

## **FERGUSON TOWNSHIP ZONING HEARING BOARD**

Regular Meeting  
Tuesday, June 28, 2016  
7:00 pm

### **I. ATTENDENCE**

The Zoning Hearing Board held its regular meeting on Tuesday, June 28, 2016 at the Ferguson Township Municipal Building. In attendance were:

Board: Matthew Patch, Chairman-absent	Staff: Jeffery Ressler, Zoning Administrator
George Pytel, Vice Chair- absent	Jeffery Stover, ZHB Solicitor
Scott Petryshak	
Swamy Anatheswaran – absent	
Karen English	
Charles Farrell - Alternate	
Michael MacNeely - Alternate	
Michael Twomley – Alternate	

Other in attendance included: Tonya Jackson, Recording Secretary, David Burns, Gina Burns.

Mr. Twomley made a motion to allow Karen English to be the Chairman since the Chairman was absent. Mr. MacNeely seconded the motion. The vote carried unanimously.

### **II. SWEARING IN OF THOSE THAT WISH TO TESTIFY**

One individual stood to be sworn in.

### **III. DAVID L. BURNS – ZONING APPEAL**

Mr. Ressler stated the property of this appeal is located at 2318 W. Whitehall, State College, PA 16801. The Tax parcel #is 24-017-034A. The property is owned by David L. Burns of 171, Centre Hall, PA 16828 and zoned R-1. Mr. Ressler stated a complaint was received on March 4, 2016 from a neighboring property owner that people are living in the accessory building. He stated he talked to Mr. Burns several times regarding the complaint and on March 28, 2016 Mr. Burns indicated that his step daughter, her boyfriend and their child are living in the accessory dwelling. Mr. Ressler stated Mr. Burns stated he had a permit to finish the building but he never received proof of the permit. Mr. Ressler stated he contacted Walt Schneider at the Centre Region Code Office and Mr. Schneider did not find a permit to finish the accessory building. Mr. Ressler stated a notice of violation 2016-1 was issued. Mr. Burns is appealing the notice of violation of Chapter 27-1002.1 and Chapter 27-205.D of the Zoning Ordinance. He stated Chapter 27-1002.1 states that a zoning permit is required for a change of use of a structure. To change the use of the accessory structure to a habitable living space and/or dwelling unit required zoning permit approval. A zoning permit has not been issued to convert the accessory dwelling into a habitable living space/and or dwelling unit. He stated Chapter 27-205.D of the Zoning Ordinance restricts an R-1 lot to one dwelling unit per lot. The use of the accessory building as a dwelling unit constitutes a violation of this section due to the fact

the property already contains a single family dwelling which according to the property owner is vacant. Mr. Ressler stated more than one dwelling unit is not permitted to be built on an R-1 lot and dwelling unit is defined in our Zoning Ordinance as a dwelling used by one family. He stated dwelling is defined in our Zoning Ordinance as a building designed for human living quarters. He added the Zoning Ordinance definitions: The accessory structure is being used as a dwelling and/or dwelling unit. There have been on other hearings on this property.

Mr. Burns come forward and showed letter from Jeff Ressler dated 2001 that stated the accessory structure is permitted. Mr. Burns said this property is an owner finance sale and the people in the accessory building are his family and they have baby which has a heart defect. He stated they feel it is stable environment for the baby and they will be moving in an apartment on August 15, 2016. Mr. Ressler stated the Township did not have this permit on record. He added there was a complaint in 2005 and in 2010 that someone was living in a trailer on the property. Mr. Burns stated the zoning permit was issued and he has a permit for an accessory structure noting that the accessory structure was permitted without a kitchen. Mr. Ressler stated this would have been valuable information if Mr. Burns would have provided this permit prior to this meeting. Mr. Burns showed the permit and submitted to the Board.

There was discussion as to the definition of a dwelling living quarters. The Board discussed the well-being of the baby and if there is anything the Board could do considering this is a violation. Mr. Stover stated the Board had to vote on the appeal. Mr. Farrell asked the applicant what were his intentions. Mr. Burns stated his step daughter and her family would be living there until August. Ms. Gina Burns stated her daughter's boyfriend is attending PSU and they are living there temporarily because the apartment will not be ready until August 15, 2016.

Chair Ms. English adjourned the meeting at 7:32 pm the meeting for a recess in order for Mr. Ressler check the Township Tax Map files since the Tax Parcel letter reference was different than the Tax Parcel number the Township had for this request. At 7:37 pm the Board was back in session.

Mr. Ressler stated he located there is a zoning permit issued for the accessory structure and approved by Centre Region Code with the Tax Map #24-017-034. Mr. Ressler stated the zoning permit was issued for alteration to accessory structure as shown on the approved plans. He stated the accessory building is not permitted by this permit to be converted into or used as a single family dwelling.

Mr. Stover this zoning permit will be labeled as Exhibit A for the record. Mr. Ressler noted that a complaint was made in 2010 and at that time Mr. Burns told him that the accessory structure had a kitchen, bathroom and living quarters. Mr. Burns stated when he found out he could have it he took out kitchen. He stated he appealed the violation because he knew he was granted a zoning permit for this accessory structure.

Mr. Stover asked what structures are on the property. Mr. Burns answered there is a house, a milk house and a garage in which David and Amy Carmiley (sp?) are purchasing.

At 7:42 pm the Board went into an executive session. At 7:50 pm the Board reconvened.

Mr. Petryshak made a motion to GRANT the Zoning Appeal for Mr. Burns. Mr. Farrell seconded the motion. The Board voted unanimously to deny the appeal.

Mr. Ressler stated the applicant's request was denied.

The applicant asked what his next step would be. Mr. Stover stated he could talk to his attorney or request Mr. Ressler for advice.


**IV. APPROVAL OF THE MEETING MINUTES FROM APRIL 19, 2016, REGULAR MEETING**

Mr. Twomley made a motion to APPROVE the April 19, 2016 minutes with the above changes. Ms. Farrell second the motion. The motion passed unanimously.

**V. ADJOURNMENT**

With no further business to come before the Ferguson Township Zoning Hearing Board, Ms. English adjourned the regular meeting at 8:15 p.m.

RESPECTFULLY SUBMITTED,

  
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Karen English, Secretary  
For the Zoning Hearing Board

Date approved by the Board: \_\_\_\_\_