

**BENSALEM TOWNSHIP COUNCIL  
MEETING MINUTES**

**Tuesday  
November 12<sup>th</sup>, 2019**

**MEMBERS PRESENT:**

Joseph Knowles, President  
Ed Kisselback, Vice President  
Joseph Pilieri, Secretary  
Jesse Sloane, Member  
Ed Tokmajian, Member

**ALSO PRESENT:**

Joe Pizzo, Township Solicitor  
Lauren Gallagher, Township Solicitor  
Harold Gans, Township Engineer  
Russell Benner, Township Engineer  
Debora McBreen, Council Clerk/Recording Secretary

**PLEASE NOTE:**

**The minutes are not verbatim but rather a synopsis of what transpired during the meeting, and while I do my best to attribute remarks and questions to the correct individual, there may be mistakes or omissions because of the “back and forth” dialogue and the lack of the use of the microphones.**

**1. PLEDGE OF ALLEGIANCE:**

**Council President Knowles** opened the meeting with a moment of silence which was followed by the Pledge of Allegiance.

**Council President Knowles** asked **Solicitor Pizzo** if there were any changes to this evening’s agenda. **Solicitor Pizzo** indicated in regard to agenda items number five and six, which is the Zoning Ordinance for General Commercial District - Accessory Uses and the Final Land Development Plan for Echo Bensalem which is the Giant Shopping Center, received correspondence dated November 12<sup>th</sup> from counsel representing Echo Bensalem requesting that the hearing on the ordinance and the Land Development application both be tabled to a date certain of the Council Meeting of December 16<sup>th</sup>, 2019. They have granted the Township an extension of time under the MPC for consideration of the Land Development Plan. **Council Member Sloane** asked **Solicitor Pizzo** if he knew what the request was based on for the delay. **Solicitor Pizzo** indicated he did not but did say it could have been something as simple as a conflict. **Council Member Sloane** asked if they needed Zoning relief first before they come to council. **Solicitor Pizzo** explained whether they need Zoning relief or not will be precipitated by how Council acts on agenda item number five. If Council is amenable to the change in the text of the Township Zoning Ordinance then that would take away the need for a variance for

that particular application. A conversation ensued regarding a variance pertaining to Echo Bensalem/Giant Shopping Center. **Council Vice President Kisselback** motioned to table agenda items five and six, **Council Member Tokmajian** seconded and the motion carried 5-0. **Solicitor Pizzo** indicated agenda item number eight, which is a Minor Land Development for Millenium Properties, the Township received correspondence from the applicant indicating they had a conflict for this evening's Council meeting and they are also not available for the scheduled December meeting. They granted the Township a 90 day extension and asked to have this item tabled to the first Council meeting in January. **Council Secretary Pilieri** motioned to table to a date certain of January 13<sup>th</sup>, 2020, **Council Member Tokmajian** seconded and the motion carried 5-0.

2. **PUBLIC COMMENT:**

**Council President Knowles** invited Public Comment on Agenda items, but no one came forward and the first of two public portions was closed.

3. **APPROVAL OF COUNCIL MINUTES:**

After Corrections were noted to the Minutes of October 15<sup>th</sup>, 2019, **Council Vice President Kisselback** motioned to approve, **Council Member Sloane** seconded and the motion carried 5-0.

4. **CONSIDERATION OF AN ORDINANCE AMENDING CHAPTER 225 VEHICLES AND TRAFFIC, ARTICLE III – PARKING REGULATIONS:**

**Solicitor Pizzo** indicated the Township received a number of complaints regarding vehicles parking on the north side of Windward Lane and that it is obstructing both the view as well as the flow of traffic and creating difficulty for vehicles in general on the site. The Township Traffic Safety Officer went out and performed an inspection, a copy of which was included in Council's packet, a photograph by the Traffic Safety Officer is also attached to that report. Following his investigation and review he has recommended to the Mayor and Administration that there be No Parking signs placed on the north side of Windward Lane to the end of block. The Ordinance before Council has been duly advertised and, in a form, acceptable for consideration and if adopted would effectuate the No Parking restrictions that were just described. **Council Member Tokmajian** asked for confirmation on location, that being from the playground around the bend to the end of the block in which **Solicitor Pizzo** agreed and indicated that was a fair interpretation of the Ordinance. **Council Member Tokmajian** asked if this was just advertised in the newspaper. **Solicitor Pizzo** explained, in detail, how the Township advertising is performed in the local newspaper and that would be the Bucks County Courier Times. **Council Member Tokmajian** indicated the Ordinance would actually affect the residents in that location and prohibit them from being able to park there themselves. And as for the advertising, **Council Member Tokmajian** said, not everyone reads the newspaper these days. **Solicitor Pizzo** indicated the Council Agenda is placed online once the Township Council President approves the agenda for a particular meeting. **Council President Knowles** asked if anyone in the audience would like to come forward and speak for or against this ordinance and the following residents came forward:

**Rushabh Gandhi**, 5224 Windward Lane, explained he has an autistic son and a disabled parent who receive care from a therapist and if this ordinance is passed it would prohibit the therapist from parking in that location. **Council President Knowles** asked Mr. Gandhi if the vehicles in the picture are generally the residents from that area who park there. Mr. Gandhi indicated they were the residents from that area.

**Tara Donnelly**, 5230 Windward Lane, explained that she has a special needs son who has a therapist who comes to the house and would not be able to park there if the ordinance is passed.

**Donna Williams**, 5240 North Windward Lane, spoke on behalf of the eight people whose homes were in the area of consideration for the No Parking signs and indicated she did not know who complained about the parking because it was not any of the residents who live directly where the ordinance would affect.

**Solicitor Pizzo** indicated the record should reflect that roughly fourteen members of the audience raised their hands in opposition to the ordinance. The record should also reflect this because obviously there were complaints received which prompted an investigation by the Township due to those complaints.

**Council Member Tokmajian** made a motion to deny the ordinance as submitted, **Council Member Sloane** seconded and the motion carried 5-0.

5. **CONSIDERATION AND PUBLIC HEARING ON AN ORDINANCE AMENDING THE TOWNSHIP CODE OF ORDINANCES AT CHAPTER 232 – ZONING, AT ARTICLE VIII – COMMERCIAL DISTRICTS – DIVISION I – GC – GENERAL COMMERCIAL DISTRICT – SECTION 380 – USE REGULATIONS AT SUBSECTION 15 – ACCESSORY USES.**

Tabled to a date certain of December 16<sup>th</sup>, 2019.

6. **CONSIDERATION OF A FINAL AMENDED LAND DEVELOPMENT PLAN:**

<b>Applicant:</b>	<b>Echo Bensalem, LLC</b>
<b>Location:</b>	2721 Street Road – Giant Shopping Center
<b>Proposed Use:</b>	Four Gasoline Dispensing Pumps
<b>Zoning Classification:</b>	GC – General Commercial
<b>Tax Parcel:</b>	2-37-60, 60-1, 60-2 and 60-3

Tabled to a date certain of December 16<sup>th</sup>, 2019.

7. **REQUEST FOR WAIVER OF CURBS AND SIDEWALKS:**

<b>Applicant:</b>	<b>K Mc Squared</b>
<b>Site Information:</b>	1156 Buttonwood Avenue
<b>Tax Parcel:</b>	2-25-20

**Engineer Gans** recommended a waiver for curbs and sidewalks subject to a payment of a fee in lieu of in the amount of \$2,720.00. **Council Vice President Kisselback** made a motion to approve, **Council Secretary Pilieri** seconded and the motion carried 4-0-1.

**8. CONSIDERATION OF A MINOR LAND DEVELOPMENT:**

**Applicant:** Millenium Properties and Investments, LLC  
**Location:** 4851 Street Road  
**Proposed Use:** Parking  
**Zoning Classification:** BP – Business Professional  
**Tax Parcel:** 2-4-184-1

**Tabled to a date certain of January 13<sup>th</sup>, 2020.**

**9. CONSIDERATION OF A MINOR SUBDIVISION:**

**Applicant:** R & S Concrete Paving and Sitework  
**Location:** 6237 Garrett Avenue  
**Proposed Use:** Residential  
**Zoning Classification:** R-1 (Residential)  
**Tax Parcel:** 2-53-21

**Nick Rose** with Protract Engineering on behalf of the applicant submitted the records of notification to Solicitor Pizzo. Mr. Rose referred to the memo from the Township Engineer and indicated he would comply with all of item D. **Council President Knowles** indicated the application was pretty clean and not many questions were asked by council members. **Council President Knowles** asked if anyone in the audience would like to come forward to speak for or against this project. Seeing no one come forward the public portion was closed. **Council Vice President Kisselback** motioned to approve and the applicant will comply with the letter dated September 25<sup>th</sup>, 2019 from T and M sections A, B and C and the applicant will comply with Section D, 1, 2, and 4 and ask for a waiver of curbs and sidewalks subject to a payment of a fee in lieu of, **Council Member Tokmajian** seconded and the motion carried 5-0.

**Solicitor Pizzo** asked Council President Knowles to include the Deeds for the newly created lots be submitted to the Township for review by the Township Solicitor and the Township Engineer and those Deeds will be recorded contemporaneously with the Record Plan for the Subdivision. **Council Vice President Kisselback** added Solicitor Pizzo's request to the motion, **Council Member Tokmajian** amended the second and the motion carried 5-0.

**10. CONSIDERATION OF A PRELIMINARY AND FINAL SUBDIVISION:**

**Applicant:** Costa Homes  
**Location:** 4946 Neshaminy Boulevard  
**Proposed Use:** Single Family Detached Dwellings  
**Zoning Classification:** R-A-1 Residential District  
**Tax Parcel:** 2-19-197

**Doug Maloney** with Begley, Carlin and Mandio on behalf of the applicant, submitted the records of notification to **Solicitor Pizzo** who indicated the notices were in order. **Mr. Maloney** indicated this was a four lot Subdivision and not a Land Development. Total lot size 1.8 acres. Proposed Lot number two is already occupied with a dwelling, the three other homes will be about 2,500 square foot, two-story homes. Needed a couple of dimensional variances from the Zoning and Hearing Board which was received with the condition of developing in accordance with the plan that was submitted to the board. The applicant came back a second time to the Zoning and Hearing Board with revised plans to show there was plenty of extra impervious surface and plenty of parking off the street and added additional parking on the lots. The Zoning and Hearing Board granted those two variances. **Council Member Sloane** stated that Mr. Maloney did not include the updated plans in Councils packet this evening. **Mr. Maloney** said his applicant was only seeking Subdivision approval. A conversation ensued regarding lot size. **Council Secretary Pilieri** indicated council was “burned” after a Subdivision approval when the applicant placed amenities too close to property lines which caused flooding issues in that area. **Council Secretary Pilieri** indicated the applicant should have included a sketch plan along with the Subdivision request to Council. **Council Member Sloane** indicated all fifteen different requests for waivers the applicant was asking for was required with the Land Development. **Mr. Maloney** emphasized this was only a Subdivision and not asking for variances of the fifteen waivers, (twelve of which are be requested to be deferred to Land Development, not asking for a waiver). Two are waivers, number 1 of the T and M memo to allow the drawing scale to be a scale of 1” =30 foot, and number seven which states – from providing a 36-42-foot-wide cartway on Neshaminy Boulevard, the existing cartway width is 32 foot, which doesn’t make any sense for this particular parcel and was withdrawing the waiver for curbs and sidewalks. After a very lengthy conversation the applicant withdrew his request and will submit a new application for the Subdivision to include the Land Development.

**11. CONSIDERATION OF AN ESCROW RELEASE:**

<b>Developers Request:</b>	<b>Somerton Valley Homes Phase 3, Release #17</b>
<b>Location:</b>	Carter Road @ Somerton Road
<b>Tax Parcel:</b>	2-6-1 and 2-7-2
<b>Amount:</b>	\$ 68,600.00

**Council Secretary Pilieri** asked **Quinton Nearon** if he did an inspection to Somerton Valley Homes. **Mr. Nearon** indicated he did a walkthrough, sometime last week, with the representative from Lennar and the contractor and explained in detail his findings. Mr. Nearon stated the Escrow Release requested today is for the paving of Phase 3, striping and phases of the parking spaces. **Mr. Nearon** indicated he spoke to the Township Solicitor and stated he would get a cost estimate on anything in Phase 1, 2 or 3 that the Township would need money for to make sure there was enough money in escrow. **Council Secretary Pilieri** made a motion to approve the Escrow Phase #3, Release #17 for Somerton Valley Homes subject to an audit by the Finance Department and the Township Engineer, **Council Member Sloane** seconded and the motion carried 5-0.

## 12. PUBLIC COMMENT:

**Council President Knowles** invited public comment and the following residents came forward:

**Paul Barnes**, 4948 Hillside Avenue, explained he received a certified letter from Costa Homes on Thursday which he felt was not enough notice and also stated when he asked someone here at the township, no one knew how many days the notice had to be given. **Solicitor Pizzo** indicated 7 days and the applicant is suppose to supply proof they sent the notice out no fewer than 7 days before the scheduled date of the hearing. The applicant is required to send them by both, certified mail and regular mail. **Mr. Barnes** did not feel that was enough time for a lay-person to gather the information needed. **Mr. Barnes** spoke in length about reviewing the council packet, where he can view the packet and whether or not he was permitted to have copies of any of the paperwork.

**Solicitor Pizzo explained the Zoning Hearing Board** is a quasijudicial Board of Township residents appointed by the Mayor and consented to by the Council who are by statute charged with the interpretation of the Township Zoning Ordinance, listening to appeals from the decisions of the Township Zoning Officer and ruling on request for variances whether they be use variances or dimensional variances that are submitted to the Township by owners of property and by the Township be they legal, credible owners. The Township Council has no right to grant relief from the Township Zoning Ordinance except in the case of where by virtue of State Law and the Township Zoning Ordinance the Council is charged with the responsibility for hearing applications for Conditional Use where the Zoning Ordinance imposes that obligation on Potential Use in a particular Zoning Class, there the Township Council is charged with interpreting and/or enforcing the Zoning Ordinance but otherwise the interpretation and/or enforcement of the Zoning Ordinance is in purview of the Zoning Officer and the Zoning Hearing Board. The current Zoning Hearing Board Solicitor and the Solicitor who proceeded him all begin the Zoning Hearing Board meeting with a standard script they read from advising the public in attendance exactly what the hearing is, what the duties and responsibilities of the Zoning Hearing Board are advising individuals in attendance that they have the right to request party status during any of the upcoming Zoning Hearings. Party Status is a particular status that one has to apply for and be granted in regard to zoning applications, party status entitles an individual just that, to be a part of the Zoning Hearing, to be entitled to file and appeal, to be in receipt of transcripts and other documents germane to that Zoning application. The public can testify during a Zoning hearing without obtaining party status, but nonetheless all members of the public are advised of their right to request and be granted party status. It is pretty much standard at the outset of the Zoning Hearing that the public is made aware both of the rights of appeal of the applicant and of third parties to any actions that are going to be heard that evening by the Zoning Hearing Board. At the conclusion of the Zoning Hearing in Bensalem there is a single page memorandum of the action taken by the Zoning Hearing Board that evening that is given to the applicant memorializing whether the requested variances have been granted or denied and which members of the Zoning Hearing Board so granted or so denied. Subsequently and typically at the next scheduled Zoning Hearing Board the Zoning Hearing Board will adopt a written decision and order memorializing the relief that was either granted or denied at the prior meeting hearing. A copy of the Zoning Hearing Board decision for Costa is in the Council Packets for this evening's meeting. There was not chicken scratch as to what occurred that evening that was written down by someone rather a typed decision of the Zoning Hearing Board setting forth the facts that were taken into consideration

that night, the law that was applied to those facts, the ultimate decision of the Zoning Hearing Board, the ultimate order of the Zoning Hearing Board that is signed by the respective members of the Zoning Hearing Board that is on file with the Township. If anyone thinks that things are happening willy-nilly at the Zoning Hearing Board, they are not. The public is entitled to a copy of the decisions of the Zoning Hearing Board and I believe are dealt with in the same manner as most government documents which is there is a Right To Know Request, there is a Right To Know Form submitted to the Township identifying the document or documents that a member of the public wants to receive from his government and within a period of five days has the legal obligation to either provide those documents or to notify the resident why the documents are not being provided. There is a laundry list of reasons why documents may not be provided, but again, the township is obligated to let a requestor know what those reasons are and at the same time the Township notifies that person requesting they have a right to appeal that decision.

This is the first time that anyone has ever said they were impeded with getting access to plans that they have asked for from the Building and Planning Department that are scheduled to be heard by this board at one of the Council meetings. There are plenty of places within the township to view plans and the Township is willing to accommodate anyone wishing to view those plans. There are some plans processed by the Township that cannot be supplied, for instance the plans that show where the Count Room is in Parx Casino, plans that show the bank vault at Republic Bank, things that deal in public safety in general. Certain categories are public and understandably certain ones are not. But to the extent that a fairly generic and germane subdivision plan was going to be heard by Council this evening Solicitor Pizzo didn't know of any impediment for that being provided and being viewed in the normal course. The **Mayor** indicated he will question everyone regarding the situation that Mr. Barnes expressed he had experienced regarding reviewing the plans and the paperwork for this evenings Council meeting.

**Mr. Barnes** reiterated Solicitor Pizzo's explanation for the Right to Know request and was unsure if he had to wait the 5 days for a response and explained he was told he could not have a copy of the paperwork he requested. The **Mayor** indicated an employee was not permitted to make copies for anyone without jeopardizing their job. The employee would need to follow protocol for such requests from the public. **Mr. Barnes** indicated he had the right to know because he already had the documents in hand. **Solicitor Pizzo** told Mr. Barnes you could play semantics but the policy is the policy and the law is the law.

**Andrew Niczewski**, 4939 Neshaminy Boulevard, spoke regarding the Zoning Hearing Board and the plans on the website. **Council Secretary Pilieri** explained, once again, that the Zoning Hearing Board is a quasijudicial board and they have nothing to do with Council, Council cannot speak for the Zoning Hearing Board so if Mr. Niczewski needs to ask questions regarding the Zoning Hearing Board he can attend one of their meetings and ask their Solicitor those questions. Mr. Niczewski asked if the plans regarding the Council agenda could be put on the website.

**Lawrence and Donna Grace**, 918 Tennis Ave, are experiencing problems with New Castle Building Products, formerly Andalusia Supply. Plastic Storage containers are piled two stories high, four hundred feet deep. Every day, when Mr. Grace arrives home, he listens to construction site noises. His property is being torn up to the cost of last year being \$1,200.00 and this year \$1,600.00. Prior to that, this place has been complained about by the

neighborhood. When Mr. Grace purchased his home 30 years ago, it was with the premise that the lot behind him was empty. Mr. Grace explained the trucks are coming down the side streets in the neighborhood and ripping down utility lines, ripping off car mirrors and ripping up corners of neighborhood lawns on the way. Mr. Grace is at his wits end and asked for a solution to the problem. **Mr. Grace** said this is not what he bought a house for to live next to. They have no employee parking and they use the pedestrian right of way to park. Mr. and Mrs. Grace presented a petition to uphold the Bensalem Township Zoning Laws. The **Mayor** asked Mr. Lawrence if he could get all the residents together for a meeting in the evening to discuss the situation.

**Alan Winsor**, 3232 Azalea Avenue, ask how the Zoning Board could let the subdivision of the Costa plots have two very small lots and not follow the Zoning Ordinance for sizing those lots. Solicitor Pizzo explained the job of the Zoning Hearing Board, just like this Council when it comes to subdivision and land development ordinance, is to take each application on its merits. The job of this Council when they receive a waiver request, because the subdivision and land development ordinances are also the law, it says something has to be something. It is nonetheless within the discretion of these five individuals to hear, based on the evidence that is presented to them, as to a particular piece of ground and the circumstances attached to that piece of ground. The size, the location, the shape, what it is that the property owner wants to do, what it is to be done with the property those all come into play when making a decision whether or not to grant the waiver as well as whether it is significant or de minimis. Same standards apply to the Zoning Hearing Board, if one of your neighbors wants to come in and put on a deck and none of his neighbors have a problem because of the size, shape or whatever, of the lot, they need a variance for a foot of land from the side of the house and everybody is in agreement that it should happen, under Mr. Winsor's theory, sorry, no, can't do it. Because the law says this and that's that and there can be no deviation. The law specifically vests the Zoning Hearing Board with the power, specifically vests the Council with the power to say okay you get to adopt the laws and you also get to determine in those instances where a variation is required. The Zoning Laws in this state are quite clear that one standard applies to use variances and lesser standard applies to dimensional variances. And so, in the case of the lots that Mr. Costa brought in for whatever reason, if the Zoning Hearing Board, in its wisdom, felt that where a 20,000 foot lot is required but he is providing 18,000, under whatever circumstances that are presented to them they get to make that decision based on the evidence given to them. That is the law and that is their job. Mr. Winsor thanked the Mayor for getting the job done at Old Lincoln Highway and Bristol Road, the corner lot looks beautiful.

Seeing no one else come forward the second of two public portions was closed.

### **13. OTHER BUSINESS:**

**Mayor Joseph DiGirolamo** stated we celebrated Veterans Day and he attended some of the events in the Township, The Mayor thanked all The Veterans for their service.

**Councilman Sloane** thanked all the Veterans for their service and to celebrate and appreciate those people.

**Council Secretary Pilieri** thanked Parx Casino for their tribute to the Veterans on Veterans Day.

**Councilman Tokmajian** thanked all the Veterans for their service. Asked for an update on the property on Colmar. **Solicitor Pizzo** indicated he would follow-up with the RDA tomorrow. Asked if all the traffic light improvements have been completed specifically the signal at Hulmeville and Galloway Roads. The **Mayor** indicated it was included with the Traffic Resolution before Council a few meetings ago and now up to PennDOT as to when they will be completed.

**Council President Knowles** thanked all the Veterans for their service. Spoke about the passing of George Flocco who was the Executive Director of the Economic Development Corporation.

**14. ADJOURNMENT:**

There being no other business to discuss **Council Secretary Pilieri** made a motion to adjourn, **Council Member Tokmajian** seconded and the motion carried 5-0.

**Respectfully Submitted,**

**Debora F. McBreen**  
**Recording Secretary**