

**NORTH FAYETTE TOWNSHIP
PLANNING COMMISSION**

**REGULAR MEETING
TUESDAY, JANUARY 21, 2014
7:30 P.M.**

The meeting was called to order with Mr. Bill Fitzgerald presiding.

MEMBERS PRESENT:

Bill Fitzgerald, Vice Chairman
David Cosnek, Board Member
Fred Lutz, Board Member
Charles Kyle, Board Member
Tom McDermott, Township Solicitor
Shawn Wingrove, EIT
Laura Ludwig, Township Community Development Director
Cheryl Cherico, Recording Secretary

MEMBERS ABSENT:

Bob Owens, Chairman
Kevin Brett, P.E., Township Engineer

OTHERS PRESENT:

Al Winkler, JR Gales & Associates
Dale Wachter, Wachter-Willis Consulting
Mark Chauvet, Noblestown United Presbyterian Church

REORGANIZATION:

Mr. Fitzgerald asked for a nomination for Chairman for the Planning Commission for the year 2013.

A MOTION WAS MADE BY Mr. DAVE COSNEK, SECONDED BY Mr. CHUCK KYLE, AND CARRIED, TO NOMINATE Mr. BOB OWENS AS CHAIRMAN FOR THE PLANNING COMMISSION FOR THE YEAR 2014.

ROLL CALL: **DAVE COSNEK** **YES**
 FRED LUTZ **YES**
 CHUCK KYLE **YES**
 BILL FITZGERALD **YES**

Mr. Fitzgerald asked for a nomination for Vice Chairman for the Planning Commission for the year 2014.

A MOTION WAS MADE BY Mr. FRED LUTZ, SECONDED BY Mr. DAVE COSNEK, AND CARRIED, TO NOMINATE Mr. BILL FITZGERALD AS VICE CHAIRMAN OF THE PLANNING COMMISSION FOR THE YEAR 2014.

ROLL CALL: **DAVE COSNEK** **YES**
 FRED LUTZ **YES**
 CHUCK KYLE **YES**
 BILL FITZGERALD **YES**

Mr. Fitzgerald asked for a nomination of Secretary for the Planning Commission for the year 2014.

A MOTION WAS MADE BY Mr. DAVE COSNEK, SECONDED BY Mr. FRED LUTZ, AND CARRIED, TO NOMINATE Ms. LAURA LUDWIG, AS SECRETARY FOR THE PLANNING COMMISSION FOR THE YEAR 2014.

ROLL CALL: **DAVE COSNEK** **YES**
 FRED LUTZ **YES**
 CHUCK KYLE **YES**
 BILL FITZGERALD **YES**

Mr. Fitzgerald asked for a nomination of Recording Secretary for the Planning Commission for the year 2014.

A MOTION WAS MADE BY Mr. BILL FITZGERALD, SECONDED BY Mr. DAVE COSNEK, AND CARRIED, TO NOMINATE Ms. CHERYL CHERICO AS RECORDING SECRETARY FOR THE PLANNING COMMISSION FOR THE YEAR 2014.

ROLL CALL: **DAVE COSNEK** **YES**
 FRED LUTZ **YES**
 CHUCK KYLE **YES**
 BILL FITZGERALD **YES**

UNFINISHED BUSINESS:

Mr. Fitzgerald asked for a motion to approve the minutes from the December 17, 2013, meeting.

A motion was made by Mr. Chuck Kyle, seconded by Mr. Fred Lutz, to approve the minutes from the December 17, 2013, meeting. Motion carried.

NEW BUSINESS:

1. **Application 2014-01 – Willow Street Subdivision** – Application for preliminary and final minor subdivision of one lot into two lots on 2.8395 acres of land on Noblestown Road in a V Village Zoning District.

Mr. Fitzgerald asked a representative to approach the Board.

Mr. Winker and Mr. Chauvet approached the Board.

Mr. Winkler said he received an updated review list and he didn't see any troubling issues on it. He said they had asked for a waiver and the Township engineer asked that they mark it as a nonconformance on the plan. He requested approval conditioned that they address the new comments from the Township engineer.

Mr. Fitzgerald asked about the cemetery.

Mr. Winkler said they had addressed that before and thought they had come to an agreement that they didn't need to meet the meets and bounds on the cemetery because it is all contained within the same property. He said it is all the same lot, the church and the cemetery.

The Board reviewed the comments of Ms. Ludwig and Mr. Wingrove.

Ms. Ludwig made the following comments:

1. This is an application for preliminary and final minor subdivision of one lot into two lots on 2.8395 acres of land on Noblestown Road and Willow Street in a V Village Zoning District.
2. Per Section 504.(c) of the Township's Subdivision and Land Development Ordinance #226 (SALDO), sidewalks shall be required to be installed along local streets within all residential subdivisions. A sidewalk has not been shown or provided on the plan. A request for a sidewalk modification/ waiver has been submitted by the applicant. The Planning Commission should make a recommendation to the Board of Supervisors as to whether that request should be approved or denied. Please note there are no existing sidewalks in this area
3. There are several **existing non-conformances** on the plan, including the following:

- Re: maximum lot area per Sections 204.3.A. and 402.B. of the Township Zoning Ordinance #360, the lot size of Lot No. 1 exceeds the maximum lot area.
- Re: front setbacks as outlined in Section 204.3.A. of the Zoning Ordinance, the existing church and existing frame structure on Lot No. 2 encroach upon the 15' required front setback.
- Re: side setbacks, the existing frame garage on Lot No. 1 and the existing chicken coup located on Lot No. 2 encroach upon the required side setback of 10'.

These existing non-conformances have all been identified as such on the plan.

4. Per Section 303.1(a)(13). of the SALDO, existing and proposed easements should be identified on the plan. Easements must be provided for the storm sewers and drainage ditch on Lot 2 as well as the greenhouse which is located on Lot 1 and an adjacent parcel. The applicant has noted that the greenhouse will be torn down but has provided an easement for it. An easement has also been provided for the storm sewer.
5. Section 303.(g).(5). of the SALDO requires that accurate boundary lines be shown on the Plan. However, only an approximate area has been shown on the plan for the cemetery on site. If the applicant has no intention of surveying this cemetery and providing a more accurate description of the cemetery's location, the applicant may request a modification/waiver to this requirement of the SALDO.
6. Per the Allegheny County Subdivision and Land Development Ordinance (SALDO), all paper plans submitted for recording must have both the embossed and ink seal of the PA licensed surveyor who prepared the plans.
7. In addition, the County's SALDO requires that all signatures be made in permanent navy blue ink or felt tipped pen.
8. Refer to any comments from the Township Engineer per LSSE's letter dated January 16, 2014.
9. Refer to any comments from the Township Solicitor.
10. Please note: the applicant is responsible for all engineering, legal, and other related review fees associated with this application and if the escrow deposit is depleted, they will be billed for any remaining fees owed and asked to replenish the escrow account.

At this time, the application looks to be complete, pending a resolution concerning the location of the cemetery. The Planning Commission should recommend a motion to the Board of Supervisors regarding the sidewalk modification/waiver request. In addition, she recommended that the Planning Commission make a motion to recommend that the Board of Supervisors approve the Willow Street Subdivision Plan, contingent upon all outstanding issues being addressed per LSSE's review letter and this review letter.

Ms. Ludwig said regarding the cemetery, she recommended that the applicant could request a waiver to that requirement and she didn't believe the response letter had noted that. She said the Board received the updated plans and the response letters. She said she didn't believe the cemetery was an issue and it is completely located within the parcel with the church.

Mr. Kyle asked if anyone could be buried there now.

Mr. Winker said no.

Mr. Kyle said so it is what it is and no additional graves would ever be added to it.

Mr. Chauvet said they started burying people there in the 1850s.

Mr. Wingrove made the following comments:

We have completed our review of the above referenced Subdivision Plan Application, dated January 2, 2014, last revised January 21, 2014 prepared by J.R. Gales and Associates, Inc., as received by our office January 21, 2014, via email. The plan proposes the subdivision of one lot into two lots and the consolidation of one the proposed lots with a third, adjacent lot. The property is located with frontage along Noblestown Road and Willow Street, and is Zoned V – Village.

The following listing presents items identified during our initial review that do not conform to the Township of North Fayette's Zoning Ordinance (No. 360), and Subdivision and Land Development Ordinance (No. 226):

Zoning

1. The Ordinance allows a maximum lot area of 87,000 square feet. (Sections 204.3.A. and 402.B) **Previous Comment:** *The plan proposes a lot greater than 87,000 square feet. Lot 1 is shown with an area of 93,439.53. This is an existing nonconformance. Status: The plan requests a waiver of this requirement, however, a wavier is not required. The plan should be revised to only identify the existing nonconformance, and not request a waiver or variance.*
2. The Ordinance requires a 15' front yard setback. (Section 204.3.A.) **Previous Comment:** *The existing church located on proposed Lot No. 1 and the existing frame structure located on Lot No. 2 encroach into the required front yard. Each structure is an existing nonconformance and should be identified as such on the plan. Status: The plan requests a waiver of this requirement, however, a wavier is not required. The plan should be revised to only identify the existing nonconformance, and not request a waiver or variance.*
3. The Ordinance requires a 10' side yard setback adjoining non-residential districts. (Section 204.3.A.) **Previous Comment:** *A 15' side yard setback is shown. The existing*

frame garage located on proposed Lot No. 1 and the existing chicken coup located on Lot No. 2 encroach into the required side yard. These structures are existing nonconformances and should be identified as such on the plan. Status: The plan requests a waiver of this requirement, however, a wavier is not required. The plan should be revised to only identify the existing nonconformance, and not request a waiver or variance.

Previous Comment: *The existing greenhouse is located on both proposed Lot No. 2 and the adjacent parcel (9929-X-1962). Identify the owner of this structure and provide an easement for structure on the adjacent property. Status: A note has been added to the plan indicating the greenhouse will be razed. Item addressed.*

Subdivision

1. The Ordinance requires existing and proposed easements be identified on the plan. (Section 303.1.(a).(13).) **Previous Comment:** *An easement has not been provided for the storm sewers and drainage ditch located on proposed Lot No. 2. Additionally, the existing greenhouse is located on both proposed Lot No. 2 and the adjacent parcel (9929-X-1962). Identify the owner of this structure and provide an easement for structure on the adjacent property. Status: A 10' storm sewer easement has been provided, however a minimum easement width of 20' is required. Revise the plan accordingly.*
2. The Ordinance requires accurate boundary lines, with dimensions and bearings on the plan. (Section 303.(g).(5).) **Status:** *A metes and bounds description of the cemetery has not been provided. Status: A note has been added to the plan requesting a waiver of this requirement.*
3. The Ordinance requires sidewalks along the full frontage of arterial or collector streets. (Section 504.(b).) **Previous Comment:** *Not provided. Status: The applicant's consultant has requested a waiver of this requirement.*

The plans have been reviewed for conformance to the Township Ordinance standards only. The review is based on surveys and drawings prepared by others and assume this information is correct and valid as submitted. Independent confirmation of adequacy or applicability of surveys, design data or procedures has not been provided.

The plan, as submitted, will conform to the Township of North Fayette's Zoning Ordinance (No. 360), and Subdivision and Land Development Ordinance (No. 226) with resolution of the above listed items.

Mr. Wingrove said the original comment regarding the cemetery was so that there was clear delineation as to where it was located. He said they may not even know where the actual bounds may be. He said it is up to the Planning Commission's discretion whether they choose to grant a waiver for that item. Other than that, he said there are only a few minor clarifications to place on the plan.

Mr. Cosnek asked what the purpose is for breaking the parcel up into two lots.

Mr. Winkler said there is a gentleman that wishes to use it as a storage area.

Mr. Cosnek asked if that was the part along Willow Street.

Mr. Winkler said yes.

Mr. Cosnek asked if there were existing structures there.

Mr. Winkler said the gentleman who wants to buy that land plans to demolish those structures along with the greenhouse and chicken coup. He said adjacent to that on the left side there are some houses and nobody knows who owns those lots. He said nobody has paid taxes on them for quite a while.

Mr. Chauvet said nobody knows who owns that property. He said the same goes for the house on the corner. He said nobody knows who owns that one either and there have been squatters there at times. He said the property isn't even on the tax records. He said he got a permit from the township to tear it down in either June or July.

Mr. Cosnek asked if the setbacks on this are all 15'.

Mr. Winkler said yes. He said there are some existing structures that encroach into the 15' setbacks but they are considered existing non-conforming.

Mr. Cosnek asked what was considered the front yard.

Mr. Winkler pointed to it on the drawing. He said Lot 2 would have two side yards and a rear and Lot 1 would have 2 side yards and a rear. He said it is a long front yard.

Mr. Cosnek asked about the road right-of-way for Willow Street.

Mr. Winkler said the right-of-way for Willow Street is shown on the plan and is 16 ½' from the center line for a 33' total right-of-way.

Mr. Cosnek asked if the township required 50' right-of-ways now.

Mr. Lutz said that requirement is for new roads. He said this is an old existing road so it doesn't have to meet that requirement. He said that 33' right-of-way is probably from 100 years ago.

Mr. Cosnek said he thought the township still got the additional right-of-way for utilities, etc.

Mr. Wingrove said that was an acceptable right-of-way for that age of street.

Mr. McDermott said that was correct.

Ms. Ludwig said it was back to her comments then. She recommended a motion on two waiver requests, one for sidewalks, Section 504.(c) of SALDO, and one for the meets and bounds for the cemetery, Section 303.(g).(5). of SALDO. She said there are no sidewalks in that area.

Mr. Fitzgerald asked if there were any further comments or questions.

Mr. Kyle asked if the use for a storage facility is a permitted use for the new parcel.

Mr. Winkler said it may not actually be a storage facility, but a place to park equipment.

Mr. Kyle asked if the Township would have any issues with what they plan to do on the property.

Ms. Ludwig said they would have to come to the Township to make sure they have the proper approvals for whatever they plan to do on the property. She said this is the first time she heard what was planned for the parcel. She said that area is zoned Village.

Mr. Fitzgerald asked if they knew specifically what they intended to store there.

Mr. Chauvet said it was his understanding that they wanted to park construction equipment there during winter months.

Mr. Fitzgerald asked if he meant equipment like bulldozers and excavators.

Mr. Chauvet said yes, but he wasn't sure if he had anything that big. He said he knows he has backhoes and high lifts.

Ms. Ludwig asked what the primary use of the lot would be.

Mr. Winkler said they are just doing the two lot subdivision and the property hasn't been sold yet.

Mr. Fitzgerald said if they intending to put heavy equipment there, they aren't going to come to the Township to ask them.

Ms. Ludwig said if it was heavy equipment associated with a primary use there and it was fenced off or something like that, it would be a different story. They can't just purchase the lot, tear down the house and buildings and store some construction equipment on there.

Mr. Fitzgerald said that is basically what they are intending on doing.

Mr. Kyle asked if they would allow it knowing that is what they want to do. He asked if there was any point in moving forward with the application.

Mr. McDermott said they could move forward on the subdivision application and say be advised that even though you could be allowed to subdivide the property and make it this shape, it doesn't mean you are allowed to do whatever you want on the property.

Ms. Ludwig said the potential buyer should definitely contact the Township before they go through with the sale of the parcel.

Mr. Chauvet agreed.

Mr. Kyle said he needed clarification. He said they are separating it into two parcels and the intended use of the second property has no relevance on what the Planning Commission was considering tonight.

Mr. McDermott said that is correct, what is before the Planning Commission is a subdivision application. He said there is no zoning or request for zoning.

Mr. Kyle said they don't need to take that into consideration when making this decision.

Mr. McDermott said they aren't allowed to take that into consideration. He said the applicant needs to be on notice that the fact that the Board may approve this subdivision, it does not set a precedent or alliance or anything that one could argue that the Board approved the subdivision so they must allow "x" use. By the same token, the Board would not be approving zoning or giving any zoning approval at all. They would only be getting approval to carve up the property in this manner.

Mr. Kyle asked if that could be put on record.

Mr. McDermott said it is on record and would reflect in the minutes.

Mr. Fitzgerald asked the Board for a motion on the sidewalk modification.

A MOTION WAS MADE BY Mr. FRED LUTZ, SECONDED BY Mr. DAVE COSNEK, AND CARRIED, TO RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS FOR THE SIDEWALK WAIVER, SECTION 504.(C) OF THE TOWNSHIP'S SUBDIVISION AND LAND DEVELOPMENT ORDINANCE #226.

ROLL CALL:	DAVE COSNEK	YES
	FRED LUTZ	YES
	CHUCK KYLE	YES
	BILL FITZGERALD	YES

Mr. Fitzgerald asked for a motion on the boundary waiver for the cemetery of Section 303(g)5. of the SALDO.

There was no motion.

Mr. Kyle asked if they could have a little more discussion on this before voting. He asked how would they know that they are never going to bury someone there and if they would need to know where the boundaries for the cemetery are or are not. He asked if there was anything to stop them from having a burial there right now.

Mr. McDermott asked if this was a family cemetery.

Mr. Chauvet said it is the church's cemetery. He said there are some Civil War veterans buried there that they know of.

Mr. Fitzgerald asked if they grant the waiver, does it give them permission to excavate wherever they want with no boundaries.

Mr. McDermott said it has nothing to do with permission or non-permission to use the cemetery. He said all they would be doing by granting the waiver would be relaxing the requirement that they have to provide a survey that would delineate exactly where the cemetery is located.

Mr. Kyle asked what the purpose is of having that requirement in the SALDO.

Mr. McDermott said it's kind of like the fact that they want specificity of where utilities, etc. are located. This is just another detail or feature we ask for on the drawings. He said if it isn't felt to be germane, the Board could waive the requirement. He said it could become germane if the Board was concerned about the encroachment of the cemetery use on either the street which is going to be limited by the setbacks anyway or the neighboring properties. He said there are also side setback requirements. He said he didn't know if a cemetery use per se has a larger setback than a normal use.

Mr. Fitzgerald asked how many grave sites are there.

Mr. Winkler said they did an approximate location and even if they delineated it's not to say they wouldn't miss some bodies because the cemetery is so old.

Mr. Fitzgerald asked what kind of numbers they thought were there.

Mr. Winkler said he wasn't out there on the survey crew.

Mr. Fitzgerald asked if there were still headstones there.

Mr. Kyle said it was a wooded, brushy area and within the last two years they have cleaned it up where you can actually see the headstones. He said he has never walked down there but it looks pretty old. He said it is on the sloping hillside from the church parking lot.

Mr. Chauvet said he would estimate that there are probably 100 graves there. He said if they tore out the church parking lot, they might even find some under there.

Mr. Fitzgerald said if the Board wouldn't grant the applicant this waiver then they would have to go out and survey.

Mr. McDermott said yes.

Mr. Winkler said they put a rough area where they feel the cemetery is located on the plans, but like Mr. Chauvet said, there are no records to help them. He showed the Board on the drawing where the cemetery was located to the best of their knowledge. He said are they positive that every corpse is within that delineation, no. He said they have no way to find out either.

Mr. Chauvet said there had been a fire at the church years ago that destroyed records and the county has no records regarding the cemetery.

Mr. Fitzgerald said it didn't seem that the Board had any desire to grant a waiver so he asked Mr. McDermott how they proceed now.

Mr. McDermott said they can deny the waiver request.

Mr. Cosnek said then they would have to go out and survey it and bring it back.

Mr. Winkler said they won't survey it, they would put meets and bounds on the area they have already marked on the plans.

Mr. Cosnek said so they couldn't just survey it without excavating.

Mr. Winkler said that was correct because it is possible there are bodies under the parking lot. He said this cemetery dates back to at least 1850 so headstones may have disappeared. He said they can't really be sure where each body is located, but the area marked as the cemetery is their best guess.

Mr. McDermott said he didn't believe the Board was concerned where past bodies are buried, but more about whether future bodies might be buried there and that it would never be used again as a cemetery. He said it is a cemetery so whatever rights they have as a cemetery are existing as a non-conforming use. He said as far as a zoning, land use matter, they basically have a grandfathered use.

Mr. Kyle said so, they could bury someone there tomorrow if they wanted.

Mr. McDermott said they are allowed to run a cemetery there and that is the way it has been since around 1850.

Mr. Cosnek said they would be limited to bury within the new property lines that are outlined on the drawing at this point.

Mr. McDermott asked if he meant within the existing cemetery property lines.

Mr. Cosnek said yes.

Mr. McDermott said that all becomes a matter of non-conforming rights and expansion of non-conforming rights. He said they may actually have a legal right to expand across their own property and put more bodies there if they want. He said under non-conformance law they do have certain rights of expansion within the area that they have developed. Whether they have any intention of expanding, he said he didn't know. He said their purpose is to document the cemetery as they know it today and what they visibly know it to be. He asked if there are any records on the cemetery.

Mr. Chauvet said there are some records for the church, but there was a bad fire years back and a lot of records were lost. As far as the cemetery is concerned, he said he can't tell the Board that the houses that have frontage on Willow Street don't have graves in their backyards and the property owners can't tell either. He said he didn't know who could tell the Board where all of the graves are located. He said he didn't believe any undertaker could go in there and bury anybody at this time because they aren't going to be allowed. He said federal law governs the cemetery.

Mr. McDermott said there are some state laws that control cemeteries as well.

Mr. Cosnek said the question here is whether they need to depict something more specific on the drawing or not.

Mr. McDermott said if they could do meets and bounds without an actual survey then. . .

Mr. Winkler said they have already located the cemetery on the plans and could just add the numbers to it.

Mr. McDermott said they have already done the field work necessary and if they put the numbers on it that would basically be the meets and bounds.

Ms. Ludwig said yes, that would be enough to satisfy the requirement so they would not need the waiver.

Mr. Kyle said they wouldn't be so concerned about the accuracy at that point because there is no way to determine the accuracy anyway.

Mr. Cosnek said correct.

Ms. Ludwig said if they add the meets and bounds that would resolve the issue.

Mr. Kyle said then they would meet all of the conditions of the SALDO.

Mr. McDermott said yes, the plan states it is approximate. He said the applicant already has the corners located and they are consistent with what they observed out on location. He said in the future the only potential issue, which he agreed would probably never come up, would be that

they wanted to bury someone in another location on the property. He said the Township would want to argue that they can't, but then they could argue that they are non-conforming and that they are allowed to expand. He said if they are only interested in them generally documenting the meets and bounds to satisfy the requirements of SALDO, the easy solution would be to just have them mark the plan and the applicant already has the work done.

Mr. Kyle asked if they could approve it conditioned on the applicant doing that.

Ms. Ludwig said yes.

Mr. McDermott said they could just deny the waiver and note for the record that the expectation is that they would file a revised plan before the Board of Supervisors consistent with the comments.

Mr. Fitzgerald said they already requested the waiver so the Planning Commission can deny the waiver. He asked the Board for a motion.

A MOTION WAS MADE BY Mr. CHUCK KYLE, SECONDED BY Mr. DAVE COSNEK, AND CARRIED, TO DENY THE WAIVER CONCERNING MEETS AND BOUNDS FOR THE CEMETERY.

ROLL CALL:	DAVE COSNEK	YES
	FRED LUTZ	YES
	CHUCK KYLE	YES
	BILL FITZGERALD	YES

Mr. Fitzgerald asked for a motion on the application.

A MOTION WAS MADE BY Mr. FRED LUTZ, SECONDED BY Mr. DAVE COSNEK, AND CARRIED, TO RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS FOR THE WILLOW STREET SUBDIVISION PLAN CONTINGENT UPON ALL OUTSTANDING COMMENTS IN THE TOWNSHIP'S REVIEW LETTER DATED JANUARY 21, 2014, AND THE TOWNSHIP ENGINEER'S REVIEW LETTER DATED JANUARY 21, 2014, BEING ADDRESSED.

ROLL CALL:	DAVE COSNEK	YES
	FRED LUTZ	YES
	CHUCK KYLE	YES
	BILL FITZGERALD	YES

- 2. Application 2014-02 – Klemencic Subdivision** – Application for preliminary and final consolidation of two lots into one lot on 0.795 acres of land on Pinkerton Run Road in a R-2 Suburban Residential Zoning District.

Mr. Fitzgerald asked a representative to approach the Board.

Mr. Wachter approached the Board. He said Mr. Klemencic bought the adjoining lot from where his house is located and wants to combine the two into one lot so he would only have one tax number. He said he believed the comments had been addressed other than some very minor issues.

The Board reviewed the comments of Ms. Ludwig and Mr. Wingrove.

Ms. Ludwig made the following comments:

1. This is an application for preliminary and final subdivision involving the consolidation of two lots into one lot on 0.795 acres of land on Pinkerton Run Road in an R-2 Suburban Residential Zoning District.
2. Per Section 504.(c) of the Township's Subdivision and Land Development Ordinance #226 (SALDO), sidewalks shall be required to be installed along local streets within all residential subdivisions. A request for a sidewalk modification/ waiver has been submitted by the applicant. The Planning Commission should make a recommendation to the Board of Supervisors as to whether that request should be approved or denied. Please note there are no existing sidewalks in this area.
3. There are several **existing non-conformances** on the plan, including the following:
 - Re: minimum lot area per Sections 204.3.A. and 402.B. of the Township Zoning Ordinance #360, the lot size of Lot No. 1 does not meet minimum lot area requirements.
 - Re: front yard setbacks as outlined in Section 204.3.A. of the Zoning Ordinance, the existing dwelling and frame shed encroach upon the required 30' front setback.
 - Re: rear yard setbacks, the existing frame shed, asphalt drive, and wall encroach upon the required rear setback of 35'.

These existing non-conformances have all been identified as such on the plan.

4. Per Section 303.1.(a)(13). of the SALDO, existing and proposed easements should be identified on the plan. An easement must be provided for the existing frame shed, asphalt drive, and wall for the portion of these items located on the adjacent parcel. The plans have been amended to show this easement and notary clauses for the adjacent property owners to sign acknowledging the easement has also been added.
5. Per the Allegheny County Subdivision and Land Development Ordinance (SALDO), all paper plans submitted for recording must have both the embossed and ink seal of the PA

licensed surveyor who prepared the plans. The plans submitted did not contain the embossed seal. This should be added to the plan for recording.

6. In addition, the County's SALDO requires that all signatures be made in permanent navy blue ink or felt tipped pen.
7. Refer to any comments from the Township Engineer per LSSE's letters dated January 16, 2014 and January 20, 2014.
8. Refer to any comments from the Township Solicitor.
9. Please note: the applicant is responsible for all engineering, legal, and other related review fees associated with this application and if the escrow deposit is depleted, they will be billed for any remaining fees owed and asked to replenish the escrow account.

At this time, the application looks to be complete. She said the Planning Commission should recommend a motion to the Board of Supervisors regarding the sidewalk modification/waiver request. In addition, she recommended that the Planning Commission make a motion to recommend that the Board of Supervisors approve the Klemencic Subdivision Plan.

Mr. Wingrove made the following comments:

We have completed our review of the above referenced Subdivision Plan Application, dated January 4, 2014, last revised January 20, 2014, prepared by Wachter-Willis Consulting, LP, as received by our office January 20, 2014, via email. The plan proposes the consolidation of two lots into one lot. The property does not have frontage on a public roadway. The property is accessed via a private road from Pinkerton Run Road and is Zoned R-2 – Suburban Residential.

The following listing presents items identified during our initial review that do not conform to the Township of North Fayette's Zoning Ordinance (No. 360), and Subdivision and Land Development Ordinance (No. 226):

Subdivision

1. The Ordinance requires the certification and seal of the professional land surveyor who prepared the boundary survey. (Section 303.1.(c).(3).) **Previous Comment:** *The plan has not been sealed.* **Status: No change.**

The plans have been reviewed for conformance to the Township Ordinance standards only. The review is based on surveys and drawings prepared by others and assume this information is correct and valid as submitted. Independent confirmation of adequacy or applicability of surveys, design data or procedures has not been provided.

The plan, as submitted, will conform to the Township of North Fayette's Zoning Ordinance (No. 360), and Subdivision and Land Development Ordinance (No. 226) with resolution of the above noted item.

Mr. Cosnek said he had a question. He said he could see the shed going away sometime in the future. If the parcel was sold though, he asked if the easement for the wall would continue with that property or at that point would they need to revise the deed description to include the wall as part of the property.

Mr. Wachter asked if he meant for the adjoining property.

Mr. Cosnek said yes.

Mr. Wachter said the new owner could make that stipulation. He said it is a group of four people and right now it is all family.

Mr. Cosnek said he understands that it is family.

Mr. Wachter said if there was a new deed and the property was sold, he said the easement would need to be incorporated. He said it is going to show on their plan, but it is not on the original deed from 1950.

Mr. Cosnek said he understands it could go forward as an easement, but does that create an issue for a sale in the future.

Mr. McDermott said if they put the easement on the plan to maintain that wall then it would be as good as deed. He said it would be nicer for the owner to have that in the deed, but it doesn't have to be. He said the easement allows them access to build and maintain the wall on another person's property whether they happen to be family or not or sell it in the future. The easement would survive all of that because it is like a mini deed.

Mr. Fitzgerald asked if anyone had any further comments or questions. Hearing none, he asked the Board for a motion on the sidewalk waiver.

A MOTION WAS MADE BY Mr. FRED LUTZ, SECONDED BY Mr. CHUCK KYLE, AND CARRIED, TO RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS FOR THE SIDEWALK WAIVER, SECTION 504.(C) OF THE TOWNSHIP'S SUBDIVISION AND LAND DEVELOPMENT ORDINANCE #226.

ROLL CALL:	DAVE COSNEK	YES
	FRED LUTZ	YES
	CHUCK KYLE	YES
	BILL FITZGERALD	YES

Mr. Fitzgerald asked for a motion on the application.

A MOTION WAS MADE BY Mr. FRED LUTZ, SECONDED BY Mr. DAVE COSNEK, AND CARRIED, TO RECOMMEND APPROVAL TO THE BOARD

OF SUPERVISORS FOR THE KLEMENCIC SUBDIVISION PLAN CONTINGENT UPON ALL OUTSTANDING COMMENTS OF THE TOWNSHIP'S REVIEW LETTER DATED JANUARY 21, 2014, AND THE TOWNSHIP ENGINEER'S REVIEW LETTER DATED JANUARY 20, 2014, BEING ADDRESSED.

ROLL CALL:	DAVE COSNEK	YES
	FRED LUTZ	YES
	CHUCK KYLE	YES
	BILL FITZGERALD	YES

- 3. Sewage Facilities Planning Module – Vasselo Subdivision** – Application for approval of sewage planning module associated with the Vasselo Subdivision (involves the construction of a new single family home on Whittengale Road).

Mr. Fitzgerald asked a representative to approach the Board.

Mr. Wachter approached the Board. He said he didn't know this was on the agenda, but he could represent this one, too. He said the plan was submitted a year ago and it has been going round and round with the DEP since then.

Mr. Fitzgerald said he didn't know anything about this one. He asked if there was any paperwork on it.

The Board reviewed the comments of Ms. Ludwig and Mr. Wingrove.

Ms. Ludwig made the following comments:

Ms. Ludwig said she had a copy of the module itself with her if anyone on the Board wanted to see it. She said this has been through the Township engineer's review and DEP has also reviewed it a few times. She said most recently, they received a review letter from DEP dated Dec. 9, 2013, which does list a few outstanding items that need to be revised on the plan or things that need to be provided in order for it to be considered complete. She said a few of those items are on the Township end such as the Township officially approving the sewer planning module that has been submitted. She said the Township has looked at it as well as the Township engineers and she recommended approval. She said the resolution of adoption would go before the Board of Supervisors after the Planning Commission makes a recommendation.

Mr. Fitzgerald said this is the first the Board is hearing about this one.

Ms. Ludwig said this is a subdivision plan for one single family home on Whittengale Road that came before the Planning Commission months ago.

Mr. Kyle said it sounds like the DEP has not approved this yet.

Ms. Ludwig said that is correct because of a few items they still need, and approval from the Planning Commission and Board of Supervisors is part of what the DEP still needs. She said technically DEP can't approve it until they get all of this back from the Township. She said there are nine outstanding items listed on the letter.

Mr. Fitzgerald asked if this was to install a sewer line.

Ms. Ludwig said it is an extension of a sewer line.

Mr. Lutz asked if this was for a single family home and if it was to run the sewer line up Whittengale to the home or if it is for a septic system.

Mr. Wachter said it is an extension at the bend on Whittengale where Vasselo lives. He said they would be tapping into the sewer line from the manhole in front of their house.

Mr. Fitzgerald said this is just a sewer tap in then.

Mr. Kyle asked why it took a year to do this.

Ms. Ludwig said the module had been filed with the DEP and then the DEP lost it. She said neither Mr. Wachter nor the Township had a copy of it, so Mr. Wachter had to go through the whole process again, get everything signed again and resubmit.

Mr. Fitzgerald said if something like this is going to show up before the Planning Commission, the Board should get some kind of paperwork to review before the meeting. He said the Board members didn't know anything about this. He said it was fortunate that Mr. Wachter was here for another client tonight. He said if they are just tying into the sewer line and the subdivision was approved a year ago then this really shouldn't be a big issue.

Mr. McDermott said Lennon Smith Souleret generally reviews these.

Ms. Ludwig said that was correct and the engineer reviewed it months ago.

Mr. Wingrove made the following comments:

Mr. Wingrove said part of the DEP's regulation is to confirm that the extension won't exceed capacity of the existing line. He said Lennon Smith Souleret checked that and confirmed with the Township. He said then the Township Manager Bob Grimm signs the form and sends it to the DEP stating that this extension is not creating an overflow. He said that has all been taken care of already as far as the engineer's and the Township's analysis of it.

Ms. Ludwig said she doesn't normally handle these. She said she handles the subdivision part of it and has very little involvement in the planning module itself.

Mr. Wachter said initially, this didn't come before the Planning Commission. He said it was just an in house Township task to submit the DEP module. He said it is just that this one has come back and now has go to before the Planning Commission.

Ms. Ludwig said she is pretty sure the Planning Commission reviewed the Township municipal complex planning module last month with no comments whatsoever and it would have been the same motion as this one.

Mr. Fitzgerald asked if anyone had any further comments or questions. Hearing none, he asked the Board for a motion on the application.

A MOTION WAS MADE BY Mr. DAVE COSNEK, SECONDED BY Mr. FRED LUTZ, AND CARRIED, TO RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS FOR THE SEWAGE PLANNING MODULE ASSOCIATED WITH THE VASSELO SUBDIVISION.

ROLL CALL:	DAVE COSNEK	YES
	FRED LUTZ	YES
	CHUCK KYLE	YES
	BILL FITZGERALD	YES

COMMENTS:

Mr. Fitzgerald said he had a question. He asked what has been going on with the retention ponds that were being investigated that caused Mahoney Road not to be paved last year. He said he knows that the Township counsel was looking into who owns some of them and the engineer was also involved in this. He asked if the Board could have an update.

Mr. Wingrove said he and Kevin Brett were at the Township building last Friday and met with Township staff to discuss a lot of issue in the Township, one of which was the pond situation. He said he is completing the field reviews as the weather permits. He said all but maybe a handful are done. He said they are being categorized them into certain groups to present to the Board. He said Mr. Fitzgerald is correct that there are a lot that they do not know who owns them. He said they were built by developers years ago and have just sat abandoned and are falling apart. He said some will be turned over to the Township to maintain.

Mr. Wingrove said in the upcoming weeks they will complete the reviews and present the findings to the Board of Supervisors, outlying the ponds where there are no owners and ask for direction on what to do with them. He said there are others such as the ponds at The Pointe at North Fayette where there are clear cut owners, corporations, but they don't want to be responsible for the ponds. He said they also need direction on how to deal with those - does the Township want to take them over, fix them and back charge for the repairs? He said over the last year some of the ponds have been repaired, but overwhelming percentages have not. He said in particular the ones on Mahoney Road fall into the category, unfortunately where the developer is

gone or has passed away or just doesn't exist anymore so there is no one to really go after. He said it will be part of the discussion with the Board as to how to remedy these failing ponds.

Mr. Fitzgerald said there needs to be clarity not only for the ponds that were built yesterday and years before that, but for the ones that are built tomorrow and who is ultimately going to be responsible in the future.

Mr. McDermott said he could address that. Since 2003 or 2004, every pond that has been built after that, shortly into Mr. Temple's tenure, has been subject to a private ownership with a recorded maintenance agreement that is enforceable.

Mr. Fitzgerald said that was good.

Mr. Wingrove said as part of the new MS4 regulations every municipality has to chart and catalog all of the stormwater ponds, BMPs and everything throughout the Township. He said those are going to be the easy ones. He said those will stay on the list and are on the list every year when they go around and look at them. Because of the list if there is anything wrong, they have a developer, a parcel owner, whoever, to go to and say they need to fix it.

Mr. Fitzgerald said he knows there were some associated with Mahoney Road that were abandoned or we have lost contact with the people and that is also the reason the road hasn't been fixed and it is in ill repair. He said they can't fix the road until the pond situation has been figured out. He said it has been four years, almost five years that the road was supposed to be fixed and it still hasn't been and it needs it badly. He said this is all part of that process.

Mr. McDermott said it is a conglomeration of four or five different ponds in that area, one of which may have been a natural lake to begin with. He said that combined with ones that were done many years ago and some that were done when the Township first started designing ponds but left a legal gray area for a long time on who would own it and who would be responsible for it. He said the ones from the 70s and 80s may have been built okay more or less for the time, but there was no legal design for what happens when the neighborhood development was completed. He said there was no homeowners' association put in place or no dedication to the Township. He said those are going to have to be taken by the Township by default. He said the ones that have corporate owners that are at the Pointe at North Fayette, he said they can go after those owners.

Mr. McDermott said the more modern ponds could be taken by the Township, but the owners would have to pay a pretty hefty fee for the Township to do that. He said the Township would also be happy for the owner to continue with ownership because we would have it documented and recorded and they frontload seed money to the Township. He said that fee that is based how much it would cost to pay an engineer to go out twice a year for the next 30 years to go and look at this pond and present value that back to today. He said they would give us that money and we would use it to actually defray the cost.

Mr. Fitzgerald asked if that money could be used to fix the retention ponds on Mahoney Road.

Mr. McDermott said no, well it could be used for anything because it is general fund money. He said it would be used to help defray what are actually, perpetual obligations. He said the money is not tied to a specific account or a specific pond. Once the 30 years runs out, it becomes a general fund obligation.

Mr. Fitzgerald said his focus and he understands that this is a larger problem across the Township, but he was specifically told by someone that they haven't paved Mahoney Road because of those retention ponds. He said he was told that when the water runs down, it would wash the new blacktop away. He said it hasn't washed away the cold patch that they put there and the road is deteriorating to the point that it is treacherous and something needs to be done. He said he just wanted to make sure they are staying on the path.

Mr. McDermott said he can't speak for the Mahoney Road portion, but he can tell him that there is definitely focus on those ponds and the sector he was talking about to work on a short term ownership solution sooner rather than later. He said the engineer already has thoughts on how to fix some of those.

Mr. Wingrove said part of the discussion of Friday had to do with exactly what Mr. Fitzgerald mentioned, what to do about Mahoney Road. He said it is obviously in the front of their minds.

Mr. Fitzgerald asked if there were any further comments or questions.

Ms. Ludwig said she had a few items to bring up. The owner of Imperial Business Park, Terry Palmer of Ashford Partners, came before the Planning Commission and was approved for two 75,000 square foot buildings a few years ago. She said they are going to be moving forward with those same plan with no revisions to those plans other than they are simply separating them out in phases. She said the first building would be built as Phase 1 and the second building would be built as Phase 2 on Lot 9 of Imperial Business Park. She said it would be going before the Board of Supervisors next week for a revised approval but the only revision would be that there is now a Phase 1 and Phase 2. She said she just wanted to make the Board aware of that.

Mr. McDermott said the buildings would be almost mirror images. He said the reason they want to break it up into two phases is so they wouldn't have to bond it all at one time.

Ms. Ludwig said her next item had to do with the recycling containers that are located in the corner of the board room. She said the Public Works Director Pat Felton asked that she mention the containers the Board and explain that they would be rolling them out sometime later this spring. She said he asked that the Board take a look at the containers and offer comments if they wish since they are also Township residents. She said these are the different sizes options and she wasn't sure what route the Township was taking with them at this point, possible a combination of sizes. She said there were some concerns at the Board of Supervisors meeting a few weeks ago that the larger ones, the 65 gallon and the 94 gallon sizes, would be too big for people that live in townhouses or condos with associations where they can't place those outside. The Supervisors thought the smaller ones would be more suitable for those types of residence. She said they may want to start with the smaller one and let people come in and exchange if they have a larger household and need a larger container. She said feel free to take a look at them.

Mr. Cosnek asked what was changing with the recycling.

Ms. Ludwig said residents would be able to recycle everything they do now as well as paper and cardboard.

Mr. Cosnek asked if it would all be able to be combined in the one container. He said when they first started with recycling in the Township it all had to be separated and then later on they could put the glass, plastic and aluminum in the same container.

Ms. Ludwig said yes, it could all go in one container.

Mr. Cosnek asked if those cans would all work with the recycling truck.

Ms. Ludwig said there would be something like a claw that would pick the container up and dump it in the truck.

Mr. Lutz said he thought they were buying a new recycling truck.

Ms. Ludwig said she wasn't sure if they were buying a new truck or just retro fitting the claw to the existing recycling truck.

Mr. Lutz said for some \$200,000 they better be buying a new truck.

Ms. Ludwig said maybe they are then.

Mr. Fitzgerald asked what the cost will be for the containers.

Ms. Ludwig said there wouldn't be a cost to the homeowner unless they wanted additional containers. She said they aren't cheap, but there is grant money available for the Township's purchase of the containers.

Mr. Cosnek said residents would get the first container for free and would have to pay for any additional containers.

Ms. Ludwig said that was correct. If someone wanted an additional container, they would need to pay for it.

Moving on to her last item, Ms. Ludwig said the Township was approached recently about a potential development plan for property on Kelso Road next to the motor speedway. She said the developers are local guys, SWGR Athletics, which are proposing a completely indoor recreational facility. She said their plan includes a field house, soccer fields, a gymnasium and more. She said it is broken up into different building areas but it would be a fully connected sort of structure. She said the property is currently zone I-1 with a PNRD Overlay which does not allow what they are proposing to do. She said they would need to do a text amendment to allow indoor recreation and a commercial school as a Conditional Use because ultimately they want to

become a sports academy at the location. She said a text amendment would add those to the uses table. She said it would only be for the PNRD Overlay and not the I-1. She said for whatever reason outdoor recreation, which is something they want to do long term, is already a Conditional Use in the PNRD Overlay District. As a technicality, she said the Board would need to make a motion.

Mr. McDermott said if the Board thinks it would be appropriate for them to be able to do this kind of complex in that area, then what they need to do is add indoor recreation to the things they are allowed to do as a Conditional Use in the PNRD Overlay District.

Ms. Ludwig said this would be for indoor recreation and a commercial school.

Mr. McDermott said he didn't think they necessarily needed to add the commercial school.

Ms. Ludwig said the Township wanted to do it anyway because the long term vision is that they want to become an academy.

Mr. McDermott said it is more of a metaphysical concept than a physical one. He said he didn't see it becoming a physical school.

Ms. Ludwig said when she looked at the regulations, it seemed funny that for the I-1 and even in the PNRD, indoor recreation would be more consistent with industrial buildings rather than outdoor recreation and outdoor recreation is allowed as a Conditional Use now. She said according to their team, they have financing in place to make this happen.

Mr. Fitzgerald said this area needs stuff like this. This would be great for children in the area.

Ms. Ludwig said this is a \$38 billion industry.

Mr. Lutz asked how they were going to access the property.

Ms. Ludwig said they would access from Kelso Road. She said there is an existing drive up to the speedway. She said the access would come off of that and they would create their own drive to the recreation facility from there.

Mr. Fitzgerald asked if that was where the driving range is now.

Mr. Lutz he didn't think so.

Ms. Ludwig said the property is completely vacant.

Mr. Lutz said this would actually be behind the speedway.

Ms. Ludwig said yes, it would be behind the speedway.

Mr. Fitzgerald said this would be good for the area and good for young people in the community. He said the Township is building a new facility that would have one gymnasium and there is currently one gymnasium that the Township owns at the existing community center. If they eventually sell the existing community center, the Township would still only have one gymnasium. He said if someone wants to come in here and put up a facility like that, it just goes to show how the Township needs that sort of thing.

Ms. Ludwig said there is a pump station that the speedway is using now. She said the developers are proposing to use that temporarily. She said there have been discussions about the Township possibly helping them with a sewer extension.

Mr. Lutz said the speedway has problems with the septic system now so how are they going to tie something like that into it.

Ms. Ludwig said that would all be addressed during land development. She said they are just looking to make the text amendment now so the potential developers could move forward with the financing documents that need to show the property has the proper zoning.

Mr. Lutz said they would need to bring water to the property as well.

Ms. Lutz said they would need to talk to WACMA about that. She said Township staff only talked to them about the sewers and long term solutions, but this is all in the infancy stage at this point. She said it is far enough along that in order to support them to move forward with their development plan, the Township would like to move forward on the text amendment.

Mr. McDermott said the Township would not be the only player running sewers up Kelso Road. He said if there were some other potential developers interested, it could all be pieced together.

Ms. Ludwig said the sewer line would come from North Branch Road.

The Board agreed that sewers would open up that whole area of the Township for development.

Mr. Fitzgerald asked if anyone had any further comments or questions.

Ms. Ludwig asked if they needed to do a formal motion.

Mr. McDermott said if the Planning Commission agrees with the concept then it would be appropriate if they would recommend the amendment to the Board of Supervisors to allow indoor recreation and a commercial school as a Conditional Use in the PNRD Overlay District.

Mr. Cosnek asked if it is allowed anywhere in the Township.

Ms. Ludwig said indoor recreation is conditional in the Village, Town Center, B-1 and B-2 Zoning Districts. She said commercial schools are permitted in CE, B-2 and conditional in I-1.

Mr. Fitzgerald asked for a motion.

A MOTION WAS MADE BY Mr. DAVE COSNEK, SECONDED BY Mr. CHUCK KYLE, AND CARRIED, TO RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS FOR A TEXT AMENDMENT TO ZONING ORDINANCE NO. 360, TABLE 204, TO ALLOW INDOOR RECREATION AND A COMMERCIAL SCHOOL AS A CONDITIONAL USE IN THE PNRD OVERLAY DISTRICT.

ROLL CALL:	DAVE COSNEK	YES
	FRED LUTZ	YES
	CHUCK KYLE	YES
	BILL FITZGERALD	YES

ADJOURNMENT:

A MOTION WAS MADE BY Mr. DAVE COSNEK, SECONDED BY Mr. BILL FITZGERALD, AND CARRIED, TO ADJOURN THE MEETING AT 8:44 P.M.

Respectfully submitted,

Cheryl Cherico
Planning Commission Recording Secretary