

**WEST HEMPFIELD TOWNSHIP ZONING HEARING BOARD**  
**3401 MARIETTA AVENUE**  
**LANCASTER, PA 17601**  
**September 13, 2016**

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 13, 2016. 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; Rhonda Adams, Court Reporter; Jodi Heffner, Zoning Officer; and Marsha Beamenderfer, Recording Secretary.

**Approval of Minutes**

Motion: Daryl Peck moved, seconded by Tony Crocamo, to approve the minutes of the meeting held August 9, 2016. Carried 3-0.

**Case 1234–Jason Strange-continued**

Jason Strange's testimony remained open from the August 9, 2016 meeting and he is still under oath. Mr. Lintner stated that the Board requested that Mr. Strange get more information in terms of dimensional data. Mr. Strange stated that he thought the Board wanted measurements from both the post and the corner of the house to the center of the road. Mr. Strange provided this and was then told that the Board also wanted from the corner of the deck itself. Mr. Strange provided these from Steven Black, a surveyor for ELA Group. Mr. Lintner stated that the Zoning Ordinance references everything off of either the center of road or the edge of the right-of-way. Nothing is ever referenced off the edge of paving because paving does not follow a legal description and that can vary.

Mr. Creme stated that with the property situated at the point of two streets, there are two front yards. The depth of the front yard shall be measured between the front line of the building or structure and the street right-of-way line, and the required setback line is from the street right-of-way or the street center line. Mr. Lintner stated that he did not know how the Board could take any official action on this case when they do not have any numbers that are going to reference what the Zoning Ordinance requires them to go by. Mr. Creme stated that this is one of those properties where the property boundary goes into the right of way of PennDOT which has an easement and does not own the fee of the right-of-way. An easement for highway purposes is considered the next thing to absolute fee ownership of the land. Mr. Creme stated to Mr. Strange that if the Board is planning to continue this case for Mr. Black, he should contact him and Mr. Creme will let him know what measurements are needed. The property survey map that was presented by Mr. Black was entered into the case as applicant's Exhibit #1.

Mr. Lintner asked the other Board members if they could go into an executive session to be able to consult with counsel. Mr. Creme stated that the Board is permitted to do that. When the Board returned to the meeting room, Mr. Creme stated that after an executive session they are back on the record and during that session no deliberating was done and no decision was made.

Mr. Lintner stated that he felt the need to continue this case until the October 11, 2016 meeting because the Board would like to have the exact measurements from either the center line of the road, the center line of the right-of-way or the edge of the right-of-way. Mr. Lintner stated that they also need three measurements, one from the corner of the existing house, one from the new support post and the last from the furthest corner of the deck itself. Mr. Strange stated that he can get these from his surveyor and he will have Mr. Black contact Mr. Creme so the right measurements are provided to the Board.

Mr. Creme proceeded to say that this Board, to his knowledge, has never permitted a variance that resulted in a new part of a structure being any closer to the road than the existing structure which is already in the setback. Mr. Strange questioned the Board that if it is an issue could he adjust the post and put the railing back on. Mr. Creme stated he would have the opportunity to demonstrate this to the Board that this could be done.

Motion: Daryl Peck moved, seconded by Tony Crocamo, to continue Case 1234 until the October 11, 2016 meeting and testimony will remain open and Mr. Strange will be first on the agenda. Carried 3-0.

**Case 1235– Kinsley Equities II, L.P.**

Kinsley Equities II, L.P., 6259 Reynolds Mill Road, Seven Valleys, PA, owner of the property at 3639 Hempland Road, Lancaster, is requesting a variance from Section 502.3.A.3 for minimum landscape area of twenty seven percent. Andrew Kipnis and Mike Jeffers both of Kinsley Properties, 6259 Reynolds Mill Road, Seven Valleys, PA, as well as David Koratich, engineer with LSC Design, 320 North George Street, Suite 100, York, were all sworn in to provide testimony.

Mr. Kipnis stated that the purpose of the application is to seek a variance from Section 502.3.A.3 for minimum landscape area of 27%. The property is occupied by two separate buildings with separate addressees for each as well as its own utility hook up. Kinsley Equities II L.P., owner of the property, would like to subdivide the property to allow each building to be on a separate lot. Due to the unique shape of the lot the building known as 3639 Hempland Road would only be able to achieve landscape coverage of 21% instead of the required 27% when subdivided. They are intending on placing the property line as far into the Donnerville Road abutting property as possible without encroaching on the already existing pavement as well as the retention basin that is required to be on that property. The facility known as 115 N. Donnerville Road would be able to meet the Township's requirements. There is no new construction associated with this application and therefore the granting of this variance request will not alter the essential character of the surrounding neighborhood.

Mr. Creme questioned that as an existing undivided property what is the percentage of landscape area on the whole thing. Mr. Creme also questioned if it currently meets the ordinance. Mr. Koratich stated that it does meet the ordinance and that the current percentage is 30%. Mr. Creme also questioned that if the Board were to grant this variance would Kinsley Equities accept as a condition that the current total landscape area on the two subdivided lots would never

be less than 30% and asked if they were proposing to add more paving at either location. Mr. Kipnis stated that at this time they were not going to change anything on either location. Mr. Creme stated that for the Board's consideration nothing would change in the appearance and it would just be an ownership line being created by this variance.

Mr. Lintner questioned who the current owner is and it was stated that Kinsley Equities owns the single parcel. Mr. Lintner then asked if it were to be subdivided if they were going to sell which would make it two different owners. Mr. Kipnis stated that at this present time there was no plan to sell. Mr. Creme stated that if a de minimus variance would be considered de minimus and eliminates the need to show a hardship, then the Board determine that granting the variance has no impact or very little impact on the neighborhood. So if all the Board is doing is creating a legal ownership line, with no new developing and no new paving, then there is no impact on granting this variance and that makes it de minimus.

Mr. Peck questioned what was to the east border of Lot #2. Mr. Koratich stated that it was a sanitary sewer line and easement off the property and comes to the south and goes on to the property securing the easement and then south across the railroad tracks. Lot #1 currently ties into the manhole that is on Lot #2. During the subdivision process a joint easement specific to lot #1 would be added to the plan so sewer could happen on Lot #2. Mr. Creme stated that the reason behind this is bound by this condition because they cannot subdivide Lot #1 off from Lot #2 because it would throw Lot #2 into violation. Without the variance no subdivision can be created. Both the variance and the condition will need to be noted on the subdivision plan which will be recorded and that will follow both lots hereafter. Mr. Koratich questioned that with this condition in a accumulative sense do Lots #1 and #2 have to equal the landscaped area of the required amount. Mr. Creme stated that it needs to be at the current 30% otherwise Lot #1 could go crazy with paving. If Lot #1 decided to expand the owner of that lot would have to come back to the Zoning Board.

Mr. Lintner questioned what storm water does on both of these lots. Mr. Koratich stated that there is no storm water on Lot #2 and on Lot #1 there are two storm water basins. Mr. Lintner questioned what happens with the storm water from Lot #2. Mr. Jeffers stated that the storm water runs into a common pipe along the west boundary and runs all the way down through the site and discharges right along the rail to an existing swale that flows to the east. There is a pipe system at the southeast corner that collects stormwater and runs it under the tracks.

Motion: Tony Crocarno moved, second by Daryl Peck, for Case 1235 to grant a variance of 6% to Section S.502.3.A.3 for the impervious surface area on Lot #2's minimum landscape area for the properties as described with the conditions that the total landscape area of the two resulting lots remain the same as the current existing lot. The second condition is that minor deviations from the zoning exhibit may be permitted by the Supervisors in the subdivision process so long as the first condition remains obtainable, which is that the total landscape area on the two proposed lots be not less than 30%. Carried 3-0.

**Case 1236– Alan Beavers, Wayside Presbyterian Church**

Alan Beavers, 3727 Jonas Drive, Landisville, and Debra Keretzman, 1008 Steeplechase Drive, Lancaster, both from Wayside Presbyterian Church were sworn in to provide testimony. Mr. Beavers, on behalf of Wayside Presbyterian Church, 600 Stony Battery Road, Landisville, wants to get a new sign. To comply with the setback requirements and to be situated closer to the center of the building, the new sign needs to be relocated. To effectively present the church to the public through a modern, attractive, easily manipulated and adaptable sign they are exploring the purchase of an internally lighted 5'x 8' sign which includes a pixelated digital message board.

To clarify the request in respect to Section 708.4.X, although many of these signs have the capability of sequencing, the oscillating as mentioned in paragraph X the church intends to use it as a message board only. There will be no oscillation back and forth and would only be changed once or twice a week depending on what is happening at the church. It would be changed during the day time when the administrative assistant there in the office to change it electronically. The message is changed by a short range wireless device.

Mr. Beavers referenced the pictures that were given with the application which are examples of a color capable sign and a monochrome sign. He gave an example of the bottom part of the sign which can be pictures or characters or one superimposed on the other. The church's request is to be able to be able to place different things on the sign easily but there is no movement and no oscillation. For example, service times of the church or notices of special events would be on the sign for days at a time.

Mr. Beavers stated with respect to the height request for two feet above the customary six foot height limit, the sample sign overall height is six foot six inches. The church's property on the west side of Stony Battery Road slopes downward to the proposed sign location approximately 18 inches to the point where the sign would be located. The sign would also sit on a concrete pad approximately five inches thick. A prospective vendor has stated that from a safety standpoint the reading of the sign by a motorist begins five to six seconds before he passes the sign. It should be in the same visual frame as the road. Another reason for the request is that they want the sign to be at the height for passersby to be able to read the sign without having to look down on the slope.

Mr. Creme questioned if all the messages will be related to church functions and not any type of public service announcements. Mr. Beavers stated yes that every announcement would be traced back to the church. Mr. Creme also questioned if the messages will be changing from one to another all at one time and Mr. Beavers said yes. Mr. Creme asked if they were replacing physical letters with digital letters and numbers and if it would be limited to just letters and numbers. Mr. Beavers stated that it is a computer program and not physical letters and they are able to be adjusted in size. Also there may be symbols such as the American flag but it would not be fluttering. Mr. Creme stated that the operation the church is proposing is what is going to keep it compliant.

Mr. Crocamo asked about the top most portion of the sign with Wayside Presbyterian Church if it was digital and Mr. Beavers stated that it was not digital; it is illuminated inside by fluorescent light and the whole sign is two sided. Mr. Beavers also stated that the cabinet is fourteen inches thick with pixels on both sides and a fan inside. The bottom portion is the pedestal of the sign with the three numbers of the address on it. Mr. Crocamo asked if the top and bottom portions were permanent and the middle third will be changeable and Mr. Beavers stated yes, most likely once a week.

Mr. Creme questioned how the existing sign is lighted. Mr. Beavers stated that it has spotlights that are on a timer that go off around midnight. He also stated that with the new sign the software and the digital part the power will always be on but with the programming they can have it go dark.

Motion: Tony Crocamo moved, second by Daryl Peck, for Case 1236 for Wayside Presbyterian Church, 600 Stony Battery Road, Landisville to grant a variance for relief of Section 708.9 Table 2 Part B to have an 8' sign from the required 6' height. Carried 3-0.

Motion: Tony Crocamo moved, second by Daryl Peck, for Case 1236 to grant a variance to Section 708.4X on the condition that the display remains static and the frequency of the message is as described in testimony. Carried 3-0.

#### **Case 1237– Austin Henderson**

Austin Henderson, 165 Broad Street, Salunga, was sworn in to provide testimony. Mr. Henderson is requesting a variance from the setbacks to reconstruct a demolished building on top of an existing foundation. Mr. Henderson stated that the current foundation sits approximately seven feet from the edge of the alley and eleven and a half feet from the center of South Alley that runs behind Mr. Henderson's property. That alley is nine feet wide.

Mr. Lintner questioned if South Alley is public or private. It is a public alley, the Township plows it and there are stop signs on it. Mr. Creme stated that the variance request is not from the setbacks; it is from the requirement that would have allowed this reconstruction if it had been done in six months, and so the variance is from a time limitation and not from setbacks. Mr. Creme stated that because Mr. Henderson's testimony is that he is going to be rebuilding on the same foundation he meets the requirements of how he is permitted to replace a non-conforming building. A non-conforming building which is partially damaged or entirely destroyed may be rebuilt and occupied for the same use as before the damage occurred provided it shall be within the lot limits which existed for the property at the time of the enacting of the ordinance.

Mr. Crocamo questioned when the garage was dismantled and Mr. Henderson stated that it was in 2003. When Mr. Henderson purchased the property it did not pass inspection so it was torn down a week before he closed on the property. When the previous owners brought electric into the garage they cut the siding, put on a pressure treated post and never closed up the siding so the whole corner of the building was gone. Ms. Heffner stated that the garage does show up on the property assessment. Mr. Lintner questioned Mr. Henderson if the shed is on the property in

between the house and where he proposes to build the garage. Mr. Henderson is going to take the shed down because it is deteriorating which is what prompted him to build something. Mr. Lintner questioned about the trees and if they impact what is now being done. Mr. Henderson stated that three trees along the edge are going to be cut down and the tree that sits between the proposed structure and the shed will remain because it is tall enough and will not impede the structure.

Motion: Daryl Peck moved, second by Tony Crocamo, for Case 1237 for the property at 165 W. Broad Street. Salunga, to grant a variance to Section 705.2.D to allow the reconstruction of a destroyed nonconforming building outside the required six months' time frame with the condition that everything be carried out as described before the Board. Carried 3-0.

### **Case 1239– Scott Weibel**

Scott Weibel, 657 Sycamore Drive, Columbia, was sworn in to provide testimony. Mr. Weibel is requesting a variance for a shed 12'x 24' setback from the property. The shed is currently 37' from the center of the road and the required distance is 53'. Mr. Weibel stated that his hardship is there is an embankment behind the property, and he is in need of twenty feet of relief. That would put the shed into the neighbor's garage. Mr. Weibel stated that he placed the shed where he did because of flooding. There is a storm water drain in front of the shed. Mr. Peck questioned where the house is and where the shed is placed. Ms. Heffner stated that the house is currently 22' from the center line of the road and is already in the setback and the shed is placed to the side and behind the house.

Mr. Creme questioned the location of the shed. Mr. Weibel stated that his property is long and narrow. There is an easement between two fences that Mr. Weibel's neighbor owns. Mr. Weibel owns another parcel which is where the shed is currently placed. Mr. Creme questioned if the shed was on a separate parcel from the house and if these two parcels are separated from the house parcel by someone else's property. Mr. Weibel stated yes there is an easement separating them. Mr. Peck questioned what else was on the property where the shed is being built. Mr. Weibel stated that there was an existing shed that was there when he purchased the property. Mr. Creme stated that even though the new shed is 288 square feet, because it is on a property with no house it is considered a separate principal use and questioned whether it was pre-existing along with the previous shed. Mr. Weibel stated that he has owned the property ten years and the other shed has been there since he owned the property.

Mr. Creme informed Mr. Weibel that the Board needs to see a plot plan showing lot lines, a relatively accurate location of the structures, and then measurement from the center line. Mr. Lintner said that in previous testimony Mr. Weibel stated that he owned five properties and that the Board is only dealing with two pieces of property, his primary residence and the one that has the shed on it. Mr. Weibel stated that these are all separate parcels and he pays taxes on each of the parcels.

Motion: Gary Lintner moved, second by Daryl Peck, for Case 1239 for the property at 657 Sycamore Drive to continue the case to the October 11, 2016 meeting and the testimony will

remain open. Carried 3-0.

**Case 1240– Rodney Frey/Rhouse 5106, LLC**

Rodney Frey, 985 Pine Tree Way, Lancaster, and Joshua Eisenhauer, Light Heigel Associates, 430 E. Main Street, Palmyra, were both sworn in to provide testimony. Mr. Frey is requesting to convert the existing garage on the property at 4695 Marietta Avenue, Columbia, into a dwelling. The foundation of the existing garage is in the flood plain but they are building the dwelling above the line of the flood plain. Mr. Creme stated that since the foundation is in the flood plain the entire building would be in the flood plain.

Mr. Creme questioned Mr. Frey as to whether he has had the opportunity to read over the flood plain ordinance. Mr. Frey said yes he had. Mr. Lintner asked Mr. Frey to describe the existing building that is there now. Mr. Frey stated that it is a one story building with a loft above it and it has a basement. Mr. Lintner questioned if the garage door facing Route 23 is what Mr. Frey considers the first floor. Mr. Frey stated that he wanted to have someone build above that first floor. Mr. Frey stated that four feet above that first floor or the base of the garage door is where the flood zone level is. Mr. Eisenhauer stated that the base board elevation is four feet above the garage slab per the flood elevation certificate. Mr. Lintner questioned how many levels of building are there above the bottom of the garage door. Mr. Frey stated that there was one level above that. Mr. Frey stated that the newly constructed property would be built four foot above the bottom of the garage door so that the living area would be out of the flood zone.

Mr. Creme questioned Mr. Frey as to whether he had a drawing that shows where the property is in relation to the flood plain line as well as a drawing showing the structure that he is proposing to build with measurements from grade. Mr. Frey stated that in part, no. Mr. Frey did not get any plans because they were planning on reselling the property which he owns with his brother-in-law. Mr. Frey had some interested buyers who wanted to turn the garage into a residence.

Mr. Creme stated that the Board can only grant approvals if he has demonstrated that he can actually build what he is proposing to convert. Mr. Frey must show that he has the room to do it, the ability to do it as well as drawings that show what he wants to do. Mr. Creme stated that beyond that the Board cannot grant a variance unless he can demonstrate that he would not increase the base flood elevation with this construction. He also has to show that the failure to grant the variance would result in an exceptional hardship. Mr. Creme asked if Mr. Frey was prepared with this type of testimony. Mr. Eisenhauer stated no.

Mr. Creme also stated that listed in Section 624.2 A-I are all the things that Mr. Frey has to demonstrate. The structure will be designed to resist a 1% annual chance for flood. If there is a flood are people going to be able to get out of the house and if so how? The Board needs to hear that testimony. Mr. Creme stated that by the Board granting this variance can't increase the premium for flood insurance. Mr. Creme stated that granting variances in the flood plain is a big deal because if the Township is seen by the Army Corp of Engineers as not maintaining its flood plain regulation then the Township will be fined.

Zoning Hearing Board Minutes

September 13, 2016


Page 8

Mr. Frey asked the Board if it would be OK for someone to build a separate dwelling on the 2.6 acre property out of the flood plain. Mr. Creme stated that the Board would need to see a plan and it would have to meet all the requirements and setbacks.

Motion: Tony Crocamo moved, second by Daryl Peck, for Case 1240 for the property at 4695 Marietta Avenue, Columbia, to do a general continuance for six months subject to receiving the required letter. Carried 3-0.

There being no further business to come before the Board, the meeting was adjourned at 10:00 P.M.

Respectfully submitted,

  
Tony Crocamo, Secretary