

**WEST HEMPFIELD TOWNSHIP
ZONING HEARING BOARD
Meeting of May 9, 2017**

The West Hempfield Township Zoning Hearing Board met in the meeting room of the West Hempfield Township Building at 3401 Marietta Avenue, Lancaster, PA on Tuesday, May 9, 2017. Gary Lintner called the meeting to order at 7:30 p.m. Board members Daryl Peck and Tony Crocamo were also present, along with Edward Brown, Board Solicitor, Rhonda Adams, Court Reporter, and Jodi Heffner, Zoning Officer.

Approval of Minutes

Motion: Daryl Peck moved, seconded by Tony Crocamo, to approve the minutes as presented for the meeting held April 11, 2017. Motion carried, 3-0.

Case 1253 – (continued) Jason & April Ruhl

The record of testimony for Jason and April Ruhl, 1752 Kinderhook Road, Columbia, PA remained open from last month's meeting. The Ruhls are requesting a variance for permitted use and requirements to allow five additional dogs on their property. The Ruhls presented Applicants' Exhibit 1, signatures from property owners whose parcels are adjacent to the Ruhl property. Their neighbors are not opposed to the additional dog kennels.

Motion: Tony Crocamo moved, seconded by Gary Lintner, to grant variances to Section 301.2 – Permitted Use and Section 804.3 – Kennels at the property located at 1752 Kinderhook Road, with these conditions: a maximum of eight dogs at any given time, no signage, no commercial operation, no dog breeding, weekend occupancy only, no operation of a business, and no sales. Motion carried, 2-1 with Daryl Peck opposed.

Case 1240 – (continued) Rodney Frey/Rhouse 516, LLC

Mr. Frey has requested a continuation of Case 1240 until the June ZHB meeting.

Case 1255 – Margaret Rogers

Amy Zahm of 2675 Hemlock Drive, Columbia, and Margaret Rogers, 258 Blossom Trail, Mount Joy were sworn in to provide testimony. Ms. Zahm is seeking to add a cooking stove as part of a new structure ECHO housing unit to be built for Mrs. Zahm's mother, Margaret Rogers. Mr. Lintner asked Mrs. Zahm what she planned to do with the ECHO housing once it is no longer needed. Mrs. Zahm said they would not be renting it out. The cooking stove would have to be removed within 120 days of the end of ECHO housing. Mr. Peck asked about utilities (public water and sewer) and parking spaces for four vehicles. There is also street parking on Hemlock Drive.

Motion: Daryl Peck moved, seconded by Tony Crocamo, to grant a special exception to Section 303.2.B.6 – ECHO Housing to permit an ECHO housing unit at the rear of the property at 2675

Hemlock Drive, with the condition that everything be carried out as presented to this Board.
Motion carried, 3-0.

Case 1256 – David & Sarah Wolfe

The Wolfes are seeking approval to subdivide the property at 4030 Marietta Avenue. Columbia, into six lots. Also at the meeting was Jeffrey Shank, counsel for the applicants, and David Christian, RLA.

The applicants submitted a subdivision plan (Applicants' Exhibit 1) detailing the proposed subdivision.

Mr. Shank explained the Wolfes' proposal. Lots 1 through 4 will contain single-family residences (to be offered for sale) using a shared driveway. Lot 5 will be kept by the applicants and used as their residence. Lot 6 contains an existing residence and barn and will be kept by the applicants. Lots 2, 3 and 5 are flag lots.

The following individuals appeared at the hearing and were granted party status:

- Bill Mintzer, 4018 Marietta Avenue, Columbia
- Glen Murray, 4016 Marietta Avenue, Columbia
- Whitney Kauffman, 3948 Marietta Avenue, Columbia
- Alan Bair, 4000 Marietta Avenue, Columbia
- Edgar Royer, 3958 Marietta Avenue, Columbia
- Kris Roda, 3982 Marietta Avenue, Columbia
- Steve Steff, 3988 Marietta Avenue, Columbia

Motion: Daryl Peck moved, seconded by Tony Crocamo, to grant party status to these seven individuals. Motion carried, 3-0.

They asked questions of the applicants and Mr. Christian, and made public comments both in support of and against the applicants' request.

The Wolfes have also appeared before the West Hempfield Township Planning Commission and the Board of Supervisors who are supportive of the subdivision plan but have concerns about the three proposed driveways. They would like it limited to two driveways.

Motion: Daryl Peck moved, seconded by Tony Crocamo, to grant a variance to Section 302.3.B – Uses and Structures to allow for three lots (Lots 2, 3, 5) to have minimum lot widths of 25 feet at the street line, a variance from the 50-foot requirement. Motion carried, 3-0.

Motion: Daryl Peck moved, seconded by Tony Crocamo, to grant a variance of two lots to Section 707.2.B.1 –Access Drive and Driveway Design to allow a maximum of four lots to share a common or shared driveway, with the condition that a formal agreement be recorded. Motion carried, 3-0.

Motion: Daryl Peck moved, seconded by Tony Crocamo, to grant a one year extension to pull a permit, with a deadline of the November 2018 ZHB meeting date.

Case 1257 – Natalie Akimov

Natalie and Elena Akimov, 1725 Kinderhook Road, Columbia were sworn in to provide testimony. They are requesting a special exception to allow the addition of ECHO housing in a mobile home for their mother. In addition to the proposed ECHO mobile home, there are two old mobile homes on the property which they are planning to remove in the future.

Motion: Tony Crocamo moved, seconded by Daryl Peck, to approve the special exception to Section 301.2.B.10 – ECHO Housing to allow the addition of a single mobile home to serve as ECHO housing on the property at 1725 Kinderhook Road, with the condition that the applicant obtain all permits required by the Township, including a sewage certification from the Sewage Enforcement Officer. Motion carried, 3-0.

Motion: Tony Crocamo moved, seconded by Daryl Peck, to grant a variance of 64 square feet under section 702.9.A – Not to Exceed 1,000 Square Feet to allow the ECHO housing to be approximately 1,064 square feet. Motion carried, 3-0.

A copy of the decisions will be made a part of these minutes.

There being no further business to come before the Board, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,



Tony Crocamo
Secretary

BEFORE THE ZONING HEARING BOARD OF
WEST HEMPFIELD TOWNSHIP, LANCASTER COUNTY, PENNSYLVANIA

IN RE:	:	
	:	
APPLICATION OF	:	Case No. 1255
MARGARET ROGERS	:	
	:	
	:	

DECISION

A. FINDINGS OF FACT

1. Applicant in this application is Margaret Rogers with a mailing address of 258 Blossom Trail, Mount Joy, Pennsylvania 17552.
2. The property which is the subject of this Application is located at 2675 Hemlock Drive, Pennsylvania 17512 (herein after the “Property”).
3. The Property is located in the R-2 – Residential Zoning District as shown on the Official Zoning Map of the West Hempfield Township, Lancaster County, Pennsylvania. The Property is owned by Amy and Dennis Zahm, and is presently used for a residential dwelling.
4. Notice of the hearing on this Application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code (herein after “MPC”) and the Zoning Ordinance of West Hempfield Township (herein after “Zoning Ordinance”).
5. A Public hearing was held before the Zoning Hearing Board on May 9, 2017, at which time the record of testimony was closed.

6. The Applicant and Mrs. Amy L. Zahm – an owner of the Property and the Applicant’s daughter – appeared at the hearing without counsel and presented testimony in support of the Application.

7. Applicant is requesting special exception approval under Sections 303.2.B.6 of the Zoning Ordinance to allow for the addition of ECHO housing on the Property.

8. The ECHO housing is to be an addition onto the existing residence on the Property, will be approximately 962 square feet, and is needed to allow the Applicant to reside in close proximity to her daughter and family as she continues to rely more and more on their assistance.

9. No one appeared in opposition to the Application, or requested party status.

B. CONCLUSIONS OF LAW

The Zoning Hearing Board concludes that the Applicant has met her burden and demonstrated entitlement to special exception approval under Section 303.2.B.6 to allow for the addition of ECHO housing onto the Property. The Zoning Hearing Board concludes that the request for relief should be granted subject to the imposition of conditions.

C. DECISION


Based on the foregoing, the West Hempfield Township Zoning Hearing Board approves Applicant’s request for special exception approval under Section 303.2.B.6 to allow for the addition of ECHO housing onto the Property. This approval is conditioned on the following:

A. The ECHO housing on the Property shall comply with the requirements included in Section 702.9 of the Zoning Ordinance.

B. Applicant is bound by her testimony and evidence presented in the hearing.

C. Applicant shall obtain all necessary permits and approvals as required by applicable ordinances and regulations.

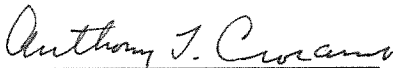
FOR THE ZONING HEARING BOARD OF WEST HEMPFIELD TOWNSHIP

By: 
Gary R. Lintner, Chair


Daryl S. Peck


Anthony T. Crocarno

Dated and filed June 21, 2017 after hearing on May 9, 2017. Notice of this Decision was mailed to all parties on June 22, 2017.


Anthony T. Crocarno, Secretary

BEFORE THE ZONING HEARING BOARD OF
WEST HEMPFIELD TOWNSHIP, LANCASTER COUNTY, PENNSYLVANIA

IN RE: :
 :
APPLICATION OF : Case No. 1253
JASON & APRIL RUHL :
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 :
 :

DECISION

A. FINDINGS OF FACT

1. Applicants in this application are Jason & April Ruhl, with a mailing address of 1752 Kinderhook Rd, Columbia, Pennsylvania 17512.
2. The property which is the subject of this Application is located at 1752 Kinderhook Rd, Columbia, Pennsylvania 17512 (hereinafter the “Property”).
3. The Property is located in the RA – Rural Agricultural Zoning District as shown on the Official Zoning Map of the West Hempfield Township, Lancaster County, Pennsylvania. The Property is presently used as a residential dwelling following the grant of special exception in Case 1175 allowing for the replacement of a mobile home by a single family residence.
4. Notice of the hearing on this Application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code (herein after “MPC”) and the Zoning Ordinance of West Hempfield Township (herein after “Zoning Ordinance”).

5. Public hearings were held before the Zoning Hearing Board on April 11, and May 9, 2017. The record of testimony was closed at the May 9, 2017 hearing.

6. Mr. and Mrs. Ruhl appeared at the hearings without counsel and presented testimony in support of their Application.

7. Applicants are requesting a variance under Sections 301.2.A and 804.3's use requirements to allow for the keeping of up to eight (8) dogs on the Property: three (3) dogs as pets that would reside at the Property, and up to five (5) additional dogs that would be brought to the Property during weekends and holidays.

8. No one appeared in opposition to this Application to request party status.

B. CONCLUSIONS OF LAW

The Zoning Hearing Board concludes that Applicants have met their burden and demonstrated entitlement to approval of a variance under Section 301.2.A to allow for the keeping of up to eight (8) dogs on the Property. The Zoning Hearing Board concludes that the request for relief should be granted subject to the imposition of conditions.

C. DECISION

Based on the foregoing, the West Hempfield Township Zoning Hearing Board approves Applicant's request for approval of a variance under Section 301.2.A to allow for the keeping of up to eight (8) dogs on the Property. This approval is conditioned on the following:


A. Applicants shall be limited to the keeping of a total of eight (8) dogs on the Property as follows: three (3) dogs may reside at the Property as the Applicants' pets, and up to an additional five (5) dogs may be kept on the Property during weekends and holidays only.

B. Applicants are bound by their testimony and evidence presented in the hearing.

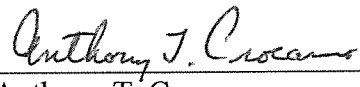
C. Applicants may not install a sign in connection with the housing of their dogs; and may not engage in commercial activity regarding the dogs including but not limited to breeding or selling the dogs on the Property.

D. Applicants shall obtain all necessary permits and approvals as required by applicable ordinances and regulations.

FOR THE ZONING HEARING BOARD OF WEST HEMPFIELD TOWNSHIP

By: 
Gary R. Lintner, Chair


Daryl S. Peck


Anthony T. Crocamo

Dated and filed June 21, 2017 after hearing on May 9, 2017. Notice of this Decision was mailed to all parties on June 22, 2017.


Anthony T. Crocamo, Secretary

BEFORE THE ZONING HEARING BOARD OF
WEST HEMPFIELD TOWNSHIP, LANCASTER COUNTY, PENNSYLVANIA

IN RE:	:	
	:	
APPLICATION OF	:	Case No. 1256
DAVID & SARAH WOLFE	:	
	:	
	:	
	:	

DECISION

A. FINDINGS OF FACT

1. Applicants in this application are David and Sarah Wolfe with a mailing address of 1525 Oregon Pike, Suite 2001, Lancaster, Pennsylvania 17601.

2. The property which is the subject of this Application consists of two parcels, tax id #'s 300-52085-00000 & 300-06704-00000, located south of Marietta Ave. between Prospect Rd. and Ironville Pike, and with a current mailing address of 4030 Marietta Ave., Columbia, Pennsylvania 17552 (hereinafter and collectively the "Property").

3. The Property is located in the R-1 – Residential District as shown on the Official Zoning Map of the West Hempfield Township, Lancaster County, Pennsylvania. The Property is owned by the Applicants.

4. Notice of the hearing on this Application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code (herein after "MPC") and the Zoning Ordinance of West Hempfield Township (herein after "Zoning Ordinance").

5. A Public hearing was held before the Zoning Hearing Board on May 9, 2017, at which time the record of testimony was closed.

6. Applicant David Wolfe appeared at the hearing with counsel Jeffrey Shank of Gingrich, Smith, Klingensmith & Dolan, and presented testimony in support of the Application both individually and through David Christian, RLA, ASLA.

7. Applicants are seeking approval to subdivide the Property into six (6) lots whereby four (4) of the six (6) lots will contain single-family residences utilizing a shared driveway and will be offered for sale, and the remaining two (2) lots will be kept by Applicants and utilized as the Applicants' residence. Identified by number, Lots 1 – 4 will be developed with single family residences and will be offered for sale. Lot 5 will be developed and utilized as the Applicants' residence. Lot 6 contains an existing residence and barn, and will be kept by the Applicants. Additionally, Lots 2, 3, and 5 as presented to the Board would be flag lots.

8. Applicants have requested: a variance under Sections 302.3.B to allow for the three (3) flag lots to have minimum lot widths of 25 feet at the street line; a variance under Section 707.2.B.1 to allow proposed Lots 1, 2, 3, and 4 to share a single driveway; and to extend the approval of any variances for an additional period of one year pursuant to Section 1005.4.G.

9. Applicants submitted a subdivision plan dated 2/23/17, DWG No. 16457-01 (admitted as "Applicants' 1") to the Board detailing their proposed subdivision.

10. The following individuals appeared at the hearing and were granted party status:

- Bill Mintzer, 4018 Marietta Ave., Columbia, PA;
- Glen Murray, 4016 Marietta Ave., Columbia, PA;
- Whitney Kauffman, 3948 Marietta Ave., Columbia, PA;
- Alan Bair, 4000 Marietta Ave., Columbia, PA;
- Edgar Royer, 3958 Marietta Ave., Columbia, PA;
- Kris Roda, 3982 Marietta Ave., Columbia, PA; and

- Steve Steff, 3988 Marietta Ave., Columbia, PA.

11. The individuals granted party status asked questions of the Applicant and Mr. Christian, and made public comments both in support of and against the Applicants' request.

12. Prior to the May 9, 2017 hearing, the Applicants appeared before the West Hempfield Planning Commission as well as the Board of Supervisors of West Hempfield Township and were informed that the Applicants' plan to subdivide the Property appears to be going very well. ("Applicants' 4"). Further, the Planning Commission and Board of Supervisors appeared to support limiting the number of proposed driveways for Applicants' plan from three to two.

13. The Applicants' proposed subdivision plan of creating six (6) lots on the Property is less than what could be allowed based on the total acreage of the Property, and takes into consideration the unique topographic features of the Property including its slope.

B. CONCLUSIONS OF LAW

Generally, in order to obtain a variance, the landowner bears the burden of proving that he suffers from an unnecessary hardship, which hardship is unique or peculiar to the property and is not self-imposed, and that if granted, the variance relief will not adversely affect the public health, safety and welfare. Valleyview Civic Ass'n v. Zoning Board of Adjustment, 462 A.2d 637, 640 (1983). A variance should only be granted where it is not contrary to the public interest and where the property involved is subject to an unnecessary hardship unique or peculiar to itself, as distinguished from one arising from the impact of the zoning regulations on the entire zoning district. Smolow v. Zoning Board of Adjustment, 137 A.2d 251, 252 (1958).

The Zoning Hearing Board concludes that the Applicants have met their burden and demonstrated entitlement to: a variance under 302.3.B to allow for the three (3) flag lots to have

minimum lot widths of 25 feet at the street line; and a variance under Section 707.2.B.1 to allow four (4) of the lots to share a single driveway. The variance from 302.3.B to allow for the three flag lots is necessary given the topography and layout of the Property, and a variance from 707.2.B.1 is necessary given the guidance from the West Hempfield Planning Commission and Board of Supervisors to limit the number of driveways utilized in this development. Neither variance is harmful to the health, safety and welfare of the neighborhood, and both proposed variances represent the minimum relief requested. The Applicants have also demonstrated good cause to extend the approval of the requested variances for an additional period. The Zoning Hearing Board concludes that the request for relief should be granted subject to the imposition of conditions.

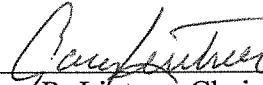
C. DECISION

Based on the foregoing, the West Hempfield Township Zoning Hearing Board approves Applicant's request for variances under Section 302.3.B to allow for the three (3) flag lots to have minimum lot widths of 25 feet at the street line; and a variance under Section 707.2.B.1 to allow four (4) of the lots to share a single driveway. This approval is conditioned on the following:

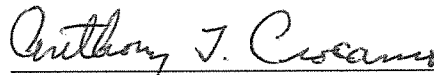
- A. Applicants are bound by their testimony and evidence presented in the hearing.
- B. Applicants shall record a written maintenance agreement with the Lancaster County Recorder of Deeds regarding the single driveway to be utilized by proposed Lots 1, 2, 3, and 4.
- C. Applicants shall obtain all necessary permits and approvals as required by applicable ordinances and regulations, including but not limited to the Township's Storm-Water Management Ordinance and the Township's Subdivision and Land Development Ordinance.

D. Applicants shall have until the Board's regularly scheduled November, 2018 meeting before the variances granted through this Decision would expire for failure to receive a zoning permit, or failure to begin any erection, construction, or alteration authorized by this Decision.

FOR THE ZONING HEARING BOARD OF WEST HEMPFIELD TOWNSHIP

By: 
Gary R. Lintner, Chair


Daryl S. Peck


Anthony T. Crocamo

Dated and filed June 21, 2017 after hearing on May 9, 2017. Notice of this Decision was mailed to all parties on June 22 2017.


Anthony T. Crocamo, Secretary

BEFORE THE ZONING HEARING BOARD OF
WEST HEMPFIELD TOWNSHIP, LANCASTER COUNTY, PENNSYLVANIA

IN RE: :
: :
APPLICATION OF : Case No. 1257
NATALIE AKIMOV :
: :
: :

DECISION

A. FINDINGS OF FACT

1. Applicant in this application is Natalie Akimov with a mailing address of 1725 Kinderhook Road, Columbia, Pennsylvania 17552.

2. The property which is the subject of this Application is located at 1725 Kinderhook Road, Columbia, Pennsylvania 17552 (herein after the “Property”).

3. The Property is located in the RA – Rural Agricultural District as shown on the Official Zoning Map of the West Hempfield Township, Lancaster County, Pennsylvania. The Property is owned by Elena and Natalie Akimov and is presently used for a single-family residential dwelling.

4. Notice of the hearing on this Application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code (herein after “MPC”) and the Zoning Ordinance of West Hempfield Township (herein after “Zoning Ordinance”).

5. A Public hearing was held before the Zoning Hearing Board on May 9, 2017, at which time the record of testimony was closed.

6. The Applicant appeared at the hearing without counsel and presented testimony in support of the Application.

7. Applicant is requesting special exception approval under Sections 301.2.B.10 of the Zoning Ordinance to allow for the addition of ECHO housing on the Property as well as a variance of 64 square feet from the dimension requirements included in Section 702.9.A.

8. The ECHO housing is to be a single detached mobile home on the Property, will be approximately 1064 square feet, and is needed to allow the Applicant's elderly mother to reside in close proximity to the Applicant.

9. No one appeared in opposition to the Application, or requested party status.

B. CONCLUSIONS OF LAW

The Zoning Hearing Board concludes that the Applicant has met her burden and demonstrated entitlement to special exception approval under Section 301.2.B.10 to allow for the addition of a single mobile home to serve as ECHO housing on the Property, and a dimensional variance of 64 square feet under Section 702.9.A. The Zoning Hearing Board concludes that the request for relief should be granted subject to the imposition of conditions.

C. DECISION


Based on the foregoing, the West Hempfield Township Zoning Hearing Board approves Applicant's request for special exception approval under Section 301.2.B.10 to allow for the addition of ECHO housing onto the Property, and a dimensional variance of 64 square feet under Section 702.9.A to allow the ECHO housing unit to be approximately 1,064 square feet. This approval is conditioned on the following:


A. The single ECHO housing on the Property shall comply with the requirements included in Section 702.9 of the Zoning Ordinance, except as to the dimensional variance allowing for the ECHO housing to be approximately 1,064 square feet.

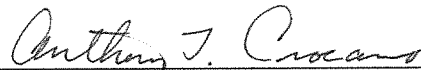
B. Applicant is bound by her testimony and evidence presented in the hearing.

C. Applicant shall obtain all necessary permits and approvals as required by applicable ordinances and regulations.

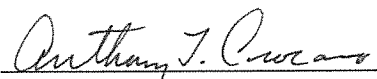
FOR THE ZONING HEARING BOARD OF WEST HEMPFIELD TOWNSHIP

By: 
Gary R. Lintner, Chair


Daryl S. Peck


Anthony T. Crocamo

Dated and filed June 21, 2017 after hearing on May 9, 2017. Notice of this Decision was mailed to all parties on June 22, 2017.


Anthony T. Crocamo, Secretary