

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of April 23, 2009

Members in Attendance

Jeffrey Staub, Chairman  
Sara Jane Cate, Vice Chairperson  
David Dowling  
Richard Freeburn  
Gregory Sirb

Also in Attendance

James Turner, Solicitor  
Lori Wissler, Planning & Zoning Officer  
Steve Fleming, HRG, Township Engineer

**Special Exception # 09-03**

Applicant: United Water Pennsylvania  
Address: 4211 Union Deposit Road  
Property: Lot 96, Estates at Autumn Oaks  
Parkway West  
Interpretation: Special Exception approval is required to develop a public utility facility in the R-1 and CO Districts.  
Grounds: Section 306.B.1, of the Lower Paxton Township Zoning Ordinance pertains to this application.  
Fees Paid: March 31, 2009  
Property Posted: April 13, 2009  
Advertisement: Appeared in The Paxton Herald on April 8 & 15, 2009

The hearing began at 7:00 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicant had no objection to its doing so.

The following were sworn in: Arthur Saunders, Senior Engineer for United Water Pennsylvania (UWPA), 4211 East Park Circle; and Lori Wissler, Planning & Zoning Officer.

Mr. Saunders stated that UWPA wishes to construct a two-million gallon water tank on Lot 96 in the Estates at Autumn Oaks. The lot was subdivided in February 2009 for the water tank. The tank is necessary to support the D2 distribution system, which is

most of Lower Paxton Township. This tank will help to maintain pressure and supply throughout the entire system.

Recent breaks in the 24" main in Linglestown Road are examples of situations that could have been helped by this secondary source of water supply. This will control pressure in the pipes as well. The pressure is usually higher at night. When applying for an allocation permit with DEP, a study was required to be done of storage in the entire Harrisburg system. That study indicated a need for additional supply in the D2 area.

Mr. Staub asked if the installation of this water tank will attenuate the situation when there is a main break along Linglestown Road. Mr. Saunders agreed that it will. The only other supply line runs along Continental Drive. These serve as far south as Chambers Hill and Lower Swatara Township. When those two million gallons are sitting there, it will be used to maintain balance and control pressure. It will also be available when there is a break to maintain supply.

Mr. Staub asked if at least minimal flows will be maintained when there is a main break. Mr. Saunders stated there will be a reduction in pressure and flows, but it will be maintained at a higher level and for longer periods of time than available right now.

Mr. Freeburn asked if this tank is proposed in connection with the Autumn Oaks development. Mr. Saunders stated it is not part of the development, but is good timing to obtain a lot in this area to meet the requirements of DEP. A tank was needed to the east of the northwest main on Progress Avenue. This is in the correct location and at the proper elevation, over 676 feet.

Mr. Freeburn asked if The McNaughton Company needs a water tank for its lots. Mr. Saunders stated they do not need it for the lower part of the development, below the 520 elevation, which is already served. Anything above that will need additional booster tanks. At least one may be needed if fire flow is required by the Township for the development.

Mr. Freeburn asked about the tank on Blue Mountain Parkway at the entrance to Blue Meadows Farm. Mr. Saunders stated that tank belongs to UWPA. Mr. Freeburn stated that tank is unsightly. Mr. Saunders stated it was recently painted. Mr. Freeburn stated it is still unsightly. Mr. Saunders stated it was installed for fire supply to the townhomes as well as domestic supply.

Mr. Freeburn questioned the size of the proposed tank. Mr. Saunders stated it is two million gallons, and will have a 50-foot radius or 100-foot diameter. The sidewall will be 36 feet high, and the dome will add an additional 10 feet in height. The tank will be partially buried. The exposure on the downhill side will be 32 feet and 18 feet on the uphill side.

Mr. Freeburn asked about aesthetics, and if it will be nicer than the eyesore at Blue Meadows. Mr. Saunders stated it will be a concrete tank so they can do more with

it. It can be set into the ground and the topography can be molded around it to fit in better. It will be an earthtone color.

Mr. Freeburn asked for an artistic rendering of the proposed tank. Mr. Saunders referred to the brochure, but noted it will not be as fancy as the tanks shown in the back of the brochure. Mr. Freeburn stated it will be unsightly.

Ms. Cate asked if trees, bushes or shrubbery have been considered. Mr. Saunders stated the site is heavily wooded, and they plan to let the natural vegetation come back. It will be situated to the southwest corner of the lot and will not be seen from the road.

Mr. Freeburn asked who will pay for the tank. Mr. Saunders stated UWPA will pay for the tank. Mr. Freeburn asked if The McNaughton Company will benefit from the tank. Mr. Saunders stated they will not benefit directly, the fire supply will be improved for the entire area. The McNaughton Company will run the water main from Patton Road to the tank.

Mr. Sirb asked if the approved plan went before the Board of Supervisors. Ms. Wissler stated that the subdivision that created the lot was approved by the Board of Supervisors. United Water did not have to appear, the subdivision plan was represented by The McNaughton Company.

Mr. Sirb noted that this is in an R-1 development and he would not want to live next to what is shown in the brochure, and he asked about the tank being buried. Mr. Saunders stated that the elevations are shown on the plan submitted. The lower grade may actually be higher, so they can match the topography of the land.

Mr. Freeburn summarized the tank will be earthtone, concrete, round with a dome, nothing fancy, with no plantings, and chain link fence with barbed wire.

Mr. Dowling asked how water gets in and out of the tank and why it is necessary. Mr. Saunders stated that water is piped in and out through a 24-inch main at the Patton Road/Continental Road intersection. The purpose is to reinforce the system. Mr. Dowling asked for an explanation on how the system works. Mr. Saunders stated water is pumped from the 6<sup>th</sup> Street Water Treatment Plant west of Route 322 to the D2 area (Lower Paxton Township) and other areas as well. The system now relies on pumps when demand is high. The pressure at Patton Road and Continental Drive can vary from 70 psi to 130 psi. The tank will even the pressures out, and will be in the range of 90-100 psi. This will protect the pipes as well as the homes. Occasionally, high pressure can blow out a hot water heater or service line. Many of the pipes are asbestos and cast iron which shrink and swell with the fluctuations. Over time, the fluctuation weakens the pipes causing a break. This additional tank will minimize the fluctuation in pressure.

Mr. Dowling questioned this location. Mr. Saunders stated that the studies showed that UWPA needs a tank in this area, as well as at this elevation. The elevation of 676 is critical for the flows. The pumps can only pump up to a certain elevation.

Ms. Cate asked why the soil cannot be raised around this tank like the one in the brochure. Mr. Saunders stated that is not UWPA's tank, it is owned by Harrisburg City in a reservoir. The EPA said in the mid-1990's that reservoirs had to be covered, so the easiest way for the City to comply was to place two tanks in the reservoir. Ms. Cate stated they appear to be above the ground. Mr. Saunders stated that they are down inside a hole or depressed area, it has a depth of 15-20 feet down in the reservoir.

Mr. Sirb asked why the tank cannot be buried if it is unmanned. Mr. Saunders stated that the elevation is important. The top of the tank has to be at 676 elevation, no matter how deep the tank is in the ground. When designing the tank, they start at the top elevation and build down to get to the two million gallons.

Mr. Freeburn asked how close this will be to the road or to houses. Mr. Saunders stated it will not be close to the road, about 250 feet from Parkway West. It will be 600-800 feet from a house. There is an existing house to the southwest. UWPA has discussed the tank with the neighbors and they are okay with it. The homes that will be closest will be in the Estates at Autumn Oaks, Phase 3. Those lots will be larger lots and the homes will be 700-1,000 feet away.

Mr. Freeburn asked the location of the tank relative to other landmarks on Parkway West.

Mr. Staub stated that his concern is the finished look of a water tank being constructed on Blue Mountain. Early testimony was that they will maintain as much of the existing vegetation as possible, but the grading plan shows grading almost to the southern property line. That does not seem to be maintaining existing natural vegetation. Mr. Saunders stated the lot is over 3.5 acres, and the area of disturbance is 2.6 acres. They are situating the tank closer to the southern property line. Because of the wetlands in that area, there will be no construction on the neighboring properties.

Mr. Freeburn stated he has not been shown enough information or evidence to convince him that United Water is doing enough to maintain the appearance for the surrounding property. The tank in Blue Mountain Parkway has made such an impact that Mr. Freeburn will not let another tank like that go in. Mr. Saunders stated that this tank will not look like that tank. He added that the tank was installed by the developer as a requirement for fire flow. Mr. Freeburn stated that the applicant has shown nothing to demonstrate that screening, vegetation, or other aesthetics will be maintained. The Township owes it to the people that live in that area to not allow another tank unless UWPA is going to take necessary steps to maintain the aesthetic integrity of the area. Mr. Saunders asked what Mr. Freeburn would need to see. Mr. Freeburn asked for artistic renderings of the finished product or something that shows what it will look like. Mr. Saunders stated he has shown on paper what is being done, but to see it in real life you will have to go to the tank in Chambers Hill which is the exact same tank. It is nothing more than a big hole right now, but will be a two million gallon tank with the

same exact construction. There are other tanks in the area, and there are tanks in Reservoir Park.

Ms. Cate asked for photos. Mr. Saunders stated there are photos in the brochure. Ms. Cate asked if those are pictures of tanks UWPA has put in. Mr. Saunders answered no, that they are photos from the manufacturer.

Mr. Freeburn asked if the tank will be in the woods, and how many trees will be chopped down. Mr. Saunders stated the walls and panels are made of concrete and are poured on-site and constructed on-site.

The Board looked at the Master Development Plan for Estates at Autumn Oaks Phase 1B Sheet 1-2, to locate the lot in relation to the homes that will be built and to existing landmarks.

Mr. Sirb felt this was the best site on this lot, the best of a bad situation. He requested more detail on shielding this tank so that it cannot be seen. With some effort and some extra money, Mr. Sirb felt it could be done. He noted that requirement #7 is all about natural features, so it is a requirement for approval. Mr. Saunders stated that is what they are doing.

Mr. Saunders stated the company has to be frugal because it is responsible to its rate payers, so they do not do more than they have to with regard to construction. Mr. Freeburn stated the Zoning Hearing Board is responsible to the citizens of the Township. One of the requirements of a special exception approval is the minimal disturbance of the surrounding natural area.

Mr. Staub asked about keeping the elevation of the tank the same but move it to the north by 50-75 feet, noting that would make it unnecessary to remove all of the vegetation on the south side of the lot.

Mr. Saunders stated that if the tank is moved uphill, more trees will actually be removed in order to maintain a stable slope as required. They did explore the idea of locating it further north, but that put it closer to the northern property line and there was concern about erosion during construction.

Mr. Freeburn asked what preparations have been started on the site. Mr. Saunders stated the site has been cleared and the road has been cut and constructed. Mr. Freeburn asked if there were mature trees on the site that were all cut down. Mr. Saunders answered yes. Mr. Freeburn asked what will be done to replace those trees. Mr. Saunders stated that trees can be planted. UWPA did not plan to plant trees, but they can if that is what is wanted. Mr. Saunders stated United Water is an environmental company and is not against planting trees. They do not do more than they have to to harm the environment but some things are necessary. If the Board decides trees need to be planted, United Water will do that.

Mr. Freeburn stated it was presumptuous to do all that work prior to the approval of the special exception. Mr. Saunders stated there was some mix up, and noted this is the first time that United Water has gone through the special exception process for construction of a tank. The tanks in Susquehanna Township and Swatara Township required little more than a copy of the E&S plan. UWPA did not realize there were so many steps to go through in this township.

Mr. Freeburn stated the site is large, and it sounds like it has been cleared. Mr. Saunders clarified that the area of disturbance has been cleared.

Mr. Freeburn stated that other applicants have had plans done by a landscape architect to show their intentions, especially as they relate to restoration. Something is needed to show the Board what will be done to screen the tank. Mr. Sirb stated that in an R-1 area more needs to be done. The tank can be shielded so that it can barely be seen. Mr. Saunders stated that it will barely be seen. The only glimpse will be at the opening at the roadway, it will not be seen from downhill.

Mr. Saunders stated that the Board is asking a lot of United Water when it asks for drawings from a landscape architect for a simple water tank. Ms. Cate argued that it is not simple from the perspective of the Township or its residents. Mr. Saunders noted that a two million gallon tank is a small tank. It will not look like a big tower sticking out of the ground.

Mr. Staub asked if it would be visible from Linglestown Road or the Colonial Park area. Mr. Saunders stated definitely not, it will not be above the tree line. Mr. Staub stated that you can see the power line from Linglestown Road and this site is north of the power line. Mr. Saunders stated you can probably only see the upper portion of the power lines, and not the lower part of the structures. The water tank is lower than the wires. Mr. Saunders offered to do a line of sight to prove it, but did not think it would be seen. Mr. Staub agreed that a line of sight would make him feel a lot better.

Ms. Staub asked about the recommendation of the Planning Commission with regard to this application. Ms. Wissler stated the Planning Commission did not have a problem with the water tank, but did ask that she verify that a land development plan was not required. A land development plan is not required.

Mr. Staub asked about stormwater management. Mr. Saunders stated an E&S plan has been submitted and approved by the County. Ms. Wissler stated she has not received a copy of the E&S plan. Mr. Staub stated that stormwater management is a separate issue from erosion and sedimentation control. There are no facilities shown other than a diversion swale. Mr. Saunders stated that is what was required from the County. He noted they are also using gabion walls. The County approved the E&S plan as submitted.

Mr. Staub asked if this lot is tributary to any basins in the Autumn Oaks development.

Mr. Stephen Fleming, HRG, Township Engineer, was sworn in.

Mr. Fleming stated that based on its location, it should be tributary to the Autumn Oaks development, not the Estates at Autumn Oaks. A separate stormwater management plan would not have to be done, because the lot should be accounted for in the overall subdivision plan.

Mr. Fleming noted that utilities are exempt from land development.

Mr. Staub called for comments from the audience.

Mr. Jeff Millar, 2307 Parkway West, was sworn in. Mr. Millar stated that the excavation is already done. He questioned why a meeting is held after that work is done, and how the Board does not know that the work is already done. He is learning information from the workers as things progress. Mr. Millar's neighbor's house is 60 yards away from the property line of the tank.

Mr. Millar stated the trees are gone and cannot be put back. If a water tank is not put here, Mr. McNaughton will put six houses which will look worse than a tank. He agreed that the tank will not be seen except as described by Mr. Saunders. The point of what it will look like is a mute point because the trees remaining will hide the tank. Mr. Millar was concerned about security. He asked if the fencing is for the tank itself or for the lot. The natural area has been removed and a parking lot is all that is left, so Mr. Millar was concerned that people will "park" there, or have parties. He asked that the gate be minimal and be located at the entrance at the road and do as much as possible to keep people out.

Mr. Saunders stated that the water company has the same concerns about security. Since 9-1-1, the water company has to fence at least the tank site, but also do whatever it can to prevent access to the property. Mr. Millar suggested making the access road more narrow. Mr. Saunders stated that during construction it has to be wider because of the crane and equipment, but will be made more narrow. Mr. Freeburn asked if there is a drawing that shows the narrowed roadway. He suggested that since United Water does the minimum necessary, the road will not get altered as promised. Mr. Saunders directed the Board to the Final Grading Plan, which shows the final layout of the roadway. Mr. Staub stated it appears to be 16 feet. Mr. Saunders stated it cannot be less than that so the maintenance trucks can use it, but the construction road width is 22 feet wide.

Mr. Freeburn asked if the plan shows the security measures. Mr. Saunders stated it does not. A fence will be around the tank and the topography will be such that it is inaccessible without an all-terrain vehicle. The gate will be where the private road intersects Parkway West, set back slightly from the right-of-way.

Mr. Sirb asked the height of this fence. Mr. Saunders stated that the typical fence is eight feet high with a one-inch mesh. A typical fence has a two-inch mesh but UWPA

specifies the smaller mesh. On top of the fence, there are three strands of barbed wire on offsets. The fence will be a total of about 9½ feet high.

Ms. Cate asked about the height of the gate. Mr. Sirb asked if the gate will be locked. Mr. Saunders stated the gate will be the same height as the fence, and it will be locked with a hardened padlock that no one else has keys to.

Mr. Sirb commented that there is nothing that can be done now that the area has been cleared. It was an obvious misstep on the part of United Water, but it is a shame that there isn't some fine or penalty. The land has been raped for a use that has yet to be approved. He speculated that if the water company had to pay a hefty fine for overstepping its bounds, it would never happen again.

Mr. Staub stated it is unfortunate that the earth disturbance has already occurred. He asked if the work was done with Conservation District approval. Mr. Saunders stated the E&S plan was in place. The clearing, grubbing and grading were done with permits from the County, albeit at their own risk, with the Special Exception still pending. A lot of money may have been spent for nothing. Mr. Fleming noted that the MPC has provisions to allow land owners to do certain things without the Township's approval. An E&S plan was not required to be submitted to the Township, nor was a land development plan required. The Special Exception is the only approval needed for this use.

Mr. Freeburn suggested the Special Exception be tabled due to a lack of information. Despite the land being cleared already, he was not satisfied that enough has been done. The work was done prematurely without gaining permission from the Zoning Hearing Board. Having done that, there is not enough information on security, screening or restoration, to make a decision. The wetlands are also a concern. He requested site specific information, not generalizations.

Mr. Dowling asked for the following list of items: a series of aerial photographs; a series of on-site photographs; some type of computer-generated depiction of where the tank will be, the depth of the tank, and the screening around the tank; so that the Board can consider all factors and determine what it will look like at completion.

The motion was made by Mr. Freeburn, seconded by Mr. Dowling, and Mr. Staub called for discussion on the motion. Mr. Freeburn agreed to incorporate Mr. Dowling's list into the motion.

Mr. Dowling commented that the applicant should take note of the very strict conditions for granting of Special Exceptions. One of which says the proposed use shall not change the character of the neighborhood, but he felt that a large tank will change the character of any neighborhood. The applicant should forecast what the neighborhood will look like and what the tank will look like, before they have met the requirements of the Special Exception. A role call vote followed: Mr. Freeburn-Aye; Mr. Sirb-Aye; Mr.

Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye. Special Exception #09-03 has been tabled.

Mr. Saunders requested a list of the requirements set forth in the motion. Mr. Turner began to read the list and Mr. Saunders asked for it in writing from the Township. Ms. Wissler stated she would see that he gets something in writing.

Mr. Sirb strongly suggested that the work be stopped until such time as all approvals are in place, in case the Township says no. Mr. Freeburn agreed that the decision could still go either way. Mr. Saunders stated he will pass that along, but noted that the company has other considerations to concern themselves with, such as DEP and DCCD. Mr. Sirb added the Zoning Hearing Board to the list of agencies breathing down their necks. Ms. Cate stated nothing can be done until the use is approved. Mr. Turner stated that they can play in the dirt as much as they want, but they cannot legally build the tank because they have not received Special Exception approval to build the tank.

The hearing ended at 8:12 pm.

**Variance Via  
Docket #1258**

Applicant: Shawn & Judy Wills  
Address: 2050 Blue Mountain Parkway  
Property: 2050 Blue Mountain Parkway  
Interpretation: Minimum lot width for a building lot measured at the minimum building setback line is 250 feet in the AR zone. The applicant proposes to create two lots that do not meet the minimum lot width requirements.  
Grounds: Section 307.A, of the Lower Paxton Township Zoning Ordinance pertains to this application.  
Fees Paid: March 27, 2009  
Property Posted: April 14, 2009  
Advertisement: Appeared in The Paxton Herald on April 8 & 15, 2009

The hearing began at 8:13 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicant had no objection to its doing so.

The following were sworn in: Shawn & Judy Wills, Applicants; and Lori Wissler, Planning & Zoning Officer.

Mr. Staub stated this lot was the subject of a variance application in 2006. Ms. Wissler confirmed his statement.

Mr. Wills stated that in 2006, they obtained a variance to subdivide the lot into 10 acres and 2 acres. That variance expired and he now wants to divide the lots more evenly. The frontage is only 150 feet towards the street, but gets wider towards the back. Mr. Wills stated that he would like to build a new driveway for the second lot, which will have a new house. He was wary of sharing a driveway with an unknown neighbor. The new driveway would mirror the existing one with a tree line down the center, then angle off to the new house.

Mr. Sirb asked if Mr. Wills will maintain the existing driveway. Mr. Wills stated he would either maintain it or have some sort of right-of-way agreement that the new

person would maintain it. If he put the lot line down the middle, that would not be an issue.

Mr. Freeburn stated there is a steep drop-off down to the wetlands. There is then a pond at the end of the wetlands. Mr. Freeburn asked how the driveway and house would be situated relative to the pond and wetlands. Mr. Wills stated the driveways would have 10 feet between them, then in front of the pond the new driveway would turn up towards the school. Mr. Freeburn asked if that crosses over the wetlands. Mr. Wills stated it would. Mr. Freeburn asked if the wetlands would have to be piped. Mr. Wills agreed something would have to be done under the driveway.

Mr. Freeburn asked if the elevation of the new driveway would be the same as the existing driveway. Mr. Wills stated it would probably be slightly lower, so to not create a high bank.

Mr. Staub suggested there may be difficulty getting permits from DEP for the wetland crossing, who may prefer they use the existing driveway. Mr. Wills stated the entire driveway is out of the wetlands except where it crosses. Mr. Freeburn stated that the slope is pretty steep to the south, and on the north side is a hill going up. Mr. Wills stated that the wetlands are 25 feet in, and there is 20 feet more to the line.

Mr. Wills was cautious to share a driveway. He noted that they want to build a smaller house now that the kids are grown, and sell the existing house.

Mr. Staub asked if that is the reason for the change to the variance request. Mr. Wills stated he wants to make the lots more even, approximately 6 and 6 acres, or 5 and 7 acres, but not 2 and 10. Mr. Staub didn't think DEP would approve the second driveway. Mr. Sirb agreed, and noted that this layout is nicer than the previously approved plan.

Mr. Turner asked if there is a separation requirement for driveways. Ms. Wissler stated that there is nothing in the zoning ordinance.

The Township had no position on this application.

There was no comment from the audience.

Mr. Wills stated he would be willing to share a driveway if that was necessary. Mr. Staub noted that one panhandle lot is being subdivided into two panhandle lots. Mr. Sirb commented he likes this application better than the other one.

Ms. Cate made a motion to grant the application as requested. Mr. Sirb seconded the motion and a roll call vote followed: Mr. Freeburn-Aye; Mr. Sirb-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 8:28 pm.

**Variance Via  
Docket #1259**

Applicant: Jean M. Wolfgang

Address: 1330 Ranger Road

Property: 35-015-066, Ranger Road

Interpretation: A single family dwelling is not a permitted use in the FP, Flood Plain Conservation District.  
The applicant proposes to construct a single family dwelling of which the footers will be located in the FP District.  
A minimum setback of 20 feet shall be required between any new principal dwelling and any wetland.  
The applicant is proposing an encroachment of six feet.

Grounds: Section 504, and 308, of the Lower Paxton Township Zoning Ordinance pertain to this application.

Fees Paid: March 26, 2009

Property Posted: April 14, 2009

Advertisement: Appeared in The Paxton Herald on April 8 & 15, 2009

The hearing began at 8:30 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicant had no objection to its doing so.

The following were sworn in: Alycia Shaeffer, 305 N. 39<sup>th</sup> Street, Harrisburg, PA 17109, applicant; and Lori Wissler, Planning & Zoning Officer.

Ms. Shaeffer stated that her grandfather passed away in October. This land was the subject of a variance application some years ago regarding a garage. Her grandmother's health is declining. The family does not want her to go to a nursing home. The only way to do that is to build a new home that is handicapped equipped. The existing home is not handicapped accessible. Her wheelchair doesn't fit in the kitchen or bathroom. It is dangerous for her to stay at home, and the home is too small for Mrs. Shaeffer's family to move into.

Ms. Shaeffer noted they are close to the wetlands and her husband is a forestry major and has studied protection of land and has contacted DEP and other departments to

preserve what is left of the wetlands. They will not disturb that at all with regard to the building.

Mr. Sirb asked about permits and agencies beyond the Zoning Hearing Board. Mr. Fleming stated that the current flood plain ordinance restricts structures from being constructed in the flood plain, and if the flood plain is modified, a Letter of Map Revision (LOMR) would be required to update the mapping. Mr. Sirb asked if this would modify the flood plain. Mr. Fleming stated they do not know that based on the information given. There may be grading associated with the home, which may have the potential to modify it. Mr. Sirb asked if other permits would be needed if there were modifications. Mr. Fleming stated that if they modified the flood plain and encroach upon the wetlands, they would be required to have an E&S plan on site. The amount of disturbance would probably be minimal and may not require review by the Dauphin County Conservation District, but by the Township only. The Township would have to see an existing features plan and proposed grading on the lot to make sure that additional permits are not needed.

Mr. Freeburn asked if the LOMR shows that the flood plain is not where it is currently mapped. Mr. Fleming agreed it amends the mapping used for flood insurance. Mr. Freeburn asked if a LOMR would not be available if the engineering determined that this is in the flood plain, that it is in fact an encroachment. Mr. Fleming agreed.

Ms. Jean M. Wolfgang, 1330 Ranger Road, was sworn in.

Ms. Wolfgang stated that it was her understanding that the home would encroach 24 inches into the flood plain area. She noted they have spent \$2,000 to have a wetland delineation done by Charlie Cook. Ms. Shaeffer stated that both the wetland delineation and the FEMA flood plain certification were completed. She understood that she will need flood insurance.

Mr. Staub stated that the application says a portion of the footing will be in the flood plain. The second reason for the hearing is there is a wetland buffer area that the home will be encroaching into by 6-7 feet. If the footer for the home could be moved out of the flood plain, and if the home could be moved out of the buffer area, a variance would not be needed. He asked why the footprint was so important that it couldn't be modified in such a way to not need variances. Ms. Wolfgang stated that is what she thought she did. Ms. Shaeffer stated that there is confusion in this area. She measured herself from the edge of the road to the stake and gets 32 feet, but she needs 25 feet. Mr. Staub explained that the measurement cannot be done from the roadway, it has to be done from the right-of-way line, which is usually a different line. Ms. Wolfgang and Ms. Shaeffer asked for guidance. Mr. Sirb told them to move it. Ms. Wissler stated it cannot be moved forward without being in the front yard setback. Mr. Sirb stated he would prefer to give a variance for a front yard setback than anything to do with flood plains, not to mention the hurdles that they will encounter. Ms. Shaeffer asked that she be permitted to do whatever she can to get moved in to care for her grandmother.

Mr. Sirb asked if that can be done or if it has to be readvertised. Mr. Turner stated the front yard setback was not advertised, nor was it asked for. He noted that if they received a two foot variance from the front yard setback, it would take away the flood plain issues. Mr. Sirb stated it should resolve that. Mr. Turner asked about the issue with the wetlands, and if there would still be issues with DEP or some other agency. Mr. Turner noted that a four-foot wetland setback would still be required. Mr. Sirb asked if they reapply for next month, both issues could be acted on at the same time. Ms. Wissler suggested it be acted on tonight, and readvertised for next month, where it could be reaffirmed as long as there is no objection. Mr. Turner explained that the Board may not act on a variance that was not advertised because someone could have no problem with one request, but may care about another. He stated they could tentatively act on the front yard variance, advertise it for next month, if nobody shows up, tonight's decision is reaffirmed.

Mr. Dowling asked how deep the lot is. Ms. Shaeffer stated it is 197.75 feet. Mr. Turner suggested the distance to the creek may be 125 feet. Mr. Staub scaled it and it is 70-75 feet to the stream. Mr. Dowling asked why the lot was selected. Ms. Shaeffer stated that her grandparents have owned it for 28 years. Mr. Dowling stated it is a terrible selection, and suggested it be sold and move somewhere else. Ms. Wolfgang stated it is adjacent to her current home. Mr. Dowling stated she does not want to live there. Ms. Wolfgang stated it is too little. Mr. Dowling suggesting selling everything and buying a lot somewhere else. Ms. Wolfgang stated this is her land and she does not want to waste the money she has already spent here. Mr. Dowling stated he is familiar with the lot, and it will be a problem. Ms. Shaeffer stated the market is down, and it would be sold at less than it is worth, but to the family, it is paid free and clear, so it presents an opportunity for her to care for her grandmother in her time of need, and it will stay in the family in the future. Mr. Dowling stated that no matter where the house is built it will be a problem because the land is that swampy. Mr. Staub stated that the detailed study shows the flood elevation, so they can set the floor elevation 1.5 feet higher. If such a storm hits, the house will be high and dry. Ms. Wolfgang stated that it might be wetlands, but the water does not come that high. Ms. Shaeffer stated they do plan to build the house up 18 inches, as the benchmark on the tree indicates.

Mr. Turner advised that both items can be acted on, and readvertised for next month.

Mr. Staub called for comments from the audience. Ms. Faith Mickey, 1331 Ranger Road, agreed with Ms. Shaeffer's statements. She has known Ms. Wolfgang for a long time and she is a good person who needs help. If this is granted, it would help out two families. Ms. Mickey lives across the street and has no objections to the application. She has talked to the other neighbors who also have no objections. She stated she has walked the property and the part where they want to locate the house is dry and not swampy. The creek behind them is at least 2-3 feet deep and the home site is up higher and not marshy.

Ms. Tina Deraco, 5770 Stillwell Court, at the corner of Stillwell and Ranger, made several comments regarding water, but after realizing the property is not the one she thought it was, withdrew her objections.

Mr. Staub explained that the suggestion is to be 2 feet into the front setback, which means 23 feet from the right-of-way line instead of 25 feet. The encroachment into the wetland buffer is not an encroachment into the wetlands, but into the 20 foot area beyond the actual wetlands which is set aside to protect the wetlands. The request would be to have the house 16 feet away from the wetlands instead of 20 feet away.

Mr. Fleming asked if a new driveway is proposed and what parking will be used or created. Ms. Wolfgang stated they will continue to use the driveway and parking spaces that are there now. Ms. Shaeffer stated there is an access driveway for construction.

The Township had no position on the application.

Mr. Freeburn made a motion to grant the requested variance for four feet into the wetland buffer area, and to grant a variance allowing a two-foot encroachment into the front yard setback, subject to readvertisement and final decision at the next meeting. Mr. Dowling asked if the application has to be denied to legally allow the other variances. Mr. Freeburn stated that if it is denied, they will have to reapply and pay again. Mr. Turner stated the hearing can be tabled and readvertised, reopened and acted on at that point. Mr. Sirb agreed that might be the cleanest.

Mr. Freeburn withdrew his motion. He made another motion to table the hearing till the following month's meeting, when they will consider a request for two feet into the front yard setback, and four feet into the wetland buffer. Ms. Cate seconded the motion. Mr. Staub called for comment on the motion.

Mr. Sirb explained that the applicants will come back next month, and as long as there is nobody that objects, the Board will vote yes. Mr. Turner will have the decisions ready for signatures so there is no other delay. He noted that if it were granted tonight it wouldn't be signed until next month anyway, so the waiting time is the same. Following the signing of the decision, there is a 30-day period where an appeal of the decision could be filed, so anything done in that period is at your own risk. That will be the end of June. Mr. Freeburn stated that even if they acted on the first motion, the timeline would be the same for the applicants. A role call vote followed: Mr. Freeburn-Aye; Mr. Sirb-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 9:09 pm.

**Variance Via  
Docket #1260**

Applicant: Kathy Whitebread  
Address: 617 Cee Jay Drive, Etters PA 17319  
Property: 359 Colonial Road  
Interpretation: An apartment is not a permitted use in the R-1, Low Density Residential District. The applicant currently has a 1-bedroom apartment at 359-A Colonial Road(rear).  
Grounds: Section 306.B.1.A, of the Lower Paxton Township Zoning Ordinance pertains to this application.  
Fees Paid: April 3, 2009  
Property Posted: April 14, 2009  
Advertisement: Appeared in The Paxton Herald on April 8 & 15, 2009

The hearing began at 9:11 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicant had no objection to its doing so.

The following were sworn in: Kathy Whitebread, Applicant; and Lori Wissler, Planning & Zoning Officer.

Mr. Staub asked for the background on the application. Ms. Wissler stated there are several units on this property: a house addressed as 359 Colonial Road, a garage in the rear with an apartment above it, a two-unit building addressed as 361 Colonial Road, and a two-unit building addressed as 4304 Middle Avenue. She presented a computer generated map of the parcel showing the buildings. Mr. Dowling asked where on Colonial Road the parcel is located. Ms. Wissler explained it is across from Sebastian Brothers which is at the corner of Valley and Colonial Roads. The property is for sale, and when the Sewer Authority was contacted during settlement, it was discovered the property was being billed for one less unit than are on the lot. There are six connections, but only five were being billed. An additional unit is not permitted.

Mr. Staub asked how long the unit has been there, and why a variance is needed just because the Authority did not account for it. Ms. Wissler stated there are no permits

on record for the unit or the connection. Mr. Staub asked about the zoning of the area. Ms. Wissler stated it has always been R-1.

Ms. Whitebread stated this property was her parents', and she is the trustee. Her father has passed away, and her mother used to live in the single house, but now is in a nursing home. When the property was being sold, it was determined to have one more unit than the Township has record of. There is a 70-year-old lady living there now who does not drive and uses the bus from the mall.

Mr. Freeburn asked how long the applicant's mother lived there. Ms. Whitebread stated her parents lived there since 1946. She lived in the house as a child also. He asked if the apartment was always there. She noted it was not always there, but did not know when her father built it. Mr. Turner asked if it has been there more than ten years. Ms. Whitebread agreed it has. Ms. Wissler stated there was no record of the unit. Mr. Turner asked how a connection is made to the sewer line without a permit. Ms. Wissler stated the Authority has no record of the connection either. Mr. Staub asked if there are six physical connections. Ms. Wissler confirmed that there are. Mr. Freeburn asked if the applicant had any sense when the apartment may have been created. Ms. Whitebread speculated it may have been in the 1980's. The garage was built initially by her father, then he added the apartment at a later time, and it was later rented out. Mr. Turner asked if the work was done by the father. Ms. Whitebread stated he did do the work himself. Mr. Turner stated that without a contractor involved, the permits may not have been obtained. Ms. Wissler stated it was the Township's suggestion to apply for a variance to make the apartment legitimate. She further noted that the Township has no objections to the application.

Mr. Staub asked about parking. Ms. Whitebread stated that there are two spaces for each unit or family.

Mr. Staub asked if the applicant has talked to the neighbors regarding the application. Ms. Whitebread stated she has not. Mr. Staub asked if the Township has received any calls or complaints. Ms. Wissler stated they have not.

There was no comment from the audience.

Mr. Freeburn made a motion to grant the application as presented. Ms. Cate seconded the motion, and a roll call vote followed: Mr. Freeburn-Aye; Mr. Sirb-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 9:19 pm.

Respectfully Submitted,

Michelle Hiner  
Recording Secretary