

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

FAMVEST XII – LYCOMING MALL,
LLC, and FAMVEST XX – LMBB, LLC,
Plaintiffs,

vs.

MUNCY TOWNSHIP and MUNCY
TOWNSHIP BOARD OF
SUPERVISORS,
Defendants.

No. CV 26-00,385

CIVIL ACTION

FILED
LYCOMING COUNTY
2026 JUN 16 AM 11:40
HOLLY L. THOMAS
PROTHONOTARY &
CLERK OF COURTS

OPINION PURSUANT TO Pa. R.A.P. 1925(a)

AND NOW, this 16th day of June, 2026, the Court issues this Opinion pursuant to Rule 1925(a), Pennsylvania Rules of Appellate Procedure.¹ On April 22, 2026, Defendants filed their Notice of Appeal² to the Commonwealth Court from this Court's Order entered April 17, 2026³ granting Plaintiffs' motion for a preliminary injunction.⁴

I. BACKGROUND.

Plaintiffs commenced this action by complaint filed March 24, 2026 (the "Complaint").⁵ The Complaint alleges Plaintiffs are the equitable owners of property located in Muncy Township (the "Township"); that they submitted a lot consolidation plan to the Township on October 1, 2025 (the "Plan"), pursuant to the Pennsylvania

¹ Pa. R.A.P. 1925(a) ("[U]pon receipt of the notice of appeal, the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall ... file of record at least a brief opinion of the reasons for the order").

² Defendants' "Notice of Appeal," filed April 22, 2026.

³ Order granting Plaintiffs' motion for preliminary injunction, dated and entered April 17, 2026.

⁴ Plaintiffs' "Motion for Preliminary Injunction," filed March 31, 2026.

⁵ Plaintiffs' "Complaint," filed March 24, 2026.

Municipalities Planning Code (“MPC”)⁶ and the Township’s Subdivision and Land Development Ordinance (“SALDO”);⁷ that the Plan was reviewed by the Lycoming County Planning Commission and the Township’s Planning Commission; that the Township Supervisors (the “Supervisors”) conditionally approved the plan at a public meeting held December 10, 2025, subject only to the condition that the Plaintiffs submit a consolidation deed to the Township Solicitor (the “Solicitor”) for approval; that the Solicitor approved the deed on December 30, 2025, thereby satisfying the single condition; and that the Supervisors have failed and continue to fail to perform their ministerial duty to sign the Plan. The Complaint seeks, *inter alia*, an order in mandamus compelling the Supervisors to sign the Plan.⁸

On March 31, 2026, Plaintiffs filed a motion for a preliminary injunction,⁹ with a supporting brief,¹⁰ alleging they will suffer irreparable harm that cannot be adequately compensated by damages if the Court does not compel the Supervisors to sign the Plan. Defendants filed a brief in opposition to the Motion,¹¹ and on April 17, 2026, the Court held a hearing on the motion for a preliminary injunction,¹² where the Court heard testimony and received evidence from witnesses and heard

⁶ 53 P.S. §§ 10101 – 11202.

⁷ Without objection, the Township submitted a copy of the SALDO to the Court at the hearing on Plaintiffs’ Motion for Injunction held April 17, 2026.

⁸ Complaint.

⁹ “Plaintiffs’ Motion for Preliminary Injunction,” filed March 31, 2026.

¹⁰ “Plaintiffs’ Memorandum of Law in Support of Plaintiffs’ Motion for Preliminary Injunction,” filed March 31, 2026.

¹¹ “Township’s Brief in Opposition to the Motion for a Preliminary Injunction,” filed April 17, 2026.

¹² Scheduling Order dated and entered April 14, 2026.

arguments from counsel. Thereafter, the Court issued an Order granting the motion for a preliminary injunction and directing the Supervisors to sign the Plan.¹³

Defendants appealed the Court's Order granting the preliminary injunction on April 22, 2026¹⁴ and simultaneously filed a motion to stay enforcement of the injunction.¹⁵ Plaintiffs responded,¹⁶ and the Court heard argument on the Motion on April 27, 2026.¹⁷ On that same day, the Court entered an Order finding that Defendants have not made the necessary showing to support a stay and denied the motion.¹⁸

Having received the appeal, the Court issued an Order pursuant to Rule 1925(b),¹⁹ and Defendants filed their concise statement of matters complained of on appeal on May 27, 2026 (the "Concise Statement").²⁰ In their Concise Statement, Defendants raise the following issues for appeal:²¹

¹³ See, *supra*, n.3.

¹⁴ See, *supra*, n.2.

¹⁵ Defendants' "Motion to Stay Enforcement Pursuant to Pa. R.A.P. 1732," filed April 22, 2026; Defendants' "Amended Motion to Stay Enforcement Pursuant to Pa. R.A.P. 1732," filed April 27, 2026.

¹⁶ "Plaintiffs' Response in Opposition to Defendants' Motion to Stay," filed April 27, 2026.

¹⁷ Scheduling Order dated and entered April 24, 2026.

¹⁸ Order dated and entered April 27, 2026.

¹⁹ Concise Statement Order Pursuant to Pa. R.A.P. 1925(b), dated and entered April 27, 2026. See Pa. R.A.P. 1925(b)(1) ("If the judge entering the order giving rise to the notice of appeal ... desires clarification of the errors complained of on appeal, the judge may enter an order directing the appellant to file of record ... a concise statement of the errors complained of on appeal").

²⁰ Defendant's "Concise Statement of Matters Complained of on Appeal," filed May 27, 2026. Defendant's Concise Statement was not filed within 21 days after entry of this Court's Rule 1925(b) Order as required by Pa. R.A.P. 1925(b)(2)(i); however, the Court extended Defendants' time to file their Concise Statement by Order dated May 21 and entered May 22, 2026 until seven (7) days after the date of the Order. As the Defendants' filed their Concise Statement within that time frame, the Court deems it to be timely.

²¹ Pa. R.A.P. 1925(b)(4)(vii) ("Issues not included in the [appellants' Concise] Statement [of Matters Complained of on Appeal] ... are waived").

1. The Trial Court committed error as a matter of law in granting mandamus relief where Plaintiffs failed to establish both a clear legal right to relief and a corresponding mandatory, ministerial duty on the part of the Township.
2. The Court erred in failing to recognize that the Township Board's action on December 10, 2025 was expressly conditional and did not constitute final plan approval.
3. The Court erred in concluding that satisfaction of a single condition, specifically, solicitor review of a lot consolidation deed, results in final approval or created a mandatory duty to execute the plan.
4. The Court erred in concluding that the Township's obligations were ministerial where no formal determination of completeness was made prior to the actions at issue.
5. The Court erred in granting relief that compels execution of a Subdivision Plan absent lawful final approval, in contravention of the Township's SALDO and the Pennsylvania Municipalities Planning Code.
6. The Court erred in granting relief that if enforced, will result in irreparable harm by permitting execution and potential recording of a plan prior to lawful approval and prior to meaningful appellate review.
7. The Court erred in granting mandamus relief where Plaintiffs failed to meet their burden under Pennsylvania Law without a showing of irreparable harm.²²

II. LAW AND ANALYSIS.

The Court addresses the issues raised by Plaintiffs *seriatim*.

1. The Court properly granted mandamus relief because Plaintiffs established a clear legal right to relief and a corresponding mandatory, ministerial duty on the part of the Township.

"Mandamus is an extraordinary writ that will only lie to compel official performance of a ministerial act or mandatory duty where there is a clear legal right

²² Concise Statement.

in the plaintiff, a corresponding duty in the defendant, and want of any other appropriate and adequate remedy.”²³ It is not intended to create legal rights; rather, its purpose is to enforce those rights which already are established.²⁴ “Mandamus cannot issue ‘to compel performance of a discretionary act or to govern the manner of performing [a] required act.’”²⁵

The parties agree that the Supervisors conditionally approved the Plan on December 10, 2025.²⁶ Evidence adduced at the hearing on the preliminary injunction established that the Plaintiffs satisfied the sole condition imposed by the Township as of December 30, 2025.²⁷ Therefore, as of December 30, 2025, the approval process was completed. Execution of an approved subdivision plan by a governing body following satisfaction of conditions is a purely ministerial act.²⁸

The Supervisors contend that the December 10, 2025 approval, which was done by a predecessor board, was done in violation of applicable law, including the SALDO and the Sunshine Act.²⁹ The time for an appeal seeking to overturn the approval has long passed, however.³⁰ Indeed, by the time the Court granted the

²³ *Jackson v. Vaughn*, 777 A.2d 436, 438 (Pa. 2001) (citing *Pennsylvania Dental Ass’n v. Commonwealth Ins. Dep’t*, 516 A.2d 647, 652 (Pa. 1986)).

²⁴ *Clark v. Beard*, 918 A.2d 155, 159 (Pa. Commw. 2007) (citing *Jamieson v. Pennsylvania Board of Probation and Parole*, 495 A.2d 623, 625 (Pa. Commw. 1985)).

²⁵ *Brown v. Levy*, 73 A.3d 514, 516 n.2 (Pa. 2013) (quoting *Volunteer Firemen’s Relief Ass’n of the City of Reading v. Minehart*, 203 A.2d 476, 479 (Pa. 1964)).

²⁶ Complaint, Exh. C.

²⁷ Complaint, Exh. D.

²⁸ See, e.g., *In re Subdivision of Marie Crowley Lands*, 736 A.2d 40 (Pa. Commw. 1990).

²⁹ 65 Pa. C.S. §§ 701 – 716.

³⁰ An appeal under the Sunshine Act must be filed within 30 days after the date of a meeting that was open (which the December 10, 2025 meeting was). 65 Pa. C.S. § 713. An appeal under the Municipalities Planning Code must be filed within 30 days after entry of the decision appealed. 53 P.S. § 11002-A. Finally, an appeal under the Local Agency Law, with some exceptions, must be filed within 30 days after entry of the order appealed. 42 Pa. C.S. § 5571(b).

preliminary injunction on April 17, 2026, the deadline for filing any appeal the action taken on December 10, 2025 was already expired by several months. By any reasonable measure, the December 10, 2025 decision was final and the time for litigating the matter ended.

Accordingly, Plaintiffs had a clear right to relief, and the Defendants had a corresponding mandatory, ministerial duty to execute the previously approved Plan.

2. The Court explicitly recognized that the Township Board's action on December 10, 2025 was expressly conditional and that the condition was satisfied on December 30, 2025.

As previously indicated, the Township conditionally approved the Plan on December 10, 2025, subject to a single condition. Plaintiffs satisfied the condition as of December 30, 2025. Therefore, the December 10, 2025 decision was final and binding on the parties.³¹

3. The satisfaction of a single condition, specifically, solicitor review of a lot consolidation deed, results in final approval of the lot consolidation plan and created a mandatory duty to execute the plan.

As previously indicated, the Township conditionally approved the Plan on December 10, 2025, subject to a single condition. Plaintiffs satisfied the condition as of December 30, 2025. Therefore, the December 10, 2025 decision was final and binding on the parties.³²

4. The Township's obligations were ministerial regardless of any "formal determination of completeness."

As previously indicated, the Township conditionally approved the Plan on December 10, 2025, subject to a single condition. Plaintiffs satisfied the condition as

³¹ See. *supra*, Part II.1.

³² See. *supra*, Part II.1.

of December 30, 2025. Therefore, the December 10, 2025 decision was final and binding on the parties.³³ Once a final decision has been rendered and the time for appeal of it has passed, a governing body no longer has authority to impose additional conditions.³⁴

In *Weiser v. Latimore Township*, landowner's preliminary development plan was deemed approved because the township supervisors did not issue a written decision denying it. Thereafter, the landowner submitted a final subdivision plan that was essentially the same as the deemed approved preliminary plan. The township engineer and the county planning commission raised various issues with the final plan, and the supervisors voted to approve it with numerous conditions. The landowner accepted some of the conditions but rejected others, and the supervisors denied the final subdivision plan. The landowner appealed, and the trial court held that the supervisors were required to approve the final plans because they were substantially the same as the previously deemed approved preliminary plans. The trial court also criticized the Township's denial, observing that "[a]pparently, the Township is treating the denial as a 'do-over,' " in contravention of the MPC. The Commonwealth Court affirmed, holding that to be approved, the final plan need only be the same plan as the preliminary plan, with the additional details required by the preliminary approval.³⁵

Here, the Township approved the Plan subject to a single condition. The condition was met. As in *Weiser, supra*, the Township is not entitled to a "do-over."

³³ See, *supra*, Part II.1.

³⁴ See, e.g., *Weiser v. Latimore Twp.*, 960 A.2d 924 (Pa. Commw. 2008).

³⁵ *Id.*, at 927-29.

5. The Court properly compelled execution of an approved subdivision plan where the landowner satisfied the sole condition placed upon the approval.

When a subdivision plan is approved subject to a condition, the applicant is entitled to proceed without imposition of additional conditions,³⁶ both under the MPC³⁷ and the SALDO.³⁸ As such, the Court properly directed the Supervisors to execute the approved plan so that it could be recorded.³⁹

6. The Court's Order will not result in irreparable harm to the Township by permitting execution and potential recording of a plan prior to lawful approval and prior to meaningful appellate review.

Defendants did not demonstrate they will suffer irreparable harm when required to execute the approved Plan. Initially, as indicated above, the Plan was duly approved, and no appeal was taken to the approval within the statutory time for appeal. As such, the Plan is approved, and, as landowner, the Plaintiffs are entitled to proceed with their approval.

Secondly, signing and execution and even recording of the Plan will not create any irreparable harm. If Defendants prevail on their appeal, any consolidation deed Plaintiffs file will be void. Thus, this appeal essentially proceeds at Plaintiffs' risk.

³⁶ See, *supra*, Part II.4.

³⁷ See 53 P.S. § 10508.

³⁸ SALDO § 3.8.10 provides that "[a]fter receipt of Final Plan approval and compliance with all conditions of approval, the Board of Supervisors will execute the plan approval certification." Muncy Twp. SALDO § 3.8.10. A copy of the SALDO was provided to the Court and made an exhibit at the hearing on April 17, 2026.

³⁹ An approved plat cannot be recorded without signatures indicating approval by the municipality. 53 P.S. § 10513 ("Whenever such plat approval is required by a municipality, the recorder of deeds of the county shall not accept any plat for recording, unless such plat officially notes the approval of the governing body and review by the county planning agency, if one exists"). Because a plat must be signed by the municipality before it can be recorded, the landowner cannot exercise its rights until the municipality signs the plat and it is recorded.

Thirdly, Defendants have argued that other approvals, such as stormwater management, highway occupancy permits, and the like, should have been obtained prior to approval of the Plan. This is not accurate. The approved Plan is merely a lot consolidation Plan. Plaintiffs must still proceed through the planning process and obtain approval of a subdivision plan prior to any development on the now consolidated lot. Pursuant to the SALDO, they will be required, as conditions precedent to approval, to obtain all of the approvals Defendants contend will flow from approval of the Plan. Because the Plan is a merely lot consolidation plan and not a subdivision plan, Defendants will have ample opportunity to ensure compliance with the SALDO at the time of subdivision approval.

7. The Court properly granted mandamus relief, and Plaintiffs met their burden of showing irreparable harm.

Mandamus relief is appropriate because the Supervisors had a mandatory duty to execute the approved lot consolidation Plan following the Plaintiffs' satisfaction of the sole condition imposed with the approval.⁴⁰

Furthermore, in granting the injunction, the Court found Plaintiffs will suffer irreparable harm if an injunction did not issue, among other reasons because the delay will harm Plaintiffs' ability to develop the property and could cause loss of tenants.⁴¹ It is well established that "where the offending conduct sought to be restrained through a preliminary injunction violates a statutory mandate, irreparable injury will have been established."⁴² Once the December 10, 2025 approval was given and the condition satisfied, the Supervisors had a mandatory, ministerial duty

⁴⁰ See, *supra*, Parts II.1., II.4.

⁴¹ Order dated and entered April 17, 2026.

⁴² *SEIU Healthcare Pennsylvania v. Com.*, 104 A.3d 495, 508 (Pa. 2014).

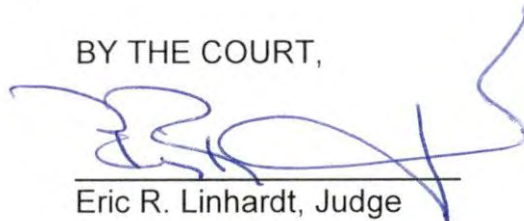
to execute the approved Plan.⁴³ The refusal to sign and execute the Plan was a violation of a statutory mandate. As such, irreparable harm was established.

Finally, once the Plan was approved and the condition satisfied, the Plaintiffs obtained a property right in the approval.⁴⁴ Defendants did not make a compelling case at any point as to why Plaintiffs should be deprived of their property right for the extended time that would be consumed with additional approvals (which were not guaranteed to be given), in contravention of the MPC.

III. CONCLUSION.

For the reasons explained above, the Court believes it properly issued a preliminary injunction directing the Supervisors to execute the Plan.

BY THE COURT,

A handwritten signature in blue ink, appearing to read 'ERL', is written over a horizontal line.

Eric R. Linhardt, Judge

ERL/bel

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⁴³ See, *supra*, Part II.4.

⁴⁴ See, e.g., *Herskovits v. Irwin*, 149 A. 195 (Pa. 1930).