

WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES
MARCH 8, 2023
6:30 p.m.

Chairman Tom Matteson convened the March 8, 2023 meeting of the Warwick Township Zoning Hearing Board to order at 6:30 p.m. In attendance were Board Members Tom Matteson, Dane St. Clair, Dana Clark, Joel Lingenfelter, and Brett Nolt. Also in attendance were Tom Zorbaugh, Zoning and Code Officer; Neil Albert, Zoning Hearing Board Solicitor; Allen Blank, Court Reporter; Elam King, 1504 Rothsville Road; Charles Sweigart, Jr., 918 A Rabbit Hill Road; Joseph Leofsky, 2443 Douglas Drive, Lancaster; Jerry Warlow, 105 Brittany Lane; Devin Donmoyer, 135 Northview Drive, Lancaster; John Shenk, 911 Disston View Drive; Leonard Reiff, 205 Skyview Lane; Christian Miller, 96 S. George Street, York; Tyler Landis, 917 Rabbit Hill Road; Matt Geib, 265 Whitney Lane; Steve & Carolyn Polonus, 106 Brittany Lane; Randall & Courtney Weaver, 110 Brittany Lane; and Alex Piehl, RGS Associates.

MINUTES APPROVAL: On a motion by T. Matteson and seconded by D. St. Clair, the Board approved the February 8, 2023 minutes as written. J. Lingenfelter and B. Nolt abstained.

POSTINGS, PROOFS OF PULICATIONS AND NOTICES: T. Zorbaugh confirmed that both cases were properly posted and advertised as required by the law. The agenda was posted at the Township Office and on the Township website.

MEETING PROCEDURE: For the benefit of those present, the Solicitor explained the procedure to be followed for this evening's hearing.

T. Matteson asked that anyone wishing to give testimony tonight to rise and be affirmed or sworn in by the court reporter to expedite the cases for the night. John Shank 911 Disstonview Drive, Lititz, and Steve Polonus, 106 Brittany Lane, Lititz were affirmed by the court reporter.

CASE #931: An application has been received from Elam King, owner of the property located at 1504 Rothsville Road, Lititz, PA, within the R1 Zoning District. The applicant is seeking relief from the Warwick Township Zoning Ordinance of Section 340-14.F(2), to allow an accessory structure to exceed 20' in height. The application has been assigned Case #931 and is scheduled for public hearing tonight.

Mr. Elam King stated that he would like to add another floor to the structure which is currently at 21 feet 6 inches. The applicant is proposing a height of 32 feet.

T. Zorbaugh submitted the plans the applicant dropped off that shows the existing building and the proposed addition. That plan was marked as applicant's exhibit 1. T. Zorbaugh stated that the proposal is to raise the roof, put a higher peak on and get better flooring on the second half to take the structure up to 32 feet. The property is not a farm but the applicant does have horses.

Mr. King stated that he is planning to use the additional space for a rec room/play area for the children because they are outgrowing their home. T. Matteson asked about the attic of the structure. Mr. King stated that area is just trusses and there is no storage area. Matteson asked why the applicant is proposing to pitch the roof higher. Mr. King stated that there is no second floor to the structure presently. He also stated that the trusses are going to span over the second part. There is a lean to on the one side and that wall is going to go up and the trusses are going to be a lot longer.

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T. Zorbaugh stated that the usable area will be 18 feet 4 inches to the bottom of the truss and then the truss is a full 14 feet. Mr. King stated that was because of the length of the building and the peak. D. Clark asked what the pitch is on the roof and Mr. King responded it is a 5. Mr. King also stated that the roof would be metal. D. Clark asked for the height of the existing house and is the proposed addition taller than the existing house. Mr. King stated that the proposed addition would not be taller than the existing house. T. Zorbaugh stated that house sits higher on the property and the barn is down from the home.

J. Lingenfelter(?) asked for the height of the second floor framed wall. Mr. King stated that the height is 18 feet 4 inches. Lingenfelter asked if the applicant could meet the 20 foot regulation by putting on a flat roof. Mr. King stated that could be the case but he is currently at 21 feet 6 inches.

On a motion by T. Matteson and seconded by D. St. Clair, the Board approved the variance of Section 340-14.F(2), to allow an accessory structure to exceed 20' in height and a 4-1 vote. T. Zorbaugh stated that the applicant will receive a letter stating the application was approved within the next 5 days and within 45 days the applicant will receive a written decision.

CASE #932: An application has been received from Randall & Courtney Weaver, owners of the property located at 110 Brittany Lane, 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(2) to allow a home occupation and variances of Sections 340-78.B to allow employees; 340-78.E to allow mechanical equipment and 340-78.I to exceed 25% of usable area for the business. The application has been assigned Case #932 and is scheduled for public hearing tonight.

Christian Miller with MPL Law Firm is present on behalf of the applicants. Mr. Miller stated that this is a similar application to the one presented a few months ago. He highlighted that this application is going to be a different use than what they originally came for a couple months ago. The only reason they are asking for any variances for the home application is there will not be any employees at the property. This business employs people, but they will not be working at the site. The use of mechanical equipment will not be at the home property. The nature of the excavating business has to use mechanical equipment but not at the property. The equipment will be staged at the property. This is really a home occupation that the applicant and his wife will use the currently existing offices to work there. They are not going to have any employees that work there. The only main variance is the size of the buildings that they would like to work out of are larger than the 25% square footage. Mr. Miller feels it is crucial knowing the difference of what was being requested before and what is being proposed now.

Randall Weaver confirmed that he owns the property at 110 Brittany Lane. He stated it was purchased in November 2022. Mr. Weaver stated that his family is in the process of moving in to the home on the property. They will full time reside there in 2 weeks due to needed renovations to the home. Mr. Weaver confirmed that there has been activity at the property since he purchased it. Mr. Weaver stated they have started some of the clean-up but once the weather cooperates there is more work to be done. Mr. Weaver stated he is not running his business from the property at this time. The business has an office in Manheim and shop and staging lot in Mt. Joy. Mr. Weaver stated he has an excavation company that does commercial excavation. They have 15 employees. The employees meet every day at the shop. In the previous application they wanted to be able to stage some equipment, trucks and trailers and have employees meet at the shop but after review and denial of that plan they have decided that the best approach would be having a staging lot like they currently have in Mt. Joy. Employees can meet there as needed. With the barn on Brittany Lane they would like to store material inside and then periodically employees can come and get some material as needed for projects and small tools. Mr. Weaver and his wife Courtney will be the only people working at the home. The office would remain in the building labeled office on the site plan which is 983 square feet. This is the location where all the administrative work would be done. The structure labeled 1,780 square feet is planned for personal use only. The lower area would be used for small tools and material. That area is 3,413 square feet. That area would be used for storing some extra fittings from projects and pipe that is leftover and small tools. It would all be things that could fit in the bed of a pickup truck. Nothing is going to be stored at the property that would require any heavy equipment, large truck or tri-axes. There may be the need for a tag-a-long trailer if there were a long piece of pipe or a small bucket. Mr. Weaver confirmed that he would want to advertise his company as the headquarters at the 110 Brittany Lane address. He also stated that if anyone looked at the property they would not be able to tell that there was a business being run there. There will be no signage at the location. Mr. Weaver confirmed that he would be willing to agree to a condition on

the approval that this only attaches to them as the current property owners and that it could not pass to someone different if he sold the business.

Mr. Weaver confirmed that nothing on the exterior is going to change on the property. Mr. Weaver does not feel that this is going to affect the neighborhood or any of the neighbors and he feels it will improve it from the state it was previously. He also stated it will not have any greater of an impact on any public utilities, public service – police and fire in that the only people that work there are going to be people that live there. Mr. Miller stated that this use is incidental to the current house and that it is just a home occupation, just administrative work, but it will be happening in the office space which is a currently existing structure. That space would sit vacant if there were no plans to use it. Only residents of the dwelling will be engaged in the home occupation. This is true to the aspect that only Mr. Weaver and his wife will be working at the property but because of the nature of the business they will employ other people so technically they will be engaged in the home occupation business and that is why they are asking for a variance from that. Mr. Weaver confirmed that he does not propose any other home occupation other than the one he described. Mr. Weaver stated that nothing that he plans on doing is going to change any of the exterior physical nature of the property. They are asking for a variance when it comes to no mechanical equipment being employed in the home occupation. Mr. Miller stressed that no mechanical equipment used for the business is going to be stored or used at the property. Mr. Weaver stated that he has a personal skid loader that he uses around the property and that is the only piece of mechanical equipment and that is going to stay on the property. It will be used for cleanup, snow removal and other things of that nature. Mr. Weaver confirmed that no mechanical equipment owned and used in the business will not be stored at the property. They are asking for a variance because mechanical equipment is used in the business but not at the home. There will be no sale of goods or merchandise at the home and no manufacturing will occur at the home occupation. No goods will be displayed visible from the exterior off the home occupation. Variance of Section 78-I – the limitation of 25% of the floor area for a home occupation. The space of the area the applicant would like to use for the home occupation is a total of 4500 square feet with the office and the barn area. The gross floor area of the house is 2600 square feet so 25% of that would be 650 square feet and the applicant is seeking 4500 square feet but that is all in existing structures that otherwise would sit vacant if the applicant doesn't use them for something. Part of Section I is an accessory building or structure can be utilized for a home occupation which is what they are looking for. The applicant is not providing any parking spaces because no one else will be employed other than the applicant and his wife. The applicant does not intend to put any signage up advertising the home occupation. The applicant confirmed that his business does not require any state or federal approvals.

Mr. Miller stated that the property currently has the 3 additional structures which are unique physical characteristics not created by the applicant, they were pre-existing. The applicant feels that not taking advantage of those structures and not using them in the home occupation would really be a waste of the property and would create the hardship that they would be looking for the three variance requests. The variance requests are to have employees engaged in a home occupation that do not live there which is a misnomer because these people will not be working at the home occupation, just in the business. The same thing with mechanical in they will use mechanical equipment in the home occupation but it will not have anything to do with the actual property. The request for the use of 4500 square footage of existing structures for the home occupation which exceeds the 25% limit.

T. Matteson asked if the variance for the mechanical equipment is necessary if it is not occurring on the premises. T. Zorbaugh stated that variance is typically not necessary. N. Albert feels that it should be withdrawn because it is not necessary. In regards to employees if they are occasionally going to be coming to the site to pick up materials then he feels that variance should be kept in place and certainly the one for the floor area. He emphasized that he felt that 78-E is not a necessary variance. T. Zorbaugh asked about clients coming to the property and that under a home occupation you are allowed clients but it sounds like most meetings with clients will be done on the job site. Mr. Weaver stated that he would not want to rule out clients, just employees. Typically he would meet at either the site or directly at the client's location but he would not want to rule out clients coming to the home occupation completely. B. Nolt asked to define materials that would be stored in the barn. Mr. Weaver stated that it would be piping, piping fittings, straw, and concrete bags. When pieces are left over from a project they are not going to waste them, they would store them for future use. That storage would be just for left overs and not materials for future jobs. All new projects the materials are delivered directly to the job site. T. Matteson asked for clarification on the size of trucks coming to pick up materials. Mr. Weaver verified that it would only be pickup trucks with a possible trailer

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coming to pick up equipment or materials. This may occur 2-3 times per week. Mr. Weaver would occasionally bring stuff back with him after meetings. D. Clark asked if all the applicant's equipment can be stored in the staging lot in Mount Joy. Mr. Weaver confirmed that all the equipment could be stored there and a lot of their equipment is stored on the job site and goes directly to the next job site. The same thing can be said for materials. It was asked if the applicant would be willing to put a condition on hours of employees coming and going off the property to which Mr. Weaver confirmed his agreement to that. The hours discussed would be 7 a.m. to 4 p.m. Monday through Friday.

John Shank – 911 Disston View Drive, Lititz requested party status. On a motion by T. Matteson and seconded by D. St. Clair, the Board unanimously approved granting Mr. Shank party status.

Steve Polonus – 106 Brittany Lane, Lititz requested party status. On a motion by T. Matteson and seconded by D. Clark, the Board unanimously approved granting Mr. Polonus party status.

J. Shank stated that he spoke to Mr. Weaver about the cleaning up the landscape between the driveway and his property. Mr. Shank feels that work would necessitate some large equipment coming in to haul material away. Mr. Shank is questioning if that would be permitted. T. Matteson stated that would not be part of the business, it would be for domestic purposes and that would be permitted. Mr. Shank asked the applicant if he was in agreement to return that area to a grass field. Mr. Weaver stated he would be removing the dirt pile but there is some existing stone there and he hasn't determined how far he will be returning that. He will be returning some of the stone but not all of it. Mr. Shank if the area from the driveway over to his property would eventually all be grass. Mr. Weaver stated that some of it will stay stone as it is currently. Mr. Miller stated that none of the outdoor area is going to be part of the business at all and how the applicant treats the outdoor area for his personal space is part of this. Mr. Shank mentioned the property had been ag zoned and is part of the watershed for the pond from which they irrigate.

Jerry Warlow – 105 Brittany Lane, Lititz asked if the variance is granted would it be conditional based on the stipulations that were described around the employee situation where you have got the employees as part of it and the variance is granted but the employees are restricted from reporting to work at that location. T. Matteson stated that the applicant is bound by the testimony that they have offered at the hearing and as part of their application so they would be bound to what they have told the Zoning Hearing Board. It would be up to the neighbors to report to the township if they see activity that is going against that testimony.

Steve Polonus – 106 Brittany Lane, Lititz asked if spaces in the barn would be rented out to other people. Mr. Weaver stated that currently the old occupant has a space where he keeps some material. Mr. Weaver stated that it is not the business renting it out rather it is personally rented out. T. Matteson asked if that would continue once the applicant is able to fully occupy the property. Mr. Weaver stated that the top section he will be using for personal use but the old occupant will be removing his material in the next 2 months. The business will not be renting out that space to other individuals.

The Board went in to executive session at 7:13 p.m. and returned at 7:35 p.m.

T. Matteson stated that the Board is going to request that the applicant withdraw the waiver for Section 340-78.E which the applicant agreed to do. On a motion by T. Matteson and seconded by J. Lingenfelter, the Board unanimously approved the application for a special exception of 340-11.C(2) to allow the home occupation, variances of Sections 340-78.B to allow employees and 340-78.I to exceed 25% of the usable area of the business with the following conditions:

1. The approval applies only to this applicant moving forward.
2. Employees are limited to coming to the property Monday through Friday 7:00 a.m. to 4:00 p.m.
3. Employees shall not work or meet at the property and shall only come to pick up and drop off materials a maximum of 3 times per week.

T. Zorbaugh stated that the applicant will receive a notice saying you were approved with conditions and then within 45 days you will receive the official decision.

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CASE #933: An application has been received from Devin Donmoyer, 135 Northview Drive, Lancaster, potential developer of the property located at 920 Lititz Pike, rear, Lititz, PA, owned by March Capital LLC, Lancaster, PA located within the LC Zoning District. The applicant is seeking relief from the Warwick Township Zoning Ordinance for a Special Exception of Section 340-16.1.C(9) to allow a mini-warehouse and variances of the following Sections: 340-16-1.E to exceed 65% lot coverage; 340-16.F(4) to encroach into a 50' setback from a residential zone; 340-83.E to eliminate an on-site manager; and 34-0120.K(1) for an extension of time to obtain permits. The application has been assigned Case #933 and is scheduled for a public hearing tonight.

Alex Piehl from RGS Associates is present with the applicant Devin Donmoyer. A color version of the site plan was distributed and entered into record. Piehl stated that Orrstown Bank is part of the property that it included with the proposed mini warehouse units. This is a condominium so condo 1 is the Orrstown Bank and there is a limited common element which is the entrance into the site off of West Woods Drive and condo 2 is the remainder of the property to the west. The applicant is proposing mini storage units accessed off of the existing driveway so there would be no new connections to any streets. There would be a fence which would create a secure area so there would not be access into the storage area. There would be a rising gate that would have a fob type access that renters could access the property from. Each of the buildings would be broken into individual storage units. It was noted in the application 44 units which is what is shown on the plan. There is the potential for a building like this if that was a conditioned building instead of an unconditioned building for storage that might get divided into smaller storage units. They wanted to make clear there may be some flexibility in the numbers as far as how many total units are ultimately developed. Building 2 is a conditioned building there is a chance that it could have second story to it, but the rest of the buildings will remain as 1 story. This use requires a special exception which has been submitted for consideration by the board. The variances that have been requested include exceeding the impervious cover which they are exceeding by approximately 3% due to needing a turnaround area. All the building setbacks are being met. Because of the configuration of the lot being a dead end they do not have a secondary access. There is a 30 foot minimum separation between the two buildings and when you start adding wider drives that will ultimate result in additional impervious cover necessary for the project. Piehl stated there is a 50 foot setback from a residentially zoned property so that would be the property to the west which is the Highlands apartments. The remainder of the properties around the site are zoned local commercial. With the setback from the residential zone is that it can be reduced to 35 feet with the incorporation of additional landscaping, fencing, and some other items that are noted. The applicant is seeking a reduction from the 35 feet with the incorporation of additional landscaping, fencing, and some other items that are noted with the plan to go down to 15 feet. Piehl noted that the closest residential building would be almost 130 feet from the closest building on the property so they do have separation there. This build would have onsite camera security systems and electronic access both at the main gate as well as the individual units. This size and scale of this facility would not warrant an onsite manager but there would be active management of the property. It would be monitored both via video as well as onsite visits to ensure that the property is being maintained and secured as it should be. The time extension is a standard item to give time to get through the process.

In terms of criteria the first is to not detract from the surrounding community. To the north, south, and east all of those properties are local commercial and being used in the commercial fashion so this plan would be in keeping with those. To the west there is an apartment complex with it being 60 feet from the garage and 120 feet or more to the closest apartment building as well as existing vegetative screening which would be supplemented. The applicant feels this use is in keeping with what is surrounding it. There is not residential component to this plan so there would be no impact to the school districts. Through the design process for land development the applicant will ensure that there was adequate turning movements and access to meet the applicable standards of the land development as well as the building permit process. There are no portions of the property that are located within a flood zone. They would be in compliance with all of the aspects of the zoning ordinance except for those that are included in the application. In regards to the comprehensive plan, this use type is permitted as a special exception in the township ordinance.

Piehl mentioned that all the buildings will meet the building setback requirements so none of the building will encroach on that building setback. They are setback to the 35 foot line. The only encroachment then would have would be paving not a building structure.

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D. Clark mentioned if they eliminated the last 2 units that they would not need any variances. Piehl stated that they would have to eliminate the last 4 units and they would still be 10 feet into the setback area.

T. Matteson stated that there is no hardship on the 2 variances. The onsite manager makes sense and the time extension is not a problem. Matteson feels that if you can remove some units off the end the plan would comply with both the dimensional requirements that are currently not compliance and without a lot of damage of the overall development. Piehl stated in a situation like this there is precedent for a de minimis relief request which he feels the percentage and distance would fall in to that category and also in perspective of what it is surrounding it and what the impacts to the relief would be. Matteson stated that he agrees with the lot coverage de minimis, but going from 50 feet to 15 feet is not at all de minimis. To solve the setback variance you are solving the coverage variance also. Matteson stated that the Board needs to have some hardship to lay the variance on and there is none here it is just a desire to go closer to the property than you are allowed with the justification that the neighboring property isn't going to be as heavily impacted as if a residence would be right up against it. D. Clark mentioned that the argument regarding the nature of the adjacent properties certainly works for the special exception. Piehl stated that it is still a significant reduction in the required setback. The baseline setback is 50 feet and the ordinance does allow that to be reduced to 35 feet so they are not more than double.

Mr. Donmoyer asked if lost 4 more units could he go up to a second story to gain units back. T. Matteson stated that there is precedent right across the road which is 2 stories but you would still be bound by other criteria in the ordinance in terms of building height but there is no limitation on self-storage having to be just 1 story. D. Clark asked for clarification on the parking spaces on the plan. Clark asked if the parking was flipped wouldn't it do double duty and give them an additional 8 feet.

T. Zorbaugh mentioned that they are required 1 space for every 25 units, so right now the plan requires 2 spaces and the plan has 3 spaces so there could be some adjustments.

On a motion by T. Matteson and seconded by D. St. Clair, the Board unanimously approved the special exception of Section 340-16.1.C(9) to allow the mini warehouse, that they deny the variances of Sections 340-16.1.E for the lot coverage and 340-16.1.F(4) to encroach into the 50 foot setback from the residential zone, that they grant the variance of 340-83.E to eliminate the onsite manager and to grant the variance of 340-120.K(1) for a time extension to obtain permits.

ADJOURNMENT: Meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Tom Zorbaugh
Zoning Officer