

WEST HEMPFIELD TOWNSHIP ZONING HEARING BOARD MEETING
Minutes of December 10, 2019

The regularly scheduled meeting of the Zoning Hearing Board was held at the West Hempfield Township Municipal Building, 3476 Marietta Avenue, Lancaster PA on December 10, 2019. Board members Gary Lintner, Daryl Peck and Carl Manelius were present. Also in attendance were Bernadette Hohenadal, Zoning Hearing Board Solicitor; Dwayne Steager, Zoning Officer; Maria McDonald, Assistant Zoning Officer, and Rhonda Adams, Court Reporter and Andrew Stern, Township Manager.

Call to Order

The meeting was called to order by Gary Lintner at 7:30 p.m.

Approval of Minutes – November 12, 2019

- **Motion** was made by Daryl Peck and seconded by Carl Manelius to *approve* the minutes as presented for the meeting held November 12, 2019. Motion carried (3-0).

Case 1290 - continued

Applicant: Nicole McClucas (*60 day 12/23/19*)
Owner: Elmer J. Stoltzfus
Description: Request for Special Exception for Dog Kennel
Location: 4347 Marietta Avenue, Columbia PA
Zone: RA 17.4 acres/ 757,944 sq. ft.

The applicant Nicole McClucas and her husband Matthew McClucas of 1258 Habecker Road, Columbia PA are requesting a special exception to operate a dog day care facility on the property at 4347 Marietta Avenue, Columbia PA, owned by Elmer J. Stoltzfus. A court stenographer was present to record the testimony and all exhibits submitted and discussed were entered into the record. The applicant's handouts contained information about obtaining a kennel license and was entered into the record as Exhibit A-2. Exhibit A-3 is a revised plot plan.

After discussion, possible conditions were suggested that the board might consider for the proposed dog kennel: 1) LASA agreement for public sewer service; 2) sixty (60) dogs maximum capacity; 3) adequate parking; 4) hours of operation 6 a.m. to 6 p.m. for boarding and no later than 9 p.m. for training; 5) no overnight boarding 6) no breeding and 7) Limit of 2-3 employees.

- **Motion** was made by Mr. Peck and seconded by Mr. Lintner to *close* the record on Case 1290, to take the case under advisement and to *issue* a decision at the next Zoning Hearing Board meeting. The motion passed (3-0).

Case 1291

Applicant: Paul V. Snyder Jr. and Lindia J. Snyder (*60 day 12/30/2019*)
Owner: Paul V. Snyder Jr. and Lindia J. Snyder
Description: Appeal from Decision of the Zoning Officer/Interpretation of Zoning Ordinance and/or Request for a Variance in Side Yard Setback
Location: 2772 Stevens Summit Drive, Columbia PA 17512
Zone: R-1 0.51 acres/22,216 sq.ft.

Appeal of Violation

The applicants Lindia J. and Paul V. Snyder, Jr. are appealing the decision of the Zoning Officer regarding a Cease and Desist Order for the new deck on the house. Paul V. Snyder III (son of the applicants) of 2762 Stevens Summit Drive was present as a witness. Also present for the applicants was Attorney Julie Slabinski of Gibbel Kraybill & Hess. Jason Hess of Morgan, Hallgren, Crosswell & Kane was present to represent the Township in the violation portion of the hearing.

Solicitor Hohenadel opened the hearing and explained the purpose and procedures pertaining thereto. A court stenographer was present to record testimony, exhibits were entered into the record, and the stenographic transcript will be the official record of the Hearing.

- **Motion** was made by Mr. Peck and seconded by Mr. Manelius to *grant* party status to Mitchell A. Kopp, 2774 Stevens Summit Drive, Columbia, PA, an adjacent neighbor of the applicants. The motion passed (3-0).

At issue are the new deck dimensions which are larger in width by 2 feet and length by 3 feet than the old deck. The zoning permit application does not contain information about the new deck design being larger than the old deck. Mr. Snyder III confirmed that the measurements in question were based on an aerial photo and GIS information, not from a professional surveyor. A survey of the property lines was done later at the expense of his neighbor Mr. Kopp.

Ms. Slabinski pointed out that her clients acted with due diligence and with no intent to misrepresent the deck. The new deck is much safer and better looking than the old deck, whose age is unknown. Mr. Snyder III gave his account of obtaining the permit and his recollection of interactions he had with Township zoning staff. The increased size of the new deck and the addition of steps were not mentioned at this time.

Maria McDonald, Assistant Zoning Officer, affirmed her conversations with Mr. Snyder III in August in which she asked Mr. Snyder III if the new deck was the same size as the old deck and did it meet the side yard setback requirements. Zoning Officer Dwayne Steager measured the distances using the newly installed property pins and found that the new deck was encroaching further into the setback, in violation of Township Zoning Ordinance Section 705.4 – Expansion of Dimensionally Nonconforming Dwellings. The Cease and Desist Order was then sent to the property owners. A Certificate of Occupancy has not been issued for the new deck and it cannot be occupied at the present time. There is also a violation of Zoning Ordinance Section 302.4.B.1 – R-1 District Setback Regulations Side Yard

Mr. Hess said the Applicant's circumstances do not warrant a dismissal of the Cease and Desist Order and asked that the Board uphold the Order. Ms. Slabinski stated the Applicants acted in good faith and with due diligence and have a vested right to appeal. The new deck is more aesthetically pleasing and safer than the old deck and it does not have an adverse effect on the neighboring properties. She asked the Board to sustain the Appeal.

Mitchell Kopp had the property professionally surveyed in August 2019 before the deck was constructed. This is when he learned about the setback violation. He notified Mr. Snyder III about this issue and Mr. Snyder said he would contact the Township. When Mr. Kopp returned home after a weekend away, the deck had been built.

Solicitor Hohenadal closed the record of testimony for the appeal and explained to the Board what their options were.

- **Motion** was made by Mr. Lintner and seconded by Mr. Manelius to *sustain* the Zoning Officer's issuance of a Cease and Desist Order. The motion passed (3-0).

Request for Variance

- **Motion** was made by Mr. Peck and seconded by Mr. Manelius to *grant* party status to Mitchell A. Kopp, 2774 Stevens Summit Drive, Columbia, PA, an adjacent neighbor to the applicants. The motion passed (3-0).

Attorney Slabinski presented the Applicant's request for a variance from Section 705.4 – Expansion of Dimensionally Nonconforming Dwellings which prohibits expanding a non-conforming use, and Section 302.4.B.1 – Setback Regulations Side Yard. She established that the house was built in 1979 and is in the R-1 district. It is in a subdivision where homes were built relatively close to the adjacent property, and this house is situated diagonally on a steep hill to take advantage of the view. A GIS photograph showed the old deck on the house. It is the back of the new deck that is now closer to the adjacent property. Three photographs show the house with the old deck, the condition of the deck at time of purchase, and the new deck. Stairs have been added to the new deck by mandate from the homeowner's insurance company. The stairs have a landing which faces the Snyder property. The driveway between the houses is visible from the new deck but was also visible from the old deck. The \$9,000 deck project has no adverse effect on the development neighborhood.

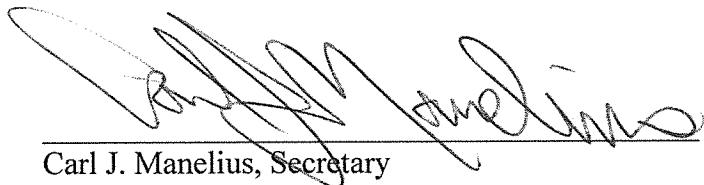
The Snyders have agreed with Mr. Kopp to plant arborvitae on the hill to help obstruct the view to the Kopp property. Eleven feet of the new deck are within the setback zone (2 more feet than the old deck). The applicants indicated they will consider removing the corner of the deck that is expanding the non-conformity into the setback provided they do not have to change the design of the stairs. Solicitor Hohenadal asked that exact measurements be taken to establish the pre-existing condition and the present condition. The Board will then look over the new information and decide what the next course of action is for the Snyders. Exhibits submitted include Twp. 1, Twp. 2, Applicants 1 and Party with status K 1 and K 2.

- **Motion** was made by Mr. Peck and seconded by Mr. Manelius to *allow* the record to remain open on Case 1291 until the next Zoning Hearing Board meeting. The motion passed (3-0).

There being no further business before the Board,

- **Motion** was made by Mr. Peck and seconded by Mr. Manelius to adjourn the meeting at 11:10 p.m. The motion passed (3-0).

Respectfully submitted,



Carl J. Manelius, Secretary