

## **Planning Commission Minutes – August 7, 2024**

**PRESENT:** Chairwoman Nancy Moore and Members: Ed Andrulonis, Joe Becker and David Volpe  
**ABSENT:** Members: Diane Bernardo  
**STAFF:** Code Enforcement/Zoning Officer, Zac Lawhead; City Manager, Shawn Arbaugh; City Engineer, Mike Haynes; and Administrative Secretary Korbi Slocum

The meeting was called to order at 4:15 p.m. by Planning Commission Chairwoman, Nancy Moore.

### **Approval of Minutes – November 1, 2023**

The motion was made by Becker and seconded by Volpe to approve the minutes of November 1, 2023. Roll call was as follows: Andrulonis, abstain; Becker, yea; Volpe, yea; Moore, yea. Motion passed 3-0. [Andrulonis abstained because he was not present at the November 2023 meeting.]

### **Approval of Minutes – April 3, 2024**

The motion was made by Becker and seconded by Andrulonis to approve the minutes of April 3, 2024. Roll call was as follows: Andrulonis, yea; Becker, yea; Volpe, abstain; Moore, yea. Motion passed 3-0. [Volpe abstained because he was not present at the April 2024 meeting.]

### **Approval of Minutes – June 5, 2024**

The minutes of June 5, 2024, were on the agenda; however, they had previously been approved at the July 3, 2024, meeting.

### **Approval of Minutes – July 3, 2024**

Tabled.

### **New Business:**

#### **Zoning Hearing Board Ordinance Review / Comments/ Recommendations**

The proposed ordinance had been emailed to Planning Commission members prior to the meeting for review.

Arbaugh explained that in 2014, a Council Bill was passed eliminating the Zoning Hearing Board. Current Council members asked to reconstitute the Zoning Hearing Board and to repeal that Ordinance (No. 1798 passed November 10, 2014). “We worked with local Special Counsel to draft this ordinance. We are required to get comments from the City Planning Commission and the County Planning Commission. We did not receive comments back from the County Planning Commission. They supported this change.” Moore asked who wrote this proposed ordinance. Arbaugh replied, “Fabio Fortunato our local Zoning/Code Solicitor.”

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Moore questioned Section 3 which reads “The Zoning Hearing Board may review any property which applied for and was awarded a conditional use status prior to the enactment of this Ordinance, and upon due and proper notice and hearing thereon, the Zoning Hearing Board may reclassify or revoke such conditional use statuses.” The way Moore interprets the State statute, you can’t do that. “If that applicant relied on that permit and did things relying on the permit, you can’t take it back. There’s vested rights. There’s detrimental reliance. There are other legal terms that pretty much covers that.” Arbaugh explained, “The Conditional Use hearings were never conducted properly. We didn’t follow statutory procedures. For a conditional use hearing, you’re required to advertise twice within 7-30 days prior to the hearing and have a stenographer and recorded minutes, not just minutes taken by a secretary. It’s in the Municipal Planning Code. The issue we have now is someone is appealing a denial of a conditional use.”

Becker noted that in looking at the zoning, there are acceptable uses in a residential area and this request was not on that list of acceptable uses which is why Planning recommended Council deny the request.

Without an active Zoning Hearing Board, Lawhead has been trying to work with everyone and at least let them speak their mind.

Moore pointed out that Planning Commission does not make the final decision. “The application process as we know it goes like this: The applicant review begins with the Codes Officer. The Codes Officer and City Engineer review the request and make their recommendation to Planning Commission. Planning Commission votes to make a recommendation to Council who can then grant or deny the request or to send it back to Planning for more review if they have more input. Council makes the decision.”

Andrulonis views the proposed Ordinance as wanting to see consistency and formality in our processes. “We need to be doing it legally or we’re at some liability. For different requests, I’m guessing there are different criteria like public notice, minutes, and the like.”

Arbaugh said, “In my municipal experience and with Sandy Township, most places have a Zoning Hearing Board that hears variances and special exceptions. Here, they’re coming to Council. I know the existing Council and Solicitor don’t think it’s appropriate that variances and special exceptions come through Council. It should go through a separate, independent body. That’s consistent with every municipality I’ve ever worked with.”

Andrulonis asked what the role of the Planning Commission is. Lawhead answered, “You could still do subdivisions, land developments...” Moore interjected, “Planning Commission does SALDO (subdivision and land development ordinance) and modifications.” Clarification of the terms was requested. A modification is one way to adjust a setback that Council can set aside. A variance has five strict criteria to meet strictly following the Zoning Ordinance

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and goes before the Zoning Hearing Board. Conditional use is use permitted subject to certain criteria and conditions. Moore stressed, “Variances and special exceptions go with the land, not with the applicant. You have to think about the future and setting a precedence.”

Andrulonis asked if Sandy Township has both a Planning Commission and a Zoning Hearing Board. Arbaugh confirmed. “The Zoning Hearing Board is made up of appointed officials who are experts in planning, land use and those types of things. With a Zoning Hearing Board there are certain fees that can be charged. It shouldn’t be easy to get a variance for certain things. Your laws and regulations are set up for a certain reason.” When asked why we would charge an applicant for a hearing, Arbaugh replied, “It costs about \$300.00-\$400.00 to advertise for the hearing, we have to pay a Solicitor to be at the hearing and \$150.00 for the stenographer. We’re paying for someone to violate the law. They want an exception to the law, and we have to pay for it. It’s not fair. We are just recouping costs.”

Several members questioned why we should be making changes in ordinances now with Consolidation taking effect in 2026.

The motion was made by Andrulonis and seconded by Volpe that any future conditional use hearings will follow all legal procedures and Planning Commission is recommending to Council no implementation of a new Ordinance until post consolidation. Roll call was as follows: Andrulonis, yea; Becker, yea; Volpe, yea; Moore, yea. Motion passed 4-0.

Lawhead asked Planning Commission to review the Sandy Township junk yard ordinance provided in the packet and send comments to him.

### **Adjourn**

There being no further business to transact, the motion was made by Volpe and seconded by Becker that the Planning Commission adjourn. Roll Call was as follows: Andrulonis, yea; Becker, yea; Volpe, yea; Moore, yea. Motion passed 4-0.