

WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES

February 8, 2012

Zoning Officer Thomas Zorbaugh convened the February 8, 2012 meeting of the Warwick Township Zoning Hearing Board at 6:30 p.m. Present were Board Members Scott Goldman, Dane St. Clair, Brent Schrock and Mark Will. Gary Lefever was absent. Also present were Township Zoning Officer Thomas Zorbaugh, Court Reporter Brenda Hamilton, Zoning Hearing Solicitor Neil Albert, Mitchell Kemp, Leonard Hoover, Oleta Hoover, Chris Wilson, Anne Lusk, Bruce Garner and Ken Berkenstock.

MINUTES APPROVAL: On a motion by St. Clair, seconded by Goldman, the Board voted unanimously to approve the minutes of the December 14, 2011 meeting as submitted.

ELECTION OF OFFICERS FOR 2012: The Zoning Officer opened the nominations for Chairman and Vice-Chairman of the Zoning Hearing Board. On a motion by St. Clair, seconded by Goldman, the Board voted unanimously to close the nominations and re-elected Gary Lefever as Chairman of the Zoning Hearing Board. On a motion by Will, seconded by St. Clair, the Board voted unanimously to close the nominations and re-elected Scott Goldman as Vice-chairman of the Zoning Hearing Board.

Vice-Chairman Scott Goldman conducted the remainder of the Zoning Hearing Board meeting.

POSTING, PROOF OF PUBLICATION AND NOTICE: The Township 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 #772, LEONARD AND OLETA HOOVER - SPECIAL EXCEPTION/VARIANCE: The Vice-Chairman read the zoning notice for the application from Leonard and Oleta Hoover, 4 Valley View Court, Lititz. 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 operate a fabric store from their home. The applicant is also requesting a variance of Section 340-78.F to sell merchandise not made by the applicant.

Leonard and Oleta Hoover were sworn in. Mr. Hoover stated that they would like to operate a retail fabric store from their home. The Zoning Officer reviewed the criteria under Section 340-78 (Home occupations) with the Applicant to determine whether the proposal would meet these requirements. Mrs. Hoover explained that she would perform seamstress work as part of the home occupation. Mr. Hoover explained that the home contains 2,400 square feet of area; and the area for the home occupation would be 400 square feet. He explained that they anticipate 3-5 customers per day, based on discussions with friends who have similar businesses. The Zoning Officer explained that the proposal would require 2 dedicated parking spaces for customers. Mrs. Hoover explained that although she would perform seamstress work, the primary use that is requested is for the fabric store. Mr. Hoover explained that the requested hours of operation are Tuesday, Thursday and Saturday from 10:00 a.m. to 6:00 p.m.

The Chairman inquired whether anyone present wishes to comment on the proposal.

Anne Lusk, 2 Valley View Court, requested party status for the case. On a motion by Goldman, seconded by Will, the Board voted unanimously to grant party status to Lusk. Lusk was sworn in. Lusk inquired what type of delivery trucks would deliver the fabric. Mr. Hoover stated that most of the fabric would be picked up in their personal vehicle. He added that customer parking would be provided in front of the existing garage. Lusk inquired whether selling eggs and vegetables constitute a home occupation since the Hoover's currently sell these from their property. The Zoning Officer explained that sales such as these are not typically considered a home occupation since anyone who has a garden may sell what is produced from their home. He noted that the Township does require additional zoning approval for large-scale operations. Lusk expressed the opinion that the proposal would not meet the criteria for a special exception since they would display and sell goods which are not produced on the property. She added that there does not appear to be any unique circumstances or hardship to grant a Variance of this requirement, only a desire by the property owner. She stated that the proposal would change the character of the neighborhood. She explained that she chose the property based on its quiet location on a cul-de-sac. She added that customers driving down the cul-de-sac after school hours and on weekends could put her children in danger. She noted that other commercial business space in Lancaster County is available to the property owner. A Board member inquired how many properties are served by the cul-de-sac. The Zoning Officer stated that 6 properties are served by the cul-de-sac.

Ken Berkenstock inquired what is the intent of the property owner if the business grows. Mr. Hoover stated that they would relocate the business if it grows. The Chairman explained that the Board has approved home occupations for beauty salons and similar services with one customer per hour.

The Board recessed to an executive session to discuss the case with the Zoning Hearing Solicitor.

The Zoning Hearing Solicitor explained that there are two legal issues before the Board. The first is the Home Occupation, with specific criteria. He noted that seamstress work could be permitted under a Home Occupation. He stated that the second issue is retail sales, which is not permitted by Special Exception and a Variance is required. He explained that in order to obtain a Variance, a hardship must be proven by the Applicant.

On a motion by Goldman, seconded by St. Clair, the Board voted unanimously to grant a Special Exception under Section 340-12.C.(2), to allow seamstress work as a Home Occupation, contingent upon the applicant discussing the parking arrangement with the Zoning Officer. On a motion by Goldman, seconded by Will, the Board voted unanimously to deny a Variance of Section 340-78.F to sell fabric as a retail business as part of the Home Occupation.

CASE #773, HENRY WALTER III - VARIANCE: The Vice-Chairman read the zoning notice for the application from Henry Walter, III, 303 Reachcliff Drive, Shephardstown, WV 25443. The applicant is the owner of the property located beside 901 Lititz Pike on Owl Hill Road, currently a vacant tract in the R-1 Residential Zoning District. The applicant will be represented by Mitchell Kemp of Snyder, Secary & Associates of Harrisburg. The applicant is seeking a Variance to the Warwick Township Zoning Ordinance under Section 340-14.E to reduce a front yard setback from 40' to 30' and Section 340-34.C.(3) to reduce a side yard setback from an access drive. The applicant would like to develop the tract into four (4) residential building lots.

Mitchell Kemp, representing Snyder, Secary & Associates, and Bruce Garner, representing SGS Architects were sworn in.

The Zoning Officer stated that the Applicant presented the proposal to the Warwick Township Planning Commission on January 25, 2012 and to the Board of Supervisors on February 1, 2012. He noted that the plan presented to the Board of Supervisors was modified based on recommendations by the Planning Commission.

Kemp stated that the previously submitted plan (5b) has been replaced by Site Concept Plan 5c, dated January 31, 2012. He explained that the difference between the two plans is the previously illustrated right-of-way width of 40', and the current illustrated right-of-way width of 50'. In addition, the current layout also eliminates the need for a Variance of Section 340-34.C.(3) to reduce a side yard setback from an access drive. The current plan meets the side yard setback requirement.

Kemp explained that the roadway design is not a standard cul-de sac in order to reduce the amount of impervious area, and to reduce the impact to the environmental sensitive features on the site (woodlands, wetlands). He added that the lots meet the guidelines of the Zoning Ordinance with the exception of the front yard setback. Kemp explained that the plan also provides for a future potential roadway extension to the adjoining property owner (High) in favor of the Walter family. He noted that the lots would be served by public sewer and public water. It is also the intent of the property owner to dedicate the proposed roadway to the Township.

The Zoning Officer explained that since the Zoning Hearing Board must consider the least Variance needed, it appears that Lot A could meet the setback requirement. Kemp concurred that Lot A could meet the front yard setback; however, a Variance would be needed for Lots B-D.

The Zoning Officer noted that the plan was submitted to the Planning Commission and Board of Supervisors only as a Sketch Plan and not a formally submitted plan.

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

A Board member inquired whether other homes along Owl Hill Road are closer than 40' to the roadway. The Zoning Officer explained that other homes in the area are closer than 40' to the roadway. Goldman explained for the benefit of those present, that if the Variance is approved, the plan would also require subdivision approval.

On a motion by Goldman, seconded by Schrock, the Board voted unanimously to grant a Variance under Section 340-14.E to reduce a front yard setback from 40' to 30' based on testimony this evening, and upon consideration of Concept plan 5c.

REQUEST FOR EXTENSION OF TIME FOR SAMUEL LOMBARDO - 100 MILLWYCK

ROAD: The Board reviewed the request. On a motion by St. Clair, seconded by Will, the Board voted unanimously to grant an extension of time until February 8, 2013 to obtain the required permits.

ADJOURNMENT: With no further business to come before the Board, the meeting was adjourned at 7:25 p.m.

Respectfully submitted,

Thomas Zorbaugh

Code and Zoning Officer