

Borough of Quakertown

Planning Commission Meeting

April 14, 2014

At

7:00pm at Borough Office

BOARD MEMBERS IN ATTENDANCE:

John Roth – Chairman –
Fred Tirjan – Vice Chairman
Cathy Gillahan - Secretary
Michael Orzel
Michael Haywood
Michele Scarborough
Philip Abramson
Ronald Heller - *Absent from meeting*
William Kee - *Absent from meeting*

ALSO IN ATTENDANCE:

Ken Fretz – Zoning Officer
Katherine Renner - Recording Secretary

PROCEEDINGS:

Meeting called to order at 7:00pm by John Roth, Chairman.

MINUTES:

The approval of February 10, 2014 meeting minutes was motioned made by Michele Scarborough, and Seconded by Fred Tirjan and was unanimously carried to approve the February 10, 2014, minutes as written.

AGENDA:

The Proposal of an Ordinance to regulate the growth and spread of running Bamboo and other similar invasive species.

John Roth suggests looking over Perkasié's issues on Bamboo that fell over onto public alleys during bad weather and some incidents where the Bamboo was crossing over property lines.

John Roth- I was at the Borough Council meeting where a resident from Park Ave, was there in attendance to ask for action where I guess I believe it is the two hundred block of Park Ave, Ken did you heard it was the two hundred block of Park Ave?

Ken Fretz- Yes, where you come out between 2nd and 3rd there on the opposite side of Park Ave. This resident has not had an issue with bamboo encroachment YET but he thinks he might. This is where all these issues are starting from. So his issue is that he thinks this might happen. In my time here as the Code Enforcement Officer, I have had enforced Bamboo one time, and that was through our encroachment ordinance although that was over an alley. On Court Alley, I believe it was, do you know who I am talking about Michele & Cathy? I believe he had horses. That usually gets people remembering.

Cathy Gillahan - Oh horses that were on the corner of Ambler and Erie and it was Rocky Bixel.

Ken Fretz- Rocky Bixel that is who it was.

Cathy Gillahan - They did have bamboo back by the horse stables.

Ken Fretz- and with that snow that we had was bringing it over on to the alley, people couldn't drive through. I notified them and it was cut right away. So we have not had any really extreme cases of bamboo encroachment.

Cathy Gillahan - Have we had any other issues other than this person on Park Ave?

Ken Fretz- This is the only one that has brought up this issue.

John Roth- Was this two properties, I thought I remembered and discussed that it was on two separate properties by his and potentially growing in from not just one parcel but also from adjacent parcel as well.

Ken Fretz- The way he explained it to me was that it was coming in from the parcel behind him and was afraid it would come into his pool

Michele Scarborough- Does it say how tall this stuff gets?

Cathy Gillahan- It gets tall, anywhere from up to 15 feet high. It's Huge. I know some of it looks dead but most of it gets green again in spring time.

John Roth- In a mild winter some species stay green but in the harsher weather will turn burn back and will come back like you said Cathy.

Cathy Gillahan – Some will get really tall, at the least 8 ft tall or taller.

John Roth- Some species stay low and compact, I have them, if you drive north on 309 to get to route-78, on the right side, before you merge onto route 78 west beyond, there is a clumping type of bamboo. It stays compacted doesn't flop over, it actually looks really attractive just growing in a wild patch. So there is another difficulty not all bamboo acts the same.

Cathy Gillahan - I know I personally have **Nandina** *planted, which is a tropical bamboo, it is a shrub and it doesn't expand. It gets this brilliant scarlet color in the fall but it didn't winter well with the winter we just had. But most winters it does with putting more mulch on. If it does come back from this past winter I think I am going to wrap it in burlap this winter. But the bamboo we are talking about is the stalks that are skinny and tall.

John Roth – Yes, it is at least 8ft tall has runners and flops over easily. That is the stuff we are talking about. There is a patch of it down on old Bethlehem pike near Rock wild store.

Cathy Gillahan – It's funny since I have become aware that this issue was coming up – it is amazing how many people do have it, that I have been seeing as I am going different places.

Ken Fretz- You are correct there are many different types, there is the "Running Bamboo**" which is the concern here, and if this was going to go to an ordinance, they would have to name the specific types.

Phil Abramson – Ken, how does this overlap with the weed ordinance, like if someone has an open lot as an example. They can't let thistles grow up or poison ivy or whatever.

Ken Fretz - Correct. That's weeds and this is a grass. Theoretically, I can have them cut it down but chopping it down it isn't the issue of it, it's the spread of it, the roots systems.

Cathy Gillahan- I know you can bury cement along your property line to prevent the Bamboo runners going through or bury a piece of sheet metal because it can't go through metal. So there are options for other than banning it completely but it will be up to the owner of the property to do this.

Michele Scarborough- How deep to you have to go with either the cement or sheet metal?

Ken Fretz- there is recommendations for it but I do believe it is about 3 feet.

John Roth- I can tell you right now, that I know it ignores the geology of specific areas. If you are in a area with a high water tables like we have the high clay and bed rock surfaces, those roots are not going to go down deep through all that, they will just go straight across the surface because it will have more oxygen going straight across than down and through all that and then try to get up through it again.

Ken Fretz- Unfortunately, it is not going to help the gentleman who has the concerns, because it is already there. If you read Chuck Fonzone's legal recommendations, he is very concerned about having legal ramifications against the Borough.

John Roth- He voiced that in the Borough Council meeting as well. He came right out and said he have real misgivings about this because under what case law there is, and believe it or not there is case laws and Bamboo in places where people could justify growing it, for ornamental things, arts & crafts, or have

species like Cathy has that are not an issue. And some running bamboo in colder climates doesn't expand as fast as it does in the more tropical areas. So he voiced all that as concerns about a blanket type ordinance.

Michele Scarborough- was he more concerned about banning it?

John Roth- I think the main concern was for banning, which I got the gut feeling that maybe from what we are seeing here, what we would be regulating it than trying banning it. But that is my impression on it and maybe you might feel something else.

Michele Scarborough- But also with the costs.

John Roth- Yes, there are costs.

Phil Abramson- Yeah but he is saying in here, if I read it correctly, the Ruppin VS. Akron Borough upheld because they limited the height of it.

Michele Scarborough- but I thought that was grass, at least I thought it was, not bamboo.

John Roth – Ken this would also require you to go out and inspect the trench and type of collar material, any time anybody in the borough would plant this, you would have to go out inspect it and any time someone who had existing bamboo and it would be branching into someone else's property, it also would have to be incorporated with being put upon the property owner. But the guy that has it right now but has not yet crossed the property but is heading there, there would have to be an enforcement action to try to shroud it.

Ken Fretz- Yeah if we can go back and say that the Bamboo is doing that.

John Roth- It is all things we have to think about if we were to word something vs. the issue of property rights, because that is a thorny issue itself. This is an ornamental plant that grows a certain way and do you regulate an ornamental plant that is not considered a noxious weed in many cases but in much case where it is allowed to get away it would. This is not clear cut, it's not like its rag weed or thorn thistles growing up this is a little bit.

Phil Abramson- I have a question; technically, you want the property owner to wall it in.

John Roth- That is the suggestion,

Phil Abramson- Okay, the owner walled it in and it gets through the wall so now who's responsible?

John Roth- That would be because the failure of the shroud, a joint through the shroud lets a shoot to go through the weak spot, I guess it would be the owners just like anything else- you have something on the property that fails it violates code, it's got to be fixed. I guess it would have to be part of an inspection and coding that the shroud failed it would be up to the owner to correct / fix the problem and ultimately responsible.

Michele Scarborough- Who is BMW? The letter to Council from BMW, dated 10/23/13; the bamboo encroachment. What he /she said in the last paragraph the last sentence, " I do not think that such a law is in the best interest of the community, especially given the fact that unhappy residents can still pursue a legal remedy in court.

Ken Fretz- I think this is just taken as an example. It is not to our borough council.

Michele Scarborough- He is right; if the property owner has an issue with these people then they can handle it.

Ken Fretz- They do have a means of exercising their rights by filing a civil suit. So many times the people want the zoning officer to come and take their side and we tell them we can't do that, if there is a violation on the property we can do something but at times I cannot. Some things are very subjective, did they do this or didn't they.

Michele Scarborough- How can anyone prove that the property owner actually planted it?

Ken Fretz- Correct. And that is the other thing too. It can get very expensive especially if someone takes this further and challenges the borough.

John Roth- I have a question that might be relevant here. If the roots of a tree; a very big evasive tree, like a Norway Maple, grows very big, very fast. If a group of them grows up in a corner of a property and lean over the property line and threatening the garage next door, the roots are forcing up under the fence, the

driveway and maybe even the flooring of the garage next door property. It's between two private property owners and no borough sidewalks, streets, & sewer lines threatening them. In that case it is a private option between the property owners.

Ken Fretz- Most certainly, that is a good example because we do have that, and that would be a civil matter between the two neighbors that they have to take up. And I tell people if there is a big tree root or limb on your property, you have the right to cut it.

Cathy Gillahan- And you don't have to ask for permission?

Ken Fretz- you do not.

John Roth- The Borough does not get involved.

Ken Fretz- Now if that tree had a dead branch hanging over on the other property where there is a day care, that now obviously becomes a safety issue and we (as in the Borough) have the right to intervene at that point

John Roth- But two private residents or two commercial establishments where you don't have a senior citizen center, or young children or something like that under threat. It would be a private Civil issue then. Then that would also be something to think about.

Michele Scarborough- I am more concerned about wording in the ordinance, you would have to have it right and how do know what bamboo this is? I wouldn't have a clue by looking at it.

Michele Scarborough- this ordinance would actually have to say what type specifically.

Ken Fretz- And I would have to be able to identify all these bamboos species and I don't think I could do that or at least it would take a while for me or anybody to learn all of them.

John Roth- What's the feedback on Perkasié's, I know that it was passed last year and the new season hasn't really gone on its way but any issues with what they have done down there.

Ken Fretz- I did call her, and asked her if she had any issues with Bamboo and I think she said she had one she is handling and the other one she is expecting to come up soon. But really not enough history to come up with anything there and I don't know how it ended up with the one she was working on.

Phil Abramson- I think there could be disputes too on this. Like with if it was grandfathered in or not on that property and if it was preexisting. And you can say from this point on but can you go back and say it was the prior owner but once you sell it, it's yours.

Ken Fretz- Then you have someone on a Saturday afternoon who plants it and the neighbor doesn't really know what's going on but 6years later it starts encroaching on the neighbor's property. How do we know when that was planted? And that becomes very difficult.

Cathy Gillahan- The residents do have the civil procedure that they can go for if it becomes an issue. I know the neighbors don't treat their neighbors like they did years ago but I just don't think it's a good thing for us to put in an ordinance telling what they can plant.

Michele Scarborough- It has to be too specific and opens the borough up for liability.

Ken Fretz- Now grass is one thing, that is enforced that will harbor rodents, bad odors, collects litter, and it goes to seed then it blows over to other properties that is one thing we do regulate an ordinance has been in place.

John Roth- I have seen it up close, its thick and dense, it's like nothing lives in it, it's just Bamboo on top of Bamboo.

Michele Scarborough- So what did the Borough want us to do? I saw it would go to the County then if the planning Commission agrees to go ahead with it.

Ken Fretz- The Borough Council wants our recommendation as to whether we feel it should be carried on; a typical sounding board recommendation. And yes you're correct; it would go to the County. It would follow the steps of any other ordinance passage under chapter 27; this will just weigh in on their decision making process as to whether they want to go ahead with it or not. And I don't know if all of you saw the survey.

John Roth- When it was in front of Borough Council that evening, I didn't get the distinct impression or like a strong feeling for having it or automatically not having it. They were interested in referring it to us to see what kind of opinion we have on this Bamboo.

Michele Scarborough- I like to make the motion not to pass the ordinance on Bamboo.

Cathy Gillahan- I will second that motion.

John Roth- Okay, I guess we will take a role call.

Katherine proceeded with the role call as followed with a "YES" not to pass this ordinance and for council not go further with this:

| | |
|------------------------------|-----------------------|
| <i>John Roth – Chairman</i> | Yes |
| Michael Orzel: | Yes |
| Michele Scarborough: | Yes |
| Cathy Gillahan – Secretary: | Yes |
| Michael Haywood: | Yes |
| Philip Abramson: | Yes |
| Fred Tirjan – Vice Chairman: | Yes |
| William Kee: | - Absent from meeting |
| Ronald Heller: | - Absent from meeting |

It was a unanimous vote in agreement for not proposing a Bamboo Ordinance and for council not got any further.

NEW BUSINESS:

John Roth- New business as I already talked to Ken about that main street Park Community would like to come to the June meeting to make a presentation on what is going on with that been with Mease Engineering for plans and fundraising. I propose to add them to the June 2014 meeting. That is all that I have with that.

Michele Scarborough & Cathy Gillahan- What is going on with the triangle? How did the meeting go?

John Roth- I know council was interested and they put it off until they could have a meeting with the merchants because they were going to discuss having a vote on the property at the council meeting but there were merchants from down town there so they delayed the decisions until they could hold meeting and share those discoveries at those meetings.

Phil Abramson- How do we get involved with that or not until it comes before us for planning.

Ken Fretz- That will be land development so we will be involved with it at that point and time.

Phil Abramson- (& Cathy Gillahan) - Which means it is a done deal by the time they come to us.

Ken Fretz- It couldn't or could be but they may need zoning relief, subdivision, land development waivers, and we could recommend to borough council that the waivers be past or not to be past. We are the recommending body and we can recommend it to them.

Cathy Gillahan- I have a question, if they do change the traffic patterns, would it be two way on the Karlton Café side?

Ken Fretz- Correct and Branch Street would be the one way with diagonal parking.

John Roth- that would be behind the two hundred block and the new building.

Michele Scarborough- Is the fountain staying?

Ken Fretz- Yes.

OLD BUSINESS:

John Roth- I was not here at the last meeting to ask this but at the High School field, what is the current status of exactly what they are proposing for the drainage system now?

Ken Fretz- There has been a re- submittal.

John Roth- And what's that exactly?

Ken Fretz- Underground detention at the field for their infiltration and then for the release they are actually putting another detention underground by the elementary school lot. It is just a long narrow area.

John Roth- funny I was thinking on those lines before but now after the meeting it now becomes feasible.

Phil Abramson- I have a friend who's kid goes to Quakertown Elementary and they had no idea, it was hidden from the Quakertown Elem. Principal, & it was hidden from the families, so I told him you better start looking into this and find out as much as possible about it.

John Roth- But the weird thing is, it was in the papers even a part from our discussions here. Usually in some kind of news paper, whether it is the Intel, the Morning Call, or whatever, there is usually a mention of it. Now granted it was just a small blurb in one of those papers but it was in there.

Michael Haywood- yeah but the problem is that if it is not pertaining to your kid, you ignore it.

John Roth- I am happy to hear that, the kids deserve that, I will say it again, it was the right thing to do by the kids, and it was the right thing to do for the community. Sometimes you just have to put the money in to do the right thing. And that was the right thing to do for this setting.

John Roth- I hope the Quakertown Elementary knows that the Quakertown Borough wasn't in favor of what the high school was planning.

Ken Fretz- They were aware of that and it got the community people involved, which caused things to get stirred up.

John Roth- Okay, the next thing, how are they on track with construction? How is the progress of geo thermal system going and is it on track for next winter?

Ken Fretz- The progress is going very well. Almost the whole Geo Thermal system on the underside is complete with the wells and coming into the building it's self. I have been there for multiple pressure tests, so they are completed to certain points and heading up stairs to the ceilings, hallways and where else they are going with the Geo Thermal system.

John Roth- Are they still talking about the solar panel thing? Because that was in the news paper with the whole roof top to be covered with panels.

Ken Fretz- Have not heard anything about solar panels.

John Roth- Wal-greens is next up. Obviously the fence up, what is going on there?

Ken Fretz- Demo. The permits went out today for demolition of the free standing building. They are going to bring that down first because they don't have the approvals to do anything with the other half building. They need complete drawings yet, they need shoring plans, re-construction plans all that kind of stuff yet. They don't have any of those things to me yet. Nor do they have the architectural plans to me yet.

John Roth- Is there any other old business? Those were the things I wrote down to discuss, is there anything else?

Michael Haywood- What's going on with the Roselon Construction?

Ken Fretz- The luncheonette is gone, portion of the building is gone on the north side. The South side that is getting an entrance is getting cut in. The whole inside is structured for that. Putting the foundations in, like that. But I don't have any architectural plans on that either. This is all just demo at this point and all is going to hit at once.

John Roth- is there anything else? If there is nothing else, I would like to thank you I had to be at conferences the night of our prior meeting, I appreciate the vote to be re-appointed Chair for the upcoming year, thank you very much for that.

~If there is nothing else, Could I have a motion to adjourn this meeting?

Cathy Gillahan made the motion with Michael Haywood and Michele Scarborough both seconding the motion and was unanimously carried to adjourn the meeting.

The next regular meeting will be held on June 9, 2014.

Recording Secretary: *Katherine Renner*