

Jamestown Charter Township  
Zoning Board of Appeals Minutes  
August 11, 2020

The meeting was called to order at 6:00 P.M. by Vice-Chair VandenHeuvel. Brouwer opened with prayer.

Board members present: Brouwer, VandenHeuvel, VanAanhold, Byker, Beimers.

Present other than Board: Zoning Administrator Kirk Sharphorn Jr., Jim Scales attorney, list attached.

Quincy Street Ventures representatives were not present.

Motion by Brouwer to approve the agenda, supported by Beimers. Carried.

Motion by VanAanhold to approve the minutes of 9/3/19, seconded by Brouwer. Carried.

No public comment on matters not pertaining to hearing.

VandenHeuvel explained the decision here tonight was because of denial at the Planning Commission level for site review on Quincy Street with financial contribution for the bike path required.

Scales – the question is properly requiring applicant to make payment for a bike path...Install the bike path or make a financial contribution. Sec. 3.29 states exception if zoned AR. Does the ordinance require for this type of development? Does this qualify for exception?

No variance, no financial hardship, private road approved.

VandenHeuvel explained that Chairman Zomerlei could not be present as he already acted and voted on this issue at the Planning Commission.

Sharphorn – Quincy Street Ventures is challenging the decision of the Planning Commission for bike paths.

VanKoevering 419 Quincy – why have path on both sides?

Sharphorn – they make payment for future paths.

VanKoevering – would there be one on the opposite side of the road?

Sharphorn – could be for a completely different area of the township. The applicant does not feel they need it.

Scales – of all the total bike path systems in the township, all parties have paid.

Barb Kurti 319 Quincy – they should help fund bike paths.

Public comment section closed.

VandenHeuvel – it's an interesting position they are taking...based on peculiar ruling of ordinance. The section of ordinance is different than the one they applied for Sec. 3.29. Their justification is not in reading of the ordinance and their second argument bothered me more that they can be an exception to this Section of the ordinance. This is a residential project with two acres lots...clearly residential development and it is subject to requirement of financial payment. My inclination – we not overturn the Planning Commission's decision.

Byker – made me wonder also of residential clarification. Our purpose is to uphold the intent of the law. I feel they are looking for reasons not to pay.

VandenHeuvel – am I correct, this won't come up again if they don't pay at this point?

Scales – yes.

VanAanhold – it's zoned AR. Comes down to – Is this a residential development or not? What's the definition of a development?

Scales – they are spending lots of money for the road and bridge, which leads me to believe it is a development.

VanAanhold – do they need trees and have to meet all the other requirements?

Scales – private road requirement triggers this payment.

Sharphorn – 101 acres, 13 total parcels...possibly up to 15.

VanAanhold – there's a short list of other potential uses for the property. Looks like a development.

Sharphorn – they are investing a lot of money in roads. Expensive cost. Common sense tells you selling two acres is development property.

Scales – they were fully aware of this cost when they came initially to the Planning Commission.

VandenHeuvel read in the six reasons to uphold the Planning Commission decision if the motion went that direction.

Motion by VanAnnhold to uphold the Planning Commission decision for the following reasons, supported by Brouwer.

- Chapter 17 of the Township zoning ordinance requires site plan review for all uses, except the uses listed in Section 17.1.A. Private roads are not listed as one of those exceptions.

P. 3 ZBA 8-11-20

Therefore, a private road application is subject to site plan review under Chapter 17 of the Ordinance.

- Because a private road is subject to site plan review under Chapter 17, the Township may require a financial contribution for bicycle pathway purposes in lieu of construction of the pathway,
- The fact that Section 3.29 of the zoning ordinance does not specifically refer to Chapter 17 in connection with site plan review of a private road does not support an interpretation that site plan review is not being conducted under Chapter 17, and so the requirements for installation of a non-motorized pathway or financial contribution do apply.
- Based on the plans submitted by the Applicant to the Planning Commission, the private road application was for a residential development within the meaning of the Ordinance, and so the exception from the financial contribution requirement for non-motorized pathways in Section 3.24.B.2. of the Ordinance is not applicable.
- To the extent that the provisions of the ordinance are not clear or could have more than one meaning, the Zoning Board of Appeals determines that the development as depicted in the plans submitted by the applicant are the equivalent of a site condominium or residential subdivision development for which a non-motorized pathway or financial contribution would be required, and so requiring the payment for this application is consistent with the intent and purpose of the ordinance.

Motion carried unanimously.

No other new business.

Motion by VanAnnhold to adjourn, seconded by Biemers. Carried.

Meeting adjourned at 6:37 p.m..

Respectfully submitted,



Bonnie Oosterink, Recording Sec.  
Zoning Board of Appeals

Minutes approved on \_\_\_\_\_ by \_\_\_\_\_  
Chair