

WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES
April 9, 2014

Vice-Chairman Scott Goldman convened the April 9, 2014 meeting of the Warwick Township Zoning Hearing Board at 6:30 p.m. Present were Board Members Scott Goldman, Dane St. Clair, Mark Will, Thomas Matteson and Brent Schrock. Gary Lefever was absent. Also present were Zoning Officer Thomas Zorbaugh, J. Timothy Miller, Frank Fish, Chris Esh, Mike Habecker and Court Reporter Melissa Anderson.

MINUTES APPROVAL: On a motion by St. Clair, seconded by Will, the Board voted unanimously to approve the minutes of the March 12, 2014 meeting as submitted.

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

HEARING PROCEDURES: For the benefit of those present, the Vice-Chairman explained the procedure to be followed for the evening's hearing.

CASE #804, CHRISTOPHER & TAMMY ESH - VARIANCE: The Vice-Chairman read the zoning notice for the application received from Christopher & Tammy Esh, 613 Shelley Court, Lititz, PA 17543. The applicant is seeking relief to the Warwick Township Zoning Ordinance in the R-1 Residential Zoning District: a Variance of Section 340-14.G(2) to allow an addition to an accessory structure be located three (3) feet from the property line.

Christopher Esh, was sworn in. He provided an overview of the project for the benefit of the Board. He explained that he would like to install a roof overhang on the side of his detached garage facing WTMA's pumping station to cover the items he has stockpiled next to the garage.

The Zoning Officer stated that the neighboring property has the easement to the pumping station on it and therefore the proposed addition would be approximately twenty (20) feet from the neighboring dwelling unit. He stated that both the properties and the pumping station share the same driveway. The Zoning Officer also shared that the plan had been shown to WTMA and that they did not have any concerns with the location.

Tom Matteson requested the Zoning Officer to clarify the location of the property. The project was presented on the smart board. Mark Will asked for clarification of the distance from the property line. Esh stated three (3) feet in the front, seven (7) feet in the rear. Esh stated that the neighboring property owner was here. Mike Habecker stated he has no objection to the project.

On a motion by Goldman, seconded by Matteson, the Board voted unanimously to grant a Variance of Section 340-14.G(2).

CASE #805, J. TIMOTHY MILLER - VARIANCE: The Vice-Chairman read the zoning notice for the application received from J. Timothy Miller, 513 W. Orange Street, Lititz, PA 17543. The applicant is seeking a Variance to the Warwick Township Zoning Ordinance under Section 340-92.1.A(4), pertaining to the installation of a geothermal system in a Wellhead Protection Zone 2 in the R-1 Residential Zoning District.

J. Timothy Miller and Frank Fish were sworn in.

The Zoning Officer shared that the applicant, had applied for a permit to install a geothermal system on his property. Upon reviewing the permit it was determined that the property was located with Zone 2 of WTMA's wellhead protection area that would not allow geothermal boreholes installed on the property. Miller and his contractor were notified of the restriction and subsequent issues were raised by the Applicant.

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The Applicant came to a Board of Supervisors meeting to discuss the issue and to ask the Supervisors if anything could be done. Miller stated that he had contacted the PA Department of Environmental Protection (DEP) and they told him they did not enforce the provisions, it was a Township Ordinance. Dan Zimmerman, Township & Authority Manager stated that the Zoning Officer had discussed this with him and that if the Supervisors would authorize the staff to review, that they would contact DEP, and if possible, revise the Township's standards. The Supervisors approved the review. The Zoning Officer handed the Applicant and the Board the potential revisions to the Ordinance, and stated that both the Planning Commission and Supervisors had reviewed the revisions and would support the Zoning Hearing Board if they approved the Variance based on the conditions outlined.

Miller read an excerpt from the Department of Energy stating that ground source heat pump systems are highly energy efficient and environmentally-friendly. He added that the Township's comprehensive plan encourages the use of geothermal systems. He noted that although the Township should protect its drinking water source, technology has improved since these regulations were in place.

Miller stated that Fish is present to provide details about the anti-freeze used in the system, which is a bio-chemical approved by the FDA for use in some pet and human foods. He expressed the opinion that since this bio-chemical is approved by the FDA, contamination is not an issue. Goldman stated that the Ordinance allows only a potable water source for geothermal systems in Zone 2 of the Wellhead Protection Area. Fish stated that the circulated mixture in the closed-loop system is 70% (bio-chemical) anti-freeze and 30% potable water. Goldman requested clarification of what other action is needed after the Zoning Hearing Board's decision is rendered. The Zoning Officer explained that a building permit application would need to be submitted for the proposal. He stated that the Board of Supervisors will be acting on the modifications to the geothermal ordinance at their meeting on May 7, 2014. He noted that the ordinance could be modified slightly from the draft version being reviewed this evening, and any decision could be based on the requirements of any approved ordinance. Goldman expressed concern that the engineering portion addressing specific criteria for a geothermal system is not completed. Matteson concurred and added that his concern is that the Zoning Hearing Board could approve the proposal based on the current draft of the Ordinance; however, if the Board of Supervisors approves a different version, the Applicant might need to come back to the Zoning Hearing Board for another Variance request. Goldman stated that the information submitted regarding the proposed ordinance should not be entered into evidence since it is not complete. The Zoning Officer stated that the Board could approve a Variance for the system under the current ordinance which would grandfather the use regardless of the Board of Supervisors decision. Will expressed concern stated that the Zoning Hearing Board is being asked to grandfather a system that has not been approved by the Board of Supervisors. Miller stated that other municipalities do not restrict geothermal systems in any Wellhead Protection Area zone. Fish stated he discussed the issue with a DEP representative who indicated that the Township's zoning requirements on Wellhead Protection Areas is voluntary and not required by their agency. The Zoning Officer stated that the Ordinance was modeled after DEP guidelines. Miller stated there is an urgency in installing the system at this time due to health issues of a family member. Matteson stated that while the Township is sympathetic to the Applicant's time constraints, there are broader issues that the Township needs to address. He noted that Township staff is attempting to work as quickly as possible to address the issues.

The Vice-Chairman announced that the Zoning Hearing Board will recess to an Executive Session to review the issue.

The Vice-Chairman reconvened the meeting at 7:23 p.m. On a motion by Goldman, seconded by St. Clair, the Zoning Hearing Board voted unanimously to deny the Variance for Case #805 request based on the current Zoning Ordinance requirements, and that the Applicant has not proven a hardship.

ADJOURNMENT: With no further business to come before the Board, the meeting was adjourned at 7:28 p.m.

Respectfully submitted,

Thomas Zorbaugh
Zoning Officer