

***New Stanton Borough Council Public Hearing
July 17, 2007***

Council President called to order the Borough of New Stanton Public Hearing at 7:00 p.m. The Public Hearing was held at the New Stanton Fire Hall, 108 South Main Street, New Stanton, Pennsylvania. A Prayer and the Pledge of Allegiance were recited.

Council members present were Scott Sistek, Wilbur Bussard, Thomas Theis, James Mack and Jerry Ilgenfritz. Also present Mayor Joseph Kazan, Borough Solicitor John Campfield, Borough Engineer Emil Bove, and Code Enforcement Officer Michael Stack. Council members absent were Todd Bartlow and Robert Quinn.

This is the time and place for the Public Hearing on the proposed Comprehensive Zoning Amendments to the Borough Zoning Ordinance and Zoning Map. Notices of this Public Hearing and Zoning Amendment Ordinance to be considered for adoption by Borough Council at its regularly scheduled meeting, to be held on Thursday, July 19, 2007. It was advertised in the Advisor on June 28, 2007 and July 5, 2007. Notice of this hearing and Zoning Amendment Ordinance to be considered for adoption by Borough Council at its regularly scheduled meeting to be held on Thursday, July 19, 2007 was also mailed to various property owners in the Borough whose property may be affected by the proposed Zoning Amendments. Notice of this hearing and Zoning Amendment Ordinance to be considered for adoption by Borough Council at its regularly scheduled meeting to be held on Thursday, July 19, 2007 was also posted at various locations throughout the Borough. The proposed Zoning Amendment Ordinance and Zoning Map have been available for review and inspection at the Borough office and the Westmoreland County Law Library.

Copies of the Proposed Zoning Amendment Ordinance and Zoning Map have also been available for purchase from the Borough office. The proceedings of this Public Hearing shall be recorded. Anyone wishing to present testimony shall do so under oath. Each person testifying shall please stand be recognized by me state their full name, residency address, and their property address in the Borough if it is different from their residency address. If you will be presenting testimony on behalf of someone else then you must also identify that person or persons their residency address, their property address and your authority to speak on their behalf. The same procedure shall be followed for anyone in the audience wishing to ask questions of anyone presenting testimony. Please remember to be courteous and considerate in permitting a speaker to finish his or her statement or question before you seek recognition to speak. There are some preliminary matters to be addressed before we begin to hear testimony and questions from the audience.

The following documents shall be entered into the record of these proceedings.

First is the legal advertisement of the Public Hearing and Proposed Ordinance and Proof of Publication for the same. These are here and are available for inspection.

Next are the affidavit of mailing to the County Planning Department and a copy of the letter from County Planning to the Borough.

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Third an affidavit of mailing of the Public Notice to the Westmoreland County Law Library.

Fourth is a copy of a letter from the Borough Planning Commission with their recommendation.

Fifth are the affidavit of mailings to various Borough property owners and a list of their addresses.

Finally an affidavit of posting of various properties and places throughout the Borough by those who actually did the posting.

At this point we will begin the hearing. Anyone wishing to give testimony please rise raise your right hand and the Oath shall be administered.

Council President then gave the Oath to those wishing to give testimony.

Paul Carbisiero, 133 Arona Road. What is the definition of Village District? Mr. Campfield said the Zoning Ordinance on page 27 for those of you who have a copy of the Ordinance Section 304, it does not have a specific definition it has a purpose and that is to provide a mix of residential opportunities, limited commercial and personal service uses within areas of the Borough which previously functioned as small-scale settlements. It then lists the uses.

Mr. Carbisiero said if we were residential or R2, what is the need to change that or was there people requesting this to be changed or does someone have an agenda? Councilman Mack said this process has been going on for over nine and half years with a series of different people on Planning Commission. Secondly you do have mixed uses on Arona Road. Council President said the Village District went back to the old concept of the original small towns, little store fronts, mom and pop stores. That is where the people who did our zoning had gone over the zoning and looked at a lot of other Municipalities that are going to the smaller thought process in having a little town.

Mr. Carbisiero asked if the people will get to vote on this or is it decided among the body here? Council President said that it will be voted on Thursday by Council.

John Lechner of ERA Lechner and Associates. I am representing the Bair family on property on Bair Boulevard, and Broadview Road. Also Jax Service on Arona Road which is John and Barbara Gross, and also the Dudinsky property on Pennsylvania Avenue. My question is in regards to the Jax Service property; that business is grandfathered in, in the Village District. Council President said the business itself is grandfathered in. Mr. Lechner said I think it is a very good idea especially with what is happening up on Broadview because New Stanton is quickly running out of Commercial zoned property. I think it will create a lot of opportunities for business in New Stanton which is probably the best tax income generator that you can have is commercial and

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light industrial actually will provide money for the Borough where residential actually uses more money than it provides.

James Myers, 514 Cherry Street. Mr. Myers said there is a little settlement over there of about twenty houses and I think it is unfair that we should be classified as a commercial district. I see on the North side of Center Avenue there is a strip there for commercial use. On the South side of Center Avenue I think we could just use that strip along Center Avenue as a commercial district and beyond that it should be residential. Councilman Mack said on page forty (40) there is a chart and under B2 there are permitted and conditional uses. You are allowed to have home trailer sales but not permitted to have hospitals. Long term nursing is a conditional use; medical clinics are a conditional use. Conditional use needs the approval of the community. A conditional use has to come to a Zoning Hearing Board meeting and if enough citizens do not want it here, they voice their opinion at the Zoning Hearing Board meeting and the application is turned down. Councilman Mack said you just want the frontage on Center Avenue is what you want to stay commercial and everything behind it stay residential. Is that what you want? Mr. Myers said yes.

Council President administered the oath to a resident who wanted to present testimony.

Christine Bair, 119 Painter Street. I agree with Mr. Myers. It is an old neighborhood and feel that our area should remain residential.

Thomas Smith, 422 South Center Avenue. Mr. Smith said that I would like to know the definition of continuing care facility? Mr. Campfield said continuing care facility is not specifically defined in the Ordinance; Mr. Smith it would most likely be categorized as the same as a Personal Care Homes and Personal Care Homes are defined in there and there are specific standards. Mr. Smith said my next question is on some of the zoning you have assisted living, long term nursing home, nursing home or personal care home. Some of them you have in some areas and some of them you can't. Is there a reason you can't have them all because from what I read there doesn't seem to be that much difference. Are you saying that if someone opens a long term nursing home, or nursing home that they are not allowed to have mentally or physically challenged people? Mr. Campfield said no, it doesn't categorize on the basis of whatever a persons condition may be. Councilman Ilgenfritz said in any of those situations regardless of the type of care facility, you cannot discriminate and the State regulates care facilities. Mr. Campfield said these individuals cannot be discriminated against under State and Federal Law. Mr. Smith said can the vote be delayed for two weeks so that the residents have a chance to try and understand all this and will they be able to ask questions at the meeting before a vote is taken?

Council President said the public will be allowed to ask questions at the Council meeting on July 19, 2007 before a vote is taken. Councilman Mack said there is nine and a half years and almost \$40,000 spent on this. There have been countless meetings in the nine and a half years. There were Planning meetings and Council meetings; people have

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had opportunities, are we to continue this for another nine and a half years? The residents could have come to us and talk to us about this. How much money do you want to spend of the taxpayer's money? Mr. Smith said I understand that; all I am saying is maybe putting the vote off until the next Council meeting where maybe someone might have some questions that they don't have now. Councilman Ilgenfritz said it has to end at some point. Council President said we did try and address all the issues.

Councilman Mack said I have a side comment. This wasn't just a few people on Council, there were professional engineers, and these were people who make their living making towns easier to live with, how to make things run smoothly. It was thought out and a lot of money was spent on how to run a town more efficiently. This package should actually help the town run more efficiently, cost the taxpayer's less money. Councilman Ilgenfritz said I would like thank all the people who spent their time and hard work in putting this package together.

Jim Fox 1529 Mt. Pleasant Connellsville Road, Mt. Pleasant. Property at 202 Broadview and Arona Road. Sign overlay district on Arona Road, when I attended some meetings several years ago, I was under the impression that we could have roadside billboards on the Turnpike side. I see the cutoff is at Glenn Fox Road down to the underpass. What is the reason why the Sign Overlay was eliminated from that section of the Turnpike? Councilman Mack said on page 37, it says that the overlay district is situated within the Pennsylvania Turnpike (Interstates 66 and 76,) and Interstate 70 corridors, with boundaries seventy-five feet (75') from the rights-of-way on either side, where land abutting these rights-of-way is zoned for nonresidential uses. That side of Arona Road is zoned village district which is partially residential. Mr. Fox said I would like to see that changed because I have a billboard on my property in Mt. Pleasant and as far as I am concerned, the lighting from the billboard acts as a deterrent to keep burglar's away. Council President said he wants us to consider changing along that corridor to continue the overlay district in that village district area.

Mr. Fox said my next question is about oil and gas wells being limited to Light Industrial, Light Industrial 2 and Residential Agricultural. There is also property which is not zoned that way, which is undeveloped. There are probably lease holders and gas well potentials that are going to be eliminated from that possibility. In other words the Borough is taking their gas and oil rights right out from under them. For example Rich Erenberg's property on Arona Road, there is no gas wells on it at the present time it is zoned village and in essence you cannot build gas wells. There are at least forty (40) acres there. Somebody owns the gas under that ground. If the property was developed, houses built and so on I could see restricting gas well development. Councilman Mack said if he was selling that as residential property would that diminish the price of the land? Mr. Fox said what I am saying Jim is that gas wells and a housing development could co-exist. There are rules in place that houses have to be so far away from a gas well. What we are doing here is eliminating the possibility of building a gas well in the first place by restricting a gas well to only three districts, you are eliminating any possibility of future gas well building on undeveloped property. Councilman Ilgenfritz said I know that if I owned that property I would want to build homes there I would want

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a gas well there so that I could supply them. Councilman Mack said several years ago the Zoning Hearing Board granted one of our councilman a variance to build their house closer to the gas well. People can go to the Zoning Hearing Board and request a variance from the requirements. Mr. Fox said my farm I have seventy-two (72) acres and only one gas well. The people who own the lease, with it zoned R2 would not be allowed to build another gas well there. They are taking from the lease holder any potential gain from building another well. Why not rearrange that and allow gas wells in any designation and let it be to the discretion of the property owner or the developer as to where they develop in relation to the wells. Councilman Mack said is there any special laws concerning gas wells? Mr. Campfield said there is the oil and gas act that deals with the site.

Council President said there is someone here that can answer that question but I need to swear them in first.

Good Evening my name is Ed Day and I own a small piece of property over by the Turnpike but I wanted to help address this question. Actually if there is gas on the property, number one they are going to find it and tell you that there is gas there and at the same time the DEP which is the State and they would have to get involved and the most important thing that was said here tonight, one of these gentlemen said it here a few minutes ago. What they are doing here is really good for your town. You probably know most of one another and I do not think these guys and ladies up here would do anything to hurt your own town, because they are old enough and wise enough to know. The most important thing they told you was about the variance. Whenever there is something that you do not like you are able to go to the people that run your government for you and they allow you to get it changed. I hope you guys learned something out of this; they are here for the good of your community. God Bless everybody.

Mr. Fox said my recommendation would be that oil and gas wells are acceptable in all areas.

Council President then administered the oath to another resident.

Mr. Richard Theis 221 Wentsler Avenue. The reason that I wanted to speak is that I hope our Council in their next appropriation to the Fire Department designate that the money that they give to have more than one microphone for occasions like this.

Council President then administered the oath to more residents.

James Bowman, 140 Arona Road. The previous gentleman was talking about gas well drilling. Is it my understanding that if you put a variance or whatever he was requesting that a lease holder to the mineral rights can come on my property and drill a gas well as has happened in Salem Township? Mr. Campfield said the proposed zoning ordinance permits oil and gas wells in three districts; RA, L1, and L2, Light Industrial and Light Industrial Limited District and the RA is Residential Agricultural. Salem Township does not have a zoning ordinance, so they passed a land development to deal with the citing of gas wells and the activities that are attended to gas wells as far as

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developing the site, access roads, the rights-of-way, installation of the lines that transport the gas. The zoning ordinance here is dealing with districts where gas wells may be located. It is not addressing the actual onsite construction.

Council President administered the Oath again.

Mary Millward, 509 Cherry Street. My question is this clinic that you have with the medical facilities; will it be like a drug clinic or methadone clinic or something like that? Councilman Mack said there seems to be the definition of clinic versus I believe the anxiety is over methadone clinics. That's true a lot of people do have anxiety about them and I can understand that. They generally do not seek out populated places. There is a methadone clinic near here. Are you aware of where it is? Ms. Millward said yes. Councilman Mack said it is one mile outside of town. They tend not to look for neighborhoods to locate near. Ms. Millward said we do not need one in the Borough. Councilman Mack said I understand that. They are a private enterprise and they know where they can go. These people are business people and they understand that there is not many communities that really want them there, so they usually follow the path of least resistance. They go where they are least noticed. A clinic could be defined in many different ways. Mr. Campfield said there is a definition in the ordinance of the word clinic. There isn't a definition of a medical clinic. There are certain provisions in the Pennsylvania Municipalities Planning Code dealing with methadone clinics specifically; the one provision recently there is a rule by a Federal Court to be unlawful but I believe that case is going to be appealed and was just recently decided that there are provisions in the MPC that they stand up dealing with the location and citing the procedures for authorization of a methadone clinic. Councilman Mack said no matter what business it is you have to come to the town and state what your purpose is for that property at that time you are well aware of what is going on; they can't sneak one in without somebody knowing about it. At the present time there is a property in town that people wanted to develop and they came to us and they didn't seem to have a plan for what they wanted to do with it and we weren't really sure what was going on here, so that property is vacant and they stopped remodeling it.

Mr. Lechner said I have done four different methadone clinics in different areas including the one out the road off of old 119. Anytime we have done a methadone clinic anywhere it has gone in almost exclusively in industrial or light industrial areas.

Mr. Campfield said the section that I referred to previously in the Pennsylvania Municipalities Planning Code, and I will paraphrase it, provides that a methadone treatment facility shall not be established or operated within five hundred (500) feet of an existing school, public playground, public park, residential housing area, child care facility, church meeting house or any other national places regularly stated for religious worship established prior to proposed methadone treatment facilities. That is the provision that is in the State law and that is the one that I mentioned that was recently held to be invalid by a Federal Court so we will have to see if that Federal decision is up held.

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Henry Moore, 100 Water Street. My question is about the SO-1 sign overlay. The Borough of New Stanton has been virtually billboard free. Since the sign height has been changed to 50 feet and we have the sign overlay district does this mean that the Borough has changed its stance against free standing billboards other than business owners. Will we get billboards much like the ones on the North end of Youngwood? Councilman Mack said everything has to be considered that comes in will always be considered. Keep in mind that billboard in Youngwood, the reason why it is there, Youngwood has no zoning. Mr. Moore said so our zoning ordinance is written in such a way so we can limit the location, size and type of billboards. Mr. Campfield said the sign overlay district. Councilman Mack said a sign is a structure. Every structure needs a permit. Mr. Moore said that is what I wanted to know, we are going to change our stance on advertising billboards. Councilman Mack said they still require permits. Mr. Moore said exactly, this is a known fact, so we are going to liberalize that policy now. Signs have always been an issue here in the Borough of New Stanton and Tom is well aware of it and now we are going to become friendlier towards billboards and Councilman Mack said only in the overlay district. Councilman Ilgenfritz said billboards and signs are two different things. Councilman Mack said a sign is three hundred (300) square feet a billboard is much larger. Council President said what Mr. Moore is saying is; are we now going to be susceptible to that in our district as Youngwood. Councilman Mack said no not as Youngwood. Youngwood is more vulnerable because they have no zoning. There is a restricted area; this is along the Interstate, there is a stretch along the Turnpike, I 70, and I believe there is a small stretch on Rt. 66. It is restricted to there. Are you in favor of having no billboards? Mr. Moore said no I am all for billboards and signs for local businesses. I don't want to see Marlboro or something like that; I know that Marlboro is forbidden today from advertising but say these signs for business up in the Borough of New Stanton. Mr. Campfield said they are permitted. Mr. Moore said that answered my question. Thank you.

Council President administered the Oath to another resident.

Arnold Pritts, Quality Inn, 110 North Main Street. Are we going to raise the signs to fifty (50) feet in the Borough? Mr. Campfield said in most districts they were raised to fifty (50) feet. Mr. Pritts said so our business will be included in that? Mr. Campfield said yes.

Councilman Mack said going back to the Cherry Street area; your comment was that you wanted, along Center Avenue is OK to be commercial and the streets behind it you want to keep residential is that what your intention was? Mr. Myers and Ms. Bair both said yes.

Council President said before I close and adjourn this meeting, I would like to thank everyone for coming here tonight and spend an hour and a half listening to your friends, neighbors, relatives, and hopefully with what you have brought to the table tonight we will take a look at. The meeting will be on Thursday, July 19, 2007 at the Borough building. How many of you plan on coming to the meeting on Thursday? There was a show of hands. Council President said looks like a pretty good group. We

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will try and make sure everyone gets in and if you have something to say you will be able to plan at that meeting. Again thank you for your time and consideration. If you do have an issue among a bunch of neighbors or close residents who want to bring up an issue, I would be really happy if you would get together, elect a spokesman and have all the issues put together and say this person will speak for us, we have a common goal and we are trying to convince Council and everyone that this is the right thing to do. With that I would like to have everyone here this evening to sign in so that we have a record of everyone who was here at the Public Hearing. Mr. Smith said I would like to invite everyone here to the regular Council meetings the first and third Thursday of every month.

Councilman Ilgenfritz said I think of all the things that we have heard tonight I didn't hear anything that was unreasonable and I just want you to know that we are here to try and make you happy. Everything you said here is going to be considered and we are going to see what we can do for everyone. I thought everyone was reasonable and nothing that did not make any sense.

Council President said I would like to close this meeting and adjourn. The action on this meeting will be taken on the zoning amendment ordinance at the Borough Council meeting on July 19, 2007, 7:00 p.m. at the Borough Building. Again thank you for your attendance this evening.

Respectfully submitted,

Mary Ann Roll
Secretary