



WARRINGTON TOWNSHIP ZONING HEARING BOARD MINUTES FOR THE DECEMBER 28, 2020 MEETING

A meeting of the Warrington Township Zoning Hearing Board was called to order at 7:10 p.m. on December 28, 2020 at the Township Building located at 852 Easton Road, Warrington PA, 18976. This meeting was also made remotely accessible via the teleconferencing application known as 'Zoom'.

Pledge of Allegiance: The meeting opened with a pledge to the flag.

Introduction of Members: The members present were as follows:

Frank Shelly, Chair	PRESENT
Janice DeVito, Vice-Chair	PRESENT
Richard Alsdorf, Member	PRESENT (VIA 'ZOOM')
Dennis Gordon, Member	PRESENT
Harry Chess, Member	ABSENT
Kevin Lawlor, Alternate Member	PRESENT (VIA 'ZOOM')
Thomas E. Panzer, Esq., Solicitor	PRESENT
Roy W. Rieder, P.E., Zoning Officer	ABSENT
Christian R. Jones, Deputy Zoning Officer	PRESENT (VIA 'ZOOM')
Christopher J. Sobieski, Asst. Deputy Zoning Officer	PRESENT

Stenographic Record: A stenographic record of the meeting will provide a record of the proceedings. Copies of the stenographic record may be purchased from Donna DeAngelis-Lehmann.

ANNOUNCEMENTS BY SOLICITOR

Mr. Panzer delivered brief remarks regarding the procedural aspects of the meeting. Notably, he explained how and why 'Zoom' was being utilized to conduct the meeting due to Covid-19 and guidance from the State.

APPROVAL OF MINUTES

November 23, 2020

Mr. Gordon made a motion, seconded by Ms. DeVito, to approve the minutes; the motion passed by a vote of 3-0. Ms. DeVito & Mr. Lawlor abstained from voting on the matter.

OLD BUSINESS

- a. None

NEW BUSINESS

Hearing #1

ZHB #20-22: Application of Daniel & Belinda Joseph

Subject Property: 3539 White Oak Court, Chalfont, PA 18914

TMP #: 50-049-017

Zoning: Residential Agricultural (RA) District

Mr. & Mrs. Joseph, the applicants, both appeared on their own behalf. The two were sworn-in by Ms. DeAngelis-Lehmann.

Mr. Panzer delivered a preamble on the matter, noting exhibits and explaining the nature of the relief sought. The application concerned the installation of an in-ground swimming pool. The applicant sought relief in the form of a Variance from Township Ordinance §370-405A(6) to build in excess of allowable impervious surface coverage.

Mr. Shelly, beginning the questioning, inquired about actions the applicants were taking to mitigate the increase of impervious coverage on their property already. Mr. Joseph remarked that they had worked to create a Storm Water Management Plan, sought to install an infiltration trench, and referred to calculations in their submitted plans to show that their efforts would be adequate. The applicants also stated that they would be able to abide by the Township's mitigation requests should the trench be inadequate.

Ms. DeVito inquired about the size of the lot. Mr. Joseph referred to the submitted plans to answer her question.

Mr. Panzer advised the Josephs that the Zoning Hearing Board is enabled to grant forms of requested relief but may do so with the imposition of certain conditions upon such relief. He further asked the applicants whether if the Board were to impose such conditions, would they be willing to abide by them. The Josephs responded that that would be acceptable.

No public comment was offered.

Mr. Gordon made a motion, seconded by Ms. DeVito, to grant the requested relief, subject to the conditions that the applicant: submit for review to the Township's engineer an acceptable Storm Water Management Plan proposal; obtain approval from the Township's engineer of that proposed Storm Water Management Plan; maintain the premises in a manner consistent with the approved Storm Water Management Plan in perpetuity; obtain all necessary permits; and

comply with all other applicable Township ordinances. The motion passed by a unanimous vote of 5-0.

Hearing #2

WT ZHB #20-23: Application of Robert Sandow

Subject Property: 2444 Freedoms Way, Warrington, PA 18976

TMP #: 50-022-122

Zoning: Residential II (R2) District

Mr. Robert Sandow, the applicant, made an appearance on behalf of himself. He was sworn-in by Ms. DeAngelis-Lehmann.

Mr. Panzer delivered a preamble on the matter, noting exhibits and explaining the nature of the relief sought. The application concerned the installation of an in-ground swimming pool and replacement of an existing shed with a larger one. The applicant sought relief in the form of a Variance from Township Ordinance §370-1305B(1)(e) to build in excess of allowable impervious surface coverage.

Mr. Shelly began the questioning of the applicant by inquiring about where on the property an existing shed was located. Mr. Sandow responded that the shed was located in the rear left area (when viewed from the submitted plans) of the property.

Mr. Shelly further inquired about what water runoff mitigation efforts would be taken. Mr. Sandow responded that he had worked with Mr. Roy Rieder, the Township's Zoning Officer to develop mitigation plans.

Mr. Shelly also asked the applicant when the proposed deck shown on the submitted plans would be built and whether the deck was presently at issue. Mr. Sandow responded that he plans to build the deck if and after he was able to install the swimming pool, and that the deck was not at issue in this particular matter.

Mr. Shelly asked about the applicant's plans for the fence already on the property. Mr. Sandow stated that he plans to replace it, commensurate with if and when the pool is constructed.

Mr. Shelly also inquired about why the mechanical pool equipment shown in the applicant's plans was situated where it was. Mr. Sandow responded that the equipment was located there as per construction code requirements.

Mr. Shelly further asked whether the applicant had plans to construct a patio in the future. Mr. Sandow indicated that it was something he would like to do in the future.

Mr. Dennis Gordon asked what the total impervious coverage percentage would be should the requested relief be granted. Mr. Sandow stated that it would be approximately 18.53%.

Mr. Panzer advised Mr. Sandow that the Zoning Hearing Board is enabled to grant forms of requested relief but may do so with the imposition of certain conditions upon such relief. He further asked the applicant whether if the Board were to impose such conditions, would he be willing to abide by them. Mr. Sandow responded that that would be acceptable.

No public comment was offered.

Mr. Gordon made a motion, seconded by Ms. DeVito, to grant the requested relief, subject to the conditions that the applicant: submit for review to the Township's engineer an acceptable Storm Water Management Plan proposal; obtain approval from the Township's engineer of that proposed Storm Water Management Plan; maintain the premises in a manner consistent with the approved Storm Water Management Plan in perpetuity; obtain all necessary permits; and comply with all other applicable Township ordinances. The motion passed by a unanimous vote of 5-0.

Hearing #3

WT ZHB #20-24: Application of John Kelly

Subject Property: 2155 Garden Avenue, Warrington, PA 18976

TMP #: 50-023-190

Zoning: Residential Infill (R2-I) District

Mr. John Kelly, the applicant, made an appearance on his own behalf. Mr. Kelly was sworn-in by Ms. DeAngelis-Lehmann.

Mr. Panzer delivered a preamble on the matter, noting exhibits and explaining the nature of the relief sought. Mr. Panzer also explained the legal ramifications of encroaching upon paper streets and other forms of easements. The application concerned the replacement of a vinyl swimming pool, decking, and amenities with a concrete swimming pool and upgraded decking and amenities. The applicant sought relief in the form of a Variance from Township Ordinance §1505A(6) to build in excess of allowable impervious surface coverage and to build the decking up to the right-of-way line of Tohickon Lane leaving no setback distance.

To begin the testimony, Mr. Kelly offered background information on the subject property including how it was previously owned and improved by his grandfather. Mr. Kelly also explained how the swimming pool on the property has been difficult and expensive to maintain.

Ms. DeVito asked the applicant what the name of the Paper Street implicated by Mr. Kelly's plans is. Mr. Kelly responded that the Paper Street was named "Tohickon Lane." Mr. Gordon further asked if Mr. Kelly's property adjoined the undeveloped part of Tohickon Lane. Mr. Kelly responded in the affirmative.

Mr. Panzer asked if a Stormwater Management Plan had been developed. Mr. Kelly indicated that such a plan was in-progress.

Mr. Lawlor asked what the paved pad located towards the center of the property is. Mr. Kelly stated that it was intended to be a basketball court when it was installed by his grandfather.

Mr. Lawlor also asked when the swimming pool on the property was dug out. Mr. Kelly said that he did not know the specific date, but speculated that it was likely dug out in the early 1970s.

Mr. Lawlor further asked whether Mr. Kelly's grandfather had obtained government approvals for various site improvements he had made over the years. Mr. Kelly stated that he did not know.

Ms. DeVito remarked that she had concerns about building up to a Paper Street. Mr. Panzer offered further explanation about the legal ramifications of doing so but suggested that those concerns should be alleviated by the fact that Mr. Rieder, as the Township's Zoning Officer, offered guidance on Mr. Kelly's proposed plans.

Mr. Gordon also expressed concerns about allowing for a portion of a fence to encroach upon the bounds of a Paper Street. Mr. Panzer stated that the Board had options at its disposal, when granting relief, to alleviate those concerns.

Mr. Alsdorf asked whether the Right of Way implicated by this application was property owned by the owner or by another party. Mr. Panzer explained that multiple parties own different rights to the area. Mr. Panzer further explained that because the Township had not exercised any right to it in the past twenty-one years, it would be unlikely for public rights to be successfully exercised in the future. However, Mr. Panzer did note that a private party could feasibly attempt to exercise a private right to it.

Mr. Gordon asked whether it would be difficult to remove a concrete pad on the property. Mr. Kelly said that it would not be.

No public comment was offered.

Mr. Gordon made a motion, seconded by Ms. DeVito, to grant the requested relief subject to the conditions that the applicant: submit for review to the Township's engineer an acceptable Storm Water Management Plan proposal; obtain approval from the Township's engineer of that proposed Storm Water Management Plan; maintain the premises in a manner consistent with the approved Storm Water Management Plan in perpetuity; remove a concrete slab located upon the property; agree to remove a section of fence also located upon the property should a private party seek to exercise a right to the area it sits upon; obtain all necessary permits; and comply with all other applicable Township ordinances. The motion passed by a vote of 4-1. Mr. Alsdorf voted against the motion.

Hearing #4

WT ZHB #20-24: Application of Guy Powell

Subject Property: 3360 Bristol Road, Chalfont, PA 18914

TMP #: 50-009-005

Zoning: Residential Agricultural (RA) District

Mr. Richard Kempes, Esq. made an appearance on behalf of the applicant, Mr. Guy Powell. Mr. Powell also appeared on his own behalf. Architect, Mr. Rick Brown also appeared on Mr. Powell's behalf.

Mr. Powell was sworn-in by Ms. DeAngelis-Lehmann.

Mr. Panzer delivered a preamble on the matter, noting exhibits and explaining the nature of the relief sought. The application concerned the installation of a detached solar panel array and the conversion of a barn into a two-bedroom accessory apartment. The applicant sought relief in the form of a Special Exception pursuant to Township Ordinance §370-4003 for the construction of a freestanding alternative energy facility (solar panels). The applicant also sought relief in the form of a Variance from the Special Regulations Related to Accessory Apartments section of Township Ordinance §370-361 and from the Table of Permitted Uses, Table 400 for the conversion of the barn into a two-bedroom accessory apartment.

Mr. Kempes offered a preliminary explanation of his client's position. Mr. Kempes explained how Mr. Powell had recently purchased the property and now seeks to make improvements to it.

Mr. Shelly requested that the hearing be bifurcated such that the Board could analyze the sought forms of relief separately, starting with the issue of the solar panel array, followed by the issue of the accessory apartment. The Board reached a consensus to proceed in such a manner.

Mr. Kempes, through use of exhibits, explained the proposed location of the solar array.

Mr. Kempes began direct questioning of Mr. Powell about his application.

Mr. Kempes asked him why he wants to build the panels. Mr. Powell responded that he sought to live green and lead by example. Mr. Powell further indicated that he had no financial motive for doing so.

Mr. Kempes further asked Mr. Powell if he would be able to abide by design requirements when installing the panels. Mr. Powell indicated that he would.

Mr. Kempes then had Mr. Powell guide the Board through a variety of exhibit photographs to explain the locations of the solar array, property lines, and potential trees to be planted in the future.

Mr. Shelly asked whether the applicant had planned to plant trees around the array and whether those plantings might frustrate the panels' efficiency. Mr. Kempes indicated that Mr. Powell planned to place such trees and did not expect them to interfere with the panels' purpose.

Mr. Lawlor asked whether if the accessory apartment relief were to be denied, if the proposed array would be smaller. Mr. Powell indicated that if that were to be the case, the array would likely be smaller but still retain the same general footprint.

Mr. Powell further stated that because the buildings on the property were close to or at least two-hundred years old, he would prefer not to place solar panels on them.

Mr. Shelly asked whether the Township Board of Supervisors had taken a position on this matter. Mr. Panzer indicated that the Board of Supervisors was supportive of the solar array, but took no position on the accessory apartment issue. Mr. Panzer also noted that the Zoning Hearing Board had received a letter from the Township's solicitor indicating the Supervisors' position.

Mr. Gordon inquired into how the connections would be made from the array to the home. Mr. Powell explained how it would be done.

No public comment was offered on the solar array issue.

Mr. Shelly made a motion, seconded by Mr. Gordon, to grant the requested relief as it pertains to the detached solar panel array, subject to the conditions that the applicant: erect and maintain a screening of trees to the rear of his lot; obtain all necessary permits; and comply with all other applicable Township ordinances. The motion passed by a unanimous vote of 5-0.

Mr. Kempes again had Mr. Powell identify photograph exhibits, this time identifying pertinent areas of the barn on his property.

Mr. Kempes again proceeded to directly question Mr. Powell about his application.

Mr. Kempes asked why Mr. Powell could not simply have guests stay in his home. Mr. Powell responded that his barking dogs would make such an arrangement difficult and further explained that converting a portion of the home into an accessory apartment would negatively impact the character of the house.

Mr. Kempes asked if Mr. Powell had any commercial or rental plans for the barn, should the relief be granted. He further asked if Mr. Powell would be willing to accept conditions

restricting him from making such uses of the barn. Mr. Powell indicated that he did not have any of the aforementioned uses in mind and would be willing to accept such restrictions. .

Mr. Kempes also asked whether Mr. Powell had any plans for the second level of the barn. Mr. Powell indicated that he would like to insulate the upper level with foam and store various antique agricultural items found on the farm there.

Mr. Kempes then had Mr. Powell explain a handwritten floorplan drawing of the barn to the Board.

Mr. Kempes asked whether any sought changes would alter the footprint or façade of the barn. Mr. Powell stated that the footprint would not be altered, but that he might install windows in the lower level of the barn.

Mr. Kempes asked if Mr. Powell had any plans to return the barn to an exclusively agricultural use. Mr. Powell denied that would be the case.

Mr. Kempes asked if Mr. Powell was asking for the minimum variance required to achieve his goal. Mr. Powell responded that this was the minimum.

Mr. Kempes asked if there would be any adverse impact upon the neighboring properties. Mr. Powell responded that there would be no such adverse impact.

Mr. Panzer then asked Mr. Powell if there were any photos of a building on the property referred to by Mr. Powell as “the carriage house.” Mr. Powell said that ‘the carriage house’ could be seen the photo marked as “[#]6” Mr. Panzer also had Mr. Powell clarify the relationship between the levels of the barn shown in photos “[#]8” and “[#]9.”

Mr. Brown was next called to offer testimony by Mr. Kempes. Mr. Brown was sworn-in by Ms. DeAngelis-Lehmann.

Mr. Kempes first asked Mr. Brown to explain his role in Mr. Powell’s project. Mr. Brown explained that he is an architect, employed by Mr. Powell to design an apartment space on Mr. Powell’s property.

Mr. Kempes asked Mr. Brown about the feasibility and impact on the home should an accessory apartment be built within it. Mr. Brown stated that doing so would be possible but that doing so would negatively alter the character of the home or carry significant cost.

Mr. Kempes next asked Mr. Brown to describe the barn itself. Mr. Brown offered a brief background on the barn building.

Mr. Kempes then asked Mr. Brown whether there were other potential uses for the barn. Mr. Brown stated that the barn could be used for storage and not making effective use of the barn may lead to increased long-term maintenance costs.

Mr. Kempes also asked Mr. Brown whether this property was “unique”, whether the size of the barn makes it difficult to use effectively, and whether Mr. Powell was seeking the minimum variance necessary. Mr. Brown responded in the affirmative to all of these questions.

Mr. Kempes then asked Mr. Brown whether there would be a negative impact on the neighborhood if the sought relief were to be granted. Mr. Brown said there would not be.

Mr. Kempes and Mr. Shelly engaged in a discussion about the potential types of conditions that could be imposed in this matter.

Mr. Alsdorf asked whether “the carriage house” was being used for anything. Mr. Powell stated that it was being utilized for light storage purposes.

The Board entered into private session to discuss the matter at about 9:10 pm and reconvened to vote at about 9:20 pm.

Mr. Gordon made a motion, seconded by Mr. Alsdorf, to deny the requested relief as it pertains to the accessory apartment sought to be built in the barn. The motion passed by a unanimous vote of 5-0.

ADDITIONAL BUSINESS

Discussion and selection of meeting dates for meetings from January 2021 through January 2022.

The Board briefly discussed its meeting schedule for the next year.

ADJOURNMENT

Ms. DeVito moved for adjournment. The motion passed by a unanimous vote of 5-0.

The meeting adjourned at 9:23 pm.

NEXT MEETING

Monday, January 25, 2021 at 7:00 pm.