

**WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES  
AUGUST 11, 2015**

Chairman Gary Lefever convened the August 11, 2015 meeting of the Warwick Township Zoning Hearing Board at 6:30 p.m. Present were Board Members Gary Lefever, Scott Goldman, Brent Schrock, Dane St. Clair and Mark Will. Absent was Tom Matteson. Also present were Zoning Officer Tom Zorbaugh, Zoning Hearing Board Solicitor Neil Albert, Susan Trafford, Tamra Nonnenmocher, Tom Oehme, Parke Oehme, Jim Miller, Tara Will, Robbin and Martin Flegal, Edith, Kim, and Heidi Amico, Merry & Wesley Staulters, Ted Kleinsasser, Kim Melton, and Richard Pringle.

**MINUTES APPROVAL:** On a motion by Goldman, seconded by St. Clair the Board voted unanimously, to approve the minutes of the July 8, 2015 meeting. Lefever abstained from the voting.

**POSTING PROOF OF PUBLICATION AND NOTICE:** The Zoning Officer confirmed that the new cases were properly posted.

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

**CASE # 821- JAMES & NANCY MILLER- VARIANCE:** Lefever inquired if the Applicant had any concerns with his participation in the hearing and voting due to the fact he was absent from last month's meeting. The applicant stated he had no issue with Lefever participating in the case.

The Zoning Officer stated that this hearing was continued from the July meeting and gave some background information for the benefit of those who were not familiar with the case. The Applicants were seeking a Variance under Section 340-15.E pertaining to a rear yard setback in the R2 Zone. The Applicant would like to add a patio to the rear of the dwelling which will encroach on the required 30 foot setback. The Variance for exceeding lot coverage of 60% was withdrawn.

The Zoning Hearing Board had requested the Planning Commission to review the development and determine if it would make sense to reduce the setbacks for the whole development. (See the letter from the Planning Commission with their comments and suggestions). The Zoning Officer stated that the Planning Commission did not recommend giving the whole development a reduction.

The Planning Commission felt that it should have been the responsibility of the developer to have the lots made accordingly. The Planning Commission felt it would be better to look at each individual property.

Lefever asked if there was anyone else in the audience that wanted to make a comment or had any questions. There were no questions or comments from the audience for the Board.

On a motion by Goldman, seconded by Will, the Board approved Case #821 relevant to the rear yard setback and Section 340-15.E in the R2 Zone per the application submitted. Lefever abstained from voting.

**CASE #823- JILL OEHME- VARIANCE:** The Chairman read the application received from Jill Oehme, 618A Owl Hill Road, Lititz, PA who is the owner of the property located at 1 Mark V Drive, Lititz, the subject of this hearing. The Applicant is seeking a Variance under Section 340-22.G Prohibited Uses, pertaining to an accessory structure in a Floodplain Zoning Overlay in an I-1 Zoning District.

Thomas and Parke Oehme were sworn in representing the owner.

The Zoning Officer gave a brief overview of the case. On the plan provided to the Board, the Zoning Officer explained that the blue line indicates the FEMA 100 year flood plain and the yellow line indicates the HEC II study for the Wynfield Complex. This particular property is a part of the Wynfield subdivision. The existing building was built under this subdivision plan which showed the 386 line being the floodplain line under the HEC II study. However the HEC II study was never submitted to FEMA for a map revision so the floodplain is still located where the blue line is located on the map not the yellow line that the HEC II study showed. The Applicant is currently paying for floodplain insurance on a portion of the existing building. The applicant would like to relocate the building moving it out of the way of truck movement. However in doing so this would put part of the building in the floodplain zone.

Thomas Oehme stated the reason he would like to put the building in this particular location is that it is out of the way of traffic movement. Thomas Oehme stated this can be done without creating any new impervious space as the building would be built on the existing parking lot. The building would be like a Quonset hut with no utilities. It would be 30 x 50 foot building used for storing equipment.

Will asked if this area was to flood, is there any provisions to allow the water to flow through the building. Park Oehme stated it is to be designed with sliding barn doors. Thomas Oehme stated he is more concerned with rain and snow ruining his equipment then flood water going through this area.

Will asked the Zoning Officer if the new proposed FEMA floodplain will stay the same as the current map dealing with this project. The Zoning Officer stated even though the Township has done extensive flood plain repairs in the area, the FEMA map did not reflect a change.

Zorbaugh stated a waiver was request, received and approved by the Township for this project.

Goldman asked if the HEC II study would be submitted to FEMA based upon the contour line at some point. The Zoning Officer stated the applicant is would need to contact an engineer to do

this study and resubmit this information to FEMA. A full study would still need to be done to determine whether they would accept the HEC II study.

Lefever asked if there was anyone in the audience that wanted to make a comment or had any questions. No one else addressed the Board.

On a motion by Will, seconded by Goldman, the Board unanimously approved to grant the variance under section 340-22.G pertaining to an accessory structure in a Floodplain Zone Overlay in the I-1 Zoning District with the understanding the building will be designed with some type of flow through concept.

**CASE #824- TED KLEINSASSER- VARIANCE:** The Chairman read the application received from Ted Kleinsasser, 12 Shirley Lane, Lititz, PA. The Applicant is seeking Variances to the Warwick Township Zoning Ordinance under Section 340-14.B Permitted Uses and 340-38.B(1)(I) Signs pertaining to a commercial use in an R-1 Zoning District. The Applicant would like to continue operating his two businesses, a construction company and a granite business, from his property.

The Solicitor asked if anyone in the audience wanted party status for this hearing. The following requested and were granted party status do to their proximity to 12 Shirley Lane: Wesley Staulters, Merry Staulters, Martin Flegal, Robbin Flegal, Edith Amico, Heidi Rietschen, and Kim Melton.

The Zoning Officer gave a brief explanation as to where the properties are located in relation to Kleinsasser's property. The Solicitor advised the Chairman that based upon the addresses of the individuals they are entitled to party status

The Applicant, Wesley Staulters, Merry Staulters, Martin Flegal, Robbin Flegal, Edith Amico, Heidi Rietschen, and Kim Melton were all sworn in.

Kleinsasser stated that he had purchased the property since it did have large commercial type buildings on the property. He has been operating a business since he relocated to this property and would like to continue operating these two businesses. Prior to Kleinsasser buying the property a business had not been run from it for many years. Goldman inquired if the Zoning Officer knew how long ago it has been since a business was run from this property. The Zoning Officer stated he did not.

The Zoning Officer stated this not a request to change the zoning. Due to the number of businesses and size of the building to be used, it does not qualify to be considered under the Home Occupation Standards Ordinance. The applicant is requesting a Use Variance in order to allow both businesses to remain. The applicant is also requesting a Sign Variance to enable him to use the dimensions for commercial signs. Kleinsasser stated the size of the existing building is 55 x 155. The size of the sign he is requesting is 18" x 24".

Kleinsasser stated there are two flatbed trucks that come in and out in addition to the employee's personal vehicles.

Goldman asked the applicant to explain the nature of his business. Kleinsasser stated that there are two businesses: Ted's Construction which has limited need to come to the site and Allstone currently has independent employees who come in to work for him. His goal is to have

permanent employees for Allstone and make this a fulltime business. Kleinsasser stated no granite is stored in this building. The granite is delivered to the site, cut to size and a subcontractor will pick it up the finished project.

Schrock asked if Kleinsasser resides at this address as well. Kleinsasser stated he and his family do live on the property. The other buildings on the property are used for storage of tools. Schrock asked if the drive at the end of the cul-de-sac was the only entrance to his residence. Kleinsasser stated it was.

Lefever said in reading the letter from Kleinsasser it implies that there may potentially be future growth. Kleinsasser replied he would add employees to work from this facility so he has more control over what is happening with the business. He stated there would never be more than 10 employees on site as the building is not large enough to accommodate more employees and machinery.

The Zoning Officer asked the applicant to confirm the number of employee's that Ted's Construction and Allstone would have on site. The applicant stated 1-2 fulltime employees in the construction business (all office) and for the granite business there are 2-3 employees. Some positions would be shared. The maximum number of employees for both businesses would be 6. The employees for Ted's Construction all work off site. Kleinsasser stated in the future he would like 8-10 employees with 6 being on site. The hours of operation would be 7:00 a.m. to 5:00 p.m with office hours 7:00 a.m. to 7:00 p.m. Monday – Friday.

Kleinsasser testified that all traffic that would be created would be cars or pickup trucks. Deliveries of materials to be used are made from a 30' flatbed truck twice weekly. The granite would leave the site via a box truck.

Kleinsasser is requesting a variance for a sign measuring 24" x 36" which would be placed at the entrance to the building. Kleinsasser has not decided at this time if the sign will advertise the two businesses or just Allstone. Two other signs would be placed on the building itself that would not exceed 4' x 8' and would be visible occupants on the trail. Two signs are allowed for a commercial property so a variance would be needed for the third sign.

Lefever asked if it was typical for storage of granite to be kept outside. Kleinsasser stated any granite located outside the building is waiting to be fabricated. Once it is cut it would go into the building. The granite itself is not stocked at this building only granite from orders is kept here.

Martin Flegal, who lives at 4 Shirley Lane, stated he has lived here since 1975. At that time all the properties, which included five houses, were owned by the developer of the Whitfield Subdivision across the street. These homes and the applicants property was originally owned by the oil company. The property that the applicant owns was warehouses for the oil company. Flegal stated in the late 70's early 80's, Shirley Lane ended in front of his property. In order to turn this road over to the Township the road was paved and extended. Flegal stated there is not a lot of paving on this road and he is concerned if more traffic starts to use this road it will break up. Flegal stated at least every other day a truck goes down Shirley Lane with granite. Flegal stated he knows of one fulltime employee. Flegal also states Kleinsasser is bringing in remnants from his construction business and burning it at this location. Flegal is also concerned about what this will do to the value of his home.

Merry Staulter, 6 Shirley Lane, stated this is a residential neighborhood with only five houses. She stated their street serves as a walkway for residents in other areas such as Briar Hill. She stated children ride their bikes on this road and people will walk their dogs on this road because it ends in a cul-de-sac. Mrs. Staulter stated there has been an increase in traffic since she has lived there.

Heidi Amico, 2006 Old Rothsville Road, stated traffic has increased on Briar Hill Road and Old Rothsville Road. She feels a variance would take away from this quiet neighborhood.

Wesley Staulter, 6 Shirley Lane, stated when he and his wife moved to the area they were looking for a residential property that wasn't surrounded by any commercial land or farmland. He is concerned if given a commercial variance this will decrease the value of their homes. He stated he is not clear on what this variance would allow or not allow in the future. Staulter stated if Kleinsasser gets a zoning variance what would stop someone else from getting a comparable zoning variance. The Zoning Officer explained in a residential zoning district there are multiple tiers. A limited business means you can work from your home; you can take phone calls and set up a desk. The only limitation is no clientele can come to the home. There is also a special exception for home occupation in which clientele come to the house and hours of operation are established. There is a list of criteria they must meet. The Zoning Officer stated there can be businesses in the residential zoning district as long as they meet the criteria. Kleinsasser was unable to meet the criterion which is why he is seeking a Use variance to allow what he does on his property as a permitted use.

Mrs. Staulter stated she was doing research on residential zoning. She read Ordinance 175 and feels this applies to the residents on Shirley Lane. She stated that the homeowners on Shirley Lane feel this threatens the essence of a residential single family home. The Zoning Hearing Board Solicitor stated what is being asked for tonight is not a special exception like a home occupation. Mr. Kleinsasser is asking for a variance essentially asking the Board to waive the Zoning Ordinance requirements. Kleinsasser feels that not having his business in this area would be a hardship.

Flegal stated one thing that should be considered when talking about the business is where it sits down in the valley and potential issues with the flood plain. He also questioned what the posted speed limit is on Shirley Lane as there are no speed limit signs.

Lefever asked if there were any more comments from the audience.

Kleinsasser stated he has been running the business at this location for approximately 1 1/2 years. The Zoning Officer stated the Township did not get a notice of concern. The violation was found out due to a site visit regarding the Rails to Trails and it was discovered a business was being operated from this property.

Will inquired how many employees are currently working at the site. Kleinsasser replied there are four including him. Will inquired if the business could be run with fewer employees. Kleinsasser said with no growth he could, however if he had less employees he would have to increase the hours of operation.

Lefever stated the Board is going to take an executive session after hearing the comments from those who spoke tonight. The Board reconvened at 8:15 pm. After the executive session, Lefever asked the Board, the applicant and the audience if there were any further comments;

there were not. Lefever stated the Board discussed the request from the applicant. On a motion by Lefever, seconded by Goldman the Board unanimously denied Case #824 as presented, for the Use Variance and the signs variance. Lefever stated the parties present at tonight's meeting will be getting a notice to that affect. Within 30 days they will receive a findings including the facts of law explaining the reasoning why the Board made the decision it did. Kleinsasser has the right to appeal the decision in Court. If he does not appeal then the decision of the Board is final.

Kleinsasser stated he would not appeal however he inquired if the contracts he has now can be closed out first. Lefever stated he would need to speak with the Zoning Officer to find out what his options are. The Zoning Officer stated Kleinsasser has 30 days to comply from the point a decision is rendered. After 30 days he would have must have his business removed or He would have 60 days to appeal the decision.

**ADJOURNMENT:** With no other business to come before the Board, the meeting was adjourned at 8:45.

Respectfully submitted,

Thomas Zorbaugh  
Code & Zoning Officer