

**WEST HEMPFIELD TOWNSHIP
ZONING HEARING BOARD
September 12, 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, September 12, 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 Bernadette Hohenadel, Solicitor for the Board; Jeremy Smith of Rettew Associates; Rhonda Adams, Court Reporter, and Zoning Officer Jodi Heffner.

Approval of Minutes

Motion: Daryl Peck moved, seconded by Tony Crocamo, to approve the minutes for the meeting held July 18, 2017 as amended. Motion carried, 3-0. There was no Zoning Hearing Board meeting in August.

Case 1262 – Rodney Frey/RHouse516, LLC (continued)

Applicant Rodney Frey/RHouse516, LLC, 4695 Marietta Avenue, is seeking a variance to these Township Zoning Ordinances: Section 611.2.f.2 – Prohibited Structure in the Floodplain District; Section 611.2.f.7 – Prohibited On-Site Sewage Disposal System in the Floodplain District; Section 609.1 and 1005.4.G – Extension of Time to Obtain a Permit.

Attorney Sheila O'Rourke of Gibbel, Kraybill & Hess, 2933 Lititz Pike, Lancaster, was present on behalf of Rodney Frey. Keith Heigel of Light-Heigel and Associates, 930 Red Rose Court, Lancaster, PA 17601 and Rodney Frey of 985 Pinetree Way, Lancaster, PA 17601 were sworn in as witnesses to provide testimony.

Applicant provided Exhibit 1 – Aerial photograph of the property; Exhibit 2 – Photographs of the property at 4695 Marietta Avenue; Exhibit 3 – Pennsylvania Department of Environmental Protection Permit for installation of on-lot sewer system; Exhibit 4 – Letter from Columbia Water Company; Exhibit 5 – Current CV of Keith Heigel; Exhibit 6 – Map of property showing floodplain and floodway elevations, and Exhibit 7 – Sketch plan of the property.

Ms. O'Rourke explained the unique characteristics of the property at 4695 Marietta Ave, Columbia, PA 17512 and why it presents hardships. The property is approximately 2.48 acres and is an irregular, long and narrow shape extending back from the street right-of-way. The western border is the Chiques Creek, and the eastern border contains cliffs, steep slopes and woody vegetation, making it unsuitable for a dwelling. Ninety percent of the property is located within the 100-year floodplain and approximately one-third of the property is in the floodway. Applicant is seeking permission to construct a residential dwelling on the property that would be located outside of the floodway but within the floodplain. At the present time there is no one living on or utilizing the property.

Mr. Frey was called to testify about the property, located in the Rural Agricultural District. Applicant presented Exhibit A, an aerial view of 4695 Marietta Avenue, and described the hardships as pointed out above. Ms. O'Rourke discussed the July 10, 2012 ZHB decision which granted a special exception to allow the replacement of a non-conforming structure in the flood zone at 4695 Marietta Avenue.

The Applicant seeks to build a 1,500 square foot structure on the property at the site of which is smaller

than the dwelling that was previously approved in July 2012. Applicant has obtained a permit for the installation of an On-Lot Sewage Disposal System from PA DEP. The septic disposal would be an elevated sand mound system. Columbia Water Company has acknowledged that it can provide service to the property. Upon obtaining zoning approval, Mr. Frey intends to secure a buyer for the property and the buyer would use the zoning approval to build a residence. The applicant is also asking for an extension of time to pull the permit.

Mr. Heigel, a licensed surveyor and sewage enforcement officer in Pennsylvania, explained the difference between a floodway, a floodplain, and the flood fringe (located between the two). The location proposed for the dwelling is outside the floodway, is in front of the existing garage on the property, is on the highest possible level elevation on the property, and meets all setback and right-of-way requirements. The elevation of the lowest floor will be constructed at 274 feet, above the base flood elevation of 272.4 feet. The lowest floor as defined in the Zoning Ordinance is “the lowest floor of the lowest fully enclosed area, including any basement.” An unfinished flood-resistant partially enclosed area used solely for the parking of vehicles, building access and/or incidental storage is not considered the lowest floor of a building. The space below the lowest floor will be a partially enclosed area that could be used for parking, building access or incidental storage. Mr. Heigel confirmed that the garage space could be designed and constructed to permit the automatic entry and exit of flood waters, and that the proposed dwelling will meet all design and construction standards of the Zoning Ordinance. He explained the mechanics of flood pass-through construction which is placed around the entire structure just above ground level to achieve equilibrium of hydrostatic forces between the inside and outside.

In response to Mr. Lintner’s question about the sand mound septic system and tanks, Mr. Heigel explained the septic tank could be placed at the elevated area and 10 feet away from the house with a gravity flow to the pump tank and the sand mound just below that.

Mr. Heigel explained that everything he has testified to refers to a proposed building. If the ZHB grants the variances, all regulatory information will be included in the material presented to potential buyers of the property. When the property is sold, the buyer will have to comply with all conditions as determined by the Board and the Zoning Officer.

Ms. Hohenadel explained that the Board, if it grants the variance, is determining that a single family dwelling *can* be built in this area. Then, in order to construct the single family dwelling because it is in a flood zone, the buyer would have to meet all the criteria of the ordinance for the actual design and construction. The request tonight is simply a variance to allow the construction of a single family dwelling in the floodplain in accordance with the criteria set forth in the ordinance.

Mr. Smith, senior engineer at Rettew Associates, read for the record the information contained in a letter from Rettew dated September 7, 2017. One item of note is that the applicant will need to confirm that the proposed construction will not be a manufactured home, as additional provisions would apply in accordance with Section 620 – Special Requirements for Manufactured Homes.

In conclusion Ms. O’Rourke stated that the proposed variance has met all the criteria as established in the Zoning Ordinance. The applicant has selected the best possible location for a dwelling in that it is at the highest buildable elevation on the property. This case is a true hardship because the property cannot be used for residential or business purposes without zoning relief from the Board.

Motion: Daryl Peck moved, seconded by Tony Crocamo, to accept Applicant's Exhibits 1 through 7.
Motion carried, 3-0.

Motion: Daryl Peck moved, seconded by Tony Crocamo, to continue Case 1262 to the October 10, 2017
Zoning Hearing Board meeting and that testimony and court record remain open. Motion carried, 3-0.

There being no further business to come before the Board, the meeting was adjourned at 8:56 p.m.

Respectfully submitted,



Tony Crocamo
Secretary