

**WEST HEMPFIELD TOWNSHIP ZONING HEARING BOARD**  
**3401 MARIETTA AVENUE**  
**LANCASTER, PA 17601**  
**August 11, 2015**

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, August 11, 2015. Gary Lintner, Chairman, called the meeting to order at 7:30 P.M. Board members Daryl Peck and Tony Crocamo were also present, along with Matthew J. Creme, Solicitor; Lisa Miller, Court Reporter; Jodi Heffner, Zoning Officer; and Marsha Beamenderfer, Recording Secretary.

Matthew Creme stated that the Board was in a brief executive session prior to this meeting to consult with the Solicitor about the case at hand.

Also present at the meeting was Ironville Boy Scout Troop 281, who are earning their communication merit badges by attending a Township meeting.

**Approval of Minutes**

Motion: Tony Crocamo moved, seconded by Daryl Peck, to approve the minutes as amended of the meeting held July 14, 2015. Carried 3-0.

**Case 1212 – Jana Filling (continuation)**

Matthew Creme stated that a Memorandum of Law on behalf of the Township has been made part of the Township file on this matter and a copy has been given to the applicant, Ms. Filling.

Mr. Lintner stated that the Township had some differences of opinion in terms of what was being asked for and what was needed. The testimony remained open from last meeting in order to discuss the Memorandum of Law.

Matthew Creme questioned Ms. Filling if she understood what the Solicitor had written to the Board. She stated that she wants to have a tree service at the property, that it is low impact, that it is located back off the road, and it does not impact any residential community. She said all she needs is approval of a variance. Mr. Creme said that was what the Memorandum states. In order to do what she proposes to do and what she described in the testimony at the last session requires a variance from the Board. However, that was not what was requested on her application. Ms. Filling has requested a Special Exception to allow a contractor's office on the property.

Mr. Creme said Ms. Filling was requesting that the Board allow her to do her accounting in that office. Mr. Creme stated that in her testimony last month, she also included the parking of equipment and vehicles at the property. Mr. Creme stated that the Solicitor's memorandum addresses that aspect of what she was requesting – the parking of vehicles and storing of tree branches temporarily, which is not an office use. A contractor yard is a separate use permitted in the Industrial District. By requesting an office use, Ms. Filling has not made a request for a contractor's yard use.

Mr. Creme also asked Ms. Filling whether she wanted to consult legal counsel because what she requested was not as described and what was described was not legally advertised for consideration by the Board.

Mr. Lintner made the point that if the Board were to take action on the case in the way it was presented and if they were to approve it, someone might take exception. The case was advertised as an administrative office use and if people see equipment parked there, then it is not hand-in-hand with the zoning ordinance. People could challenge that and there would be no basis to defend it.

Mr. Lintner told Ms. Filling that she has a choice to make: either withdraw this particular application, or ask the Board to continue it. She then would be able to consult with her legal counsel to see if the application could be changed or amended in some way that is defensible in the future.

Ms. Filling stated that the office would be where she did her accounting. Mr. Crocamo stated that the office is not the issue. The application was for an office; however, in her testimony she talked about the need to park equipment temporarily. Her main goal was not advertised for the meeting and was not addressed on the application itself.

Mr. Lintner stated that if Ms. Filling chose not to park her equipment at the property and parked it somewhere else, then it would be acceptable to request to have an office there. Ms. Filling said she has nowhere else to park the equipment. Mr. Creme stated that parking the equipment or storing any business materials at the property does not fit in with what she has applied for in the C-2 district, and it is the parking of equipment that requires approvals, not the administrative office use.

Ms. Filling then stated that she was asking for a variance to do that. Mr. Creme stated that she did not ask for a variance in this application. Instead she asked for a contractor's office use, but then described what she wanted to do and the Board stated that it was not an office. The Solicitor of the Township was then consulted and said that it was not an office use but more like a contractor yard use, which is not permitted in the C-2 District, but is permitted in the I-1 or I-2 District.

Mr. Creme explained to Ms. Filling that the application before the Board is not for a variance for the parking of the vehicles and equipment. She requested permission to have an office. Mr. Creme stated that if Ms. Filling wants the Board to consider granting a variance, then she will need to apply for a variance for a contractor's yard use to permit the parking of vehicles and equipment. This request for a variance has to be properly advertised in order to come before the Board. Otherwise, any action the Board takes is at risk and could be overturned by the courts if a neighbor should complain.

Mr. Lintner told Ms. Filling that she has to make a decision as to what she would like to do. She can consult an attorney of her own if she would like to amend the application, which as previously stated was not in her best interest. The other option is for the Board to continue the

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case until next month if she chooses to move forward. Ms. Filling decided to continue this case until the September 8, 2015 meeting.

Motion: Daryl Peck moved, seconded by Tony Crocamo, to continue Case 1212 to the September 8, 2015 meeting for further consideration and it will be the first item on the agenda. Carried 3-0.

There being no further business to come before the Board, the meeting was adjourned at 8:00 P.M.

Respectfully submitted,

 , Vice Chairman for:

Tony Crocamo, Secretary