leroy Thoman. This motion passed.

The meeting adjourned at 10:45 P.M. on motion by Leroy Thoman and second by Charles Wehrly.

Respectfully submitted,

Goldie Day
Goldie Day, Secretary

EXHIBIT "A"

June 13, 1990
MINUTES

P.O. Box 400,
Codorus, Pa. 17311
April 17, 1990

Codorus Township Board of Supervisors
R.D. #1,
Brodbecks, Pa. 17329

Gentlemen:

It is my understanding that you will, in the near future, be asked to approve a subdivision plan involving property owned by Mr. Richard Townsend on Miller Road. I further understand that the plan involves four building lots, two of which are to be transferred from the farm on which he resides, to the property on Miller Road which also carries an allotment of two lots.

I would like to express my disapproval of this plan. Basically it goes against the very foundations of the Codorus Township Zoning Ordinance. The Ordinance was enacted primarily to ensure the township's development in a fair and orderly manner and to remove the burden of overdevelopment of adjacent properties from the shoulders of township property owners.

I can fully understand Mr. Townsend's desire to make a profit from the sale of building lots, which he is certainly entitled to do. I cannot, however, understand why he should be entitled to transfer lots from the property on which he resides, where he very obviously does not want any development, to another property where he does not live and about which he has little personal interest. What about the rights and feelings of the adjacent property owners on Miller Road? Should they be forced to put up with four new houses, and the problems that go with them, instead of two just because Mr. Townsend does not want two houses in his back yard? I think not!

If the Board of Supervisors approves this plan, a precedent will have been established and a can of worms opened that will lead to nothing but ill will and turmoil. Personally I do not see how anyone desiring to do the same could be turned down. I also cannot see how any serious court challenge to such a decision could help but have an extremely good chance of being upheld.

Irregardless of your decision, I hope that you give this plan some very serious thought. Whichever way you vote will have a very profound effect on future development in Codorus Township.

Yours truly,

George F. Williams
George F. Williams