

**WEST HEMPFIELD TOWNSHIP
3401 MARIETTA AVENUE
LANCASTER, PA 17601**

**WEST HEMPFIELD TOWNSHIP ZONING HEARING BOARD
February 12, 2013**

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, February 12, 2013. Gary Lintner called the meeting to order at 7:30 P.M. Board members Amy Swiernik and Daryl Peck were also present, along with Jodi Grove, Zoning Officer; Matt Creme, Solicitor; Rhonda Adams, Court Reporter; and Darlene Diffenderfer, Recording Secretary.

Approval of Minutes

Motion: Daryl Peck moved, seconded by Amy Swiernik, to approve the minutes of the meeting of January 3, 2013 as presented. Carried 3-0.

Motion: Daryl Peck moved, seconded by Amy Swiernik, to approve the minutes of the meeting of January 8, 2013 as presented. Carried 3-0.

Motion: Daryl Peck moved, seconded by Amy Swiernik, to approve the minutes of the meeting of January 15, 2013 as amended on page 6 for two minor typographical errors. Carried 3-0.

Case 1160 - Joseph Meyer (Allimax Farm) - continued

Mr. Creme stated that testimony for this case was closed at the special meeting held January 15, 2013. He stated that the Board members had not met regarding this case since that time, but each had conferred individually with the Board's solicitor. He added that, based on those discussions, he had prepared a draft written decision which was sent to the Board members for their review.

Mr. Creme pointed out that the Board needed to deliberate and make a decision on this case in this public meeting. He noted that the written decision was in two parts based on the two parts of the application; an appeal of violation notices and a request for modifications of conditions imposed in the 2008 decision.

Mr. Creme read the five items included in the decision for the appeal of enforcement notices as follows: 1) appeal from the Enforcement Notice issued September 20, 2012 is granted with respect to the alleged violation of Section 301.2 of the Ordinance; 2) appeal from the Enforcement notice issued September 20, 2012 is denied with respect to the violations of Section 901.3 pertaining to the activities and parking on the property being contrary to the conditions imposed by the 2008 decision; 3) appeal from the Enforcement Notice issued September 20, 2012 is denied with respect to the violation of Section 902.1 for failure to obtain a zoning permit prior to change in use of the land or building; 4) appeal from the Enforcement Notice issued September 20, 2012 is denied with respect to the violation of Section 901.3 by failing to provide a minimum of ten marked or lined off-street parking spaces; and 5) appeal from the Enforcement Notice issued September 20, 2012 is denied in that the applicant has violated Section 901.3 by keeping horses in excess of the 17 permitted by Condition #1 of the 2008 decision.

Discussion followed and it was noted the violation in item 1 pertained to the activities permitted by the 2008 decision while item 2 pertained more to the scope of those activities which has far exceeded what was testified to in 2008.

It was also noted that the number of horses was limited to 17 in the 2008 decision based on Mr. Meyer's testimony that he would not have more than 17 horses. Mr. Lintner stated that Mr. Meyer does not have the primary activity on the farm and therefore is not the agricultural user of the farm; that he is a commercial, accessory use to the farm.

Motion: Daryl Peck moved, seconded by Amy Swiernik, to adopt the decision for Case 1160 as written in Section I, items 1 through 5. Carried 3-0.

Mr. Creme read the decision for the modification of conditions as follows: 1) request for modification to move parking to the area outside the poultry houses is granted and applicant can relocate the parking and provide 30 parking spaces subject to providing permanent marking and appropriate signage for the parking area and compliance with all ordinances and regulations and obtaining all necessary permits; 2) request for modification to extend the hours of operation to 9 PM is granted for all inside activities, but denied for all outside activities; 3) request for clarification of the 2008 decision with respect to outside lighting is denied.

Additionally, the written decision noted that the Board makes no decision with respect to the proposed expansion in that the applicant has not requested any relief from the Board in the current application before the Board.

Discussion followed and Ms. Swiernik stated she was opposed to granting item 2; that extended hours for inside activities would take the scope of the operation to another level beyond the 2008 approval. Mr. Peck agreed and stated that there is no approved facility available for the inside activities which would make such an approval premature.

Motion: Amy Swiernik moved to accept the decision for modification of conditions as written in Section II, items 1 and 3. Mr. Peck seconded the motion after clarifying that this approval is not an approval of increased parking; that it is more a function of venue for the parking. Carried 3-0.

Motion: Amy Swiernik moved, seconded by Daryl Peck, to not adopt Section II, item 2 as written with respect to extended hours; that this request is denied. Carried 2-1 with Mr. Lintner opposed.

Mr. Creme stated that the decision has been adopted as modified in Section II, item 2, but the Board needed to adopt the entirety of the written decision to include findings of fact, conclusions of law, and decisions as modified.

Motion: Amy Swiernik moved, seconded by Daryl Peck, to adopt the entire draft decision, findings of fact and conclusions of law with modification to Section II, item 2. Carried 3-0.

Mr. Creme made a hand written modification of Section II, item 2 to reflect the motion to deny rather than grant the request for extended hours. The modified decision was signed by all Board members and copies were presented to Mr. Meyer and parties of interest, Mr. Mullen, Ms. Marshall and Mr. Baum. Mr. Creme also presented a copy to Mr. Youtz for the Township and stated he would forward a copy to Mr. Rausch and Ms. Cleary.

Case 1163 - Susquehanna Fishing Tackle

This application was submitted by Susquehanna Fishing Tackle, 1226 Harrisburg Pike, Lancaster, PA for a variance of 6 parking spaces from the required 24 in Section 707.4 to move their retail operation to property currently owned by R. P. Williams, Inc. located at 3992 Locust Grove Road, zoned C-1.

George Accord, Sr., 103 Carol Drive, Washington Boro, PA and Michael Accord, 331 Banyon Circle Drive, Lancaster, PA were both sworn to provide testimony. Both are owners of the fishing tackle business.

Mike Accord stated they have been in business for 24 years and now have a need to expand their operation. He stated they currently lease space for the business, but now want to purchase the property on Locust Grove Road for the expansion.

George Accord stated that approximately 3400 square feet of the building would be used for the retail operation and the remaining 1100 square feet would be used as a warehouse. He stated that 17 parking spaces could be placed on the current parking area. He stated that all 17 spaces would never be filled at one time. He stated the nature of their business does not have large numbers of shoppers at the same time.

It was determined there would be no more than three employees on the premises at one time.

Mr. Creme stated that, based on the square footage to be used as retail space, only 17 parking spaces would be required plus an additional three for the employees for a total of 20 spaces.

Mike Accord modified the application to reflect the request for a variance of two parking spaces from the required 20 and changed the number of employees from four to three.

The Accords stated that the building is 50 years old and they plan to completely renovate it inside and out to bring it to code and greatly improve the appearance.

Motion: Daryl Peck moved, seconded by Amy Swiernik, to grant a variance of two parking spaces to Section 707.4 for the property at 3992 Locust Grove Road with the condition that all things be carried out as described before the Board. Carried 3-0.

There being no further business to come before the Board, the meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Daryl Peck, Secretary

