

WEST HEMPFIELD TOWNSHIP ZONING HEARING BOARD
Meeting of November 10, 2020

The West Hempfield Township Zoning Hearing Board met in the meeting room of the West Hempfield Township Municipal Building at 3476 Marietta Avenue, Lancaster, PA, and remotely via Zoom videoconference. Board members Gary Lintner, Ciro Gambone and Daryl Peck attended in person. Also attending in person were Zoning Officer Dwayne Steager; Township Manager Andrew Stern; Attorneys Julie Miller and Bernadette Hohenadel and Court Reporter Rhonda Adams. Board Members David Lounsbury and Carl Manelius, and Recording Secretary Judy Carrier attended remotely via Zoom.

Call to Order

Chairman Gary Lintner called the meeting to order at 7:30 p.m.

Announcements

Attorney Julie Miller was present substituting for Solicitor Bernadette Hohenadel who was not able to be present to handle Continued Case 1306. Attorney Miller will also be working with the Board on the second Case (1309) and confirmed continuity of advertising with Zoning Officer Dwayne Steager. Solicitor Hohenadel will be present for the last three cases (1307, 1308 and 1310).

Approval of Minutes – October 13, 2020

Motion was made by Daryl Peck and seconded by Ciro Gambone to *approve* the minutes for the meeting held October 13, 2020 as presented. The motion carried unanimously (5-0).

Case 1306 **Continued and amended**

Applicant: Archduke Investments LLC
Owner: Joseph Pennino
Description: Request for a Special Exception Substitution of nonconforming use
 Section 705.2.C and variances to Section 303.2 and 303.3 permitted uses
 and lot size for a residential unit
Location: 4220 Fairview Road, Columbia
Zone: R-2 - .17 acres/7,405 ft²

Chairman Lintner opened the Hearing at 7:35 p.m., and explained the purpose and procedures applying to the Continuation of the Hearing for Archduke Investments LLC held October 13, 2020. Zoning Officer Dwayne Steager was sworn in and attested to properly meeting all publication requirements. A court stenographer was present to record testimony, and the stenographic transcript will be the official record of the Hearing.

Christopher Sarno, Esq., Clymer, Musser & Sarno, briefly reviewed the previous presentation and testimony from October 13, 2020. He then addressed the Board's request for additional information pertaining to parking spaces, the non-conforming use of the bar and eatery, apartment and lot size. Copies of Attorney Sarno's presentation and the applicant's detailed photographs were provided to the Board. Zoning Officer Dwayne Steager confirmed that all exhibits were marked and entered into the record. No persons granted party status at the October

13, 2020 Hearing wished provide testimony at tonight's Hearing and there were no others requesting party status.

Andrew Stern, Township Manager, was asked for Township Advice. He stated he supported the food truck enterprise as specified; however, he had concerns with the residence being occupied by a tenant. He also had concerns regarding the café/bar. After extended discussion and a determination by the applicant not to request another continuance but, rather, expressing the desire that the Board arrive at a decision at tonight's meeting, testimony was closed and the following actions were taken:

Motion was made by David Lounsbury to *deny* Archduke Investments LLC Request for Special Exception Substitution of nonconforming use Section 705.2.C and variances to Section 303.2 and 303.3 permitted uses and lot size for a residential unit. *There was no second to the motion and the motion died.*

Motion was made by Daryl Peck and seconded by Ciro Gambone to *grant* Food Truck Enterprise as Special Exception Substitution of nonconforming use Section 705.2.C, for Archduke Investments LLC at 4220 Fairview Road, Columbia, with the limitation there be no more than two trucks in the Enterprise. The motion unanimously passed (5-0).

Motion was made by Daryl Peck and seconded by Ciro Gambone to *deny* Special Exception Substitution of nonconforming use Section 705.2.C substitution of Café for Bar within the establishment at 4220 Fairview Road, Columbia. The motion unanimously passed (5-0).

Motion was made by Daryl Peck and seconded by Carl Manelius to *grant* Use Variance 303.2 to allow the apartment on the second floor of the establishment at 4220 Fairview Road, Columbia, as accessory and incidental to the food truck preparation use on the first floor, with the condition that the apartment be proprietor-occupied only. The motion unanimously passed (5-0).

Motion was made by Daryl Peck and seconded by Ciro Gambone to *grant* a Variance of 23,600 sq. ft. per Section 303.3.A.6 for the required minimum lot size for 4220 Fairview Road, Columbia. Applicant must comply with all building code requirements in relation to a facility operating in the same place as a residence. The motion unanimously passed (5-0).

On closing, Chairman Lintner assured the Applicants they have the option to come back to the Zoning Hearing Board with more detailed parking information pertaining to the request for approval to open up the eatery.

The Hearing of Case 1306 Archduke Investments LLC was closed at 8:30 p.m.

Case 1309

Applicant: Saint Anne's Retirement Community
Owner: Adorers of the Blood of Christ US Region
Description: Request for Variance Sections 201.2, 301.2A and an extension of time Section 1005.4.G an off-site small solar facility
Location: 3952 & 3950 Columbia Ave., Columbia
Zone: R-3 – 42.75 acres/1,862,190 ft²
RA - 76.8 acres/3,345,408 ft²

Chairman Lintner opened the Hearing at 8:35 p.m. and explained the purpose and procedures pertaining to the Hearing. Present on behalf of the applicant were Sister Janet McCann, Saint Anne's; Steve Riley, St. Anne's Board Chairman; and Doug Neidich, GreenWorks Development. Jason Ward, Rettew Associates, was unanimously approved (5-0) as Expert Witness in the field of solar energy by motion of Daryl Peck, seconded by Ciro Gambone. Dwayne Steager attested to meeting all publication requirements. All persons giving testimony were sworn in. A court stenographer was present to record testimony, and the stenographic transcript will be the official record of the Hearing.

Saint Anne's and the Adorers desire to install a solar energy system that would serve only the Saint Anne's Property. There is insufficient room on the Saint Anne's property for the necessary solar collector panels and related equipment and the Adorers proposes to lease approximately six acres of the Adorers property to Saint Anne's for this purpose. A plan depicting the proposed leased area was submitted with the application and entered into the record. Caroline Hoffer, Esq., Barley Snyder, reviewed the Plan and solar system, then moved into testimony by Sister McCann, Jason Ward and Steve Riley. Attorney Hoffer closed testimony with the request that the variances and extension of time to commence and complete construction be granted by the West Hempfield Township Zoning Hearing Board. There was no public comment. The following actions were then taken:

Motion was made by Daryl Peck, and seconded by David Lounsbury to *grant* Variance Sections 201.2, 301.2A to allow the solar array to be on the property of 3950 Columbia Avenue to serve the property at 3952 Columbia Avenue. The motion unanimously passed (5-0).

Motion was made by Daryl Peck, and seconded by Ciro Gambone to *grant* an extension of time Section 1005.4.G an off-site small solar facility to commence and complete construction, with a deadline being the November 2022 Regular Zoning Hearing Board meeting. The motion unanimously passed (5-0).

The Hearing of Case 1309 Saint Anne's Retirement Community Owner: Adorers of the Blood of Christ US Region was closed at 9:11 p.m.

Case 1307

Applicant: Kamal Kafley and Dadi Kafley
Owner: 306 Primrose Lane LLC
Description: Request for a Special Exception Use not provided for Section 101.7 for a Commercial Adult Daycare
Location: 306 Primrose Lane, Mountville
Zone: C-1 - 1.1 acres/47,916 ft²

Chairman Lintner opened the Hearing at 9:12 p.m. Solicitor Bernadette Hohenadel explained the purpose and procedures applying to the Hearing. Kamal Kafley, Equitable Owner of 306 Primrose Lane LLC, was present to explore the possibility of establishing a community-based adult daycare center at property located at 306 Primrose Lane, Mountville. Dwayne Steager

confirmed that the Hearing was properly advertised and all exhibits were marked and entered into the record. Mr. Kafley was sworn in to present his case. A court stenographer was present

to record testimony, and the stenographic transcript will be the official record of the Hearing. There were no comments or questions from the audience after Mr. Kafley's presentation and discussion with the Board and testimony was closed. The following action was then taken :

Motion was made by Ciro Gambone and seconded by Carl Manelius to *grant* a Special Exception for Use not provided for Section 101.7 for a Commercial Adult Daycare facility at 306 Primrose Lane, Mountville. The motion unanimously passed (5-0).

The Hearing of Case 1307 Kamal Kafley and Dadi Kafley, 306 Primrose Lane, Mountville, was closed at 9:29 p.m.

Case 1308

Applicant: Rob and Colleen Murphy
Owner: Same
Description: Request for a Variance to Section 701.8 or in the alternative a Variance to Section 301.4 for a Second Principal Structure on a non-subdividable lot
Location: 490 Norwood Road, Columbia
Zone: RA – 11.9 acres/518,364 ft²

Chairman Lintner opened the Hearing at 9:30 p.m. A request has been received to *continue* the Hearing and *table* any action on the application until December. The Board unanimously concurred and the Hearing was continued at 9:33 p.m., with testimony left open and action tabled until the Zoning Hearing Board Regular meeting on December 8, 2020.

Case 1310

Applicant: Hess Home Builders Inc.
Owner: Steven W. and Suzette M. Misel
Description: Request for a Variance Section 303.3.A.1 for residential lot size and no public water
Location: 520 Betty Lane, Columbia
Zone: R2 – .55 acres/23,958 ft²

Chairman Lintner opened the Hearing at 9:34 p.m. William Swarnick, David Miller/Associates was sworn in to present the variance request on behalf of Hess Home Builders, Inc., Equitable Owner (per executed agreement of sale) of a vacant single family lot at 520 Betty Lane, Columbia. A plot plan of the property was submitted with the Application. Dwayne Steager confirmed that the Hearing was properly advertised and all exhibits were marked and entered into the record. A court stenographer was present to record testimony, and the stenographic transcript will be the official record of the Hearing

The property at 520 Betty Lane is a vacant single family lot that consists of 24,083 square feet and has access to public sewer. It was a conforming use prior to West Hempfield adoption of its current zoning Ordinance that has rendered the lot unbuildable and created a hardship for the

Owners (who currently live in Florida). After Mr. Swarnick's testimony and Board discussion, there was no public comment and the following action was taken:

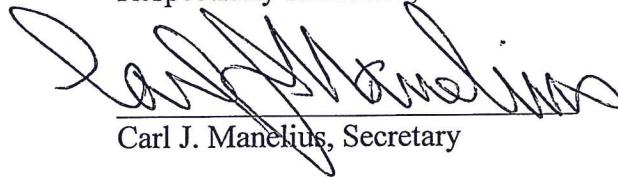
Motion was made by Daryl Peck, second by Ciro Gamboni to *grant* Variance Section 303.3A.1 for a residential lot at 520 Betty Lane, Columbia, that is under the minimum size and without public water, to allow construction of a single family dwelling. The motion unanimously passed (5-0).

The Hearing of Case 1310 Hess Home Builders, Inc. 520 Betty Lane, Columbia, was closed at 9:43 p.m.

Adjournment

There being no further business to come before the Board, Chairman Lintner *adjourned* the meeting at 9:44 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl J. Manelius", written over a horizontal line.

Carl J. Manelius, Secretary