

Manheim Township Zoning Hearing Board Minutes
Monday, August 3, 2009
6:30 P.M.

Attendance:

Michael Winters	Present
Patrick Trimble	Present
David Wood	Absent
Edward Hoover	Present
Robert Byram	Present

Vice Chairperson Patrick Trimble asked for a roll call. A quorum of the Board was established.

Vice Chairperson Patrick Trimble opened the meeting, explained the Zoning Hearing Board meeting process, and announced the agenda.

Fulton Financial Corporation
I-1, 451 Granite Run Drive

Case #09-20

David Tshudy (Stevens & Lee), Terry Cain (Fulton Financial), Joel Gibble (Derck & Edson) and Bill Horst (Horst Realty) were sworn in for testimony.

Mr. Tshudy distributed several exhibits including Exhibit 1 - Granite Run Corporate Center Land Lease, Exhibit 2 - Disavowal and Withdrawal of Planned Commercial Development for Granite Town Center, Exhibit 3 – Letter, dated June 1, 2009 from Horst Realty to Berkshire Lancaster, LLC and Exhibit 4 - Manheim Township letter, dated July 22, 2009 to Berkshire Lancaster, LLC and Stevens & Lee.

Mr. Tshudy explained the contents of each exhibit and indicated that he had no further testimony.

Mrs. Douglas indicated that she had a document to enter into public record. Township Exhibit 1 – Letter, dated July 27, 2009 from Stevens & Lee to Manheim Township responding to the Manheim Township Letter, dated July 22, 2009 and entered as Exhibit 4 by the applicant.

Mr. Winters moved to approve a variance to section 1405.2.B.5.d. to permit the encroachment of a driveway extension, parking spaces, light fixtures and sidewalk within the 20 foot improvement area; a variance to section 2208 to permit a time extension to obtain permits and complete construction; a variance to section 2011.2. to permit the driveway to be within 3 feet of the lot line; a variance to section 2312.2.A. to permit the driveway, parking, light fixtures and sidewalk installation within the 10 foot planting strip on the west side of the site; a variance to section 2305.3. to permit greater than 2 foot candles of light to cross the lot line at the west side of the site consistent with the evidence and testimony presented to the Board and contingent upon the following conditions: The Zoning Hearing Board Case 08-10 shall become null and

Zoning Hearing Board Minutes**August 3, 2009****Page 2**

void with the approval; Exhibit 2 - Disavowal and Withdrawal of Planned Commercial Development for Granite Town Center shall be part of the approval; and the applicant shall have three (3) years from the date of the Zoning Hearing Board approval to obtain permits and complete construction. Mr. Hoover seconded the motion. The motion was approved 4-0.

Mennonite Disaster Services**Case #09-25**

I-3, 583 Airport Road and 645 East Oregon Road

Kevin Varner (Diehm & Sons) and Ron Guenther (Mennonite Disaster Service) were sworn in for testimony.

Mr. Varner explained that the applicant is making the same request as was previously heard and approved by the Zoning Hearing Board with the exception of the request to obtain a timeframe variance. Mr. Varner explained that the timeframe in which to obtain permits and construct the project has expired.

It was indicated that the prior testimony for the previous case would be part of the pending case.

There was discussion on the timeframe.

Mr. Winters moved to grant a non-specific use in accordance to section 302 to rent out the proposed multipurpose room to outside groups and a variance to section 1604.2.A.4.a. to permit the existing barns to encroach within the 75 foot setback and allow a subdivision of the existing farm from the vacant lot across Airport Road and a variance to section 2208.1 to permit a time extension to obtain permits and complete construction conditioned upon the applicant obtaining permits and completing construction within three (3) years from the date of the Zoning Hearing Board approval. Mr. Byram seconded the motion. The motion was approved 4-0.

Brethren Village**Case #09-26**

I-1, 3199 Lititz Pike, Corner of Lititz Pike and Airport Road

David Madary (Derck & Edson), Scott Wissler (Brethren Village) and Gary Clouser (Brethren Village) were sworn in for testimony.

Mr. Madary explained the project indicating that the bank is the only part of the project that will be developed at this time. Mr. Madary indicated that the development of the remaining tract is a best guess and could possibly change in the future.

Mr. Winters inquired about the likelihood of the tract being developed as shown and expressed his concern for granting any relief for a project that is only conceptual. Mr. Winters inquired as to whether the applicant would be bound by the plan.

Mr. Madary indicated that the applicant would like some flexibility.

Zoning Hearing Board Minutes

August 3, 2009

Page 3

Mr. Madary indicated that the site of the proposed bank is 1.75 acres. Mr. Madary indicated that they would like an extension of time for three (3) years.

Mr. Winters moved to grant a variance to section 1405.2.B.5.d. to permit encroachment of access drive, sidewalk and light fixtures within the 20-foot improvement area for the lease parcel lines; a variance to section 2208 to permit a time extension to obtain permits and complete construction; a variance to section 2011.2. to permit the proposed access drive to be within 3 feet of the lease line; a variance to section 2312.2.A. to permit the proposed access drive to encroach within the 10 foot planting strip; a variance to section 2305.3. to allow greater than 2 foot candles of light to cross the lease line on the east side consistent with the evidence and testimony presented to the Board. The approval was limited to the 1.75 acre bank lease area and the applicant shall have three (3) years from the date of the Zoning Hearing Board approval to obtain permits and complete construction. Mr. Byram seconded the motion. The motion was approved 4-0.

Ana Zuluaga

R-2, 216 Hess Blvd.

Case #09-27

Ana Zuluaga and Yeika Rodriguez were sworn in for testimony.

Ms. Rodriguez spoke on behalf of Ana Zuluaga and explained the request: Ms. Zuluaga would like to provide a day care in her home to accommodate up to six (6) children. In addition to Ms. Zuluaga there would be two (2) additional employees, one (1) would live at the subject dwelling and the other employee would live outside the home.

There was discussion about the total square footage of the home and the square footage allocated to the day care. Ultimately, it was determined that no more than 600 square feet would be allocated to the day care.

Exhibit 1 and Exhibit 2 were added to the record depicting the areas and square footage allocated to the day care.

There was discussion on the off-street parking and the hours of operation. Ms. Zuluaga indicated that the hours of operation would be 6:00 a.m.-6 p.m., Monday through Friday.

Ms. Zuluaga indicated that she had not spoken to her neighbors about the day care.

Jim and Vicky Miley who live across the street from the subject property were present and inquired about parking. Mrs. Miley had concern for the children during drop-off and pick-up.

Mr. Winters indicated that drop-off and pick-up would need to occur on-site and not on the street.

Mrs. Miley inquired about signage.

Zoning Hearing Board Minutes

August 3, 2009

Page 4

Ms. Zuluaga indicated that she would not provide signage.

Mr. Winters moved to approve a special exception in accordance with section 1910.4.M.7. to operate a Family Child Day Care Home with up to 6 children unrelated to the operator and a variance to section 1910.4.C to permit the Family Child Day Care Home area to be no larger than 600 square feet consistent with the evidence and testimony presented to the Board and subject to the following conditions: The hours of operation shall be between 6:00 a.m. to 6:00 p.m., Monday through Friday; all drop-offs and pick-ups shall occur on-site; a valid certificate of compliance from the state shall be obtained; only one (1) outside employee shall be permitted; and a sign shall not be erected unless approval from the Zoning Hearing Board is obtained or the necessary approval of the sign code official is obtained. Mr. Byram seconded the motion. The motion was approved 3-1 with Mr. Hoover dissenting.

Brad Bomgardner on Behalf of Mr. and Mrs. John Moslander

Case #09-28

R-3, 532 Rutledge Avenue

Brad Bomgardner, Dawn Moslander and John Moslander were sworn in for testimony.

Mr. Bomgardner provided a brief overview indicating that a variance to allow the water surface to be less than 10' from the property line and a variance to allow the pool decking to be less than 5' from the property line were needed.

Mrs. Moslander provided background information as to why the pool was essential to her family indicating that her father resided with them and he needed aqua therapy. Mrs. Moslander provided Exhibit 1 – LG Health Campus – Aquatics Physical Medicine & Rehabilitation Charting Report in support of the case. Mrs. Moslander submitted Exhibit 2 – a letter, dated August 3, 2009 from her father's doctor attesting to the benefits of aqua therapy. Mrs. Moslander submitted Exhibit 3 – Photos of the adjacent property with environmental constraints.

Mrs. Douglas indicated that a floodplain delineation was done by the Township Engineer at the time the Rutledge Avenue culvert was replaced and the floodplain covered a portion of the adjacent property.

Mr. Winters moved to approve a variance to section 1904.3 to permit a swimming pool to be constructed 5 feet from the side property line and a variance to section 2006.2. to construct the pool decking less than 5 feet from the side property line consistent with the evidence and testimony presented to the Board. Mr. Byram seconded the motion. The motion was approved 4-0.

Jennifer Browne

Case #09-29

B-2, 2626 Duke Street

Sean Browne and Arjan Brandsema were sworn in for testimony.

Zoning Hearing Board Minutes

August 3, 2009

Page 5

Mr. Browne indicated that he was there on behalf of Jennifer Browne. He explained the request and stated the following: the applicant wishes to use the structure as a dwelling as it had been used in the past.

Mr. Brandsema provided a brief history and referenced the current certificate of occupancy on file at the Township.

Mrs. Douglas indicated that the current certificate of occupancy on file for this structure is dated in the year 1957 and indicates that the use is garage and sheet metal shop.

It was indicated that the structure has been used as a dwelling for at least 30 years.

Mr. Winters moved to approve a special exception in accordance with section 301.4.F. to permit a change of a non-conforming use from a sheet metal shop to a dwelling unit consistent with the evidence and testimony presented to the Board. Mr. Hoover seconded the motion. The motion was approved 4-0.

Charles F. Snyder, Jr. Funeral Home
B-1, 3110 Lititz Pike

Case #09-30

Caroline Hoffer (Barley Snyder), Charles F. Snyder Junior (owner-funeral director), Charles F. Snyder III (funeral director), Mark Burkholder (funeral director) and Ron Salvatore (Mathew International) were sworn in for testimony.

Ms. Hoffer explained the request and stated the following: the applicant wishes to expand the use by including a crematory as an accessory use and in order to do so a special exception is required. Ms. Hoffer also indicated that either an interpretation of the definition for funeral homes or a variance would be necessary.

Ms. Hoffer submitted Exhibits 1 – Proposed Additions and Renovations Site Layout and Exhibit 2 – Diagrams of the Crematory from Viewing Room, Garage Addition View and View of Garage Addition.

Ms. Hoffer indicated that all setbacks, open space requirements and other ordinance requirements are met. Ms. Hoffer explained the current and proposed parking allocation indicating that additional garage space would be provided.

Mr. Salvatore was offered as an expert witness and he indicated that this type of use is provided in a number of communities and the use fits into the community.

Ms. Hoffer went through the criteria for a special exception with Charles F. Snyder III responding to questions.

Ms. Hoffer presented Exhibit 3 – Photo of a chimney for the crematory and Exhibit 4 – a group of photos showing how these facilities are located in other similar type neighborhoods.

Zoning Hearing Board Minutes

August 3, 2009

Page 6

Mr. Salvatore provided insight into the function of a cremation unit indicating that there are no adverse affects to the community. Mr. Salvatore indicated that the unit was UL listed and that it used an after burn process so that there were no vapors emitted from the chimney stack.

Ms. Hoffer presented Exhibit 5 – Various letters from other communities where crematories are located. The letters indicated that the community had not received any complaints regarding the facility.

Ms. Hoffer presented Exhibit 6 – Commonwealth Court Case Rabenold vs. Zoning Hearing Board of Palmerton indicating that “Both funeral homes and crematories deal with the final disposition of human remains through either internment or cremation. Cremation is a use that is incidental or subordinate to the operation of a funeral home, and constitutes both a permitted use and a permitted accessory use to that of the principal use, a funeral home”.

Mr. Charles Snyder Junior provided insight into the need to provide this service for his clients. Mr. Snyder indicated that currently the service is contracted through the funeral home but the services are provided off-site. Mr. Snyder indicated that the service of cremation could be provided by a facility in Leola or in Schaefferstown.

Ms. Hoffer indicated that Gary Clouser of Brethren Village was present and had drafted a letter, dated July 29, 2009 in support of the facility provided the crematory services are limited to funerals performed by the Charles F. Snyder Funeral Home and such crematory services do not emit any visible smoke or odor. Ms. Hoffer submitted this letter as Exhibit 7.

Mr. Winters moved to approve a modification of a special exception granted September 8, 1998 pursuant to Section 1003.7. to add crematory facilities and garages; and to allow the crematory use as an accessory use to the funeral home indicating that Article 5 as read does not preclude the use as an accessory use and a variance to section 2208 to permit an extension of time of two (2) years from the date of the Zoning Hearing Board approval to obtain permits and to complete construction and consistent with the evidence and testimony presented to the Board. Mr. Byram seconded the motion. The motion was approved 4-0.

The meeting adjourned at 8:55 PM. The next regularly scheduled meeting will be held on Monday, September 8, 2009 at 6:30 P.M.