

WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES

November 14, 2012

Chairman Gary Lefever convened the November 14, 2012 meeting of the Warwick Township Zoning Hearing Board at 6:30 p.m. Present were Board Members Gary Lefever, Scott Goldman, Tom Matteson, Dane St. Clair and Brent Schrock. Mark Will was absent. Also present were Zoning Officer Thomas Zorbaugh, Zoning Hearing Solicitor Neil Albert, Court Reporter Brenda Hamilton, Glenn L. Hample, Owen Blevins, Liam Blevins, Mervin Miller, Jan Baringer, Lisa Baringer, Roy Mace, Jerry Savoca, Ken Ressler, Jason and Beth Trout, Harry Shaeffer, Lynn Thomas, Douglas Pfautz, Jennifer Kirk and Kathryn Stoltzfus.

MINUTES APPROVAL: On a motion by Goldman, seconded by Lefever, the Board voted unanimously to approve the minutes of the October 10, 2012 meeting.

POSTING, PROOF OF PUBLICATION AND NOTICE: The Zoning Officer confirmed the posting, notice, and proof of publication of the cases to be heard at this evening's hearing.

HEARING PROCEDURES: For the benefit of those present, the Zoning Hearing Solicitor explained the procedure to be followed for the evening's hearings.

CASE #784, STEVEN SMUCKER - SPECIAL EXCEPTION/VARIANCE (continuation): The Chairman explained that Case #784 has been withdrawn by both the Applicant and the property owner.

CASE #786, LISA & JAN BARINGER - SPECIAL EXCEPTION/VARIANCE: The Chairman read the zoning notice received from Lisa & Jan Baringer, 22 Brookwood Drive, Lititz, PA 17543. The applicant is seeking a Special Exception to the Warwick Township Zoning Ordinance under Section 340-14.C.(1), pertaining to Home Occupations in a R-1 Residential Zoning District. The applicant would like to operate a beauty salon from the home. The applicant is also requesting a Variance of Section 340-78.F to sell the products used within the business.

Jan Baringer and Lisa Baringer were sworn in. J. Baringer stated that they would like to convert an area of their home into a one operator beauty salon. The work space would consist of a 165 square feet area. The proposed hours of operation are Monday through Thursday from 9:00 a.m. to 9:00 p.m., Friday 9:00 a.m. to 5:00 p.m., and Saturday from 9:00 a.m. to 3:00 p.m. The salon would operate an average of 25 hours per week, and would not to exceed 37 hours per week. Goldman stated that it appears that the application addresses the appropriate sections of the Zoning Ordinance. He added that the Ordinance would permit a sign size of 2 square feet. The Zoning Officer explained that the Board has previously approved Variance requests to sell products relating to a beauty salon to customers. He noted that the sales have only been permitted for customers of the salon, and not the general public.

The Chairman inquired whether anyone present wishes to comment on the proposal. No one present indicated their desire to comment on the proposal.

On a motion by Goldman, seconded by Matteson, the Board voted unanimously to grant a Special Exception under Section 340-14.C.(1), to allow a Home Occupation, and to grant a Variance of Section 340-78.F to sell the products used within the business to customers of the beauty salon.

CASE #787, JASON & ELIZABETH TROUT - VARIANCE: The Chairman read the zoning notice received from Jason & Elizabeth Trout, 614 Chatham Way, Lititz, PA 17543. The applicant is the equitable owner of the tract located at 14 Carley Place, Lititz, owned by John Sandy, 10 Sassafra Circle, Lititz. The applicant is seeking a Variance to the Warwick Township Zoning Ordinance under Section 340-14.E, pertaining to front yard setbacks in a R-1 Residential Zoning District. The applicant would like to move the home closer to the right-of-way.

Jason Trout and Mervin Miller were sworn in. Trout stated that he and his wife purchased the vacant lot to build their home. He added that the sale of the lot is contingent upon zoning approval. He explained that the lot has steep slopes, which is why they are requesting a Variance to locate the home closer to the right-of-way line. The Zoning Officer explained that the Applicant would like to locate the home 30' from the right-of-way line rather than 40' as required by the Ordinance. The Applicant indicated that the development has a 50' front yard setback. Goldman stated that the Zoning Hearing Board only addresses requirements of the Zoning Ordinance, which requires a 40' setback. The Zoning Hearing Solicitor encouraged the Applicant to address the 50' setback issue with the developer before beginning construction on the home.

On a motion by Lefever, seconded by Schrock, the Board voted unanimously to grant a Variance under Section 340-14.E, to allow the home to be 30' from the street right-of-way.

CASE #788, OWEN & MOLLY BLEVINS - SPECIAL EXCEPTION/VARIANCE: The Chairman read the zoning notice received from Owen & Molly Blevins, 944 Lititz Pike, Lititz, PA 17543. The applicant is seeking a Special Exception to the Warwick Township Zoning Ordinance under Section 340-12.C.(2), pertaining to a Home Occupation in a Rural Estate Zoning District. The applicant would like to sell automobiles from their detached garage via the internet. The applicant is also requesting the following Variances: Section 340-78.F to sell cars; 340-78.I to exceed 25% of usable area; and Section 340-78.L for a larger sign. The applicant is also requesting a Variance of Section 340-12.B as an alternative to allow the sales as a permitted use.

Owen Blevins was sworn in. Blevins stated that he has owned the property for 12 years. He indicated the location of the property along Lititz Pike for the benefit of the Board. He explained that he had been in the automobile industry for approximately 25 years. He stated that he has been approached by previous customers to determine whether he would be interested in selling cars of a particular interest (i.e., 2010 Porsche 911 Cabriolet, 1969 Chevy Impala with low mileage, other specialty vehicles). He stated that they would advertise solely via the internet, and added that cars would be sold only via the internet. Blevins stated that he would like to obtain a Used Automobile Dealer License from the State in order to be certified and to be able to do the necessary paperwork for a potential purchaser.

Blevins stated that his property borders commercially zoned properties to the north and south. He added that the property to the west is zoned residential, and the property across the road is zoned Agricultural. He explained that he discussed the property with the residential property owner to the west (Mizarek) and she indicated that based on the information he presented, she does not object to the proposal. Blevins stated that the building he would use is a 10- car garage and the attached office is approximately 15x15. He noted that the garage was constructed by the previous property owner. He explained that the vehicles would be housed in the garage, and added that no more than 5 vehicles would be housed at one time.

A Zoning Hearing Board member inquired why a sign is needed if all sales would occur over the

internet. Blevins stated that he is required by State law to have a sign. He noted that he would prefer to have no sign. He explained that state regulations require a sign to be 16 square feet, rather than only 2 square feet as permitted by the Zoning Ordinance. He explained that the sign would be attached to the garage and would not be visible from the roadway. The Zoning Officer stated that the Board approved a similar sign Variance in Brunnerville. The Zoning Hearing Solicitor noted that the Zoning Hearing Board has the option to deny the request. Matteson expressed the opinion that the proposal does not meet the guidelines to be a Home Occupation and suggested that a Variance of the permitted uses in accordance with Section 340-31 of the Zoning Ordinance appears to better address the proposal. The Zoning Hearing Solicitor concurred and recommended specific conditions to address the use if the property is sold.

The Chairman inquired whether anyone present wishes to comment on the proposal. No one present indicated their desire to comment on the proposal.

On a motion by Matteson, seconded by Lefever, the Board voted unanimously that the proposal is not a Home Occupation; and therefore to grant a Variance of Section 340-12.B to allow the proposal as a permitted use, in accordance with Section 340-31 which allows a second principal use on the lot, contingent upon a sign in accordance with State regulations of 16 square feet being placed on a the garage where it is not visible from SR 501, upon the hours of operation being limited to Monday through Friday from 8:00 a.m. to 5:00 p.m., upon the use being limited to the sale of used cars via the internet as stated, upon no outdoor storage or display of cars, and in accordance with the documentation submitted with the Application. In addition, no other individuals may be employed by the business other than those that live in the dwelling unit.

CASE #789, KATHRYN STOLTZFUS - SPECIAL EXCEPTION/VARIANCE: The Chairman read the zoning notice received from Kathy Stoltzfus, 1006 Log Cabin Road, Leola, PA 17540. The applicant is seeking a Special Exception to the Warwick Township Zoning Ordinance under Section 340-11.C.8, pertaining to Noncommercial Keeping on Livestock in an Agricultural zoned district. The applicant is selling a property they own located at 843 Disston View Drive, and the equitable owners would like to have animals on less than 3 acres with the applicant supplying the additional land from their adjoining lot. The applicant may need Variance of Section 340-87.A to allow the animals on less than 3 acres and Section 340-87.D to allow the fence to be along the shared property line.

The Zoning Officer explained that the Applicant purchased the overall tract containing 3.33 acres, and submitted a subdivision plan to create a 1-acre tract and a 2.33 acre tract, which was approved by the Board of Supervisors. He noted that the owner has not submitted new deeds for the newly created lots; therefore, the property appears as a single tract. He added that when the deeds are recorded, it will appear as two lots. The Zoning Officer explained that the Applicant has a potential buyer for "Lot 1" of the plan. He stated that the Zoning Hearing is to allow non-commercial keeping of livestock in accordance with a single 3-acre lot, with the animal density appropriate for the individual lots. He explained that a similar case occurred on Brunnerville Road where a daughter was permitted horses on a 2-acre tract, with her father's granting use of 1-acre of land on his adjoining property.

Kathryn Stoltzfus was sworn in. Stoltzfus stated that the buyers would like to know that they have the option to have a few animals in the future if they wish, before they purchase the property. Goldman stated that there is no specific proposal on which to base a decision. The Zoning Hearing Solicitor concurred and added that the fact that the property could contain less than 3-acres is another

concern. Stoltzfus inquired whether the Board would consider 2 goats and 6 chickens. The Zoning Officer stated that the Applicant is hoping to provide a limitation on the animals a potential buyer could have. The Zoning Hearing Solicitor stated that the 3-acre lot becomes non-existent when the property is officially subdivided, so any action on the 3-acre tract as a whole would no longer apply. He added that if the Board so chooses, a decision should be based on the individual lots. Matteson stated that based on the approved subdivision, he would consider the property two lots already. He explained that if the Board considers these smaller lots, any approval for animals would create a precedent; therefore, he would not approve the request. He added that he would be willing to consider the tract as 3-acres while under single ownership; however, the use would be discontinued as soon as it is sold. Stoltzfus stated that the potential buyers would like 2 horses, 2-3 goats, and 6 chickens. She clarified that they would be buying the 1-acre tract, and she would be agreeable to giving up rights to any animals on her 2.33 acre property. The Board members stated that only a working horse would be permitted on the 1-acre tract. St. Clair stated that there is not enough information for the Board members to act at this time. The Zoning Hearing Solicitor stated that the least that would need to occur is that the Applicant and the potential buyer would need to be present and specific information including grazing rights in a recordable document would need to be considered. Matteson expressed concern that this option would still create a precedent that he is not comfortable with. He added that he wants to caution the Applicant that if the case is continued, there is no guarantee that any request would be granted. The Zoning Hearing Solicitor explained that the Board can not act as an advisor for the case, since they are the deciding body. He added that if the Applicant is unsure how to proceed she should contact a zoning attorney. St. Clair stated that this issue is being self-imposed by the Applicant by subdividing the land.

On a motion by Lefever, seconded by St. Clair, the Board voted unanimously to deny a Variance of Section 340-11.C.8.

CASE #783, LITITZ RESERVE - SPECIAL EXCEPTION (continuation): The firm representing the case is not present this evening. On a motion by Lefever, seconded by St. Clair, the Board voted unanimously to continue Case #783 to their December 12, 2012 hearing.

CONSIDER REQUEST FOR AN EXTENSION OF TIME FOR TOOTHSMITHS, INC., CASE #767: The Board reviewed the request. On a motion by Lefever, seconded by Goldman, the Board voted unanimously to grant a 12-month extension of time for Case #767. The Zoning Officer explained that Act 46 provided automatic extensions to 2016. He noted that the Township still requests a review of time extensions to verify the status of a particular project.

ADJOURNMENT: With no further business to come before the Board, the meeting was adjourned at 7:48 p.m.

Respectfully submitted,

Thomas Zorbaugh
Code and Zoning Officer