

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
ZONING WORKSHOP MEETING
JANUARY 7, 2016

The Board of Supervisors of Upper Merion Township met for a Zoning Workshop meeting on Thursday, January 7, 2016 in the Township Building. The meeting was called to order at 5:30 p.m., followed by a pledge of allegiance.

ROLL CALL:

Supervisors present were: Greg Waks, Erika Spott, Bill Jenaway and Carole Kenney. Also present were: Dave Kraynik, Township Manager; Sally Slook, Assistant Township Manager; Joseph McGrory, Township Solicitor, Rob Loeper, Township Planner. Supervisor Philips was absent.

DISCUSSIONS:

FLOODPLAIN OVERLAY DISTRICT

Mr. Rob Loeper, Township Planner, stated the draft Upper Merion Township Floodplain Ordinance has been reviewed by the Montgomery County Planning Commission staff. It was noted the township must have the ordinance adopted by March 2, 2016 in order for the township to remain in good standing with FEMA and the National Flood Insurance Program.

Mr. Loeper distributed the draft ordinance to the Board of Supervisors and reviewed the "red-lined" portions which reflect the changes recommended by the county. He indicated these are regulations that will impact people who have buildings and structures within the flood plain. Some restrictions go back to when the first flood plains were established in 1977.

Mr. Loeper stated the county recommended that the township include language in the ordinance that addresses the issue of repetitive loss.

Mr. McGrory asked how "repetitive loss" is defined. Mr. Loeper responded, "flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred."

Mr. McGrory pointed out the problem in a potential scenario where someone has a flood loss requiring them to repair one fourth of their house and ten years later has a flood loss requiring them to repair another fourth of their house. He said if the 1977 houses have to meet the 2016 code it would

effectively condemn the house since they would not be able to meet today's standards.

Mrs. Kenney asked for an idea of the kind of standards that cannot be met. Mr. Loeper responded, for example, the elevation and flood proofing requirements varied by flood zone. Mr. Jenaway pointed out they might have to physically move the house. Mr. Loeper said, "or raise the house," and Mr. McGrory noted, "force them to put the house on pilings which effectively condemns the house."

Mr. Jenaway stated the aforementioned is just the flood portion and does not account for all the building construction changes.

A discussion followed regarding the implications of the "repetitive loss" issue and where these issues are likely to occur.

Mr. Waks asked about the ordinance language that is necessary to meet the FEMA requirements and if it can be done so as avoid a legal taking. Mr. Loeper responded he would have to see if there is a way this can be done.

With regard to the repetitive loss definition, Mr. McGrory stated he would be more comfortable if cost of repairs would be 50% rather than 25%.

Mr. McGrory suggested looking at the ["repetitive loss"] language to see if a phrase could be added at the end saying "unless this provision constitutes a taking of the property or structure."

In response to a previous question during the discussion, Mr. McGrory indicated since this is zoning it cannot be changed at the hearing.

Mr. Loeper indicated he would make some minor revisions to the draft ordinance, meet with John Walko, Solicitor's office, and get the draft back to the county.

BUSINESS DISTRICTS

Mr. Loeper indicated the two areas to be finalized in the business districts deal with drug rehabilitation and outdoor recreation facilities. Referring to the table of permitted uses, he noted Drug and Alcohol Rehabilitation has been eliminated as well as outpatient and inpatient as separate uses. A Substance Abuse Treatment Facility has been created without a specific reference to in-patient/outpatient and a Methadone Treatment Facility was added.

Mr. Loeper pointed out the additional information on page 6 of the table where additional information for the types of conditions and standards is noted

for both Substance Abuse Facility and Methadone Treatment Facility. He said specific language was drawn from the Municipal Planning Code (MPC).

Mr. Loeper indicated the 500 foot separation distance for the Methadone Treatment Facility might result with very few available places for this facility.

Mr. McGrory stated the need to comply with what is in the MPC. He said to make sure there are at least two land masses in the township that can satisfy that use in LI & HI.

Mr. Loeper pointed out the question is the licensing requirements for these facilities from the state. He noted the "200 feet" figure for a Substance Abuse Facility was his figure and not out of the MPC. Mr. Loeper also indicated the applicant would have to demonstrate that the facility has all the licenses as required by the Department of Health.

Mrs. Kenney asked if inpatient or outpatient should be specified. Mr. McGrory responded outpatient facilities tend to have more significant impacts and create more community problems than inpatient facilities because inpatient facilities have more control and outpatients have gone through a certain amount of rehab. He said combining inpatient/outpatient under these criteria is fine, but if it does not have inpatient and is just outpatient that can be a different standard.

Mr. Loeper asked if this is something that can be covered through definition. Mr. McGrory responded it would have to be provided for each.

Mrs. Kenney suggested having an outpatient facility only if it is connected to an inpatient facility because that way both are covered. Mr. McGrory responded that is a good idea. He suggested outpatient is only permitted if affiliated with an inpatient rehab or some other medical hospital.

Mr. Loeper asked Mr. McGrory if the 200 foot standard for the Substance Abuse Facility is going to apply. Mr. McGrory responded in the affirmative and said it was a reasonable distance.

Mrs. Kenney questioned having 200 feet for the Substance Abuse Facility and 500 feet for the Methadone Treatment Facility. Mr. McGrory responded methadone is specified in the MPC. Mr. Loeper commented methadone is the much more serious issue.

Mrs. Kenney commented the same people are being treated in both places potentially. Mr. McGrory responded the MPC is outdated in that regard but it is there and until that is changed you have to do what is in the MPC. He said anyone that opens a methadone clinic is limiting themselves and being shortsighted these days because the same services can be provided in a full drug and alcohol rehab.

Mr. Loeper discussed the recreation uses (stadiums and recreation facilities). He said when these uses were previously discussed it was determined to place them into three different categories each with their different set of characteristics. From a zoning standpoint Mr. Loeper said he was thinking how much does it matter in these districts whether it is a commercial facility or a non-commercial facility and if that is something to consider with further discussion. Standards would depend on the type of facility. If it is a facility primarily for training it would have one set of needs and if it is a facility requiring spectator events it would have another set of needs, i.e., parking and amenities. Referring to the table of permitted uses on page 6, it was noted for Outdoor Recreation Facility and Stadiums, "the applicant shall submit a Traffic Impact Study, Noise Study and Illumination Study to demonstrate the facility impact of the surrounding area. While specific reference was not made to indoor, it was pointed out the same standard could be included. Mr. Loeper indicated there were discussions about some potential areas where these facilities could be located; however, he was reluctant to get too deep into some specific standards and felt that the requirement for various studies would suffice. Mr. Loeper said the question for the Solicitor is if a study is done indicating an adverse impact on the surrounding area if that would be grounds for not permitting one of these uses in a particular location. Mr. McGrory responded if certain studies are required than the zoning officer cannot just read the studies and say it is good; therefore, it has to be a conditional use, special exception. If someone has an opportunity to look at the studies they can be informed these are conditional uses or special exceptions.

Mr. Loeper asked about the indoor facilities. Mr. McGrory responded standards should apply for both indoor and outdoor, but he would not make a distinction between commercial and non-commercial because then you are regulating ownership. It was noted whether someone makes a profit or not is an ownership issue not a use issue. Mr. McGrory pointed out some non-profits have a tremendous impact on a parcel because of light illumination, turf fields, traffic and parking constraints.

Mr. Jenaway commented he agrees that indoor facilities can have significant impacts on the surrounding area.

Mr. Loeper reviewed the draft language regarding the requirement for emergency access for developments with more than 15 residential units, commercial or residential buildings over 35 feet in height, and developments where a building is located greater than 600 feet from the primary vehicle access point.

A discussion followed regarding the numbers in the aforementioned emergency/secondary access requirements as well as some properties that might be involved.

Mr. Waks asked for clarification if indoor recreation [requirements] would be similar to outdoor. Mr. Loeper responded in the affirmative.

Mr. McGrory questioned having outdoor not permitted and indoor permitted in Administrative Office. He said these should be the same because whether it is indoor or outdoor it still has the same impact. Mr. Loeper said he could make that change.

Mr. Loeper discussed the railroad properties along the river. He pointed out everything along the river for the most part is currently industrial.

A discussion followed about possible options for this property and reaching out to Norfolk Southern to find out about their long term plans.

RESIDENTIAL OFFICE DISTRICT OVERLAY

Mr. Loeper stated discussions began several years ago about what to do with South Gulph Road which historically is residential. Over the years it became less residential as variances were granted for office uses. The new Residential Office District would eliminate the need for most people to go through a variance every time they wanted to do something and it would encourage them to maintain the existing structure. If the lots were consolidated then there would be more uses, but not retail. It is primarily designed for small businesses as currently exist.

Mr. Loeper provided some historical background on some of the issues associated with the evolution of this general area over the years. Mr. Loeper indicated he would provide more analysis of lots less than 7,500, lots up to 14,000 and lots greater than 40,000.

Mr. McGrory asked instead of creating a new zoning district can an overlay be done. Mr. Loeper responded this was intended to be an overlay and more work would have to be done to make it an overlay. Mr. Loeper asked if a specific overlay would be made for certain properties or have a criteria that properties between two points have a certain criteria. Mr. McGrory responded parcel numbers can be listed on a map and asked if all those properties are zoned the same way now or if there is going to be an overlay in two different zoning districts. Mr. Loeper responded he believes most of them are zoned the same, but he would have to check. Mr. McGrory said if it is all one district then it is an easy overlay. Mr. Loeper indicated an ordinance is ready if the board wants to move forward. It was noted that ordinance was a bit different dealing with older, larger properties. Mr. Loeper said the feeling was rather than have somebody say demolish one of these properties and subdivide it into two houses; it would make sense to allow them to put in a bed and breakfast use. He pointed out that became a contentious issue.

Mr. McGrory commented a bed and breakfast has to be provided somewhere. Mr. Loeper indicated for the next meeting's discussion he can come back with additional information on this as well as the bed and breakfast.

Mr. Jenaway asked if the Business Improvement District has provided any input. Mr. Loeper responded that would be another step.

Mr. Loeper indicated he has been asked by a couple of property owners what they can or cannot do. He said even though it is not a high priority in terms of zoning it has a lot of associated pitfalls.

Mr. McGrory asked if there are other transition areas in the township that can be addressed. Mr. Loeper responded the others were primarily the CO District across from the mall and Ivy Lane.

ADJOURNMENT:

Without further comment from the Board and public, it was moved by Mrs. Spott, seconded by Mr. Waks, all voting "Aye" to adjourn the zoning workshop meeting at 6:59 p.m.. None opposed. Motion approved 4-0

DAVID G. KRAYNIK
SECRETARY-TREASURER/
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered: