

## **FERGUSON TOWNSHIP ZONING HEARING BOARD**

Regular Meeting

Tuesday, August 18, 2016

7:00 pm

### **I. ATTENDENCE**

The Zoning Hearing Board held its regular meeting on Tuesday, August 18, 2016 at the Ferguson Township Municipal Building. In attendance were:

Board: Matthew Patch, Chairman

Staff: Jeffery Ressler, Zoning  
Administrator

George Pytel, Vice Chair

Jeffery Stover, ZHB Solicitor

Scott Petryshak

Swamy Anatheswaran – absent

Karen English- absent

Charles Farrell - Alternate

Michael MacNeely - Alternate

Michael Twomley – Alternate

Other in attendance included: Tonya Jackson, Recording Secretary.

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

Four individuals stood to be sworn in.

### **III. REQUEST FOR A VARIANCE -BETH GILES**

Mr. Ressler stated the property has a single family dwelling and is located at 891 Teaberry Lane, State College, PA., Tax Parcel # 24-118-116-0000. He stated the property is located in the PRD Zoning District. He said the property contains a single family dwelling which has an area Zone A flood plain along the rear of the property. He stated the owner desires to expand the existing deck on the property by removing and replacing it with a new hardwood deck. He stated the applicants would also like to convert the existing concrete pad under the deck to a flagstone patio and increase the size of the patio by approximately 300 feet. The deck and patio are located within the 50 land buffer of the floodplain. Chapter 27-801.I of the Zoning Ordinance states that "A fifty-foot land buffer remaining in its natural condition or shall be provided between the permitted use and the edge of the floodplain as defined by FEMA". He stated in addition the applicants are requesting to convert a section of the rear yard area which lies in the floodplain back into a native wildflower garden. The proposed landscaping will also be in the 50 foot land buffer. Mr. Ressler stated the applicant is requesting variance to Chapter 27-801.I to permit the construction and landscaping in 50 foot floodplain buffer. There have been no other Zoning Hearing Requests on the property. Mr. Ressler explained the map with the buffer area and the floodplain boundary on the plan.

Mr. Pytel asked if the house was built in the buffer area. Mr. Ressler answered the Teaberry Ridge PRD was approved in 1992 with a floodplain boundary in which a study was done at that time with the approval of the homes to be built in the buffer area. He stated that the floodplain was changed in 2009 and the boundary increased in size and

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many owners had to apply for zoning map amendments so the house was not in flood zone but in the 50 foot buffer.

Ms. Beth Giles representative, Brent Potter of Landscape II, stated there is no deterrent to the changes and he pointed out they are transforming an area into a wild flower garden and bringing it back to its native habitat. He stated this would increase the flow of water into the floodplain. He stated the other changes would offset and bring the changes more natural.

Chairman Patch asked with the concrete slab being replaced with the flagstone would that help with the flow. Mr. Potter answered that this change would help with the flow. Mr. Farrell asked if the concrete pad is now in the floodplain. Mr. Potter answered it would be a little more in the buffer and not in the floodplain. Chairman Patch asked how far it would be from the floodplain buffer. Mr. Potter stated the deck would be 34 to 26 from the floodplain line and it would be a second story. Mr. Stover asked how high the proposed deck is. Mr. Potter answered 9.6 and 10 feet. Mr. Stover asked if the floodplain would be affected by the construction of the deck. Mr. Potter stated it would not.

Mr. Pytel wanted to verify if the deck would increase by 300 feet. Mr. Potter answered it would. Mr. Pytel was concerned about the decrease of impervious soil. Mr. Potter stated they are eliminating the invasive plants and creating a more native area with the new plantings. Mr. Stover read the criteria for the conditional use requirements and floodplain recommendations because they are 300 feet away from the floodplain. Mr. Ressler stated there should be a requirement on the original plot plan.

Mr. Pytel made a motion to GRANT the Variance to expand the existing deck on the property by removing and replacing it with a new hardwood deck, convert the existing concrete pad under the deck to flagstone patio and increase the size of the patio by approximately 300 feet which are located in the floodplain buffer, convert a section of the rear yard area which lies in the floodplain back into a native wildflower garden. This landscaping would be in the 50 foot land buffer. Mr. Twomley seconded the motion. The Board voted unanimously.

#### IV. REQUEST FOR A VARIANCE- RONALD AND PEARL GUENOT-

Mr. Ressler stated the property is the subject of this hearing is located at 2245 West Gatesburg Road, Tax Parcel 24-005-018M-0000. He stated the property is owned by Ronald and Pearl Guenot and located in the RA Zoning District. The applicants are proposing a one lot subdivision of the 2 acre parcel from an 84.39 acre tract. Mr. Ressler stated there is an area of Zone A FEMA mapped floodplain on the property. A Zone A floodplain does not have the elevations shown on the maps. The Zoning Ordinance in Chapter 27-801. The Code of Federal Regulations, CFR 44-60.3.b.(3) also requires that for subdivision of greater than 50 lots or 5 acres that the base flood elevations data. The applicants are requesting a variance to this requirement. Mr. Ressler stated there have no other variance requests for this property. Mr. Ressler noted the plan and pointed out the floodplain area.

Mr. Pytel asked the size of the lot to be subdivided. Mr. Ressler answered that it would be 2 acres.

Mr. John Sepp, representing the applicant, of Penn Terra Engineering, stated the area is mapped floodplain because there are Nolin soils on the property. He stated there is a subdivision plan in 1987 where the test pits were approved with septic systems and this shows they are not in the floodplain. He stated the soils are least 300 acres away from the floodplain.

Mr. Stover asked if there are any buildings on the property. Mr. Sepp answered there are no plans to build anything on the lot at this time. Mr. Stover asked once there is building plans in the future would they provide elevations. Mr. Sepp stated they are requesting to not provide elevations once building plans are submitted. Mr. Sepp suggested to the Board to revise the requirements that if any building is within 100 feet buffer from the floodplain they would submit a plan. Mr. Pytel stated they would not want to grant any requirement on the parent tract since this is a request for a variance for a 2 acre lot.

Mr. Pytel made a motion to GRANT the Variance for the 2 acre tract as requested and not require a floodplain study for only this parcel. Mr. Twomley seconded the motion. The Board voted unanimously.

#### **V. REQUEST FOR A SIGN VARIANCE – PANDY FARM**

Mr. Ressler stated that the property is located at 1500 North Atherton Street, State College, PA, Tax Parcel #24-010-005-000, owned by Pandy Farm L.P. He stated the property located in the C-General Commercial Zoning district. Mr. Ressler stated there are two buildings on this lot which consist of Hoss's Restaurant and the former Mattress World building. He stated currently there is one ground sign on the lot for Hoss's Restaurant. There are three signs on the property one awning sign facing on North Atherton Street, a wall sign on the wall facing Aaron Drive and a small sign on the awning over the entrance door. He stated in Chapter 19-110-1A-2a of the sign ordinance are only permitted one ground sign per lot. He stated the sign ordinance states in Chapter 19-116.4 Variances, subsection 116.4.D reads as follows: Standards for Variances: The Zoning Hearing Board may determine that a variance be granted when it shall be determined from evidence presented to the Zoning Hearing Board that the variance will not merely serve as a convenience to the petitioner, but is necessary to alleviate some demonstrable hardship or unusual practical difficulty and that the granting of the variance will not in any way be inconsistent with the intent, purpose and objectives of this part. Mr. Ressler stated a variance hearing was held on January 10, 1991 for the property owner to be able to erect a second ground sign on the property in question. The variance request was denied and a copy of the decision was provided.

Mr. Carl Ralph, CFO of Hoss's Steak Houses, stated that Hoss's was built in 1983 and it was the L shaped parcel and in 1991 they requested a variance to put on an addition and George Dicks was the owner and it was denied. He stated there were a couple variance requests and around 1991 the sign fell down. He noted there have been 6

other businesses in the location because there is no sign it indicate the placement of the business. He stated the sign ordinance notes that the signs should be compatible for the surroundings and car dealership is permitted to have two signs on one lot.

Mr. Mick Tromley, representative of the applicant, stated explained that most drivers who drive Atherton Street are speeding and not having a sign to show where to turn into the business or show where the business is located is just not safe.

Mr. Ralph stated he drove around the Township and cannot match the signs anywhere in the area that meet this hardship for an additional sign on this lot. He had photos proving the hardship to showing the awning sign is hard to see driving down Atherton.

Mr. Tromley stated that signs are required to help show customers identify the location. Mr. Ralph stated that he feels safety is an issue and he wants to work with the Zoning Hearing Board to make something work to construct a sign. Mr. Patch stated where the sign would be placed. Mr. Ralph answered he would not place the sig that would hide the Hoss's Restaurant sign. Mr. Twomley asked if Hoss's considered to place the Hoss's sign on the existing sign. Mr. Ralph stated that he felt that is would not be helpful to the customers because they would not know where to turn. Mr. Pytel stated if the Board granted this variance how they could turn down other requests. Mr. Ralph stated there are no other properties in the Township that have two buildings on one lot. Mr. Ressler stated Ferguson Square is commercial and there are two or more businesses on one lot.

There was a discussion among the Board and the applicant's representative noting that the sign could incorporate within the Hoss's restaurant. Also there was a discussion regarding the safety and speed limit. Mr. Ralph asked why car dealerships are permitted to have two signs. Mr. Ralph asked the Township solicitor if the there is an accident could the Township have any responsibility since they pointed out this safety hazard. Mr. Stover stated no.

The Board adjourned to an executed session at 7:40 pm. The Board reconvened at 7:50 pm.

Mr. Pytel made a motion to APPROVE the Variance for a separate sign on Tax Parcel 24-10-005-0000. Mr. Farrell seconded the motion. The Board voted unanimously to DENY the variance.

Chairman Patch clarified the vote did not pass and the variance was denied.

#### VI. Minutes

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.

#### X. ADJOURNMENT

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With no further business to come before the Ferguson Township Zoning Hearing Board,  
Mr. Farrell adjourned the regular meeting at 8:20 p.m.

RESPECTFULLY SUBMITTED,



Karen English, Secretary  
For the Zoning Hearing Board

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

