

KOHN, SWIFT & GRAF, P.C.

1600 MARKET STREET, SUITE 2500

PHILADELPHIA, PENNSYLVANIA 19103-7225

JOSEPH C. KOHN
ROBERT A. SWIFT
ROBERT J. LAROCCA †
DENIS F. SHEILS †◇
DOUGLAS A. ABRAHAMS *
WILLIAM E. HOESE
STEVEN M. STEINGARD *
STEPHEN H. SCHWARTZ †
CRAIG W. HILLWIG
BARBARA L. GIBSON †
JONATHAN SHUB †◆‡
NEIL L. GLAZER †
KEVIN LAUKAITIS
ZAHRA R. DSOUZA *
AARTHI MANOHAR

(215) 238-1700
TELECOPIER (215) 238-1968
FIRM E-MAIL: info@kohnswift.com
WEB SITE: www.kohnswift.com
sender e-mail: jkohn@kohnswift.com

HAROLD E. KOHN
1914-1999

OF COUNSEL
MERLE A. WOLFSON
GEORGE W. CRONER
LISA PALFY KOHN

November 9, 2020

† ALSO ADMITTED IN NEW YORK
◇ ALSO ADMITTED IN NEVADA
* ALSO ADMITTED IN NEW JERSEY
◆ ALSO ADMITTED IN CALIFORNIA
‡ ALSO ADMITTED IN WASHINGTON, D.C.
* ONLY ADMITTED IN NEW YORK

VIA ELECTRONIC MAIL

Easttown Township Board of Supervisors
Easttown Township Planning Commission
566 Beaumont Avenue
Devon, PA 19333

**RE: *Petition of Nick and Claire Kennedy et al. to
Amend Section 455-64 of the Zoning Ordinance***

Dear Ladies and Gentlemen:

I am writing on behalf on the petitioners in the above referenced matter. The petition to reinstate the 8-unit per acre density limit in the Village of Berwyn was heard by the Planning Commission at meetings on October 6th and November 5th, 2020.

At the conclusion of this agenda item on November 5th after considerable discussion there was a motion made by the Chair, duly seconded, which stated that the Commission 1) denied the petition to reinstate the 8-unit limit and 2) requested the Board of Supervisors to allocate additional funds to enable the Commission and township to engage in a study and analysis to determine what an appropriate unit density might be for Berwyn. As the petitioners we stated during the public comment period on the motion that we supported the continuing study and review of this issue, as I had stated at the outset of my remarks that evening. At that point, Mr. Briggs interjected with a “recommendation” that he “informally reach out” to someone at the Chester County Planning Commission to discuss the issue. The Commission then formulated a new motion limited to denial of the petition but left the “outreach” by Mr. Briggs as an informal process.

It is unfortunate that a proper motion articulated by the solicitor, which had been duly seconded and discussed and was agreed to by the Commission and the petitioners was derailed by Mr. Briggs' last second suggestion. I believe the reason for doing so was that the motion — which acknowledged that the Commission required additional information and study on the question of appropriate unit density -- revealed a number of facts which prove embarrassing to certain people in the township who have been pushing an agenda of dense development, including the following:

1) There was no meaningful study or analysis of the unit limit by the Commission or Supervisors when the repeal was adopted in 2013 with support from certain Supervisors, Commission members and consultants who continue to serve in those positions. Mr. Stanish admitted as much at the October 6th hearing.

2) It would make it difficult if not impossible to repeal the 8-unit limitation in the Devon area currently being advocated by these same individuals if they acknowledged that they didn't study the issue in 2013 and had no firm idea what a proper limit is today for Berwyn. Once it was admitted that this issue required study in Berwyn it would be problematic to repeal the limit in Devon before resolving it in Berwyn.

3) The request for additional funding to study the question would highlight that the consultant, Glackin Thomas and Panzak, has burned through \$50,000 on the Devon project without any analysis of this important issue or any substance to offer the discussion. The community has highlighted the importance of this issue and the dangerous results that could ensue since it first was raised last year.

4) The request proves that the position taken by Ms. Thomas and previously unquestioned by the Commission that "the way density is controlled today is by limits on height, impervious cover, parking, and other provisions" is not true. Indeed, the Commission requested our consultant Mr. Comitta to gather examples of how other local municipalities are controlling density, which he provided. They have specific unit limits.

5) The idea expressed by the Planning Commission Chair that because Commission members are "architects and engineers" they are experts who know better than the community at large about these issues is not true. Each of the Commission members acknowledged that they did not know what the appropriate density limit in Berwyn should be.

As the petitioners on this matter, we request that any information which purports to be gleaned by Mr. Briggs from his "informal" outreach be fully available to us, that all discussions he has in this regard be made public and that if anything said by other people is to be relied upon in any way, that those people present themselves at an appropriate public meeting on the petition.

Again, it is unfortunate that a motion which had support from the Commission, the petitioners and the public took this last minute turn at the request of the “interim” township manager, but we understand why he did it.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joseph C. Kohn".

Joseph C. Kohn

JCK/kw

cc: Kristen Camp, Esquire (via email)
Andrew Rau, Esquire (via email)
Mr. Eugene Briggs (via email)
Petitioners (via email)