

MEETING MINUTES

Cornwall Borough Council – Public Hearing

February 14, 2011 6:00 p.m.

Council President Paul Vranesic opened the public hearing at 6:00 p.m. and made the following statement.

“The proceeding tonight is a Public hearing on a petition filed by the owner of the Blue Bird Inn to amend the Cornwall Borough Zoning Ordinance to allow a new use off street parking area for permitting nonresidential uses in the residential medium density zoning district. In order that the record of the hearing may be complete in the accordance’s with the requirements of the Pennsylvania municipal planning code, certain matters should be included in the record of the public hearing on as an advertised notice of the public hearing and the consideration of the proposed zoning ordinance amendment in the Friday, January 28, 2011 and Friday, February 4, 2011 editions of the Lebanon Daily News and the proof of publication is part of the Borough’s records.

A copy of the proposal zoning ordinance amendment was provided to the Lebanon Law Library, copies of the proposed zoning ordinance amendment were previous provided to the Lebanon County Planning Department and the Cornwall Borough Planning and Zoning Commission as required by the MPC (Municipal Planning Code). Sunshine law: The legal notice for the public hearing and consideration of the proposed zoning ordinance amendment satisfies the publication requirements of the Sunshine Act and as required by the Sunshine law the notice of the meeting was posted at the Borough Municipal Building at least 24 hours before tonight’s meeting. You will notice that it is on the outside of the door. The Borough secretary has submitted a written statement confirming the advertisement was posted.

The Cornwall Borough Planning and Zoning commission reviewed the proposed zoning ordinance amendment at its meeting on November 1, 2010 and voted to recommend the Borough Council to enact the proposed ordinance. Copies of the minutes of the meeting of the Cornwall Borough Planning and Zoning Commission is part of our Borough’s official

records. The Lebanon County Planning Department reviewed the proposed zoning ordinance amendment and provided a comment letter which is included with the records.

This public hearing which is being held this evening is required under the provisions of the Pennsylvania Municipalities Planning Code. The purpose of the public hearing is to the public an opportunity to air your views, state your position and for borough council to gage public opinion. This public hearing is a legislative hearing and not a quasi-judicial or an administration hearing.

Persons who wish to speak do not have to be placed under oath. No stenographic record of the hearing is being kept although minutes will be taken and there is no right to cross examine witnesses or Borough officials. This evening Borough Council will listen to comments from the audience. In conducting a public hearing the Borough Council may establish reasonable rules and regulations for the conduct of the hearing. In order for anyone to be officially recognized he or she must stand up and address the council. No person will be recognized to speak a second time until all persons who have not been heard are given the opportunity to speak and Borough Council reserves the right to not allowed anyone to speak more than once.

Representatives of the Blue Bird Inn will present an overview of the development that is proposed if Council enacts the proposed ordinance to amend the zoning ordinance.

The proposed ordinance amends section 902 of the zoning ordinance to add off street parking areas for permitted non-residential uses as a conditional use in the area of RMD (residential medium density) district. The proposed ordinance also amends section 2403.C of the zoning ordinance to eliminate any ambiguity as a result of the changes to section 902. No changes to the official zoning map of the Borough are proposed.

If the Council enacts this proposed ordinance that vote will not approve any proposed development. Representatives of the Blue Bird Inn will first have to present the application for conditional use approval. After the submission of an application for conditional use approval, Council will have to hold a formal hearing, at which time representatives of the Blue Bird Inn will present evidence and the witnesses can be crossed examined. Other persons will have the opportunity to become parties to that hearing and present evidence concerning the proposed conditional use and development which the representatives of the Blue Bird Inn may propose to the Borough Council. The day of this hearing will be advertised and the property will be

posted. Borough Council will take action to either approve, approve with conditions, or disapprove the conditional use after the hearing. If the conditional use is approved, then representatives of the Blue Bird Inn will have to submit detailed land development plan which will be reviewed by the Borough Planning and Zoning Commission and must then be approved by Borough Council. Representatives of the Blue Bird Inn will also have to obtain numerous other approvals before it can proceed to develop the property even if council amends the zoning ordinance and after a hearing grants approval of the use and of the land development plan. Representatives of the Blue Bird Inn will have to obtain approval from the Conservation District for its erosion and sedimentation control plan, approval from PennDOT if it proposes a new access on to Cornwall Road and numerous other approvals. Meeting minutes should specifically reflect that council held the public hearing and note the name of each person who chooses to speak at the public hearing. At this time I will turn it over to Steve Dellinger.” {This concludes Council President Vranesic’s opening statement.}

Steve Dellinger then spoke: As you mentioned before I think it would probably be appropriate if the applicant is prepared to do so is to provide some back ground as to why the zoning ordinance amendment was proposed and what was the purpose before that proposed amendment.

Andrew Arnold, representing the Blue Bird Inn, then spoke: “The purpose from our view point has been, that of the Blue Bird Inn, has been to ease parking along Cornwall Road and in so doing allow more parking in a more organized manner off of the road. I see that it would benefit to our customers as well as the neighborhood itself. Jeff Steckbeck presented that idea to the Planning and Zoning and then provided some sketches with different options with providing some parking across the street from the existing site; the property across the street being in the RMD (residential medium density) district. I do not have those sketches with me, but it should be noted that we did submit them to the Planning and Zoning Commission which reviewed them in great detail as a part of their deliberation and decision to recommend to Council to adopt this zoning amendment. I would note that none of the sketches were the finite land development drawings with all the details of stormwater management, lighting, nor signage – they were concept drawings showing potential ways of doing it. Obviously the Council and the Planning and Zoning would be presented with the final detail drawings as was explained by President Vranesic in his opening remarks. “

Planning and Zoning Commission Chairman Raymond Fratini then spoke: “There is no way to really address this matter correctly, to more and less and we didn’t want to shut the door, we

are changing the zoning and options for this, this and this, that is why we did not require the detailed drawings. After that additional discussion there was discussion at the Planning and Zoning meetings (2 meetings) and the consensus was that probably the cleanest way to be able to facilitate doing the parking lot isn't in the same zoning district as the Blue Bird Inn is, is to propose an amendment to the zoning ordinance that will allow parking and facilities for non-residential uses in the RMD district and the decision was made to make that by conditional use so that there would be a hearing procedure in the front council. There are other steps that were to be taken before this can be approved. That is how the proposed ordinance came to be and we did look at the statutes and looked at how to physically describe the parameters for these off street parking areas to be located in the RMD, and as it states in the proposed ordinance the two conditions that were agreed upon and proposed were that it to be tied to the, it had to be within a certain distance of the property line of the use that it is going to be serving, in this case the furthest parking space in the off street parking area will be 450 feet from the property line, for the property use of what it will be serving and secondly that the property on which the proposed off street parking area would be located would in the same ownership as the primary commercial business. "

Borough Planner Steve Dellinger then spoke: "The Section of the ordinance proposed for changes, just a couple of wording changes in section 2403.C which is general standard for off street parking spaces, which had in the current ordinance basically indicates that the parking spaces have to be on the same property as the principal commercial use and accessible thereto. Obviously to approve conditional use for an offsite parking area you have to add language to temporarily allow the use so 902.H conditional use needs amended. We need to amend that section. The only other comment I would make and I brought the zoning map along with me, this proposed zoning text amendment applies to any of the RMD districts in the Borough, there are actually three. The Blue Bird is in the Karinchville area, but there are two other areas zoned as residential medium density, so if this is adopted any nonresidential use that would be located in the district adjacent to any one of these three that meets the business requirements could conceivably also apply for conditional use to build an off premises' lot, so it's not an amendment solely for the Blue Bird Inn it has opportunities for other property owners."

Mr. Vranesic then asked for any comments or questions from Borough Council. There were none.

Mr. Vranesic then opened the meeting to comments from the public.

Mr. Karl Karinch then spoke: Mr. Karinch read a letter into the record verbatim, which is attached to these meeting minutes.

Mr. Dellinger then replied to Mr. Karinch's letter: "Obviously, you wrote it before I just made a presentation that this applies to any other situation that applies to adjacent to a residential medium density district in the Borough. It is not written in a way that the Blue Bird only could develop and benefit from the change. As for the comments about not complying with approved land development plans, that predates my involvement with the Borough. I am not sure how that's specifically relevant to the zoning ordinance amendment that you are dealing with."

Councilman Ray Fratini then spoke: " Song Kim, who is our zoning officer, addressed those issues with me. He actually pulled me aside and talked to me about. He explained to me that it was unfortunate that some of the things had been done and there are some violations but then in turn it wasn't his watch and it was the excuse of the changing of personnel there. He said that he'll bring me up to speed on what we need to do to find out exactly if there are any gross violations. He was out and viewed the property on Friday. There's just a couple of small things that they would like us to address which he will send to us in a letter. I would like to also state that one of the sole purposes that I have been driven to do what I am doing here today is because of the very person that has objected to us doing it. This ordinance developed over the last 13 years and I am glad to approve it. However, in reality the large numbers of calls which have been received by the Borough over the years have directly proven it but I appreciate the opportunity to look at making a bad situation better."

The Borough's public works engineer Jeff Steckbeck then spoke: "For the record, my name is Jeff Steckbeck. I am the consulting engineer for both the Borough and private land owners in the Borough for the last 16 years. I have exhibit number 4 which I want to enter into the record. This exhibit is an aerial map from the county tax collectors that shows the properties along Cornwall Road. The Blue Bird Inn is identified at the Southwest intersection of Cornwall Hill Road and Cornwall Road. To the North of the Blue Bird Inn I have identified four properties that are circled; one, two, three and four; these are properties which Andrew Arnold has purchased over the course of years; they are the residential properties which would be able to be converted to parking as a result of this zoning change. Across the street from the Blue Bird and from those four dwellings I have two large X's and circles; this area is of the Stoner farm and it is zoned neighborhood commercial. The Borough's zoning map anticipated that this is the proper location for neighborhood commercial uses. When the zoning map was prepared that was identified as the location for commercial. Things that went into consideration were public safety, access and utilities so the Borough planners in the past have identified that that's an area where commercial development could occur and would bring more traffic in. The Stoner's put this in agricultural preserve it can no longer be developed. In essence, they took away the

only neighborhood commercial ground that is vacant in this area of the Borough. In the overall Borough, we have three locations where we have neighborhood commercial: we're sitting in the Borough Hall right now, along with the Bed and Breakfast to the left, and to the north the Russo property – zoned neighborhood commercial and is fully developed; the Blue Bird Inn – it's one parcel that is zoned neighborhood commercial; and the Stoner piece across the street which can no longer be used. The only other piece that is zoned neighborhood commercial is Tony's Mining Company. All parcels that are now able to be developed are fully developed and in essence you do not have any available neighborhood commercial available for use, which could be argued by some that leads to a "defective map" which could be ripe for a curative amendment. This potential defect can be cured by the borough through zoning text amendments like the kind being proposed, or as an alternative to this zoning amendment the borough could amend the zoning map and rezone this area to neighborhood commercial wherein this parking would be a use by right. However that would allow a whole host of different uses to come in. By writing the ordinance the way you've written it, it allows the Blue Bird to create parking for the existing commercial use that's there. It will not allow other uses like a bank or mortuary or book store to come into the area. Contrary to what Mr. Karinch has said, there have been studies done, there have been numerous studies done and this council has paid for – lighting studies, traffic studies, no parking signage studies – because you have received a whole host of complaints about too much traffic and too much on street parking in the area. This proposed ordinance would provide a method to rectify the past identified deficiencies from those studies. Those deficiencies were identified by several people: a South Lebanon Township Police Officer, Mr. Karinch himself who pointed out a problem and now he does not want you to implement the proposed solution. I would also like to point out that Mr. Karinch himself operated a commercial business at this very same site and he and his business brought traffic into the neighborhood, he owns properties around there, and when he owned the Blue Bird he didn't mind that he brought commercial traffic into the neighborhood, it was certainly acceptable back then. But now since he sold that business to someone else, and while he no longer has a financial motive, he is now opposed to commercial traffic coming into the neighborhood. I think these facts and history should be viewed when considering the credibility of his statements that he has made. As a municipal consultant for 16 different municipalities, the number one complaint I hear is usually about parking, followed by burning - no neighbor likes to have the smoke go onto their property from burn barrels, leaves, or garbage. The next thing I hear about as complaints are excessive parking when there is not enough provided off the street. People will park their boats, their travel trailers on the street; they have social functions like Super Bowl parties, birthday parties, and they want to bring a whole host of traffic into the neighborhood and they infiltrate the area and take up all the useable on-street spaces. Think about the City of Lebanon when they have a snow storm. You shovel out a spot, you leave, five minutes later you come back and the space you shoveled is

taken by someone else. Clearly privately owned, well designed and controlled off-street parking is an ideal solution to the complaints when you have people say there is not enough parking for a business. Here you have a gentleman who has pointed out that he has a problem with insufficient off-street parking, the neighbors don't want his patrons' cars on the street, he has invested in the likelihood of over \$500,000 for several residences to use to create parking, I am sure the tax record which are public will show how much he paid for those residence he owns. He is willing to say to you I'm not only going to buy those houses but I am then going to tear them down, and I am going to spend another \$200,000 to build a parking lot so I can get the parking off the street. To me this is the ideal citizen, he is the role model for what other municipalities and this municipality should expect of responsible conscientious business men to do. I applaud Mr. Arnold for investing that much money and being willing to tear down properties that are generating rental income and lose that rental income to fix a public safety hazard. I think this Council would miss a great opportunity to help alleviate what has been identified for years as a problem with public safety. As your public works engineer I'm telling you that to me, this is the perfect solution and I think this Council should adopt this zoning amendment and allow this to move forward. Thank you."

Any questions for Mr. Steckbeck?

Councilman Fratini then spoke: "I reserved these questions from the PNZ more or less to like you people. So you can compare a little bit. I spoke with Mr. Steckbeck earlier today and asked him to research a couple issues, things like and I can't see any, the thing that upsets me the least Steckbeck sort of, is that idea of doubt, in other words if somebody wants to do something, change the ordinance, like you want to do exactly what you are going to put there; if I could see something more or less, I saw the three concepts, but it is hard to make a decision in other words to push this through in a clear conscious that I have to always be concerned for the people that it's going to affect around the issue. Okay. The size of the parking lot is something that I needed to know which I can't see through the PNZ land development plan but the distance do we have enough distance from the existing properties that are there now that when you walk out there at two o'clock in the morning you start beeping your alarm system that we don't disturb the neighbors? That was one of the questions. The lighting system the idea of, I know there will be a screen up, but will that screen be big enough to take care of the lighting? Things like that that come before the PNZ but I more or less reserved for this council. Here, just two just can you answer those two for us?

Correct, me if I am wrong but that would go through conditional use, right?

It is the idea; it is still if you're going to zone something, I want to make sure we aren't we going to put the horse before the cart?

Correct, correct. Let me ask this, you would amend the zoning first and then you have conditional use here at which point council could make conditions upon which the developer would have to meet which would ultimately put the controls back in our hands?

This is such the case. Until we plan out the existing zoning ordinance and sub-division land development plan.

In other words, if we wanted a certain size buffer zone we could do that.

If we have those conditions that we can do that then I have no problem with it.

If we wanted certain types of lighting implement in the parking lot, right.

As long as we can do that, then I have no objections to continue with the changing of the ordinance.

So, okay, so you understand that we do have control.

I do now, according to Steve.

That this will be no different than any other conditional use.

If that is the case, then proceed with the zoning change.

The zoning is changing to allow this conditional use. The use has to be approved by Borough Council.

Right, the procedure is to amend the ordinance and then you have a conditional use hearing on the tentative plan. In their case, reaction

That would go through the proper PNZ channels too, right. The PNZ is going to have to make comments on the conditional use.

As long as the same person is there we have that right.

I think that it is proper that Council

I just want to make sure we reserve those rights, do we reserve those rights?

If the procedures are done timely.

Anytime you are doing a zoning change, you're gonna have to go through a conditional use process at which point the control ultimately falls on the governing body which is borough council. The zoning PNZ board is just there to provide recommendations to us because they are

more intimately involved typically. We will pass that unto you next and then hold a conditional use hearing.

Any questions or concerns from the council.

Mr. Steckbeck spoke – “Since Mr. Karinch has threatened a potential lawsuit in case you pass this, because under appeal of any evidence to be presented, I would like the record to reflect that as of now none of the immediately abutting neighbors who reside in that area have come here to object. Mr. Karinch owns property in the neighborhood, but he does not reside there. The adjoining neighbors are not here, Mr. Fiorentino is not here, and none of the owners or residents of the new Cornwall Hills subdivision are here to object to this. There are people from the neighborhood such as the Kreislers who are not here and they are some of those who in the past who have complained about the parking along Cornwall Road which could now be alleviated as a result of this ordinance amendment being adopted. Now, I can’t speak for them but I think that the absence of them and the rest of this neighborhood group who have chosen to NOT attend this hearing to express an objection is an important statement in and of itself without a word being said.”

President Vranesic then asked for any other comments, and when hearing none, he asked for a motion to close the public hearing?

The motion to close the public hearing was then made by Councilman Thomas, seconded by Councilman Koehler, and unanimously passed.

Mr. Vranesic then explained that Borough Council has the right to vote on the proposed ordinance at the conclusion of the public hearing or at a subsequent public meeting held within 60 days of the date of publication of the second advertisement for this hearing, February 4, 2011. Borough Council also has the right to schedule additional public hearings if in the determination of Borough Council additional public hearings are necessary. We have this scheduled to be voted on, it is on the docket for tonight under old business.

Mr. Vranesic then accepted a motion to adjourn the public meeting, which was seconded and unanimously passed.

Sincerely,

Steven N. Danz
Secretary

