

*Incorporated March 12, 1738*

# TINICUM TOWNSHIP

*Bucks County*

## BOARD OF SUPERVISORS

163 Municipal Road  
Pipersville, Pennsylvania 18947

JIM HELMS, CHAIRPERSON  
JOHN BLANCHARD, VICE-CHAIRPERSON  
RICHARD ROSAMILIA, SUPERVISOR

### **Tinicum Township Board of Supervisors Meeting Minutes December 1, 2020**

Supervisors Jim Helms, John Blanchard and Richard Rosamilia were present with Manager Teri Lewis and Township Solicitor Steve Harris. The meeting was held in the Tinicum Township building meeting room. There were approximately 15 people in attendance. Masks and social distancing were required.

Chairperson Jim Helms called the public meeting of the Tinicum Township Board of Supervisors to order at 7:30 PM followed by the Pledge of Allegiance.

#### **A. Old Business**

1) Amendment to Installation and Maintenance Agreement of Richard and Maryann Lush

Helms said based on the new ordinance, the Lush Installation and Maintenance Agreement had been amended and part of the escrow would be returned to them since the septic system was operating properly. Lewis explained that in the past the escrow had been held in perpetuity, but the new ordinance allowed for release of escrow upon receipt of certification that the system was functioning properly for three years.

**Motion:** to approve the release of Septic Installation and Maintenance escrow for 205 Durham Rd, TMP 44-001-028.

**Motion by:** Blanchard. **Second:** Helms. Voted upon and passed.  
Harris will have the documents recorded.

2) Police Fleet Vehicle Finance Document Approval

Helms stated the Tinicum Police Department was purchasing a 2020 Ford F150, as approved in the 2020 budget.

**Motion:** to authorize Manager Teri Lewis to sign for the lease agreement for a 2020 Ford F150 Police vehicle.

**Motion by:** Helms. **Second:** Blanchard. Voted upon and passed.

#### **B. New Business**

1) Advertised 2021 Tinicum Township Budget

Helms said that after multiple budget meetings, the final 2021 budget was advertised and posted on the website for public inspection. He explained that the budget considers all the necessary costs to run the Township. Helms stated that the budget highlights included a Ford F350 for Public Works to replace the old F350, a new mower and trailer needed for park maintenance at the new Tinicum Community Park on 611, road maintenance, police uniform upgrade, roof replacement for police office and possibly other building improvements. He said the Board needed to take a conservative approach but maintain the same level of service without increasing taxes in 2021.

**Motion:** to pass the 2021 Tinicum Township Budget, as advertised.

**Motion by:** Rosamilia. **Second:** Blanchard. Voted upon and passed.

**C. Regular Business**

- 1) Minutes:  
**Motion to:** approve the Minutes of the November 17, 2020 Board of Supervisor Meeting.  
**Motion by:** Helms. **Second:** Rosamilia. Voted upon and passed.
- 2) Treasurer’s Report & Budget Recap:  
 Helms stated the Treasurer’s Report and Budget Recap for November will be available at the next meeting.
- 3) Payroll Report:  
**Motion to:** accept the Payroll Reports for the period ending November 20<sup>th</sup> in the amount of \$26,967.49.  
**Motion by:** Blanchard. **Second:** Helms. Voted upon and passed.
- 4) Disbursements:  
**Motion to:** approve the below listed disbursements.  
**Motion by:** Helms. **Second:** Rosamilia. Voted upon and passed.

<b>General Fund</b>	<b>Amount</b>	<b>Memo</b>
Informant Technologies	\$2,400.00	Police Annual IT Support
Aflac Business Services	\$280.04	Supplemental Insurance withheld
S.P.C.A.	\$300.00	Annual Donation
Eastern Upper Bucks Seniors, Inc.	\$500.00	Annual Donation
Commonwealth of Pa	\$91.20	L & I Boiler Inspection
DelGuerico's Disposal Service	\$155.00	Trash and recycling
VISA	\$793.16	Meeting room improvement supplies
Verizon Wireless	\$215.05	Police wireless
Keystone Municipal Services Inc	\$1,445.00	Bldg. inspections and reviews 11-3 - 11-12
Blum-Moore Reporting Services	\$250.00	Stenography Services
Keystone Municipal Engineering	\$2,780.70	Engineer Services
Internal Revenue Service	\$1,874.95	Employer FICA
Blum-Moore Reporting Services	\$300.00	Stenography Services
Service Electric Telephone	\$392.78	Telephone Service
<b>Payroll Fund</b>	<b>Amount</b>	<b>Memo</b>
Pay period ending 11-20-20	\$21,752.58	Paychecks
Internal Revenue Service	\$4,279.10	Employee FICA
PA Dept of Revenue	\$752.41	Pa Wage Tax
J. Gerding	\$385.36	Waiver of 4th qtr. pension contribution - reimb
N. Madden	\$415.36	Waiver of 4th qtr. pension contribution - reimb
M. Compas	\$385.36	Waiver of 4th qtr. pension contribution - reimb
<b>Cap &amp; Equipment Fund</b>	<b>Amount</b>	<b>Memo</b>
Santander Bank	\$12,285.97	Police Fleet F150
<b>Open Space Funds</b>	<b>Amount</b>	<b>Memo</b>
Del Val Regional Finance	\$11,916.03	Open Space Bond Payment
<b>Open Space Project Fund</b>	<b>Amount</b>	<b>Memo</b>
Pennsylvania Abstract	\$21,416.15	Balukas Conservation Easement

**G. Executive Session**

Supervisor Helms recessed the regular meeting at 7:40 PM to discuss personnel and legal matters. Helms reconvened the meeting at 7:45 PM. There was no action to report.

## H. Conditional Use Appeals

### 1) Advertised Conditional Use Hearing for Application CU#2020-1 Ronald Christman - Continuation

- The property, TMP# 44-022-004-001, is located at 240 E. Dark Hollow Road, in the Residential Agriculture District.
- Property owner Ronald Christman seeks approval to install a deer fence for a non-agricultural use within his front, side and back yard setbacks.

Helms provided a brief overview. He referenced the ordinance that stated deer fencing protecting vegetation not defined as an agricultural use within the building envelope is permitted by-right, however deer fencing located within the setbacks must be approved as a Conditional Use. Helms said the hearing had been continued to enable Christman to provide a new, more accurate depiction of property lines and setbacks. Harris stated that the Board had received a new, clarified plan and that it would be labeled "A-1" as it was not part of the original submission.

Christman reviewed some of the notations and changes on the revised map. He said he wanted the fence to allow for understory regrowth and prevent damage from the overpopulation of deer in the area. Christman added that regrowth would also provide shade for him and help prevent stormwater runoff. Christman said he had hired Jason Mease, PWS, Valley Environmental Services, Inc., to conduct a waterway survey and presented a revised plan.

There was discussion regarding the yard setbacks for the zoning district and the ordinance requirements for nonagricultural deer fencing. Helms said his concern was that locating the fence so close to the road would potentially force deer onto the E. Dark Hollow and Municipal Roads. He noted that E. Dark Hollow Road is a heavily traveled road. Rosamilia said he shared the concern.

Zoning Officer Tracy Tackett said that the Planning Commission (PC) initially was in support of the fence, but after visiting the site they also had concerns about locating the fence so near to the road. Carl Ruthardt, PC member, said that in his opinion the fence was too close to the road and locating the fence only 1 foot from the neighbor's property line was also too close.

After further discussion, the Board recommended the following compromise:

- The E. Dark Hollow Road fence line (front yard) would be 35 ft from the property line.
- The Municipal Road fence line (side yard) would be 15 ft from the property line.
- The fence line along the neighbor properties (side and back yard) would be 10 ft from each of the neighboring property lines.

**Motion:** to approve a Conditional Use to permit a Non-Agricultural Deer Fence for 240 E. Dark Hollow Rd [TMP 44-022-004-001] with the following conditions: 1) The E. Dark Hollow Road fence line (front yard) to be 35 ft from the property line; 2) The Municipal Road fence line (side yard) to be 15 ft from the property line; and 3) The fence line along the neighboring properties (side and back yard) to be 10 ft from the neighboring property lines.

**Motion by:** Rosamilia. **Second:** Helms. Voted upon and passed.

### 2) Advertised Zoning Hearing Board Application ZHB#2020-5 John Ferrari

- TMP #44-022-044, is a 1-acre property located at 13 Tory Road in the Residential Agriculture District.
- Property owners John Ferrari requests relief from the 1998 Zoning Hearing Board Decision (#ZHB1998-3), which granted construction of a barn in the setback for the purposes of storage only, to now allow the use part of the barn as an accessory dwelling.
- The Zoning Hearing is scheduled for December 10<sup>th</sup> at 7 PM.

Helms stated that at the November 17<sup>th</sup> meeting it was decided to postpone the decision because Blanchard was absent and Rosamilia had recused himself.

Michael Peters, Esq. of Eastburn & Gray said he represented the Ferraris. Peters said that when the Ferrari's purchased the property from an estate, the loft area in the barn had already been converted

to a residential accessory dwelling. He said that prior to purchase the Township property file had not been reviewed by the Ferraris as part of due diligence and they were unaware that the space had been illegally converted by the prior owner.

Peters said the Planning Commission review recommended the following four conditions: 1) approval by the Department of Health, 2) a Certificate of Occupancy, 3) agreement to not develop the lower part of the barn, and 4) deed restrictions agreement that would prevent short- and long-term rental agreements. He said the Ferraris were agreeable to all those conditions.

Peters said that the Ferraris had moved forward to meet these conditions. Jackie Ferrari said that Jeanette Andersen, Bucks Dept. Of Health, conducted a site inspection and recommended that the Ferraris apply for a "waiver request for a third bedroom in a detached garage" from the Dept. of Environmental Protection [DEP]. She said that Rick Swiantecke of Enviro-Technology will prepare a mailer application for "approval without planning" to be sent to the DEP.

Ferrari said they had contacted a structural engineer from Carroll Engineering Corp. to do an in-depth assessment of the building to ensure the renovations meet residential requirements and provide a report regarding the suitability of occupancy. Peters said the Ferraris were actively taking steps to fix the situation. He asked that the Board not oppose the application for relief and to impose the conditions recommended by the Planning Commission.

Zoning Officer Tracy Tackett explained that this process of obtaining analysis from consultants is necessary when spaces have been illegally converted to residential use that were never constructed to the residential building code. She said the Township requires that the owner apply for a permit and provide evaluation for approval. Harris said while it looks well-constructed from the pictures, the Ferraris must show that electrical and plumbing inspections have been completed, as well as the Dept. of Health determination of the number of bedrooms and approval.

Ferrari said that Jeannette Andersen, Dept. of Health, said the house was a 2-bedroom and the septic application was for 3-bedroom, so the third bedroom would be in the barn apartment. Helms asked if there was a kitchen in the apartment. Ferrari said that there was no oven, it was a kitchenette. She said there was no washer or dryer.

Tackett noted that the application was for an "accessory dwelling" and if approved the Ferraris could add a kitchen. She said with the addition of a kitchen area it would become a separate living space as opposed to just a third bedroom. Helms said that a major concern for the Township is that the septic is designed for a 3-bedroom house on a one acre. He said that with the addition of a kitchen it could easily become a separate dwelling with two separate families on a small one-acre lot, which could quickly lead to septic failure.

Peters said the Ferraris could place a deed restriction prohibiting a kitchen. He said they were requesting an "accessory dwelling" because it was the closest in terms of allowing the Ferraris to age in place. He said that if a caretaker was living there the Ferraris would agree to no kitchen space.

Blanchard stated that the property previously went through the Zoning Hearing Board [ZHB] process and received a variance ruling, which was then violated prior to the Ferraris purchasing the property. He stated now they were asking to agree to an unpoliceable agreement. Peters said that it could be a deed restriction. Rosamilia said the concern was that in 5-10 years the next person who purchases the property will think it is a two-family dwelling.

Helms said the space is nicely finished. He said that if the ZHB denies the request they will have to take out the appliances and the bathroom. Helms asked Tackett if the ZHB could have them take it back down to the studs and have it go back to storage. Tackett said it was a possibility.

Helms suggested that it be included in the deed that it says no kitchen, no rental and not be defined as an "accessory dwelling" so that it would provide leverage against abuse in the future. He recommended that Harris attend to convey that position at the hearing.

Blanchard asked what can be done without major impact to the current owners but does not encourage other illegal apartments. He noted the previous variance was not complied with and now the Ferraris are asking for a variance from the variance. Blanchard said in terms of whether the Board oppose or take a position, he was concerned that agreements are made with the Township but when they are not followed it falls upon the Township to figure out how to make it work. He said taking a soft approach could potentially expose the Township to future problems. Peters said that was what the ZHB would have to decide.

Blanchard asked Harris for his opinion. Harris stated that the Ferraris do not have a legal basis for requesting relief. He said that ZHB decisions are not precedence for a matter of law, however it does become a matter of appearance. Peters said he disagreed.

Harris said that if relief is granted specific criteria should be determined. Helms said if the ZHB were to grant relief, approval by the Dept. Of Health was received, and the Building Code conditions are met, it would make sense to have the following deed restrictions in place to prevent future problems:

- Guest use and long-term/full-time caregiver use would be allowed;
- Short/long-term rentals and income producing activities would be prohibited;
- Kitchen facilities would be prohibited;
- No additional development of the barn permitted; and
- It cannot be defined as an “accessory dwelling”.

Tackett said that, according the Public Works Director Doug Skelton, the driveway for the garage was not a permitted driveway and if it remains the first 25 feet (apron) would need to be paved and a swale installed across the ditch line to prevent water from going into the road. Harris said it was installed as a construction driveway. Peters said the driveway was not part of the request. Ferrari said there is a second driveway, but the driveway by the barn is where they park their cars. Ferrari asked if they could use pavers instead of macadam. Tackett said she thought Skelton would agree to that, but he tries to avoid gravel in the first 25 ft. because it can wash into the road and fill the ditch.

**Motion:** to authorize Steve Harris to attend the ZHB Hearing 2020-5 Ferrari.

**Motion by:** Helms. **Second:** Blanchard.

#### **I. Public Comment Session**

Tim Cashman, Quail Lane, asked if there was any word on the Headquarters Bridge. Rosamilia said he was waiting to hear from Ryan Whittington, PennDOT.

#### **J. Executive Session**

Supervisor Helms recessed the regular meeting at 9:07 PM to discuss matters of land preservation. Helms reconvened the meeting at 9:25 PM. There was no action to report.

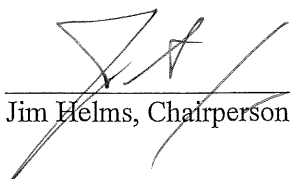
#### **K. Adjournment**

**Motion:** to adjourn the meeting at 9:27 pm.

**Motion by:** Helms. **Second:** Rosamilia. Voted upon and passed.

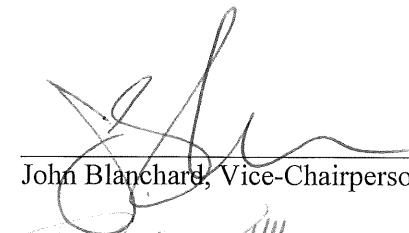
*The next meeting of the Board of Supervisors is scheduled for December 15, 2020.*

#### **TINICUM TOWNSHIP BOARD OF SUPERVISORS**



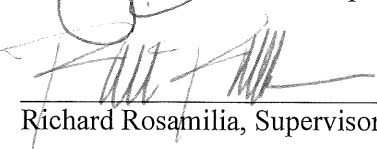
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Jim Helms, Chairperson



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John Blanchard, Vice-Chairperson



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Richard Rosamilia, Supervisor