

Zoning Hearing Board
Lower Saucon Township
Town Hall
January 20, 2014

MINUTES

The meeting was called to order at 7:00 p.m. by Chairman Jason Banonis.

Roll Call

Present at the meeting were Chairman Jason Banonis, Vice Chairman Lachlan Peeke, Secretary Keith Easley, and Board Members Austin Kunsman and Jay Lazar. The Solicitor, George A. Heitzman, was present.

Reorganization

Chairman Banonis called for nominations for the coming year. Mr. Kunsman moved to keep the same slate of officers, Solicitor, and meeting dates as last year. The motion was seconded by Mr. Peeke and passed by a vote of 5 to 0, resulting in the reappointment of Jason Banonis as Chairman, Lachlan Peeke as Vice Chairman, Keith Easley as Secretary, and George A. Heitzman as Solicitor for 2014, and also resulting in the designation of 7:00 p.m. on the third Monday of each month during which there is business to transact as the date and time for meetings of the Board, except for the month of August when the Board may meet on the fourth Monday, so as to permit Township Council to review applications during that month.

Minutes

The Board had before it for approval the minutes of the meeting of December 16, 2013. Mr. Peeke moved to accept the minutes as submitted. The motion was seconded by Mr. Kunsman and passed by a vote of 5 to 0.

Bills

The Board had before it for approval a bill from the Morning Call for advertising the meeting of December 16, 2013, the Court Reporter's bill for attendance at the meeting of December 16, 2013, and the Solicitor's invoice for the month of December, 2013. Mr. Kunsman moved to pay the bills as submitted. The motion was seconded by Mr. Peeke and passed by a vote of 5 to 0.

Variance Appeal of Jason Miller - Variance 12-13

Chairman Banonis announced that Applicant had requested a continuance which had been granted.

Variance Appeal of Alberto Cardona & Amparo Diaz De Cardona - Variance 13-13

Chairman Banonis announced that Applicant had requested a continuance which had been granted.

Variance Appeal of TMC Management Corporation - Variance 14-13

Chris Garges, the Zoning Officer, was sworn and testified that Applicant would like to construct a single family dwelling, attached garage, and associated driveway on a vacant lot in an R-40 zoning district. The lot was created by the Cottages at Saucon Valley Subdivision in 2005. The proposed construction will exceed the allowable lot disturbance ratio as permitted by the Zoning Ordinance in place at the time the subdivision was approved, and which was duly noted and covenanted on sheet 4 of 12 of the approved subdivision plan. The lot is approximately 1.04 acres in size and contains fallow field with a few trees. The proposed coverage is 4,330 square feet (9.6%). The maximum allowable coverage is 15%.

This is a unique request in that Applicant is seeking relief from the Ordinance in place at the time of subdivision, and Applicant has noted in its application that new outside agency regulations / approvals (particularly NPDES) require additional earth disturbance that was not required at the time the Subdivision was approved.

The current Zoning Ordinance would render the lot essentially unbuildable. The *Pennsylvania Municipalities Planning Code*, 53 Pa.C.S.A. §10508(4)(iv), specifically permits an approved subdivision to be developed in accordance with the plat and the ordinance then existing even if there is a subsequent ordinance change, so long as the required improvements as depicted upon the final plat occur within five years of the approval of the subdivision. That applies in this case.

Mr. Garges suggested that any relief granted by the Board should be limited strictly to the drawings and documents presented at this time. Should accessory structures, additions, patios, decks or improvements of any kind be proposed in the future outside of the area of disturbance depicted on the grading plan that was presented, a new application for relief should be required to be submitted.

The appeal was properly advertised and posted, and Township Council took no action in the matter.

Attorney Joseph J. Piperato appeared representing TMC Management Corporation.

Attorney Piperato called Michael Tuskes as his first witness. Mr. Tuskes is vice president of Applicant, TMC Management Corporation. Mr. Tuskes testified that in July 2013 TMC bought 6 of the 8 lots of the Cottages at Saucon Valley Subdivision. The other two lots had been sold to one owner who constructed a house on one lot and kept the other lot undeveloped. All of the lots in the subdivision are larger than 1 acre

TMC completed a partially built home that was on one of the six lots that

it purchased, and now wishes to develop the remaining lots. This appeal pertains to the lot shown as lot number five on the approved plat.

Mr. Piperato noted that at the time the current Zoning Ordinance was approved there was an earth disturbance requirement. He introduced Applicant's Exhibit 1, a chart prepared by an engineer on behalf of Applicant, showing that the amount of earth disturbance that would be required to develop the lot without installing an infiltration unit would be 0.39 acres, less than the permitted disturbance of 0.416 acres. It is now necessary to have a lot disturbance of 0.6 acres in order to meet the requirements for the installation of an infiltration system, hence the need for a variance.

Mr. Tuskes testified that the footprint of the proposed structure shown on the original plan was 2,580 ft.² whereas the actual footprint will be 2,422 ft.² He also noted that the infiltration system will result in all of the water flowing across the lot as well as that generated from the roof of the home being directed into the infiltration system. He said that current development theory requires that all water falling on a lot should be disposed of on that lot.

Thomas Szabo, a member of the audience, was sworn and testified that his property abuts Applicant's land. He had questions regarding the detention pond that is part of the Cottages at Saucon Valley Subdivision. The detention pond is not fenced and usually has water in it. He is concerned that this is a safety hazard. He wanted to know what the effect of the infiltration system would be on the detention pond.

Mr. Tuskes and Attorney Piperato told Mr. Szabo that the effect of the infiltration system would be to funnel less water into the detention pond as the water would be dealt with on the lot itself. They also noted that no variance is required, and none will be requested for the other lots in the subdivision.

Board Member Lazar questioned Mr. Garges on his notes which indicated that there should be a strict limit on further development. Mr. Garges noted that the Solicitor typically states in all of the letters of approval that the approval is

granted only as to the specific request made and the evidence presented to the Board, but he thought it should be emphasized in this case.

Mr. Peeke then moved, seconded by Mr. Kunsman, to grant the requested variance with a specific condition that should accessory structures, additions, patios, decks or improvements of any kind be proposed in the future outside of the area of disturbance depicted on the grading plan that was presented, a new application for relief must be submitted.

The motion passed by a vote of 5 to 0.

Variance Appeal of John & Judy Bruchak - Variance 15-13

Chris Garges, the Zoning Officer, having previously been sworn, testified that Applicant would like to construct a 32' x 35' detached garage that does not meet the required front yard setback. The property is located in an R-20 zoning district and is unique in that while it "fronts" on Jefferson Avenue, by definition it is a corner lot due to the unopened Schwab Avenue alley, which means for zoning purposes it has two front yards. The proposed garage is located 10' from the property line. The proposed additional coverage is 1,120 ft.² The existing lot coverage is approximately 5,575 ft.² based upon GPS calculations (18.1%). The proposed coverage is 6,695 ft.² (21.7%). The maximum allowable coverage is 25%. Applicant will need 20' of relief from the required front yard setback of 30'.

The appeal was properly posted and advertised and Township Council took no action.

Mr. Bruchak was sworn and testified that he was not aware that he had two front yards. He said that if it were not for the paper street he would only need a variance of 5'. Mr. Garges told him that he thought it would be best to cite the correct section of the Ordinance, as there were two front yards because of the existence of the paper street. Mr. Bruchak questioned how a property could have two different front yards, and he was told that this is a sometimes strange-sounding result brought about by the definitions in zoning ordinances.

Mr. Bruchak also stated that on the other side of the paper road there are some undeveloped lots, so his proposal could not possibly adversely affect any neighbor.

There was no one in the audience who wished to be heard concerning the application.

Mr. Peeke moved, seconded by Mr. Kunsman, to approve the variance as requested. The motion passed by a vote of 5 to 0.

Old Business

There was no old business before the Board.

New Business

There was no new business before the Board.

Adjournment

There being no further business before the Board, Mr. Peeke moved, seconded by Mr. Kunsman, to adjourn the meeting. The motion passed by a vote of 5 to 0 and the meeting adjourned at 7:43 p.m.

Respectfully submitted,

George A. Heitzman
Solicitor