



MOUNT JOY TOWNSHIP

• Lancaster County, Pennsylvania •

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Minutes of a Special Meeting of The Mount Joy Township Zoning Hearing Board Wednesday, April 18, 2023

1. Chairman Thomas N. Campbell called the meeting to order at 5:05 P.M. in the Elizabethtown Area School District Middle School Auditorium, 600 East High Street, Elizabethtown, PA 17022. The Board entered into an Executive Session at 5:10 p.m., then resumed the public meeting at 6:10 p.m.

2. Meeting Attendance:

- Members Present: Thomas N. Campbell, James E. Hershey, and Gregory R. Hitz, Sr.
- Members Absent: NONE
- Alternate Member Present: Robert F. Newton, Jr.
- Township Representatives: Josele Cleary, Esq., Township Solicitor and Justin S. Evans, Township Manager/Zoning Officer
- Lancaster County Court Reporter: Veronica Johnston-Gouck
- Zoning Hearing Board Solicitor: John P. Henry, Esq. of Blakinger Thomas

3. Approve & ratify the minutes of the March 9, 2023 meeting

A motion was made by Gregory R. Hitz, Sr. and seconded by Robert F. Newton, Jr. to approve and ratify the March 9, 2023 meeting minutes. All members present voted in favor of the motion.

4. The Zoning Hearing Board Solicitor gave a procedural briefing, noting that parties Donna Bucher, Michelle Kennedy, Bobbi Thompson, Andrew Goodman, and Ryan Spahr have not yet provided testimony. Public comment will take place once testimony is completed.

A discussion took place between several parties regarding a timeline for concluding the case. Once the hearing is closed and the transcripts are completed, parties will have 15 days to submit their findings of fact. From that date, the Zoning Hearing Board will have 30 days to render a decision.

Attorney J. Esch McCombie, representing the applicant, was amenable to the schedule and waived the 45-day requirement for a decision upon closure of the hearing. Attorney William Cluck, representing party Joelle Myers, expressed concerns with the Board's intent to draft a writing decision prior to rendering the decision at a public meeting. Attorney Josele Cleary noted that this quasi-judicial procedure is acceptable per the *Kennedy* decision of the Pennsylvania Supreme Court. For the record, Attorney Cluck objected to this procedure if it were to occur in that manner since the vote is essentially made in private.

5. Old Business:

Zoning Case #230001: [Continued from the January 17, 2023, February 15, 2023, and March 9, 2023 meetings]

- a. Applicant: PDC Northeast LPIV, LLC
- b. Landowner: Franklin B. Greiner, Jr.
- c. Property Location: 2843 Mount Pleasant Road, Mount Joy, PA 17552; Tax Parcel ID #461-89922-0-0000
- d. Zoning District: LI, Light Industrial District
- e. Special Exception Requests:

- 1) Chapter 135, Article XVII, §135-163.B & §135-163.C to permit an industrial use on the subject property.

Donna Bucher, 680 Cloverleaf Road, provided her testimony and submitted Exhibit Bucher-2. The printed slides of her presentation were entered to replace Exhibit Bucher-1, a prior version of the presentation slides. Attorney McCombie objected to Ms. Bucher's party status due to her property being located approximately 0.8 miles from the site. The objection was noted but overruled.

Ms. Bucher described the background of her property located at the corner of Cloverleaf Road and Schwanger Road. Her barn displays a mural of the area's agricultural history as a way of giving back to the community. She outlined the challenge of modern warehouses with respect to the township's outdated Zoning Ordinance and the welfare of the citizens. The key concerns were scale of the warehouse to the surrounding area, traffic generated by such a large facility, and the degradation of habitat. Not knowing peak traffic and the distribution of proposed traffic is a detriment to the process.

Attorney McCombie objected to the testimony relating to more than one warehouse building since the applicant's proposal relates only to the single building. Ms. Bucher continued testimony with concerns pertaining to roadway conflicts with agricultural vehicles, bicyclists, pedestrians, and other users like the Amish. She also noted potential safety concerns with the Tiny Timbers day care on Greentree Road north of the site. Narrow roads are not capable of handling a big increase in large truck traffic. Ms. Bucher displayed several photos and videos of traffic conflicts involving large vehicles on Mount Pleasant Road and other nearby roads.

A video clip showing noise levels along Cloverleaf Road was shared. Additional truck traffic from the warehouse would exacerbate health risks from noise pollution. Similarly, existing air pollution would be worsened by diesel exhaust. Ms. Bucher also noted that light pollution would get worse in the rural setting. Stormwater, water quality, and impacts to the electrical grid are negatives to the community. She asked whether tax revenues from the proposed development would be enough to pay for increased demands on public safety and other services.

Attorney McCombie did not cross-examine but did object to all slides and comments that relate to more than one warehouse, in addition to any videos, comments, pictures, and commentary that relate to other truck traffic not related to the proposal.

Attorney Cluck cross-examined Ms. Bucher, asking the following questions about the presentation:

- Slide 1: Are both structures depicted located on your property? Yes.
- Slide 2: Whose voice is on the recording? Mine. Is that your testimony? Yes.
- Slide 3: Who is Wayne Fetro? A muralist. She confirmed that is her barn on her property.
- Slide 5: Is this your testimony? Yes.
- Slide 6: Are these your rhetorical questions? Yes.
- Slide 7: Is the building marked "4" the proposed warehouse? No, number "1" is. For the record, "2", "3", and "4" are not part of the testimony? Correct. The Elizabethtown football field displayed is for comparison purposes.
- Slide 8: Is this your testimony? Yes.
- Slide 9: Is this your math? Yes.
- Slide 10: Is this showing comparisons? Yes.
- Slide 11: Where did the conceptual industrial site plan come from? The Township website. Where did the photo below it come from? Off of the internet. It depicts a large warehouse in an adjacent municipality.
- Slide 12: Where did the tables on the right come from? The applicant's traffic expert. She would like to see a full traffic study completed for the special exception.
- Slide 13: This table is from the applicant's traffic expert? Yes.
- Slide 14: There is an objection to the reference to four warehouses and will be taken out.
- Slide 15: Where is Tiny Timbers Preschool? (Answer could not be heard on audio recording.) Does the traffic from the proposed warehouse pass by the preschool? She recalled a route presented by the applicant that would send trucks north on Greentree Road to get to Ridge Road back to Cloverleaf Road due to multiple proposed roundabouts. Attorney McCombie objected to the statement that the applicant's traffic expert spoke about proposed roundabouts for this project.
- Slide 16: Is this your property and what is depicted in the left photo? Yes. It is the side of the barn facing Cloverleaf Road after being hit by a motorist who slid trying to stop at the stop light. What about the photo on the right? Damage to her fence due to an automobile leaving Cloverleaf Road.
- Slide 17: What road is shown in the photo on the left? Mount Pleasant. These are photographs provided by a member of the community within the last couple months. The photo on the right is Mount Pleasant as well. It is near the intersection with Snyder Road.

- Slide 18: What road is this? Schwanger Road. Attorney McCombie objected to any photographs not taken by Ms. Bucher or any testimony provided by the audience. Her intent was to show potential traffic conflicts on narrow roads.
- Slide 19: Was this video taken by yourself? No.
- Slide 20: Is this your video? No, it is from my neighbor. Have you observed large vehicles unable to stay within the white and yellow lines on the road? Cloverleaf, yes. Schwanger, no they cannot stay inside.
- Slide 21: This depicts the relationship of her property and the proposed warehouse. Where did the image of the proposed warehouse come from? Off of the Township website. Is it part of the record here? No.
- Slide 22: The Google image is intended to show the surrounding residential areas that are covered up on the applicant's graphics.
- Slide 23: These are roundabouts proposed by the applicant in graphics obtained on the Township website.
- Slide 24: Is this also from the Township website? Yes.
- Slide 25: What does this depict? The potential challenge of a horse and buggy trying to pass through a roundabout at the intersection of Cloverleaf Road and Schwanger Road with a roundabout.
- Slide 26: Where does the information on this slide come from? Fellow community members have been calling her with concerns about these roads. What would they be impacted by? Traffic.
- Slide 27: Other than the reference to one of four on the bottom, is it your understanding that only a right-hand turn will be allowed onto Cloverleaf from Steel Way and Mount Pleasant? Legally, yes.
- Slide 28: Where did the photograph come from? My back yard along Cloverleaf Road and some in the front yard along Schwanger. She has goats and has to pick up trash from these areas.
- Slide 29: Where does the information in the chart come from? It is an application on her phone to measure decibels of sound.
- Slide 30: This information comes from the National Heart, Lung, and Blood Institute? Yes.
- Slide 31: The red marks show the location of local respondents to the public survey.
- Slide 32: The slide references Susquehanna County. Are you aware of the air quality for Lancaster County? Yes, the slide links to the data. What pollutant are we talking about? (There was no internet connection to access the data.)
- Slide 33: What is Clean Air Task Force? I believe it is a private organization.
- Slide 34: What is the source of this information on light pollution? A governmental organization.
- Slide 35: Is this your video clip? It was sent to me by a resident across the street from an existing trucking warehouse.
- Slide 36: Where is this? Same scenario, different day.
- Slide 37: What do these pictures show? After effects of a rain storm on her property.
- Slide 38: More stormwater flooding conditions? Effects of an average storm along Schwanger Road.
- Slide 39: Photos from my property.
- Slide 44: Is this the wedding venue? No, my daughter's wedding.

Attorney McCombie made general objections to photos that Ms. Bucher did not take and/or did not have the individuals who took them present to corroborate the locations or other descriptions. He objected to the relevance of photos showing damage from other motorists. He asked if the warehouse shown on Slide 22 was scaled to be consistent with the area around it? She could not figure how to turn the image to orient it correctly. The intent of the picture was not to show the scale but to show the surrounding residences. It is not the actual size.

He objected to Slides 23 & 24 since they depict things not part of this application. He asked where the statement about trucks turning right onto Cloverleaf Road came from on Slide 27? She recalled the applicant's testimony from the first hearing date stating as much. Attorney McCombie stated that the record would be referred to in this regard. Is the app used for the decibel readings on Slide 29 calibrated? She did not know.

Attorney McCombie objected to Slide 34 since it is not the applicant's site and the witness did not know the location of it. She stated that the photo is from Cloverleaf Road near Greentree Road, though the site could not be confirmed. He also objected to Slides 35 & 36 since the video and its authenticity could not be corroborated. He objected to Slides 37 & 38 since the stormwater is from nearly a mile away.

Attorney Cluck moved into evidence Exhibit Bucher-2 with respect to the potential impact to public health, safety, and welfare other than objections that went towards the number of warehouses and information that Ms. Bucher could not cite. Attorney Henry also struck from the record mention of more than one warehouse from the testimony.

Randy Stevens, party to the hearing, asked if the images were meant to show existing problems and how the proposed warehouse would make them worse? Correct. Are you aware of how the water travels from the property? Anything that

comes down Cloverleaf Road from Route 283 and down Schwanger Road comes toward her property. Are you aware that a drainage pond was removed from Greiner's property along Mount Pleasant Road? Attorney McCombie objected to Mr. Stevens providing testimony while cross-examining Ms. Bucher.

Attorney Henry noted the following parties that have not yet given testimony: Michelle Kennedy, Bobbi Thompson, Randy Stevens, Sarah Haines, Andrew Goodman, and Ryan Spahr.

Michelle Kennedy, 2619 & 2635 Stauffer Road, provided her testimony. She has lived on Stauffer Road for 47 years, owns and lives at 2635 Stauffer Road, and co-owns a 44-acre farm at 2619 Stauffer Road with her sister Bobbi Thompson. Both properties are located next to the proposed warehouse site. She expressed concerns with traffic issues, specifically volume, conflicts with other users, and stress to emergency responders. The sheer amount of parking spaces implies a large number of trucks visiting the site, idling, and contributing to air pollution issues with arsenic, benzene, formaldehyde, and nickel. Ms. Kennedy spoke to the additional impacts of this site on top of the ongoing residential growth in Mount Joy Township that has detrimental effects on residents' way of life.

Their well is located approximately 21' from the property line abutting the proposed warehouse site and septic tank approximately 46' from the line. Her concerns extended to foundation damage due to vibration from heavy truck traffic nearby at the facility. Will her water supply be protected from spills or leaking vehicles? Where will the salt and chemicals from snow removal go? Ms. Kennedy asked for an environmental impact study to be conducted before approvals are granted.

Her family pasture raises animals and produce without chemicals or GMO, which could be adversely impacted by a nearby source of toxins, noise, and light. A large warehouse could also block sunlight and wind that their crops need. Who will pay to maintain the roads from all of the additional truck traffic? Ms. Kennedy does not want to leave the community her family has made home for generations but feels threatened by the impacts of a large warehouse.

Attorney McCombie did not wish to cross-examine Ms. Kennedy but objected to the mention of four warehouses.

Randy Stevens cross-examined Ms. Kennedy. What has the subject property been used for since she has lived next door? Agriculture. Is that all it has been used for? Yes.

Bobbi Thompson, 8226 Elizabethtown Road, was called to give testimony. Attorney McCombie noted that Ms. Thompson lives approximately 1.75 miles from the site and a 3 mile drive. He objected to her party standing if she lives that far away from the site. Ms. Thompson noted she is a co-owner of 2619 Stauffer Road with her sister, Ms. Kennedy. Attorney McCombie did not have an objection if Ms. Thompson is listed on the deed for 2619 Stauffer Road.

Ms. Thompson called attention to the large area that would be covered by the warehouse and associated parking areas. Air quality is a primary concern of hers, specifically impacts to farm animals, children, and the elderly. What will the financial impacts be for additional veterinary bills? How will constant noise impact the animals? Will the warehouse site jeopardize the organic crops and meat they produce? Vibration from trucks and chemical spills are threats to their farm. Will their groundwater or surface water be threatened? She noted eagles, owls, and snow geese visit the subject property and surrounding area. They plan to preserve their farm but questioned if the applicant would buy it instead.

Correspondence with PennDOT recognizes that Cloverleaf Road has a traffic issue. Traffic Planning and Design is also connected to PennDOT in a public-private relationship. Multiple warehouse spaces within a 20 mile radius are available for lease. She is willing to accept some nuisance land uses but not this warehouse. Ms. Thompson felt that the size and scope of the warehouse was too large with respect to the surrounding community. How does the labor shortage affect staffing for the facility, or will it become automated?

Firefighters and emergency responders will have a challenge in the event of an emergency at such a large facility that could be very tight inside. She spoke to general trends of warehouses becoming higher and larger, as well as the variability of the types of materials stored in them. Smoke from warehouses on fire can produce dangerous chemicals that are toxic to nearby people. Additionally, studies have cited more economic benefits from small local businesses, calling into question how much the community will gain from a large warehouse. An overall increase in warehouse fires since the 1990s was cited, though Ms. Thompson noted that this fire data is self-reported by local fire departments. Roughly two-thirds of departments report to the National Fire Reporting System annually. Other information is provided by Zurich Insurance, which has been in business for over 150 years.

Attorney McCombie objected to the mention of multiple warehouses and to citations from the various reports because there is no way to authenticate them.

Ms. Thompson offered the following exhibits for the record:

- Exhibit Thompson-1: "storage trends" article

- Exhibit Thompson-2: “warehouse structure fires” article
- Exhibit Thompson-3: “supporting tables”
- Exhibit Thompson-4: “labor shortage” article

Ryan Spahr, 2588 Mount Pleasant Road, presented his testimony after being sworn in. He gave an account of the agricultural history of the property that his residential lot was divided from. The rural character, open space, and stream are all reasons why his family lives in this area. Mr. Spahr’s background in mechanical engineering has led him to owning and operating the candy distribution company Supply Tiger that has a warehouse in Elizabethtown. He is concerned with the local economy and the lowest unemployment rate in 55 years. Lack of workers and wage increases are ongoing problems facing his local business as well as others like Dunkin’ Donuts and Grandview Vineyards.

He cited a March 3rd LNP article stating that the annual chicken barbecue was cancelled due to increased costs and labor issues. The US Bureau of Labor Statistics’ March Job Openings and Labor Turnover Survey reported 10.842 million job openings. This equates to 1.9 job openings per available worker. Fed Chairman Jerome Powell recently noted that unemployment at 3.4% is the lowest in 54 years. WGAL’s report on Lancaster County dealing with one of the worst staffing shortages ever at the prison, courthouse, and administration reflects this local condition. Where will employees for the warehouse come from?

Mr. Spahr questioned if there is sufficient fire protection and water for the large warehouse? He noted other industrial fires in the area such as the RM Palmer chocolate factory in Reading. What happens if a 1,000,000 sf. warehouse blows up around the nearby homes? The Zoning Ordinance, which was written before these large warehouses were in this area, cannot sufficiently account for the impacts. Will the recent bank failures and Brookfield Corporation’s default of commercial mortgages impact the feasibility of this being constructed. Has the internet boom of COVID and other global issues affect this?

Attorney Henry noted that Sarah Haines, Randy Stevens, and Andrew Goodman are parties that have not testified.

Randy Stevens, 2541 Mount Pleasant Road, presented his testimony. He recounted a prior issue when Greiner Industries removed a detention basin along Mount Pleasant Road, diverting the site’s runoff in the direction towards Route 283. Hazardous chemicals associated with refrigerated warehouse space could be unknown impacts.

He called Roni Clark as a witness, who was sworn in. Mr. Clark read two email conversations with County Commissioners Parsons and D’Agostino that were marked as exhibits. He stated that Mount Joy Township received a copy of the Lancaster County Planning Department’s review of the warehouse land development. He contacted the County Commissioners in March about water and sewer service as well as the rural setting for the proposed warehouse. The County Commissioners noted the township’s local control of land development while offering commentary on the following:

- Analysis of the Lancaster County Comprehensive Plan identifies the site as unsuitable for the development since it is outside the public water and sewer service areas, the growth area, and is not along a major road.
- County Planning Commission will not offer comment on the special exception process.
- County review comments of the proposed land development are not binding on the township.
- County Planning Commission suggested that the timing of developing this site appears to be premature based on their ongoing analysis of the growth areas.

Mr. Clark created a public survey through SurveyMonkey to gauge citizen sentiment on the proposed warehouse development. However, Attorney Henry asked for the emails to be entered as exhibits as follows:

- Exhibit Stevens-1: Commissioner Parsons email
- Exhibit Stevens-2: Commissioner D’Agostino email

Mr. Stevens questioned Mr. Clark about the community survey. When did you first post the survey? It closed 60 days ago after being advertised in the Merchandiser twice and posting the link at the hearings outside of the auditorium. They began to read off results from the survey questions, including percentages and numbers from the multiple choice questions as well as written responses. Attorney Henry asked if there was any “gatekeeping” of where the survey responses came from. Most were from the Mount Joy area.

While recounting the survey details results, Attorney McCombie objected to the reading of every response. Attorney Henry asked if Mr. Stevens intended to read every response in the packet. He wished to do so for the benefit of the public. Attorney Henry stated that the responses should not be read aloud for Q5, Q6, Q7, Q8, and Q9 since they are not pertinent to the Applicant’s request for special exception. Mr. Stevens felt this was important for educating the public. He gave the numerical results for those questions but not the written responses.

The packet of survey responses were marked as Exhibit Stevens-3. Attorney McCombie asked Mr. Clark how the results were obtained. SurveyMonkey compiles this information. How was the survey link distributed? It was advertised in the Merchandiser edition distributed to Mount Joy Township and it was provided to hearing attendees at prior meetings. Two results came from outside of the township. Attorney McCombie reiterated the applicant's testimony and exhibits attesting to their intent to connect to public water and sewer.

Mr. Campbell called attention to Q3 and Q5. Are the text responses verbatim or have they been edited? Those are the exact responses submitted to SurveyMonkey.

Mr. Stevens provided two additional email correspondences from the PA Local Government Commission containing a caveat that they were not provided as legal advice. Exhibit Stevens-4 stated that the Regional Strategic Plan serves as the township's Comprehensive Plan and is not an official Zoning Map. The Comprehensive Plan outlines the municipality's vision for the future with respect to factors including history, economics, environmental, utilities, and transportation. Many municipalities throughout Pennsylvania are out of date, including the local plan adopted in 2010.

Mr. Stevens commented on the regional impacts of commercial truck generating sites, including this and the Rheems warehouse. The December 2, 2022 letter went on to comment about the Zoning Map updates and the transportation impact fee program being current. Mr. Stevens stressed the importance of regional communication.

The March 1, 2023 letter recounted the purpose of and uses permitted in the township's Light Industrial District. Other matters such as the special exception process and validity challenges of the Zoning Ordinance due to unreasonableness.

Attorney McCombie objected to the correspondence entered as exhibits since they do not contain signatures, the questions asked of the respondents, or other ways to authenticate the documents. Mr. Stevens did not physically have the original correspondences at the hearing. The two exhibits were submitted and marked as:

- Exhibit Stevens-4: December 2, 2022 email
- Exhibit Stevens-5: March 1, 2023 email

Mr. Stevens believed it was improper for the township to base decisions on a plan drafted over ten years ago. He recounted the Board of Supervisors' perspectives during the proposed rezoning of the subject property as presented by Greiner. Attorney Cleary objected to testimony pertaining to the township's wishes. This application is being considered under the Zoning Ordinance as it stands today and not the considerations of the rezoning hearing held in years past.

He stated his position against the warehouse and its scale compared to the surrounding area. A commercial development like Granite Run in Lancaster is more appropriate and would give back to the community in the form of walking trails and a pond. There are many walkers on Mount Pleasant Road that would be affected by increased traffic. Impacts to snow geese and eagles should be considered. He is not against building on the site, just against the large warehouse and approvals through special exception.

Mr. Campbell noted that the Zoning Hearing Board's role is judicial. He also thanked the audience for being civil and patient throughout the hearing. Strategic planning is important, especially on a regional basis. The public plays a critical part in shaping the plan that goes behind the ordinance.

A discussion took place regarding the amount of public comment and absences of the remaining two party members. Approximately 15-20 members of the public signified their interest in providing comment. Attorney Cluck commented that all other hearings have concluded at 9:00 p.m. and the absence of two parties should result in a continuation of the hearing. Attorney McCombie felt there was adequate opportunity for Mr. Goodman and Ms. Haines to provide testimony at previous hearings.

Coordination for the date of the continuance took place off the record.

A motion was made by James E. Hershey and seconded by Gregory R. Hitz, Sr. to continue the hearing to Thursday, April 27, 2023 at 6:00 p.m. at the Elizabethtown Area School District Middle School Auditorium. All members present voted in favor of the motion.

6. Next regular meeting of the Board is scheduled for Wednesday, May 3, 2023, beginning at 7:00 p.m.
7. A motion was made by Gregory R. Hitz, Sr. and seconded by James E. Hershey to adjourn the meeting at 9:20 p.m. All members present voted in favor of the motion.

Respectfully Submitted,

A handwritten signature in black ink that reads "Justin S. Evans". The signature is written in a cursive style with a large initial 'J' and a long, sweeping underline.

Justin S. Evans, AICP
Township Manager/Zoning Officer

For: Gregory R. Hitz, Sr., Secretary
Mount Joy Township Zoning Hearing Board