

**PAXTANG BOROUGH
PUBLIC HEARING
3423 Derry Street
March 7, 2023**

COUNCIL MEMBERS PRESENT

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| Council President | Kathleen Bloss |
| Council President Pro-Tempore | Jack Thomas |

Thomas Wingert
Corbin Bower
Eric Fillman

Mayor Nathan Martin

COUNCIL MEMBERS ABSENT

Vice President Spackman
Councilwoman Britten

BOROUGH OFFICIALS

Manager Keldeen Stambaugh
Solicitor Joshua Bonn
Zoning/Codes Robert Ihlein

PRESENTERS

Ms. Holly Evans of Evans Engineering, Inc.
Attorney Mark Allshouse

President Bloss called to order this evening's meeting at 6:00 p.m. stating Council would be conducting a joint public hearing pursuant to Section 370-13 of the Paxtang Code and Section 1732 of the Pennsylvania Borough Code to address Donna M. Gutshall's Preliminary/Final Subdivision Plan and Petition to Vacate a Portion of Queen Alley. Mrs. Gutshall proposes to adjust the lot line between 220 Park Terrace and 3209 Prince Street and to vacate the unimproved portion of Queen Alley that abuts 3209 Prince Street. President Bloss directed Borough Solicitor, Joshua Bonn, to preside over the hearing.

Solicitor Bonn stated Mrs. Gutshall's representatives, Attorney Mark Allshouse and Engineer Holly Evans would make their presentation to Council. Members of Council and adjoining land owners would be given the opportunity to raise questions of Mrs. Gutshall's representatives. Mr. Robert Ihlein, Zoning Officer for the Borough would present actions taken by the Borough to review Mrs. Gutshall's proposals for compliance with the Borough's ordinances. Public comment would be offered to those in attendance.

At the conclusion of the hearing Council would be asked to consider two options:

- Vote to approve the Preliminary/Final Subdivision Plan, **OR** approve the Preliminary/Final Subdivision with conditions, **OR** deny the Preliminary/Final Subdivision Plan.
- Vote to grant the Petition to Vacate a Portion of Queen Alley, **OR** vote to deny the Petition to Vacate a Portion of Queen Alley. If granted, Council could consider enacting a proposed ordinance to vacate a portion of Queen Alley.

Solicitor Bonn proceeded with identifying documents for the Record of Proceedings as follows:

1. Petition to Vacate a Portion of Queen Alley – submitted on November 21, 2022
2. Preliminary/Final Subdivision Plan for Donna M. Gutshall - submitted December 5, 2022

3. Dauphin County Subdivision Land Review Development Report – issued December 20, 2022
4. Zoning Review Memorandum – issued December 22, 2022
5. Copy of the Public Notice of Joint Public Hearing
6. Proof of Publication of the Public Notice
7. Photographs of postings by the Borough Zoning Officer of public notice at 220 Park Terrace and 3209 Prince Street - February 15, 2023
8. Signed green cards showing service of public notice on the majority of the owners of land adjoining Queen Alley – provided by Attorney Allshouse
9. Return to Sender – Letter sent to owner of an adjoining property marked as “Return To Sender”
10. Photographs of posting of public notices at 200 Park Terrace and 207 Park Terrace – 2 properties that the owners were not able to be notified by Certified Mail.
11. Minutes of Public Hearing
12. Minutes of Council Workshop Meeting
13. Written Decision – issued by Borough Solicitor by March 22, 2023.

Attorney Allshouse stated document number 9 referred to Certified Mail which was returned. Notice was followed up via regular mail. Regular mail was not returned, thus the assumption of notice and fulfillment of the required law.

Ms. Denise Lovejoy – 38 Banks Street, Penbrook - Harrisburg stated as a co owner of 200 Park Terrace she received, signed off on the Certified return green card, spoke with Mr. Allshouse, and that return of the green card to Mr. Allshouse was beyond her control. Ms. Loveloy was accompanied by co owner Ms. Zamayne Dawson. Attorney Allshouse indicated he had spoken with Ms. Lovejoy.

Solicitor Bonn turned the meeting over to Mr. Allshouse and Ms. Evans.

Attorney Allshouse stated the Hearing would be in regard to the unimproved section of land at the end of Queen Alley where the property of Gutshall and the property of Myers is located. The Gutshalls have maintained said property for approximately 40 years. In the State of Pennsylvania when a street is offered for dedication and it remains unaccepted for a period of 21 plus years, Common Law states it reverts one half to each of the adjoining property owners. While a Title company does not recognize Common Law, the company would seek a direct statement that can be relied upon for title purposes involving boundary and ownership of each one half divided part of the width of Queen Alley. The statement would clarify that the property in question would remain as it has been for the past 40 years, and that no changes would be taking place, therefore the purpose and presentation of the Subdivision Plan.

Attorney Allshouse stated there is no intention of changing the width, the location, or maintenance of the alley, or the creation of any burden on the Borough, or the creation of any burden on property owners. This information was relayed to interested parties that were in contact with Attorney Allshouse. Attorney Allshouse stated during his research he found no ordinance indicating the Borough had at some point accepted the alley in question and just had not improved the alley. The position is the Borough clearly has no interest in the street in question. The request with regard to vacating a portion of Queen Street is from Mrs. Gutshall for the purpose of title clarity.

Ms. Denise Lovejoy – 38 Banks Street, Penbrook - Harrisburg stated it was her understanding there would be no direct impact in the area of property she co owned. Attorney Allshouse stated that was the case. Engineer Evans stated when the property was purchased by Ms. Lovejoy, mapping shows Queen Alley extending from Greenwood Street to Prince Street but was never truly opened to the full extent. Property owners in the area are required to be notified of a request for the Borough to vacate the unimproved portion of Queen Street. The Petition was brought forth for clarification that the Borough has no intention of completing the portion in question. Residents will have access to the alley and nothing would change for surrounding property owners.

Solicitor Bonn stated he researched the Land Development Plan from 1916 regarding the layout of Queen Alley. Research was also carried out to determine if there was passage of any ordinances acknowledging acceptance within the 21 year period to which nothing was found. The Borough had, in the 1950's approved some ordinances to pave the improved portion of Queen alley and again was paved in 2010 at Borough expense. The Borough has not

accepted dedication of the alley, has exercised control over the improved portion of the alley, has never paved or improved the unimproved portion of the alley, and has ever maintained said area. The petition as drafted deals only with the unimproved portion of Queen Alley which is the only item the Borough is disclaiming ownership of. The Borough is only vacating the unimproved portion of Queen Alley. The Borough has no intention to treat the paved portion any differently than they do now.

Councilman Wingert asked if there were any public utilities involved in the area. Engineer Evans stated there are no utilities in said section, but an overhead line does service the property of Mrs. Gutshall. Discussion was held that the area in question could not properly accommodate a street and the cost to do so would be prohibitive.

Solicitor Bonn asked if there were any other neighbors here this evening that wished to ask questions or provide a statement. Hearing none, meeting continued.

Councilman Fillman expressed his gratitude to Ms. Lovejoy for her questions and stated he believed there would not be any negative impact to property owners. Attorney Allshouse stated no objections were brought forth during his outreach to surrounding neighbors.

Solicitor Bonn stated Borough resident Mr. Andy Saylor reached out to him expressing a concern with the status of the portion of the alley that adjoins his property, but voiced no concerns with vacating the unimproved portion of Queen Alley.

Engineer Evans stated the Subdivision Plan deals with adjusting the lot lines of 220 Park Terrace and of 3902 Prince Street.

Councilman Fillman said if the Borough were to move in this direction, there would be a legal requirement for upkeep from the property owners that take possession of the prospective halves in question.

Ms. Lovejoy requested "No Outlet" signs be installed at the beginning of Queen Alley and not necessarily at the end as is now. Issue to be brought before the Borough Highway Committee for consideration.

Solicitor Bonn requested Mr. Robert Ihlein, Borough Zoning and Codes Enforcement Officer, present his review along with the review by the Dauphin County Planning Commission.

Mr. Ihlein stated the purpose of the application was to subdivide two parcels and incorporate a portion of a "paper alley" known as Queen Street to result in two different sized lots. Mr. Ihlein also referred to the Subdivision Plan as a Lot Consolidation Plan due to the adjustment of current lot configurations. Once Council approves the vacating of a portion of Queen Alley, applicants would have the opportunity to proceed with a formal process to adjust property lines. A Plan prepared by Evans Engineering shows property lines as they are today and a proposed situation as it would be once the Subdivision Plan was approved. Members of Council had access to the Subdivision Plan and reviews by Mr. Ihlein and the Dauphin County Planning Commission. Mr. Ihlein indicated he had no technical issues with the Plan from Evans Engineering and was of the opinion that the Preliminary/Final Subdivision Plan was ready for Council's consideration. Mr. Ihlein would deliver the Plans to the Recorder of Deeds Office in Harrisburg. The last step in this process would be for the property owners in question to create two new deeds exhibiting the new configuration of both properties.

Solicitor Bonn clarified that the review date of March 1, 2023, as stated on the compliance review by Mr. Ihlein is to read March 7, 2023. The date of March 7, 2023, accounts for a request for an extension in order to be brought before Council this evening.

PUBLIC COMMENT

Solicitor Bonn opened the floor for those wishing to share comments on matters relating to this evening's meeting. Hearing none, Solicitor Bonn closed the record of the Hearing at this time and turned the meeting over to President Bloss.

President Bloss stated she would entertain a motion to A. approve the Preliminary/Final Subdivision B. approve the Preliminary/Final Subdivision with conditions, or C. deny the Preliminary Final Subdivision Plan.

Solicitor Bonn stated Council's role is that of an adjudicator with confirmation that compliance with Borough Ordinances have been met. Based on reviews by the Dauphin County Planning Commission and the Borough Zoning Officer, Solicitor Bonn stated it appeared that the Applicant had satisfied the conditions of the Subdivision and Land Development Ordinances and Zoning Ordinance and it would be appropriate for Council to approve the Preliminary/Final Subdivision Plan.

*1) Councilman Fillman made a motion that Council approve the Preliminary/Final Subdivision Plan. Motion seconded by Councilman Wingert. Councilman Fillman stated the following: appreciated the work that went into this process, had an interest in how the Commonwealth conveys ownership of real property from one to another, appreciated the level of detail, explanations, and the fact that neighbors represented here tonight were seeking assurance that their interests were protected and not adversely impacted, stated the process works, and was satisfied that this was handled appropriately.

President Bloss requested Secretary Clark to call the roll as follows:

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| Councilman Fillman | Aye | Councilman Wingert | Aye |
| President Bloss | Aye | Councilman Bower | Aye |
| Councilman Thomas | Aye | | |

Motion carried with a unanimous vote

President Bloss stated she would entertain a motion to approve A. The Petition to Vacate a Portion of Queen Alley, OR B make a motion to deny the Petition to Vacate a Portion of Queen Alley.

*2) Councilman Fillman made a motion that Council approve the Petition to Vacate a Portion of Queen Alley. Motion seconded by Councilman Wingert. Councilman Fillman stated the following: appreciated the partnership between residents and the Borough, residents completed their due diligence in all processes, and it was now upon the Borough to be an active partner in the process and do its share.

President Bloss requested Secretary Clark to call the roll as follows:

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| Councilman Fillman | Aye | Councilman Wingert | Aye |
| President Bloss | Aye | Councilman Bower | Aye |
| Councilman Thomas | Aye | | |

Motion carried with a unanimous vote

ADJOURNMENT

*3) Councilman Thomas made a motion to adjourn the Public Hearing. Motion seconded by Councilman Bower. Motion carried.

Hearing adjourned at 6:37 p.m.

Secretary

1. Approve Preliminary/Final subdivision
2. Approve Petition to Vacate Portion of Queen Alley
3. Adjourn

