

WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES

June 13, 2012

Chairman Gary Lefever convened the June 13, 2012 meeting of the Warwick Township Zoning Hearing Board at 6:30 p.m. Present were Board Members Gary Lefever, Scott Goldman, Dane St. Clair, Brent Schrock, Mark Will, and Tom Matteson. Also present were Zoning Officer Thomas Zorbaugh, Zoning Hearing Solicitor Neil Albert, Greg Lessis, Mike Swank, Kim Melton, Dorenda Melton, Sam L. Stoltzfus, Jr., Jeff Bowlby, and John King.

MINUTES APPROVAL: On a motion by Lefever, seconded by St. Clair, the Board voted unanimously to approve the minutes of the April 11, 2012 meeting as submitted.

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. He stated that during one of the hearings, a regular Board member will be excusing himself from rendering a decision, and the alternate could render a decision in his place if there are no objections.

CASE #777, KELLER DODGE - SPECIAL EXCEPTION/VARIANCE: The Chairman read the zoning notice for the application received from Dan & Sue Keller Family LP, 730 South Broad Street, Lititz, PA 17543. The applicant is the owner of the property located at 395 North Broad Street, Keller's Dodge. The applicant is seeking a Special Exception to the Warwick Township Zoning Ordinance under Section 340-22.F.(1), pertaining to adding a parking lot in a Floodplain Zone. The applicant is also requesting Variances to Sections 340-35.D.(2)(a) to eliminate interior landscaping and provide it elsewhere, and Section 340-35.G.(1) to allow the parking lot to be used for automotive sales.

Mike Swank, representing Steckbeck Engineering, and Greg Lessis, representing Keller Brothers, were sworn in. Swank testified that the proposal is to construct an approximate 17,000 square foot parking area in the flood zone. The parking area would provide 44 parking spaces. Swank stated that the provision to allow a parking lot in the floodplain is a Special Exception. He added that the Ordinance states that any parking area with over 20 parking spaces must have 5% of the total area dedicated to interior landscaping. In addition, parking areas are not permitted for automotive sales.

Lessis testified that the property was larger, and a portion was sold to CVS Pharmacy. He noted that this area was previously used for additional parking. He explained that the business is currently experiencing growth and additional area is needed for automobile storage and display, and for employee parking.

Swank stated that the parking area is located to the north of the property, and would be constructed at grade so the floodplain elevation would remain unchanged. He explained that the macadam paving surface would be constructed of pervious pavement to address stormwater. He added that the parking area meets setback requirements and noted that the parking area would not be visible from North Broad Street, since it would lower than the roadway. Swank stated that four light posts are proposed as part of the parking proposal. He submitted photographs of the site

for the benefit of the Board. Swank stated that there are other parking lots on the site that do not have interior landscaping, so the proposed parking lot would be similar in appearance. In addition, a 15' wide buffer planting will be provided along the east side of the proposed parking lot. The number of required trees to be planted in the parking lot will be planted in the 15' wide buffer area.

Swank stated that the proposed parking lot would be used primarily for employee parking and automobile storage and display. The existing parking lot, which is located west of the proposed parking lot, is currently used for the display and sale of automobiles; therefore, the proposed parking lot would be in keeping with the use of the site. He expressed the opinion that granting the Variances as requested would have no adverse impact on the public health, safety, and welfare of the residents of the Township.

A Board member inquired where employees currently park. Lessis stated that employees currently park on the grass so they do not interfere with customer parking. The Zoning Officer explained that the parking area was previously proposed on the CVS plan, and the applicant now intends to proceed with the proposal. He noted that the CVS plan illustrated this property with the proposed parking area, since they eliminated a parking area that was on the CVS project site. The Zoning Officer stated that the Township supports the planting of the required trees in the 15' wide buffer strip. He added that the issue of parking display vehicles in the parking area needs to be addressed within the Zoning Ordinance, since the provision does not differentiate parking for automotive sales lots. He stated that the applicant will need to eliminate the current practice of parking vehicles within the right-of-way. The Chairman inquired whether the existing macadam area on the site is an approved designated parking area. Lessis stated that the macadam area is used for vehicle storage and sales. The Zoning Officer stated that this is an approved area on the site. Swank stated that the plan would require review by the Planning Commission and Board of Supervisors.

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

A Board member inquired whether the current macadam display and sales area should be approved as part of this application. The Board briefly discussed the issue. The Zoning Officer explained that sales uses are permitted in the Community Commercial zone, and this area could be considered part of the use. Matteson expressed the opinion that the request for a Variance to allow a parking lot to be used as sales lot for car dealerships within the Community Commercial zone could be eliminated, since this language will change in the future anyway. The Board is agreeable to eliminating the Variance requirement for car sale lots on a car dealership property within the Community Commercial zone.

On a motion by Lefever, seconded by St. Clair, the Board voted 4-1 to postpone a decision on the case until the Board's next meeting scheduled for July 11, 2012. Lefever stated that he would like to review the previous zoning rulings on the property prior to rendering a decision on this case. Goldman voted against the motion.

CASE #778, KING/STOLTZFUS - VARIANCE: The Chairman read the zoning notice for the application received from John King, 1141 Brunnerville Road, Lititz, PA 17543. The applicant is the equitable owner of a home and lot to be subdivided from the Samuel & Naomi Stoltzfus farm, 1140 Brunnerville Road, Lititz. The applicant is seeking a Variance to the Warwick Township Zoning Ordinance under Section 340-11.F.(2).(a), pertaining to lot sizes in an Agricultural Zoning

District. The applicant would like to subdivide a 3.75 acre lot off the farm, exceeding the minimum of two acres for a residential tract.

Jeff Bowlby, representing Diehm & Sons, was sworn in. St. Clair announced that he will abstain from rendering a decision on the case due to a conflict of interest. Bowlby explained that the property currently contains approximately 64 acres, with 4 building rights. He stated that in 2001, the property owner (Samuel Stoltzfus) received approval to construct a second dwelling unit on the property for his father-in-law (John King). Bowlby stated that King would like to protect his home in case the farm is sold in the future, which is the basis for the current request. He stated that the farm is subject to Act 319 (Clean & Green) regulations, and also by the Agricultural zoning of the property. Based on these regulations, the current proposal is to subdivide a 2-acre tract containing King's home in 2012, and to provide a 1.66 acre lot add-in to this property during 2013. Bowlby stated that this would reduce the number of building rights on the property from 4 to 2. He explained that the lot add-on area would be comprised of woods, slopes and floodplain with no tillable area. In addition, the 2-acre lot creates an odd configuration due to setback requirements, and the property owners would prefer to eliminate the odd lot size. The proposal would result in an approximate 3.75 acre lot, which is larger than the 2-acre maximum permitted in the Agricultural zone for residential uses. Bowlby noted that the issue has been discussed with County representatives who are agreeable with the proposal. The Zoning Officer explained that the Warwick Township Planning Commission reviewed the proposal and was agreeable to the layout since it uses a non-tillable area of the farm.

Sam Stoltzfus, property owner, was sworn in. Stoltzfus stated that the 2-acre lot size does not provide sufficient area for his father-in-law's garden.

John King, 1141 Brunnerville Road, was sworn in. King stated that the sewer easement extends on the property, and he would like the sewer easement on the property in case there is a problem and it needs to be dug in the future.

On a motion by Lefever, seconded by Will, the Zoning Hearing Board voted unanimously to grant a Variance under Section 340-11.F.(2).(a) to allow a 3.75 acre lot in the Agricultural zone.

CASE #779, MELTON/ENCK - VARIANCE: The Chairman read the zoning notice for the application received from Dorenda Melton, 2010 Old Rothsville Road, Lititz, PA 17543. The applicant is the equitable owner of the property located at 2005 Old Rothsville Road, owned by Douglas Enck. The applicant is seeking a Variance to the Warwick Township Zoning Ordinance under Section 340-14.B, pertaining to permitted uses within the R-1 Residential Zoning District. The applicant would like to take an existing in-law quarters attached to the dwelling and rent it out as a separate unit, creating a multifamily dwelling.

Kim Melton was sworn in. The Zoning Officer explained that the property previously received a building permit for in-law quarters. He explained that in-law quarters require an additional EDU if public sewer is available. He noted that the Township does not require additional approvals for extended family uses, and the home retains its single-family dwelling designation for extended families. He explained that the in-law quarters has a doorway that provides access to the main house.

Melton testified that the house appears as two separate buildings that are connected by a doorway. He noted that the buildings share an on-lot well. He explained that Enck is moving;

however, the extended family intends to remain. He stated the agreement with Enck is that they are permitted to stay as long as they wish. He explained that they intend to close the pocket-door and drywall the opening to create two separate units. He noted that they live across from the property, and he would like to move his parents from Tennessee to this property. In addition, his children or his in-laws might be moving to the area and they could move to this property. He stated that relatives would live in one side of the building; however, he does not anticipate that relatives would live in both sides of the building. He noted that he does not intend to move into the home.

The Zoning Officer explained that the Zoning Ordinance allows three unrelated individuals to live together in a household. He noted that the R-2 zone and Mixed Use zone include provisions to convert a home into a multi-family dwelling.

Matteson stated that he is concerned that any approval could set a precedent for other properties where in-law quarters were constructed and the property owners wish to create multi-family units. The Board members agreed that as long as related individuals live in the building (daughters and in-laws), the property conforms. The Zoning Officer explained that he has upheld that in-law quarters can not be used as a separate rental unit, based on building permit applications. The Zoning Hearing Solicitor explained that the Board needs to determine whether the property can be converted from one unit to two units. Melton noted that the property currently contains 2,800 square feet, which is large for a single-family home. Matteson stated that although he understands the applicant's intent, there does not appear to be a hardship to grant a change of use.

Dorenda Melton was sworn in. D. Melton inquired whether the current property owner could rent his portion of the home while allowing his in-laws to remain. The Zoning Hearing Solicitor stated that it can not currently be rented separately, and the current residents (Gehman) could remain at the property; however, they would have the entire home, unless other family members move to the property.

On a motion by St. Clair, seconded by Schrock, the Board voted unanimously to deny a Variance under Section 340-14.B. The denial results in the home being considered a single-family dwelling with in-law quarters.

EXTENSION OF TIME FOR CASE #758 (331 OWL HILL ROAD-ONE YEAR): The Board reviewed the request. On a motion by Lefever, seconded by St. Clair, the Board voted unanimously to grant a one-year extension of time for Case #758.