WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES
November 10, 2021
6:30 p.m.

Chairman, Tom Matteson convened the November 10, 2021, meeting of the Warwick Township Zoning Hearing Board to order at 6:30 p.m. In attendance were Board Members Tom Matteson; Mark Will; Dana Clark; Dane St. Clair; Brett Nolt; and Jeremy Strathmeyer. Also in attendance were Tom Zorbaugh, Zoning & Code Enforcement Officer; Neil Albert, Township Solicitor; Suzanna Oldt, Court Reporter; Craig Smith, RGS Associates; Jonathan Martin; James Hoover, 207 Skyview Lane, Lititz; Mark Burkholder, 253 Skyview Lane, Lititz; Andrew Adams, Diehm & Sons, Inc.; Alesha Rhinier, 230 Landis Valley Road, Lititz; Alexis Rohrer, 4 Lehigh Court, Lititz; Angela Newell, 362 Chowning Place, Lancaster; and Richard Rhinier, 230 Landis Valley Road, Lititz.

Neil Albert, Township Solicitor, explained the procedures for tonight's meeting.

APPROVAL OF MINUTES: On a motion by T. Matteson and seconded by D. St. Clair, the Board unanimously approved the minutes from the October 13, 2021 meeting as submitted.

POSTINGS, PROOF OF PUBLICATIONS AND NOTICES: Thomas Zorbaugh, Code Enforcement and Zoning Officer, confirmed that the cases were properly advertised and posted.

ZONING CASES:

CASE #914 – Brookcrete Holdings, LLC – T. Matteson stated this case was withdrawn and there was no action to be taken.

CASE # 915 – Compass Mill Complex, LLC – T. Matteson stated the Board was in receipt meeting minutes from the Water Authority and the questions everyone had were answered. There was one additional variance, 340-17.E, for wells versus the public water. On a motion by T. Matteson and seconded by D. St. Clair, the Board approved the variance of Section 340-17.E to all the project to utilize on site wells for water with a 5-0 vote. M. Will abstained from voting.

CASE # 916 – Samuel Stoltzfus – Cedar Run Construction – The applicant has requested another time extension. On a motion by T. Matteson and seconded by D. Clark, the Board unanimously approved the continuance to that application with the applicant coming back at the December meeting and if not ready by December, approve the continuation to the January 2022 meeting.

CASE # 917 – Levi Stoltzfus – An application has been received from Levi Stoltzfus, 126 W. Newport Road, Lititz, PA within the A Zoning District. The applicant is seeking relief from the Warwick Township Zoning Ordinance for a Special Exception of Section 340-11.C(8), to allow a working class horse on 1.7 acres. Mr. Stoltzfus was affirmed by the court reporter. T. Zorbaugh spoke on behalf of Mr. Stoltzfus. There is a 12 x 12 shed for his horse which is 100 feet from the property lines. The property is located in the Ag Zone. There is no plans for fencing at this time. The proposal is for a working class horse which will stay in its stall. If the applicant would want to do fencing, a zoning permit would

be required. St. Clair asked about manure for the horse. Mr. Stoltzfus stated it will be used on his garden or taken to his father's farm. The applicant stated that at least once a week, possibly daily, manure will be removed. J. Strathmeyer asked if the applicant had any other animals on the property. The applicant has 3 dogs on the property. On a motion by T. Matteson and seconded by J. Strathmeyer, the Board unanimously approved the special exception to Section 340-11.C(8) to allow a working class horse on 1.7 acres.

CASE # 918 – Jonathan Martin – An application has been received from Jonathan Martin, 239 Skyview Lane, Lititz, within the A Zoning District. The applicant is seeking relief from the Warwick Township Zoning Ordinance for a special Exception of Section 340-11.C(8) to allow a working class horse on 1.3 acres and a Variance of Section 340-87.D to allow the fence to be closer than 10 feet to the property line. Jonathan Martin was affirmed by the Court Reporter. T. Zorbaugh is speaking for the applicant. Mr. Martin has 1.3 acres on the property where he currently lives. He owns the farm beside it and his father-in-law, Mark Burkholder, owns the farm on the other side of the property. The area that the applicant wants to fence will encroach on both of the applicants' properties, which is somewhat fenced now. Because of the existing fencing, he is asking for relief of the 10 feet so that he can maintain the pasture area for the horse. A Board member asked if the existing fence is on the principal property and the adjacent property. Zorbaugh stated that a similar case happened in Brunnerville, which the Board put a condition stating that at such time the applicant sold one of the properties, the fence would have to be relocated unless the property owners know. J. Strathmeyer asked about plans for the manure. The applicant will be spreading manure on his adjacent property. There was discussion on the need of revising the ordinance dealing with the location of fence. On a motion by T. Matteson and seconded by D. St. Clair, the Board unanimously approved the Special Exception of Section 340-11.C(8) to allow a working class horse on 1.3 acres and the Variance of Section 340-87.D to allow the fence to be closer than 10 feet to the property line, with the condition that at such time as either of the properties are sold separately, the fence must be removed or relocated.

CASE # 919 – Richard Rhinier – An application has been received from Richard Rhinier, 230 Landis Valley Road, Lititz, PA, owner of the property located at 227 New Haven Drive, Lititz within the R1 Zoning District. The applicant is seeking relief from the Warwick Township Zoning Ordinance for a Variance of Section 340-14.E and/or J to allow the proposed lot that had previously existed be subdivided not meeting the current lot design standards. Andrew Adams from Diehm & Sons, Inc. was sworn in by the court reporter. Richard A. Rhinier was sworn in by the court reporter. A. Adams from Diehm & Sons, Inc. is representing the applicant Richard Rhinier. The applicant owns properties at 230 Landis Valley Road and 227 Hew Haven Drive. He is looking for relief of the current zoning standards for minimum lot area. The applicant would like to do an add-on. This would be a reversal of add-on that was conducted and completed back in 2014. The current lot configuration is the yellow property and the blue portion is one lot and then the red portion is his other lot. Currently at the Landis Valley Road property, that is occupied by two barns, with the New Haven Drive property being a residential dwelling that is currently occupied by the applicants' son. The applicant would like to reverse the add-on that was completed back in 2014 and take the blue strip that is meadow/grassy area and add it back to the red portion of the property that is the barns which would take it back to the original subdivision. The reason he is asking for the relief is by doing the add-on, the yellow portion will be a resultant of 12,458 square feet, and the zoning ordinance requires a minimum lot area of 15,000 square feet. Both properties are served by public water and sewer, so there are no on-lot utilities. The reason why they are proposing this plan, which creates the lot line straight across the back, is so they can continue the lot formation that was originally designed by keeping a straight line to meet the minimum lot size of the 15,000 square feet, it would have to introduce jogs and offsets in the property which would not be as nice looking and there is also a natural drainage way/stream that passes through the back. If the applicant would own the other portion he would have to cross over there to mow. They are just trying to use natural boundaries along with what was originally designed to keep a straight rear property line. M. Will asked if the applicants business is on the pink property. He referred to the fact that relief was granted on that to operate the business. The add-on was done when Henry and Marie Grove owned the property. Will asked if there is a proposed use for the property. Mr. Rhinier stated that when he purchased the property from the Grove's, he did not want to whole valley so the property was subdivided. When Hank passed away, Mr. Rhinier bought his house, so now it is connected to the New Haven Drive. Now the applicant wants to sell the house on New Haven to his son and he wants to keep the valley. The

proposal is strictly for lot line changes. There was a discussion as to whether this is creating a non-conforming lot and also if it could be considered de minimus. Alesha Rhinier was sworn in by the court reporter. She wanted to clarify that Mr. Rhinier owns 228 A Landis Valley Road and also 227 New Haven Drive. She states that she and Mr. Rhinier are currently in the middle of divorce proceedings and it is her business, not his, located on 228 Landis Valley Road. She is requesting a continuance, as is her attorney, in order for them to now make any changes in the property at this point because they are both marital assets. She states that her property is a marital asset for Mr. Rhinier, as well as 228 A Landis Valley Road and 227 New Haven. She feels what is happening here will devalue the property on 227 New Haven should they choose to move that section of land to 2 garages. She states that that is a dwelling to a garage and she wants to make sure that is vetted in court by the attorneys before changes are made to properties. She has not been made aware until this hearing, of any of these plans. She and Mr. Rhinier have not discussed any of the proposed plans. She was only made aware of the proposal because she drove by the property. She is unsure of what is happening at 227 New Haven Drive, if it is a rental by his son or if he is paying that outright, or if he is living there. She stated that Mr. Rhinier is deeded on 227 New Haven Drive. She is on the deed for 230 Landis Valley Road where Mr. Rhinier is taking residence of. She claims to be soley deeded on that property. Mr. Rhinier is deeded on 228 A Landis Valley Road, which is currently where the business it. D. Clark clarified that her name is not on either of the properties in question. Mrs. Rhinier states that through divorce proceedings in the state of Pennsylvania it is a 50/50, so he is asking for portions of her business through the divorce proceedings along with 230 Landis Valley Road. In order for them to come to an agreement, they need to continue to have litigation. Mr. Rhinier stated that there is a prenuptial agreement and everything is in his name and he has consulted his attorney and told this application has nothing to do with her. In rebuttal, Mrs. Rhinier stated that there are several issues with the prenuptial agreement which is why they are currently in litigation. Her attorney asked her to be present for this hearing and represent that there is absolutely nothing settled between the two at this point. The Board went in to Executive Session at 7:00 pm. They returned to the hearing at 7:05 p.m. Neil Albert, Solicitor, advised the Board in Executive Session that he has personally done hundreds and hundreds of divorces in his career and he is thoroughly familiar with the issues have been raised. He also states that they are issues that are subject to the jurisdiction of the Court of Common Pleas in the divorce. They do not impact the work of the Zoning Hearing Board. The Zoning Board is under very strict time tables under the municipalities planning code that is required to take action within a certain time frame of the filing of the application. It would be a legal error for this Board not to proceed with deciding the case in the absence of an injunction from the court. Therefore, his advice to the Board is that everything noted is part of the record, but this should not affect the ability of the Board to go ahead and decide the case. Based on that advice, M. Will made a motion to approve the Variance of Section 340-14.E Design Standards to have the lot on New Haven Drive be less than what is currently required in our ordinance. T. Zorbaugh explained the two different Sections of variance on the application. N. Albert asked if the Planning Commission is going to care if they use one or the other or both sections. A. Adams stated that it is the same numbers and typically the opinion is when you make any changes to a property you would then fall under the new standards since you are making a lot change. M. Will amends his motion for a variance of Section 340-14.J because the ordinance is clear that design standards shall apply to a single family detached dwelling as permitted, seconded by D. St. Clair, the Board approved the variance in a 5-0 vote. T. Matteson abstained from voting. T. Zorbaugh clarified that there is a required lot add-on subdivision and a lot of issues will need to be cleared up because you are dealing with deeds and transfers, etc. at that point. Within 45 days you will get a decision. T. Zorbaugh asked if Mrs. Rhinier should be made party to this hearing. N. Albert asked if Mrs. Rhinier wished to be made a party of the case because she is affected more than other persons who reside in Warwick Township. He stated that it would affect her right to appeal the zoning case if desired and she would be on the mailing list to get a copy of a written decision. In a 5-0 vote, the Board recognized Alesha Rhinier, 230 Landis Valley Road, Lititz as a party to the case. T. Matteson abstained from voting.

CASE #920 – Tim & Alexis Rohrer – An application has been received from Tim & Alexis Rohrer, 4 Lehigh Court, Lititz, within the R1 Zoning District. The applicant is seeking relief from the Warwick Township Zoning Ordinance for a Variance of Section 340-14.G(2) to allow a shed to be 3 feet or 5 feet from the property line. Alexis Rohrer was sworn in by the court reporter. T. Zorbaugh stated that the Zoning Ordinance under Section 340-14.G(2) states that all accessory structures are required to be 10 feet from a property line. The development was put in with an 8 foot setback

for the house. Typically when we do developments and we do permits like this, we would have granted them the 8 feet, not held them to the 10 feet. So if a development has 6 foot side yards, their accessory buildings are 6 feet. We do need to review the criteria in the ordinance. The applicant wants to place a shed 5 feet off the property line, so if the requirement is 8 feet, then it would be a 3 foot relief, if the requirement is 10 feet, it would be a 5 foot relief. Mr. Zorbaugh did present some information showing the contours. The applicants' property goes down over the hill from Newport Road. The plan shows where the shed would go and they are asking for that to be 5 feet from that property line. The applicant has pictures if the Board wishes to view them. Angela Newell was sworn in by the court reporter. She states that the pictures are trying to show the topography of the property and with the current setbacks the shed would not sit level. M. Will commented that the crux of the justification for the variance is the topography. A. Rohrer stated that if it was forced to be setback off the property line any further than 5 feet, it would start to get into a very steep slope where it would not be able to sit level, or to level the property to get it to sit level, you would be taking up half of the yard with slope. The applicant stated she would have to remove her clothes line and move her fire pit. The three photographs show to the Board will be collectively marked as applicants' exhibit 1. D. St. Clair asked if there were any plans to fence the property in the future. The applicant denies plans for fencing in the future. The applicant stated the size of the shed is 12 X 14 feet. M. Will questioned the need for a shed that size. On a motion by T. Matteson and seconded by J. Strathmeyer, the Board unanimously approved Variance request of Section 340-14.G(2) as presented. T. Zorbaugh stated that the applicant will receive a decision within 45 days.

ADJOURNMENT: With no other business to come before the Board, the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Thomas Zorbaugh
Code Enforcement and Zoning Officer