



LOWER NAZARETH TOWNSHIP

PLANNING COMMISSION

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Planning Commission

Linda Crook, Chairperson
Hugh Harris, Vice Chairperson
Tara Capecci, Secretary
Bert Smalley
Edward Dulac

Planning Commission Minutes August 17, 2026

Chairperson, Linda Crook, called the meeting to order at 6:30 p.m. Present: Commission Members Hugh Harris, Bert Smalley and Edward Dulac; Township Solicitor Gary Asteak; Lori Seese, Planning & Zoning Administrator; Emily Fucci, Assistant Planning & Zoning Administrator; and Planning Consultant Andrew Schwartz. Commission Member Tara Capecci and Township Engineer Justin Coyle were not present.

APPROVAL OF THE AGENDA

Motion to approve the agenda with the revision to swap the order of item III "Subdivision and Land Development Ordinance Amendment" and item IV "Curative Amendment" was moved by Harris and seconded by Smalley. The motion carried unanimously.

APPROVAL OF MINUTES

Motion to approve the minutes of the July 20, 2026 meeting was moved by Harris and seconded by Dulac. The motion carried unanimously.

There were no items of discussion under CORRESPONDENCE & ANNOUNCEMENTS.

CURATIVE AMENDMENT

CA2026-01 – Nazareth Area School District - PC Comment Only

Present for the Application: Julie Wagner Burkhart of Stevens and Lee and Victor Scomillio of Holzinger, Harak & Scomillio, counsel for Nazareth Area School District (NASD); Matthew Deschler, Special Counsel for the Board of Supervisors (BOS)

Asteak provided an introduction of the application. CA2026-01 was filed in April of 2026 and proposes an amendment to the Zoning Ordinance to permit schools by Conditional Use in all zoning districts and to permit schools to be served by public sewer only where available. The application was forwarded to the Township Planning Commission (PC), the Lehigh Valley Planning Commission and the Nazareth COG for review and comment. The curative amendment hearing is scheduled for September 15, 2026 at 7:00PM.

Wagner Burkhart provided the PC with background on the application. The subject property was purchased in 2025. NASD appeared in front of the Board of Supervisors multiple times in 2025 to discuss the school's proposal for the property prior to making the purchase. NASD believes their legal argument will allow them to preempt local zoning. The Township's current zoning

permits for schools in three (3) zoning districts. No properties within the three (3) zoning districts are feasible for NASD. The Township's Act 537 plan does not provide for public sewer at the subject property, and Wagner Burkhardt believes the Act 537 needs to be updated.

Harris questioned whether no other area or property can meet the needs of the NASD. Wagner Burkhardt replied that a search was conducted and the subject property had the best features. Expansion of the current elementary school is not considered feasible.

Deschler introduced himself to the PC as special counsel appointed by the BOS to defend the validity of the Zoning Ordinance. Deschler is confident that he will be able to uphold the validity of the Zoning Ordinance.

Schwartz presented a slideshow titled "Curative Amendment 101". Schwartz discussed what a curative amendment application was and the process the application follows. Schwartz discussed the chronology of planning activities, including adoption and creation of the Township's Comprehensive Plan, Zoning Ordinance and Official Map.

Schwartz corrected the prior statement of Wagner Burkhardt that schools are actually permitted within four (4) zoning districts, not three (3).

Schwartz showed several maps representing the subject property, which is located in the TD-1 Agriculture zoning district and the Rural Resource overlay district. The property is located outside of the designated growth area, has prime agricultural soils and is listed on the Official Map as "lands to be acquired for parks".

Schwartz summarized that the Zoning Ordinance and Official Map are the products of a long period of intentional planning with motivation for open space preservation, preservation of the character of the community, and desire to keep development in areas with the resources to support it.

Deschler stated that the Township provides ample provisions for schools to be located in districts other than the TD-1. Deschler noted that other municipalities in NASD, such as Upper Nazareth Township, permit schools in all zoning districts.

Deschler asked that a recommendation be made to the BOS affirming the validity of the Zoning Ordinance and Map.

Dulac was involved in putting together the Zoning Ordinance and Map with the goal to preserve open space and supports the Zoning Ordinance and Map.

Smalley has no problem supporting the Zoning Ordinance and Map, which was completed using sound principles, expert guidance and was completed over a long period of time.

Harris asked if NASD had access to the Township's Comprehensive Plan, Zoning Ordinance or Official Map when they were being updated. Schwartz confirmed that the Municipalities Planning Code requires draft Comprehensive Plans be shared with the School District for comment. NASD received the plan for review but did not provide comment.

Harris sees no reason for the Zoning Ordinance and Map to be changed.

Seese read an email dated August 16, 2026 from Capecci aloud. Capecci is not in favor of the curative amendment and does not support the requested amendments.

Motion to affirm the Zoning Ordinance and Map as produced and currently exists and pass the recommendation to the Board of Supervisors moved by Smalley and seconded by Harris. The motion carried unanimously.

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE AMENDMENT

Schwartz summarized the revisions that were made to the draft following the previous PC meeting. Dulac stated that the revisions captured his comments and he was happy with them.

Capecci emailed questions on August 16, 2026 regarding the definitions and widths listed for “right of way” and “cartway”, specifically regarding the mention of a minimum width. Schwartz explained that the definition lists a minimum width to account for existing, substandard roads. All new roadways will be dedicated with a fifty (50) foot right-of-way and paved thirty-six (36) foot cartway.

Crook asked if an argument can be made for a new road to have the substandard minimum. Input will be needed from the Township Engineer to answer. Schwartz suggested they will need to define two different types of right-of-way, historic and new. Harris and Smalley agreed with updating the definitions.

Schwartz explained that Appendix F has been fully incorporated into the Ordinance and no longer exists.

Crook suggested changes under definitions for “flood” and “structure”. Schwartz will adjust the definitions.

Motion to recommend the current draft to the Board of Supervisors to begin the adoption process by Dulac and seconded by Smalley. The motion carried unanimously.

No comments were received under **COURTESY OF THE FLOOR**

ADJOURNMENT

The motion to adjourn was moved by Harris and seconded by Smalley. The motion carried unanimously. The meeting adjourned at 7:22 p.m.

Respectfully submitted,



Emily Fucci
Assistant Planning & Zoning Administrator