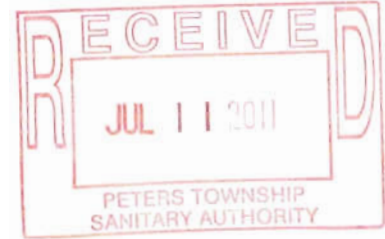


PETERS TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF: Peters Township Sanitary Authority
111 Bell Drive
McMurray, PA 15317



APPEAL No.: **849-2011**
DATE: June 21, 2011

DECISION OF THE ZONING HEARING BOARD

I. CASE SUMMARY

By the timely notice of application, Peters Township Sanitary Authority (the "Applicant") applied for a special exception to construct a water pollution control plant at 402 West McMurray Road, McMurray, PA 15317. (Tax I.D. No. 540-011-00-00-0004-00)

A public hearing with respect to this Application, upon proper advertisement and notice given, was held before the Zoning Hearing Board on June 21, 2011, at which time all persons were afforded an opportunity to present evidence. Present at the hearing in addition to nonparticipating spectators were: John Thacik, Board Member, Jeffrey Zeffiro, Board Member, David Dickson, Board Member, Stacey Noble, Board Member, Emily Moldovan, Zoning Officer, Ed Zuk, Planning Director, Jim Miskis, the Applicant's representative, and Jason Stanton, the Applicant's consultant. Evidence was received by this Board at the June 21, 2011 hearing and based upon a review of that evidence; we make the following findings of fact and conclusions of law.

II. FINDINGS OF FACT

1. Status of the Applicant is owner.
2. The Applicant is proposing to construct a new water pollution control plant at 402 West McMurray Road adjacent to the existing Donaldson's Crossroads plant at 166 Oakwood Drive.
3. The site is on the western border of Peters Township. Cecil Township and North Strabane Township border the site to the north and west. The site is 3.71 acres in size and directly across from the Evergreen Village subdivision. It is triangular in shape and has approximately 650' of frontage along West McMurray Road.
4. Water pollution control plants are not adequately addressed in the zoning ordinance and the use classification is unclear. The most applicable use category is essential service. However, essential service is defined as "[t]he provision of distribution systems by municipal or other government agencies regulated by the Public Utilities Commission (PUC) or other governmental agencies...". The Peters Township Sanitary Authority is not regulated by any commission or agency. Despite the

definition, the Authority still believes that the proposed water pollution control plant is classified as an “essential service” and permitted in the R-1A zoning district. Even so, they have agreed to follow the special exception process so that residents and the Township are provided an opportunity to comment on the proposed plant.

5. The Authority has initiated a Sewage Facilities Plan update, as required by the Pennsylvania Department of Environmental Protection (PA DEP), to develop a plan to address the existing and future sewage disposal needs of the Donaldson’s Crossroads (DC) Service Area.
6. The existing DC Water Pollution Control Plant (WPCP) is at the end of its useful life, as well as its organic design capacity. Previous engineering studies have recommended that considering the age, layout, and numerous deficiencies of the existing facility, expansion of the facility should not be considered. The existing water pollution control plant has a designed hydraulic capacity of 1.2 million gallons per day (MGD) and an organic capacity of 1,958 pounds per day (lbs/day). The treatment plant is approaching these design capacities, and expanding the facility in the immediate future is necessary to prevent a prohibition of new connections to the system.
7. The proposed replacement treatment plant at 402 West McMurray Road will have a designed hydraulic capacity of 1.75 MGD, and an organic capacity of 2,900 lbs/day, providing the capacity to serve an additional 575 Equivalent Dwelling Units (EDUs). The plant will be designed to allow a future expansion to 2.0 MGD, if ever needed. The treatment facility will use the activated sludge treatment process with aerobic digestion, and will consist of a series of in-ground, cast-in-place concrete tanks, with several buildings to house the equipment, maintenance areas, control room, and the Operator’s office/laboratory.
8. The Authority held a public workshop on August 19, 2010 and met with interested residents within 1,500’ of the proposed expansion. They presented the findings and conclusions of their Sewage Facilities Plan update of the service area and informed the public that the recommendations included constructing an expanded water pollution control plant. The residents were afforded the opportunity to ask questions and make suggestions to help minimize the impact of the expansion on their neighborhoods.

III. CONCLUSIONS OF LAW

1. The Applicant is properly before the Zoning Hearing Board of Peters Township.
2. The Zoning Hearing Board reviewed the request for the special exception and determined that they meet the criteria for granting a special exception at this time.
3. The Board considered the following:

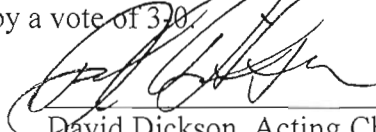
- a. That the proposed water pollution control plant expansion is a critical part of providing a necessary service to Peters Township because the existing Donaldson's Crossroads plant is approaching its design capacity and will require expansion in the near future.
- b. The existing treatment plant, also in the R-1A Zoning district, is located on a property of insufficient size for expansion. Demolishing the existing plant to construct a new facility on the current property is not an option because Pennsylvania's Department of Environmental Protection (PA DEP) requires that the existing plant stay fully operational during expansion and service cannot be suspended for current customers.
- c. Failure to expand the treatment plant in a timely manner will result in a mandatory prohibition against new connections which will affect the logical, efficient, and economical extension of public services.
- d. Water treatment plants have a limited number of locations where they can be constructed affordably and operated cost effectively. Locating the original treatment plant in its existing location essentially fixed the location of all future expansions as all sewers lead to this location.
- e. Typically, construction and operating costs are not considered valid arguments to support a special exception. However, in this instance, the costs directly affect Peters Township residents and were considered as water treatment plants are a necessary public service. However, this was not the basis of the decision.
- f. The expansion will serve the best interest of the community and provide an essential service to the residents by providing adequate services in an efficient and economically viable manner to support existing and future developments within the Township.
- g. The Authority has been responsible and forthright in the design and planning process by meeting with residents to address their concerns. The Authority has proposed to incorporate reasonable control measures to prevent substantially injury and not detract from the use of the neighborhood and adjacent properties.
- h. The circumstances that created a need to construct a new facility were not the result of any action or inaction of the Applicant.
- i. Water pollution control plants are a "use not provided for" under the Ordinance. It is however "similar to and compatible with" other essential services permitted in the R-1A district and is an expansion of the existing water pollution control plant in this district.
- j. The proposed water pollution control plant will serve the best interests of Peters Township, the convenience of the community, and the public welfare.
- k. The Zoning Hearing Board can impose adequate conditions to insure the health, safety and general welfare of the residents and address concerns of the residents.
- l. There were no protestants to the location of the water pollution control plant present at the hearing. A group of residents addressed concerns prior to the hearing before the Zoning Hearing Board at public meetings held by the Applicant to discuss their extensive planning process for the water pollution control plant.

IV. DECISION

For the reasons stated heretofore, it is the determination of the Zoning Hearing Board that the Applicant has met the requirements and the intent of the Ordinance for the granting of the special exception request. Therefore, it is the decision of this Board that the SPECIAL EXCEPTION to allow the construction of a new water pollution control plant be GRANTED subject to the following conditions:

1. Final site plan approval be obtained by the Planning Commission; and
2. All items listed below are implemented:
 - a. The Authority will use an activated sludge treatment process with aerobic digestion; and
 - b. Enclose the new Headworks in a building that will be ventilated to an odor treatment facility; and
 - c. Cover the aerobic digesters to contain any odors and the air will be ventilated to an odor treatment facility.
 - d. Install a Type C landscape buffer along West McMurray Road containing a double row of staggered evergreen trees; and
 - e. Incorporate residential architectural features and slanted or gabled roofs in all on-site buildings so that the proposed plant will complement the character of the area and not stand out as a non-residential use; and
 - f. Orient the buildings to buffer views to the treatment tanks; and
 - g. Install a black aluminum fence along West McMurray Road that emulates wrought iron fencing. Fencing around the remaining perimeter of the site shall be black, vinyl coated, chain link fence for security purposes; and
 - h. Enclose all noise generating equipment in buildings or noise control enclosures; and
 - i. Eliminate the use of chlorine gas for disinfecting the wastewater stream before discharge to the stream. The proposed plant will use Ultraviolet Disinfection or chlorine solution similar to household bleach; and
 - j. Locate all treatment tanks, buildings, parking lots, and critical equipment at least one (1) foot above the 100-year floodplain elevations.
3. Any proposed expansion of the new water pollution control plant at 402 West McMurray Road shall be approved by the Zoning Hearing Board; and
4. The Applicant may incorporate solar panels into the design of the facility; and
5. That the special exception will expire if the Applicant fails to properly apply for all necessary permits within three (3) years from the date of this decision, or fails to begin the permitted activity within six (6) months from the date such permits are granted.

A motion to grant the special exception was made by Jeffery Zeffiro with a second by John Thacik, and carried by a vote of 3-0.



David Dickson, Acting Chairman
Zoning Hearing Board