

**Meeting Minutes**  
**State College Borough Planning Commission**  
**March 22, 2018**

The State College Borough Planning Commission (PC) met on Thursday, March 22, 2018, in the Municipal Building, 243 South Allen Street, State College, PA. Chairman Boniface called the meeting to order at 7:00 p.m.

**Members Present**

Zoe Boniface, Chairman; Anita Genger, Vice-Chairman; Charles Dumas, Scott Dutt, Jon Eich, and Michael Roeckel

**Others Present**

Ed LeClear, Planning Director; Anne Messner, Planner/Zoning Officer; Jenna Wargo, Planner; John Wilson, Zoning Officer; Terry J. Williams, Borough Solicitor; Denise L. Rhoads, Administrative Assistant, and other interested parties

**Approval of Minutes**

A motion to approve the March 14, 2018 minutes as submitted was made by Mr. Dutt and seconded by Mr. Roeckel. The vote was unanimously approved.

**Chair Report**

Chairman Boniface had nothing to report.

**Public Hour**

No one was in the audience who wished to discuss items not on the agenda.

**Community Planning**

Request for Holly Alley Vacation

Ms. Messner stated, on March 14, 2018, the PC received the referral from Council to review the request to vacate Holly Alley between Fraternity Row and Clover Alley.

Ms. Boniface asked who initiated this discussion. Ms. Messner stated staff did.

Mr. LeClear noted there could be an easement issue with this alley. Ms. Messner noted the easement issue was separate from the alley vacation.

Mr. Eich confirmed the alley was a half block between Fraternity Row and Clover Alley. He stated the alley was ordained east of Fraternity Row and was being used.

Mr. Dumas stated the reason the discussion was postponed from a previous meeting was because Mr. Huncik could not present.

Mr. Huncik of 505 East McCormick Avenue, and President of the Highlands Civic Association addressed the PC:

- He stated he was interested in the vacation of the alley due to the traffic patterns.
- He stated the neighborhood did not have enough time to look at the information presented at a recent Council meeting.
- He noted the association was confused regarding some legalities with this concern.
- He stated the alley was a property right and there seemed to be a rush to make the decision to move forward with the process.
- He stated parking was an issue in his neighborhood and noted he would like the decision postponed until the zoning rewrite began.
- He stated when he looked at aerial photos dating back before 2011, there was a pattern. He noted sometime around 2014 the boundary was moved to the north and the pattern of parking became tandem parking.
- He noted there were no physical barriers prohibiting the use of the alley.

Susan Venegoni of 323 West Fairmount Avenue quoted some of the parking ordinance. She stated Holly Alley was listed in the Borough's parking regulations.

David Stone of 539 East Foster Avenue mentioned other alleys that had been closed off for many years. He stated he would like all rules clarified, wanted parking and pedestrian safety dealt with as a unit, and had a general concern regarding the Borough making decisions before the public became involved.

Mr. Williams, Borough Solicitor, gave a presentation regarding the vacation of alleys which included:

- He addressed the question of alleys, easements, and streets and stated they were one of the most complex issues to discuss. He noted the issues were the principal responsibility of local government.
- He stated he wanted to address two general areas: 1) vacation of an unopened alley, 2) and vacation or abandonment of existing streets.
- He stated, first, there must be an offer of dedication from a property owner to construct a street. Next, it must be plotted so a developer could begin to build the street. He stated the next step would be for the municipality to inspect and approve the plan so a deed could be accepted.
- He went on to note when an offer of dedication and dedication of instrument was presented to the municipality, it became a street and added to a street plan. When the adoption of the ordinance was in place it could then be constructed.
- He explained a paper street was a street laid out on a plot plan that had never been ordained or maintained by the Borough. The Borough had 10 years from the offer of dedication to accept and if they did not, they would have to obtain the approval of 51 percent of "length" of the adjoining residents. He also noted an additional provision was 21 years after an offer of dedication, the government could not put a street in without a re-offer of dedication of adjoining property owners or they could condemn the property under the eminent domain code.

- He defined what a public street was and stated they were rare. He stated it was a street the public had used as a street, highway or walking path for an extensive period. He stated Park Avenue had been considered a public street because it was never plotted, ordained or accepted by the Borough as a public street.
- He gave the explanation of adverse possession which was related to real property. He stated a street must be open, notorious, and adverse; meaning a person who owned the property and did not voluntarily give permission after 21 years could be adversely possessed. He noted it did not apply to public or private citizens.
- He stated a vacation must have both owners come to neutral ground.
- He stated the Municipal Planning Code (MPC) required a PC review and a series of public hearings and notices if requested by citizens. He noted it did not apply when the municipality decided to vacate. He stated it must be clear between petitions by citizens and decisions by governing bodies. He noted the issue was nothing new and had been looked at many times in the past. He stated when the request for vacation was made by the municipality the public had no say in it.

PC's comments included:

- Mr. Dumas asked for clarification of open and unopened alleys. Mr. Williams stated if the public did not use it, it was considered unopened. If the public could use it and presented testimony it was considered open. Mr. Williams did state even if cars were parked there it still would be considered unopened.
- Mr. Eich stated on the map, presented in the agenda, it appeared the section east of Fraternity Row seemed to be a property boundary more on the south side. Mr. Williams stated without looking at the deed descriptions he could not answer. Mr. Eich asked if the alley was vacated would parking still be allowed. Mr. Williams stated it would be governed by other Borough ordinances.
- Mr. Dumas asked if the Borough had any signage in the area. Ms. Messner stated staff was not aware of any. Mr. Dumas also asked if the Borough conducted any maintenance on the alley. Ms. Messner stated they did not.
- Mr. Dumas asked if Mr. Williams was of the opinion the alley was ordained. Mr. Williams deferred to staff and staff stated it was not ordained.

Mr. Huncik stated no one knew who parked in the alley. He could not find any information regarding pavement underneath the gravel. Mr. LeClear stated staff checked with the Public Works department and they had no record of any previous paving.

Mr. Williams stated when a street was plotted, the law stated everyone who was on the subdivision had a right of passage (private right). This right was lost if it was not exercised within the 21-year time frame.

- Ms. Boniface asked staff if there had been any comments from the fraternity nearby. Ms. Messner stated she and Amy Kerner, Borough Engineer, met with the fraternity in January, and they were not opposed to the concept and

stated they would be notified when Council would consider the decision. Ms. Messner stated she had been diligent in delivering the information.

- Mr. Dumas asked if there was a possibility for the Borough to receive payment if it became vacated. Mr. Williams stated no.
- Ms. Boniface asked if the Borough had jurisdiction over the parking layout. Ms. Messner stated her job was to get compliance and staff believed in starting with a conversation versus written correspondence.
- Ms. Boniface asked who would be responsible if there was storm sewer damage. Ms. Messner stated the adjacent property owner would be responsible for this without an easement. Mr. Williams stated easement documents would make it clear the right to have a line in the area. The property owner would be prohibited in putting something over the easement.
- Mr. Dumas asked staff if there had been a request for the parking change in 2012. Ms. Messner stated her assignment was to get compliance by communication. Mr. LeClear stated staff had a long history of making in-person communication first and foremost.

A recommendation was made by Mr. Roeckel and seconded by Mr. Dumas to table the discussion until a future meeting. Mr. Dutt asked why it should be tabled. Ms. Boniface stated she wanted a written summary of Mr. Williams discussion. Staff suggested the members review the CNET video and review the completed minutes included with the next agenda. The vote was 5-1-0 with the nay vote by Mr. Dutt.

### **Official Reports and Correspondence**

Borough Council (BC): Mr. LeClear reported Council would review, on April 2, the minor lot line and a request for a zoning map change at 401 South Pugh Street. He noted on April 9, Ms. Boniface, Ms. Lenker and Mr. LeClear would be presenting to Council. He also stated at Council's April 16 meeting there would be a draft of the Historical and Architectural Review Board (HARB) guidelines.

Land Development Plans: Ms. Messner reported there were no plans submitted.

Staff Updates: Mr. LeClear reported the deadline for submittal for resumes and applications for the HARB membership closed on March 30 and they would be forwarded to Council for their April 2 meeting.

### **Upcoming Meetings**

Wednesday, April 4, 2018 at 12 p.m.

Wednesday, April 18, 2018 at 7:00 p.m. (moved from April 19)

### **Adjournment**

With no further business to discuss, a motion to adjourn the meeting at 8:20 p.m. was made by Mr. Dumas.

Respectfully submitted,

Denise L. Rhoads,  
Administrative Assistant