

FERGUSON TOWNSHIP ZONING HEARING BOARD

Regular Meeting

Tuesday, January 20, 2015

7:00 pm

I. ATTENDANCE

The Zoning Hearing Board held its regular meeting on Tuesday, January 20, 2015 at the Ferguson Township Municipal Building. In attendance were:

Board:	Matthew Patch, Chairman	Staff:	Jeffrey Ressler, Zoning Administrator
	George Pytel, Vice Chair		Jeffrey Stover, ZHB Solicitor
	Karen English, Secretary		Mark Kunkle, Township Manager
	Scott Petryshak		
	Swamy Anatheswaran		
	Charles Farrell		
	Michael MacNeely		
	Mike Twomley		

Other in attendance included: Heather Bird, Recording Secretary; Terry Williams, Mark Torretti

II. CALL TO ORDER

Mr. Patch called the Tuesday, January 20, 2015 regular Zoning Hearing Board meeting to order at 7:06 pm.

III. SWEARING IN OF THOSE WHO WISH TO TESTIFY

One individual stood to be sworn in.

IV. THISTLEWOOD ASSOCIATES – APPEAL & VARIANCE REQUEST

Mr. Ressler stated the property that is subject to the hearing is Lot #12, 250 Treetops Drive in Thistlewood Subdivision. The property is owned by Thistlewood Associates and R. Scott Young, currently vacant and zoned RR. The lot in question is a lot of record, Lot #12 on the Thistlewood Subdivision plan which was recorded on July 28, 2005. Lot #12 is subject to the conservation easements and wetlands as shown on the recorded subdivision plan. Mr. R. Scott Young is planning to construct a single family dwelling on the lot. Lot #12 on the recorded plan shows two wetland areas. On the plan that was submitted with the variance application (plan labeled A1.1b) there is a proposed house, utility shed, driveway and storage building shown. The proposed house and utility shed are not impacting wetlands or required buffer yard. The proposed driveway on the plan A1.1b is shown to cross the Riparian Buffer around the designated wetland area. The proposed storage building is shown to be located in the riparian buffer. The applicants have filed an appeal that there was a "failure to recognize pre-existing lot of record, misapplication or misinterpretation of the zoning buffer requirements." The applicants have also filed variance requests for the following sections of the Zoning Ordinance: Chapter 27-801.G.3, Chapter 27-801.I, Chapter 27-213.A.2.a, Chapter 27-213.4.D and Chapter 27-213.6.A.(1). Mr. Ressler stated his opinion is that the following Zoning Ordinance sections are not applicable and therefore variances are not needed for the following sections: Chapter 27-801.I, Chapter 27-213.A.2.a and Chapter 27-213.6.A.(1). Mr. Ressler's opinion is that the following ordinance sections are applicable and variances would be required for the following sections: Chapter 27-213.2.C.2, Chapter 27-213.4.D and Chapter 27-801.G.3. Chapter 27-213.2.C.2 reads as follows: The Overlay Zoning District shall also include a minimum buffer width of 50 feet around the entire perimeter of the outer edge of wetlands and water bodies greater than 5,000 square feet in area and not located along a stream. Chapter 27-213.4.D reads as follows: Uses specifically prohibited in the Riparian Buffer Overlay

Zoning District. 4. Roads or Driveways, except where permitted as stream crossings in compliance with subsection .3.A.(1) or .3.A.(2). Chapter 27-801.G.3 reads as follows: Requirements for construction of obstructions, structures and uses affecting wetland: (a) Land development plans are to contain boundaries of any wetlands, existing vegetation cover and location of existing soils (b) soils have severe limitations due to wetness for crops, leach fields, buildings or roads are possible wetlands and require Pennsylvania Department of Environmental Protection and U.S. Army Corps of Engineers review and approval of permits (c) upon approval by the Department of Environmental Protection and Corps of Engineers of required permits for the land development in the identified wetland areas; the land development plan and/or subdivision plan may then be submitted to the Township for review and approval (d) the Township procedures of approval may have conditions attached as needed to further the goal of prohibiting development in floodplains and wetlands. There have been no other variance requests for this property.

Mr. Pytel stated he had three different recorded plans. Mr. Ressler stated the plan submitted with the application is the plan in question.

Mr. Williams questioned if the plan on which this is based was recorded in 2005. Mr. Ressler confirmed and Mr. Williams marked this plan as Exhibit A1. Mr. Williams asked if the buffer requirements cited in the explanation were not adopted until 2011. Mr. Ressler verified this is correct. Mr. Williams asked Mr. Ressler if in his opinion the variances were granted the property could be accessed from the street through the wetlands. Mr. Ressler agreed.

Mr. Williams asked Mr. Torretti, PennTerra Engineering, on Exhibit A2 what is marked in the cross hatched area. Mr. Torretti stated that is the approximate location of the 30 foot driveway extension, as indicated in March meeting minutes. Approval was obtained for the driveway that does exist up to a certain point before the buffer area. Mr. Williams stated the applicant would like a variance granted to cross the buffer area after the driveway extension in order to access their home.

Mr. Williams presented Exhibit A3 which shows a different profile of the property. It shows the driveway entering deeper into the buffer area, with the driveway being is more rectangular. There are large trees in this area. The applicant would like to connect the driveway to where the home would be constructed would like to construct the driveway in a way in order to keep the large existing trees.

Mr. Williams stated the key in terms of the variance application are the subdivision was created in advance of the buffer zones creating the hardship. The hardship was not created by the sub divider or by the applicant. The hardship is that essentially there is no way without a variance to gain access to the home. The curve linear driveway is the minimum to allow access the house, although it might not be most practical. The land without the variance would be unusable. Mr. Williams asked the Board to grant the variance so the applicant may use the land.

Mr. Stover clarified that the Board should vote on the variance first which would determine the need for an appeal. If variances were granted there would be no need for an appeal.

Mr. Pytel questioned the easement for the joint driveway. He stated the purpose of the easement was for minimum amount of disturbance to the wetlands. Mr. Williams stated he is making no assumptions to the easements. Mr. Pytel asked why does there have to be such a large encroachment into the wetland from both properties. Mr. Ressler pointed out the driveway and wetland. The driveway will not be in the wetland but in the riparian buffer. Mr. Pytel stated there is a 50 foot buffer beside the wetland with no construction permitted in this area. Mr. Williams stated he does not agree because the beginning of the driveway already exists.

Mr. Kunkle asked Mr. Torretti to verify the plan recorded in 2005. He asked about the lot layout and if it depicts certain wetlands and areas to be protected for each lot. Mr. Torretti stated the plan does depict that. Mr. Kunkle pointed out the common driveway and asked Mr. Torretti if the depicted driveway represented the determination point of the driveway. Mr. Kunkle asked Mr. Torretti if the owners of Lot 11 and 12 would be safe to assume when purchasing that they would have a joint driveway until the point depicted on the plan at which point they would separate their driveways to each home. Mr. Torretti agreed. Mr. Kunkle stated that the current end of the driveway is just into the riparian buffer creating the minimum effect on the buffer. Mr. Torretti stated that at the time the plan was approved there were not regulations for the riparian buffer. There was an approval process for crossing the wetlands but again the riparian buffer did not exist at the time.

Mr. Patch asked Mr. Kunkle about the end of the driveway shown on the map. Mr. Kunkle stated he cannot say exactly where the driveway ends on the map. Mr. Ressler confirmed that the driveway does exist although he cannot say exactly where it ends on the map.

Mr. Anatheswaran asked Mr. Pytel about the easement on the properties and if there is another way to access the property. Mr. Pytel stated the driveway could continue up the easement and access the property.

Mr. Patch asked if the riparian buffer continues across the neighboring property, Lot 11. Mr. Williams replied that yes it does. Mr. Patch does not see that any access is available to the property without crossing the wetlands.

Mr. Anatheswaran asked if there was a way to access the property that would have the least effect on the riparian buffer. Mr. Williams stated Exhibit A2 would reflect the minimum variance needed to access the property although that would not be the preferred access.

Mr. Kunkle stated the Board of Supervisors was not opposed to the variance but that it is more important to have a minimal effect on the riparian buffer over protecting existing trees.

Mr. Pytel asked if the property can be accessed through the easement without crossing the riparian buffer. Mr. Williams stated the wetland and riparian buffer go completely across the lot. Mr. Kunkle stated the easement ends where the existing driveway ends and in no direction could the property be accessed without crossing the riparian buffer.

Mr. Pytel would prefer to see the driveway go straight up and with a 90 degree angle to access the property.

Mr. Patch stated this is a unique case and the property would need the access to the property.

Mr. Anatheswaran stated he preferred the driveway depicted on Exhibit A2.

Mr. Pytel made a motion to GRANT the variance requests for 250 Treetops Drive, Lot 12 for relief from Chapter 27-213.2.C.2, Chapter 27-213.4.D and Chapter 27-801.G3 and to construct the driveway according to the plan submitted as Exhibit A2. Ms. English seconded the motion. The motion passed unanimously.


V. APPROVAL OF MEETING MINUTES

Mr. Pytel made a motion to APPROVE the minutes from Tuesday, November 18, 2014 Zoning Hearing Board meeting. Ms. English seconded the motion. The motion passed unanimously.

VI. ADJOURNMENT

Ms. English made a motion to adjourn the meeting. With no further business to come before the Ferguson Township Zoning Hearing Board, Mr. Patch adjourned the regular meeting at 7:55 pm.

RESPECTFULLY SUBMITTED,



Karen English, Secretary
For the Zoning Hearing Board

Date approved by the Board: _____