

**THE BOROUGH OF CLARKS SUMMIT  
PLANNING COMMISSION  
WEDNESDAY, JULY 15, 2015**

The July Regular Meeting of the Planning Commission was conducted on Wednesday, July 15, 2015 at approximately 7:02 P.M. The Meeting was held in Borough Council Chambers, 2<sup>nd</sup> Floor, 304 South State Street, Borough of Clark's Summit, County of Lackawanna and Commonwealth of Pennsylvania. Chairman John Durdan called the meeting to order.

Members in attendance were Mr. John Durdan, Chris O' Boyle, Mr. John Recicar, Solicitor Mike Cowley (7:07) and Recording Secretary Ms. Virginia Kehoe. Mr. Carson Helfrich, Mr. Len Wesolowski, Mr. Ed Yasinkas, and Code Officer Lori Harris were absent.

**APPROVAL OF THE AGENDA:**

John Durdan made the first motion to move items up on the agenda, seconded by John Recicar, vote was unanimous, 3-0

**APPROVAL OF MINUTES:**

- February 18, 2015

John Recicar made the first motion to approve the minutes, seconded by John Durdan, vote was unanimous 3-0.

**COMMUNICATIONS:**

Virginia Kehoe stated that at our last Council meeting, Council voted that effective immediately, for front yard fences, if privacy affects are being installed on a fence within two weeks of the beginning of the installation of the fence, the entire fence must have the privacy or all of it must be removed, it's one or the other, within two weeks. Also, Council put a moratorium on all front yard fences over 4 feet in height. That is the hot topic with the residents in public comment. John Durdan stated that where he lives, he has issues with people ringing his doorbell and/or knocking on his door and then running away. Pat Williams asked John Durdan if he contacted the police department about his situation. Mr. Durdan stated that one time they did call and the police who were able to find the vehicle involved. Parents were informed, and then it stopped for a while. Mr. Durdan stated that they want to find out the history of council's actions and why that specific property owner installed the fence. The owner of 615 Timber Ln, who put a 6 foot fence in his front yard, David Thompkins, stated he put it in because they had a dog that kept getting out. The instant the dog was gone the neighbors would take a picture of it, send it to the police and they would get a fine. Mr. Thompkins daughter lives there and he asked her what she wanted to do, an invisible fence was a little more money than they could afford so they decided on a fence. So Mr. Tompkins checked to see what he was allowed to do. The fence he put up was allowed and he got a permit. When that was happening he realized that no matter what he did the dog was still getting out, so he also put in an invisible fence to keep the dog in. But they

like the fence in the front yard. The fence does help keep the dog in the front yard and the kids toys in the front yard, and some people don't like young kids having those things around, so now it is a little blocked in. The security of the area of the fence that is closed in with slats was to give 30 feet of the fence that offered privacy where his daughter wanted to put a table in the corner. Everything was 100% above board, he got a permit for everything and did nothing wrong. John Durdan stated that it was done legally and is in place. Mr. Thompkins stated that he set the fence out there in the front yard before he put it up, because if someone had a problem with the fence they could have approached him and he would not have put it up if they didn't like it. No one said a word. Carol Williams spoke next. Ms. Williams stated that she would like to have this ordinance changed; no one should have a 6 foot fence in their front yard. For pools that is a different situation. No one should have a 6 foot fence that has privacy slats like that on it, either do it all with the privacy fence or take down what's there, it really looks terrible. John Durdan said that Ms. Williams's concern is with the aesthetic issue. Ms. Williams stated that most people want to keep their property looking nice, and then you get that 1% that just doesn't care. Ms. Williams stated that they have been neighbors for 4 years and the dog has been running around for the 4 years, it's not as if they have complained all these years. They just started complaining because you get sick of picking up dog poop in your yard; it's not even your dog. This is the only dog that would run around and poop all over the place. Other neighbor's dogs do not. Ms. Williams stated that you want to try to get along with your neighbors. They have been there for 45 years and never had a problem with anybody. Pat Williams spoke to the Planning Commission next. He thanked the Planning Commission for their years of service to the Borough then stated he is very involved in the Borough 15 years a Councilman and 45 years living in the Borough. He has been very involved in maintaining the residential aesthetic effect of the Borough. Mr. Williams stated that he was worked very closely with Borough Manager Virginia Kehoe, Mayor Lawler and Council President Gerrie Carey. He stated that Mr. O'Boyle, as a real estate agent, would certainly agree that this type of procedure whether it is legal or not, you would really need to be brain dead to do it and you should use common sense rather than putting something like that up in a residential area in the Clarks Summit Borough. Mr. Williams stated that this is a front yard house. Mr. Williams stated that a couple of years ago when he stopped Mr. Thompkins on the road and he mentioned the dog, Mr. Thompkins pulled out away from Mr. Williams and he wasn't going to talk to Mr. Williams, he was going to do what he wanted to do. John Durdan used the gavel and instructed Mr. Williams to please address the Planning Commission. Mr. Williams stated that he was trying to and continued that he wants to express to these people what they do and don't do because he can dispute that very easily. Mr. Williams stated that it is really a disgrace, just because it is legal to do what he did, doesn't mean you should go ahead and do it. You have to use your head sometimes in life. Mr. Williams's main concern that evening is to get the ordinance changed to a maximum of a four foot fence. Mr. Williams stated that he doesn't think there is anyone in that development with a fence in the front yard. Mr. Williams stated that it should be something appropriate, aesthetically appropriate not a galvanized fence in the front yard in a residential area, you need to be a little bit more considerate of your neighbors. Mr. Williams stated that he would like someone to ask Mr. Thompson if he has a 6 foot fence in his front yard. Mr. Williams thanked the Planning Commission for their attention and their service to the community. Renee Williams was the next to speak to the Planning Commission. She lives right across the street from the fence; she has brought to his daughter's attention that her dog has been roaming around the neighborhood, the dog has peed and pooped on their patio, and front porch. Ms. Williams stated that she has gone

over again and again. They just open the front door and the dog roams around the neighborhood. Mr. Williams stated that was absolutely correct. Ms. Williams stated that the fence shouldn't contain the dog; the owner should contain the dog. Ms. Williams stated they were told, "wait and see what I do next, I'm going to force all of your property values down". The fence gate is rarely closed and the dog is still running outside. Ms. Williams stated that it looks like a prison yard, all you need is a little barbed wire on the top, it looks like a prison, and it is across the street from her house. Ms. Williams stated that she lives in Clarks Summit, these things shouldn't happen. She thinks the Achilles heel was found in that ordinance and spitefully brought to its maximum. As for the privacy or not privacy, it should be all or nothing. She has to look at that hideous thing outside her window every day. Ms. Williams stated that she has a dog, she walks him twice a day and she cleans up after him. Several other neighbors have dogs; no other dogs are running around. That's where it started, she got sick of paying the fines but she still refused to take care of the dog. Mr. Williams stated that he has three shrubs in his front yard, big brown spots in the front that is disgraceful. There is no control over that dog. That is the bottom line, they just needed to put a leash on the dog, put him out on the back yard to do his business. They weren't going to do that, the dog was going to run loose because apparently where they came from that's what they do. And that is the bottom line. His three shrubs are ruined with big brown spots from their dogs. John Durdan asked if we were to change the ordinance today, could we compel them to take down the fence? Solicitor Mike Cowley stated that we could not. Solicitor Cowley stated that this is not an enforcement board; this is a planning board that tries to address issues that come before the community and also to establish recommendations to Council for various ordinances. Solicitor Cowley stated that there has never been a zoning ordinance or a land use ordinance that really can control much about aesthetics. Solicitor Cowley stated that someone needs to sit down with all of the parties and try to work out this particular difference, a mediator. Everybody wants to live in peace and there are rules to live in peace and they should be abided by, by the entire community. It's upsetting but civility has to prevail and it has to go both ways. John Durdan stated that aesthetics and working together, the roaming dog issue, you have some bitter feelings, resentment and as Mike Cowley mentioned this is a magisterial issue more than anything. They are a recommending body for ordinances and how things are written. Mr. Durdan stated that they will need to address this on behalf of the Borough and they will very shortly. They don't have much to help anybody with tonight with regard to this issue, but they did hear the comments and what their issues are. Mr. Durdan stated that they will be taking a closer look at the ordinance and hopefully address this so it doesn't occur again. Ms. Williams stated that it was always a 4 foot fence in the front and then it was changed to a 6 foot fence. Virginia Kehoe stated that there was never a conscious change from a 4 foot to a 6 foot, it was never changed it just was never challenged before. Ms. Kehoe stated that there was never a regulation on size in the front, but nobody has ever put up a 6 foot fence and we have never had a complaint about it so it just never came up. John Durdan asked if that met setbacks, Ms. Kehoe stated that yes it does meet its setbacks. Virginia Kehoe stated that Mr. Thompkins did meet with Lori Harris, he did run down every concern and it is completely legal with our ordinance right now. Ms. Kehoe stated that is we passed an amendment, and it would be a Council question if they were going to try to go back and make it retroactive, and then what would our liability be if Council wanted to do that. Ms. Kehoe stated that typically when you pass ordinances, there is grandfathering for existing so it might make sense to prevent this in the future but it doesn't solve the problem right now unless Council chooses to do something different. Alice Williams then stated that what they are asking, putting the dog issue

aside, is they are asking that this doesn't happen to another neighborhood. Ms. Williams stated that they are asking for a change in the ordinance to allow for a 4 foot fence and also that it is not chain link. John Durdan stated that the fence almost has the appearance of a kennel or a run; do we have an ordinance for that? Pat Williams asked about the Nuisance Law, Ms. Kehoe stated that is not for this issue and they should talk about that separately. Ms. Kehoe stated that Lori Harris is limited by what our law says and what she can enforce. If she interpreted it to a kennel and we brought it to a magistrate, we'd have a hard time with that. John Durdan agreed because it is a private owner, not for boarding. Ms. Kehoe stated that for the record she owns a property in Falls that is completely fenced in with a chain link fence. It is only a 4 foot fence and 3 feet in the front but it is existing and it is not inappropriate in her neighborhood, but she doesn't live in a suburban neighborhood. John Durdan stated that is the challenge, in a suburban neighborhood. Ms. Kehoe stated from the Borough Management perspective, she knows we have been in front of Magistrates who feel that a property owner's right to do on their property is sacrosanct. Ms. Kehoe stated that the balancing act here is how far can we go to protect our resident's property values and not overstep individual rights. Solicitor Mike Cowley stated that if there are no specific restrictions then you are allowed to use your property as you want, zoning laws, building codes and setbacks put in restrictions. There is not a lot you can do if there is not a specific ordinance prohibiting, to prohibit. You cannot for the most part legislate aesthetics. John Durdan stated that moving forward, this body will review the fence ordinance and they will address it for the Borough and Council.

Storage pods: Virginia Kehoe stated that we have nothing in our ordinance that addresses pods. We specifically address dumpsters. What we are concerned about is a POD left in the street and not properly marked so it becomes a hazard. There is nothing to empower Lori Harris to say the homeowner has to put up cones, or to regulate the amount of time it sits there. Lori Harris suggested that our ordinance that we adopted this year on Waste Storage and Collection and the resolution regarding the fees, that we simply add a definition for PODs and include it in section 104 of the ordinance, change everywhere it says dumpsters to dumpsters and PODS. If the Planning Commission agrees with this, it can be sent to Council. The question was asked what if there is a POD somewhere that someone uses indefinitely. The ordinance says you need a permit to have a POD and a waste dumpster, the permit is for 2 weeks, and it can be renewed for up to 4 weeks with a total of 6 weeks. After that it must be removed and nothing can be put there for at least 2 months. John Durdan asked what if someone is renovating their home and they need to use the storage, it can take more than 6 weeks to do that construction, it's an issue, is that enough time. Mr. Durdan suggested possibly PODS used in conjunction with a construction project might be better. Solicitor Mike Cowley asked how long a construction project permit lasts. Ms. Kehoe stated a construction permit can last a year and it can be renewed. Pat Williams commented that if you can't get a job done in a couple of months, that's ridiculous. Virginia Kehoe stated that is state regulated permits, not Borough. Pat Williams stated that there is something wrong with that. That is part of the MPC Code, the state regulates that. Solicitor Mike Cowley stated that you cannot violate the states municipal planning code. Pat Williams stated that as far as he knows there has never been a difference between a dumpster and a POD. In the past, when he used to go out, they would call in when there was a dumpster on the road. They took them off and put them on their property where applicable. When you need to leave them on the streets that's where you need an amount of time. A couple pieces of reflective tape on a dumpster or POD is not sufficient to keep our streets safe. Now that there

are PODS we are bending the rules. Ms. Kehoe stated that for this ordinance it just refers to dumpsters/PODS in the right of way. There is nothing addressing if they are in the front yard. Pat Williams stated that he would take exception to a dumpster being on someone's residential property that we would have to look at for 6 weeks. If you can't get your project done in 6 weeks, personally he doesn't think you are really trying. He doesn't think we should be obligated to be looking at those things. A POD is a new thing. Ms. Kehoe stated that people would go to storage facilities; the POD brings the storage facility to you. Ms. Kehoe stated that we should consider with this ordinance, dumpsters as well as PODS, having the permits required if they are in the yard or in the right of way. There would have to be a different set of standards for each situation. Pat Williams also stated that if it is necessary to leave one of these dumpsters/PODs in the roadway that they need to be marked appropriately. Ms. Kehoe said that issue is addressed in the revised ordinance. We need to add a section for dumpsters/PODs on private property. Pat Williams stated that we need to make sure that the newspaper containers need to follow through and get rid of those. We have to accommodate them but we can permit them and have them look appropriate and aesthetically pleasing to the Borough. Ms. Kehoe stated that she assumed that we would continue the discussion and she would reach out to Carson Helfrich and have him start drafting some suggestion or showing us samples of what he's got so we can look at options with our next meeting. Lori Harris took an existing ordinance and added PODs just to show what her suggestion would be. So the ordinance they are looking at tonight has not been adopted. This is an example of the amended ordinance with her suggestions in it. But we just discussed that it isn't sufficient because it doesn't address dumpster/PODs on private property, only in the right of way.

Request for zoning amendment allowing chickens: Virginia Kehoe stated that two different residents came to Council but this request goes back to April 2015. Ms. Kehoe stated this is trending right now and it is being asked about and we need a plan. Council thought before considering this they wanted more feedback from the Planning Commission. One resident suggested 1 chicken for each family member. John Durdan stated that he did a lot of research on this, it is an interesting concept. He knows someone who owns chickens and he described the situation, 12 feet away from it. You experience the aroma of the manure. When they are warm, they have a strong odor to them. When you get the eggs that are fertilized, **statistically 20% will be roosters, which needs to be culled (killed)**, because the suggested model ordinance only says hens in the Borough. What do you do **to perform this task**, where are you going to do it, who's going to do it? Ms. Kehoe stated that was her concern, they can bring out predators, rats, ferrets and foxes into the area that weren't there before. Ms. Kehoe stated that you can argue a safety issue with that. John Durdan stated that is a safety issue and what happens to the animal once they stop laying eggs, are they pets? **Because the first third of their life is laying; the other 2/3 are walking around not being productive except for scratching. It's a big commitment. Mr. Durdan asked where there are veterinarians around here to take care of chickens. There was story about Avian Flu that very night on the local news.** He has a real concern about that. Mr. Durdan is generally opposed to it. Chris O'Boyle stated that when you open the door to something like this, next someone will come in requesting a goat for example. We were discussing property values before, what if someone puts their house on the market and the chicken coop is next door. Chris O'Boyle also stated that if you look into some developments there are covenants that cover this already. Pat Williams addressed **the Commission** on this issue. Mr. Williams stated that the bottom line for this Borough always was as he stated previously is to maintain the aesthetic view

of the Borough and our property values. This is a slippery slope, a trendy thing that younger people are working on with their children. What do you do with the chickens after the kids move away? Mr. Williams stated that we don't need chickens or thins of that nature in our Borough. If they are interested in healthy eating there are farmers markets around this area. There are plenty of places instead of raising them in your back yard. John Durdan made the first motion to not to recommend the back yard chicken proposals submitted by cover of March 30, 2015 by interested citizens, seconded by Chris O'Boyle, vote was unanimous 3-0. All are in favor of opposing the backyard chicken coops.

**PUBLIC INPUT/COMMENT:**

**SITE PLANS AND RE-SUBDIVISIONS:**

**OLD BUSINESS:**

Year-end report: Virginia Kehoe didn't have a chance to look at this yet, continue onto next month.

Curative Amendment – establish new zone (RP-1): in the discussion it was brought up that this commission should consider some kind of buffer zone. This was left open.

Solicitor Mike Cowley stated that if you are going to propose a curative amendment to establish a new zone, you are looking at a pretty significant amount of dedication to that by the Borough, because the zoning map is going to change. Is it logistical and practical to do this, the expense will probably be pretty high? John Durdan stated that it is a good idea but a very impractical thing to do at this time. The Commission is not pursuing this.

Ordinance regulating snakes: Virginia Kehoe stated that this is pending Carson Helfrich and she has not gotten any input. She will put this on the next agenda.

**NEW BUSINESS:**

**ADJOURNMENT:**

John Recicar made the first motion to adjourn, seconded by Chris O'Boyle, vote was unanimous 3-0.