

**TOWNSHIP OF WEST BRADFORD
CHESTER COUNTY, PENNSYLVANIA**

RESOLUTION NO. 20-07

**RESOLUTION OF THE BOARD OF SUPERVISORS ADOPTED
PURSUANT TO SECTION 609.2 OF THE PENNSYLVANIA
MUNICIPALITIES PLANNING CODE, 53 P.S. § 10609.2, TO
INVOKE A MUNICIPAL CURE PERIOD.**

WHEREAS, on January 2, 1977, the Board of Supervisors of West Bradford Township (the "Board") adopted the West Bradford Township Zoning Ordinance of 1977 in Ordinance No. 1977-1 (the "Zoning Ordinance"); and

WHEREAS, since the adoption of the Zoning Ordinance there have been subsequent zoning amendments adopted by the Board, including two amendments adopted on December 13, 2013 identified as Ordinance Nos. 13-06 and 13-07, respectively; and

WHEREAS, on August 13, 2013, the Board made a formal declaration pursuant to Section 609.2 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10609.2, ("MPC") and declared a portion of the Zoning Ordinance invalid because of its failure to: (1) provide allowances for billboards within the Township; (2) provide adequate available land to be developed with multi-family dwellings, including townhouses, semidetached dwellings and apartments at reasonable densities; and (3) provide adequate available land to be developed as mobile home parks; and

WHEREAS, on September 10, 2013, the Board adopted Resolution No. 13-12 wherein the Board made specific findings as to how the Zoning Ordinance was invalid because of its failure to: (1) provide a fair share of available land areas to be developed within the Township with a variety of housing types including multi-family dwellings and mobile homes; and (2) its failure to adequately provide for billboard signs at appropriate locations in the Township; and

WHEREAS, the Board also directed in Resolution No. 13-12 that a curative zoning amendment be prepared to validate, or reaffirm the validity, of the Zoning Ordinance which would be adopted within 180 days of the declaration which the Board made on August 13, 2013; and

WHEREAS, on December 10, 2013, the Board adopted a zoning amendment identified as Ordinance No. 13-06 wherein, among other revisions, the Board (1) amended Section 450-11.B of the Zoning Ordinance to allow existing mobile home parks in the R-3 District to be expanded by 25%; and (2) amended Section 450-57 of the Zoning Ordinance to allow by conditional use in the Industrial District certain types of housing, including garden apartments, multiple-family dwellings, quadraplexes, single-family

attached dwellings, single-family semidetached dwellings and two-family detached dwellings; and

WHEREAS, on December 10, 2013, the Board adopted a zoning amendment identified as Ordinance No. 13-07 wherein, among other revisions, it amended the sign regulations to allow billboards by conditional use on the east side of Route 322 subject to specific area and bulk requirements and design criteria; and

WHEREAS, on January 9, 2014, Embreeville Redevelopment, LP ("Embreeville") filed an appeal in the Court of Common Pleas of Chester County that was docketed at No. 2014-00183 (the "Procedural Challenge") wherein it alleged that Ordinance No. 13-06 was procedurally invalid and thus void *ab initio*; and

WHEREAS, in an Order dated March 2, 2016, the Commonwealth Court ruled in favor of Embreeville with regard to the Procedural Challenge and thereby declared that Ordinance No. 13-06 was procedurally invalid and thus void *ab initio*; and

WHEREAS, on March 13, 2014, Embreeville filed a substantive validity challenge with the West Bradford Township Zoning Hearing Board (the "Substantive Challenge") wherein it alleged that the Zoning Ordinance was substantively invalid because it did not provide a fair share of multi-family dwellings; and

WHEREAS, in an Order dated April 4, 2018 (the "ZHB Order"), the West Bradford Township Zoning Hearing Board dismissed the Substantive Challenge and thereby found that the Zoning Ordinance was lawful; and

WHEREAS, on May 3, 2018, Embreeville filed an appeal of the ZHB Order in the Court of Common Pleas of Chester County which was docketed at No. 2018-04374 (the "Substantive Appeal"); and

WHEREAS, before the Court of Common Pleas rendered a decision on the Substantive Appeal, the parties entered a Settlement Agreement to resolve the Substantive Appeal (the "Settlement Agreement"); and

WHEREAS, in light of the Settlement Agreement, because Ordinance No. 13-06 was declared void *ab initio*, the Board finds it prudent to re-examine whether the Zoning Ordinance, or portions thereof, may be invalid for failing to provide a fair share of multiple housing types, including multi-family dwellings and mobile homes; and

WHEREAS, on January 14, 2020, the Board made a formal Declaration pursuant to Section 609.2 of the MPC, 53 P.S. § 10609.2, and declared a portion of the Zoning Ordinance invalid because of its failure to: (1) allow an adequate amount of available land to be developed with multi-family dwellings, including multiple-family dwellings, single-family attached dwellings (townhouses), semidetached dwellings, quadraplexes and apartments at reasonable densities; and (2) allow an adequate amount of available land to be developed as mobile home parks;

NOW THEREFORE, BE IT RESOLVED by the Board as follows:

1. The municipal curative amendment procedure authorized by Section 609.2 of the MPC was initiated on January 14, 2020 by Declaration of the Board.

2. The Board hereby determines that the Zoning Ordinance, or portions thereof, may be substantively invalid for failing to provide a fair share of specific uses, including, but not limited to: (i) the failure to provide sufficient land area zoned for mobile home parks; and (ii) the failure to provide adequate available land to be developed with multi-family dwellings, including multiple-family dwellings, single-family attached dwellings (townhouses), single-family semidetached dwellings, quadraplexes and garden apartments at reasonable densities.

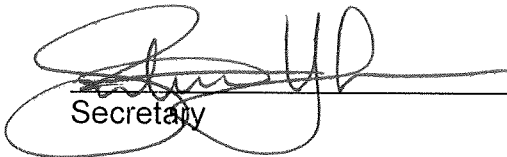
3. The Board hereby declares its intent to prepare a curative zoning amendment to overcome any invalidity as may be determined pursuant to the procedure set forth above.

4. Within one hundred eighty (180) days following the date of the Board's Declaration of January 14, 2020, (on or before July 12, 2020), the Board intends to prepare and enact a curative zoning amendment to validate, or reaffirm the validity, of the Zoning Ordinance.

5. This Resolution has been duly adopted by an affirmative vote of the majority of the Board at a regular meeting of the Board on February 11, 2020.

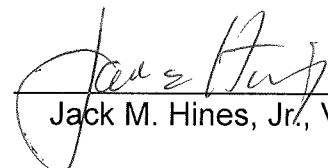
RESOLVED this 11th day of February 2020.

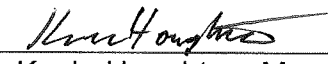
ATTEST:


Secretary

**WEST BRADFORD TOWNSHIP
BOARD OF SUPERVISORS**

By: 
Laurie W. Abele, Chair

By: 
Jack M. Hines, Jr., Vice Chair

By: 
Kevin Houghton, Member