

## FERGUSON TOWNSHIP ZONING HEARING BOARD

Regular Meeting  
Tuesday, May 27, 2015  
7:00 pm

### I. ATTENDANCE

The Zoning Hearing Board held its regular meeting on Tuesday, May 27, 2015 at the Ferguson Township Municipal Building. In attendance were:

Board: George Pytel, Vice Chair  
Scott Petryshak  
Charles Farrell  
Mike Twomley

Staff: Jeffrey Ressler, Zoning Administrator  
Jeffrey Stover, ZHB Solicitor  
Mark Kunkle, Township Manager

Other in attendance included: Heather Bird, Recording Secretary; Christa Watschke, Sam Mannino

### II. CALL TO ORDER

Mr. Pytel called the Tuesday, May 27, 2015 regular Zoning Hearing Board meeting to order at 7:00 pm.

### III. SWEARING IN OF THOSE WHO WISH TO TESTIFY

Three individuals stood to be sworn in.

### IV. THEODORE MANNINO – VARIANCE REQUEST

Mr. Ressler stated the variance request is for property located at 183 Anaconda Drive, Pennsylvania Furnace, tax parcel 24-006-109. The property is owned by Theodore Mannino and is located in the RR Zoning District and is 1.41 acres. A zoning permit was issued on September 27, 2009 to construct a garage. The permit application stated the work to be completed was a free standing garage and second floor storage area with no power, water or septic. The garage was inspected on March 18, 2009 with no apartment at the time of inspection. Mr. Ressler received a call from a real estate agent inquiring whether the carriage house apartment could be rented. At that time Mr. Ressler checked in the files and found the permit that was issued was for a garage with storage above. The real estate agent assured me that an apartment had been built. Mr. Ressler sent a notice of violation number 2015-4 to the property owner dated April 7, 2015. The notice stated a violation of Chapter 27-1002.1, construction without zoning approval. The property owner received the notice. Mr. Ressler visited the property on April 14, 2015 with Mr. David Pribulka, Assistant Township Manager, and met with Mr. Mannino. Mr. Ressler viewed the property and took pictures of the second floor and explained that the work constituted a violation, an apartment is not permitted by ordinance and the work would need to be removed. The property owner filed for a variance to be permitted to allow the apartment to remain intact and a variance to approve the use of the second floor as a studio apartment to be rented to no one not related to the owners of the property. The lot is 1.41 acres and located in the RR Zoning District which does not permit a second dwelling. There have been no other variances for this property.

Mr. Sam Mannino, representing Mr. Theodore Mannino, is the responsible party for adding the apartment to the second floor of the garage. The utilities have never been hooked up and never used as an apartment. The plans were that one day it may be used as a studio or maybe an apartment. No one has ever resided in the space. Mr. Mannino would like to leave the construction up with the intent that someone who is related to the owner of the property may use the space in the future. At this time the area above the garage has walls erected with some electric installed but no water, sewer and such has been hooked up.



Mr. Twomley asked why a permit was never attained. Mr. Mannino stated that it was not intentional. The intention was that if the space was ever used other than as a studio, such as to be rented, a permit would be obtained at that time.

Mr. Twomley asked Mr. Ressler what the proper steps would to occur from here. Mr. Ressler stated the property owner would need the proper permits, but with the size of the property a second dwelling would not be permitted on the property unless a variance was obtained.

Mr. Pytel asked exactly what Mr. Mannino would like the variance to be for. Mr. Mannino stated that it would be to allow the construction that has been completed to stay and not be required to remove any of the walls. Mr. Pytel stated that would be a variance to allow for a second dwelling on the property.

Mr. Petryshak asked if the property could be subdivided. Mr. Ressler stated no, the minimum lot size is one acre.

Mr. Stover accepted into evidence a letter from neighbors opposing the variance.

Mr. Mark Kunkle, Township Manager, spoke representing the Board of Supervisors. He stated a zoning permit was issued and the permit was clear that the space was to be used as a garage and storage area and was not to have any electric, water or sewer. The applicant has created this hardship by expanding the use of the zoning permit issued. The applicant was knowledgeable about the need for a zoning permit and the scope of the permit for. The adjacent property owners indicated the issuance of this variance would change the character of the neighborhood. The property was listed on the real estate market with this listed as a single family dwelling with a secondary carriage house. The Board of Supervisors requested the Zoning Hearing Board deny the variance request as submitted.

Mr. Pytel commented that there would be a need for additional septic to be installed for this additional dwelling to be permitted.

Mr. Stover asked if a cease and desist order was issued to require the removal of the finished construction on the property. Mr. Ressler stated that at this time that has not been issued. Mr. Stover stated that since the cease and desist order was not issued the only variance request the Board would need to act on at this time is if the applicant can have a second dwelling unit on the property.

Mr. Twomley made a motion to GRANT a variance to accommodate a second residence on tax parcel 24-006-109. Mr. Petryshak seconded the motion. The motion was denied by unanimous vote.

#### **V. THOMAS AND CHRISTA WATSCHKE – VARIANCE REQUEST**

Mr. Ressler stated the variance application is located at 1168 Longfellow Lane, State College tax parcel 24-442-016. The property is located in the R1-B zoning district and is owned by Thomas and Christa Watschke. The property is subject to the 200 foot ag buffer as listed in Chapter 27-206.I of the Zoning Ordinance. The applicants requested a variance to Chapter 26-206.I, the 200 foot ag buffer requirements to partially cover the existing patio with a roof. The roof covering would extend nine feet into the 200 foot buffer. There was a variance granted to a neighboring property, 1178 Longfellow Lane, for a patio to extend into the 200 foot buffer yard. A previous hearing was held on April 21, 2009 to request a variance to permit a patio in the 200 foot ag buffer. The



variance was denied. Mr. Ressler explained that at the time the variance was denied the Board of Supervisors was having discussions on changing the buffer yard. The property owners met with the Township Manager and Board and discussed the buffer yard. In July 2009 the Board of Supervisors decided to amend the ordinance removing the 200 foot buffer yard. At that time Mr. Ressler issued a permit for the existing patio based on the proposed change to the ordinance. Once the final ordinance was adopted the changes were different than originally proposed but at that time the patio had be constructed with a valid permit. The variance requested this evening is to cover the existing patio.

Ms. Christa Watschke stated that the patio was installed in the R1B buffer zone as permitted by the Township. The patio area is very windy and they have lost a number of pergolas due to the wind. They would like to install a permanent roof to provide a bit of shade on the existing patio. Neighbors on both sides do have roof covers.

Mr. Petryshak asked why the roof can't be constructed without entering the 200 foot buffer. Ms. Watschke stated it is because the foundation of the house is one foot from the 200 foot buffer. The roof would be ten feet deep, nine feet into the buffer, and 27 feet wide. Mr. Stover confirmed the patio will extend an additional ten feet beyond the end of the roof. Mr. Petryshak stated that this roof would not change the footprint of the patio. Mr. Pytel asked if a future plan is to close in the patio. Ms. Watschke stated there is not intent to enclose the patio and she would be fine if the variance approval included a provision to prohibit it being enclosed at any time in the future.

After discussion by the Board and Ms. Watschke she officially amended the variance request to include a roof cover up to the full size of the existing permitted patio.

Mr. Petryshak made a motion to GRANT a variance permitting a patio roof cover up to the dimensions of the existing permitted patio size and this patio may not become an enclosed structure. Mr. Twomley seconded the motion. The motion passed unanimously.

#### **VI. APPROVAL OF THE MINUTES FROM MARCH 24, 2015 AND APRIL 28, 2015**

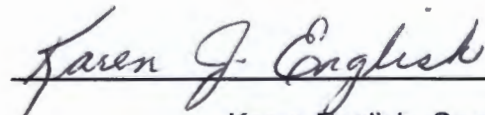
Mr. Farrell made a motion to APPROVE the regular meeting minutes from March 24, 2015. Mr. Twomley seconded the motion. The motion passed unanimously.

Mr. Twomley made a motion to APPROVE the regular meeting minutes from April 28, 2015. Mr. Petryshak seconded the motion. The motion passed unanimously.

#### **VII. ADJOURNMENT**

With no further business to come before the Ferguson Township Zoning Hearing Board, Mr. Pytel adjourned the regular meeting at 7:46 pm.

RESPECTFULLY SUBMITTED,



Karen English, Secretary  
For the Zoning Hearing Board

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