



September 26, 2011

VIA ELECTRONIC MAIL

Debbie Lamanna, Township Manager and Board of Supervisors
Township of Middletown
3 Municipal Dr.
Langhorne, PA

RE: “Access Woods” or “Whispering Woods” (TMP #22-59-33; 10.29 A)

Dear Ms. Lamanna and Township Supervisors:

I write in follow-up concerning the residential development known as Access Woods. The development was approved in 2004 with a variance to clear 39% of the site’s environmentally sensitive woodlands in exchange for the developer dedicating 2.05 acres of open space via conservation easement.

As I stated in my remarks at the Board of Supervisors meeting last Monday, through our continued research, it has become clear that the promised streamside lands are in fact the subject of a conservation easement, recorded in 2007. I provided a copy of the “Declaration of Restrictions and Covenants of Whispering Woods Homeowners’ Association” to Ms. Lamanna at the meeting. The document requires the preservation and protection of the 2.05 acres of open space and gives the Township a right of enforcement. In particular, Article 7, Section 2(b) states:

Middletown Township shall be a third party beneficiary of the provisions of this Declaration requiring the Homeowners’ Association to preserve and protect the Common Area... Middletown Township shall have the right to compel the maintenance and protection of the Stormwater Management Facilities and the Open Space and, in the event of the Homeowners’ Association’s failure to fulfill these obligations, the Township, after notice and the opportunity to cure, shall have the right to perform these obligations and be reimbursed for all expenses incurred...

Yet, instead of preserving and protecting the woodlands, the Township issued permits to construct fences and a shed on properties where a significant area of woodlands was destroyed. (Township Projects 10-975, 10-1075, and 11-444).

We would like to know: what does the Township intend to do about this situation?

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
drm@delawareriverkeeper.org
www.delawareriverkeeper.org

A failure to act sets damaging precedent for both Middletown Township and other so-called preserved land.

As you may know, we first contacted the Planning Board in July. (I attach a copy of that letter.) Upon Township Solicitor Pizzo's response inviting us to set up a meeting, our administrative staff made diligent efforts to do so. However, we have not yet received a response to phone messages left on August 3 and 10, and email messages sent on August 10 and 17.

Delaware Riverkeeper Network is a member-supported organization dedicated to the protection of the Delaware River, its tributaries and habitats. We are contacting you representing our members in Middletown Township and Bucks County, and on behalf of the organization's interests in environmental protection and restoration in the Delaware River watershed.

There is still time to remedy this situation before more woodlands are destroyed. In addition, we urge that you take action to require restoration and/or mitigation to address the harm that has been done, contrary to the protective requirements of the easement.

I urge you to contact me directly at 215-369-1188 x 108 or elizabeth@delawariverkeeper.org to let us know how you intend to proceed. Thank you.

Sincerely,



Elizabeth Koniers Brown
Director of Strategic Initiatives

Enclosure

cc: Joseph Pizzo, Township Solicitor
Steve Donohue, Middletown Environmental Advisory Board
Rich Krasselt, Bucks County Conservation District
Gina Thomas, PA DEP