

Zoning Hearing Board  
Lower Saucon Township  
Town Hall  
July 20, 2015

## **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, Secretary Keith Easley, and Board Members Austin Kunsman and Jay Lazar. Vice Chairman Lachlan Peeke was absent. The Solicitor, George A. Heitzman, was present.

### **Minutes**

The Board had before it for approval the minutes of the meeting of May 18, 2015. Mr. Easley moved to accept the minutes as submitted. The motion was seconded by Mr. Kunsman and passed by a vote of 4 to 0.

### **Bills**

The Board had for approval a bill from the Morning Call for advertising the meeting of May 18, 2015, the Court Reporter's bill for attendance at the meeting of May 18, 2015, and the Solicitor's invoice for the month of May, 2015. Mr. Easley moved to pay the bills as submitted. The motion was seconded by Mr. Lazar and passed by a vote of 4 to 0.

### **Variance Appeal of Christopher & Stacey Blowars - Variance 07-15**

Chris Garges, the Zoning Officer, was sworn and testified that Applicant received a variance from the Board last year to construct a 22' x 28' detached

garage at the location of an existing foundation. Applicant did not move forward with that construction.

Applicant would now like to construct a larger 26' x 38' detached accessory structure which will encroach into the side yard setback required in an R40 zoning district. Applicant had been granted 15' of relief for the previous variance and is proposing the same setback as the previous proposal. The lot is approximately 0.68 acres in size and irregularly shaped. The property contains a single family dwelling, two smaller accessory structures, and a driveway. Applicant is proposing to construct a detached accessory structure at the location of a foundation from a previous structure. The proposed structure would be larger but would not encroach any further than the existing foundation. The proposed accessory structure will not meet the required 30' side yard setback required by §180-35B. Applicant is proposing a 15' setback, which is the same setback as the existing foundation. The existing lot coverage is well under the maximum allowable coverage of 25%.

Applicant will need approximately 15' of relief from the required side yard setback of 30'.

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

Mr. Blowars had nothing to add to what the Zoning Officer had stated, and there was no one in the audience who wished to be heard concerning the matter.

Mr. Kunsman moved to grant the requested variance. The motion was seconded by Mr. Banonis and passed by a vote of 4 to 0.

#### **Variance Appeal of David & Nancy Cawley - Variance 08-15**

Chris Garges, having been previously sworn, testified that the subject property is unique and is a legal nonconformity. The parcel is in an R40 zoning district and contains an existing principal dwelling and an "accessory"

structure/dwelling unit. It also contains an above-ground pool and an accessory storage structure.

Applicant would like to construct an addition (approximately 20' x 28') which will encroach into the required side yard setback, however it will not be any closer to the property line than the existing structure. The lot is approximately 0.62 acres in size and irregularly shaped in that it is long (560') and narrow (50'). At 27,000 ft<sup>2</sup> in size, it does not meet the current minimum lot size of 40,000 square feet.

Mr. Garges testified that he verified with Jeff Huff the Sewage Enforcement Officer that the parcel has a recently constructed septic system that was sized appropriately for two living units when it was installed. The proposed addition will not meet the required 30' side yard setback. Applicant is proposing a 6' setback, which is the same setback as the existing foundation. The existing lot coverage is well under the maximum allowable coverage of 25%. Applicant will need approximately 24' feet of relief from the side setback of 30' required by §180-35B.

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

Mrs. Crawley testified that the existing online sewage disposal system had been designed to accommodate two residences. Mr. Garges noted that the lot is only 50 foot wide which is 10' short of meeting the combined 60' side yard setback. It is therefore nonconforming and the proposed addition will not increase the nonconformity.

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

Mr. Easley moved, seconded by Mr. Banonis, to grant the requested variance and the motion passed by a vote of 4 to 0.

**Variance Appeal of Andrew Dishong & Emily Miller - Variance 09-15**

Chris Garges, having been previously sworn, testified that the subject property is located in an RA zoning district, is 4.77 acres in size, and contains a single family home and attached garage which was constructed in 2005 as part of the Saucon Woods Subdivision. The parcel is unique in that it is burdened by several natural resources such as FEMA floodplain, the East Branch of the Saucon Creek, and woodlands.

Applicant would like to construct approximately 1,400 ft<sup>2</sup> of new impervious cover including an in-ground pool and associated patio. Applicant is also proposing to construct stormwater management facilities in accordance with the Township grading and stormwater ordinance requirements. Mr. Garges verified with Jeff Huff the Sewage Enforcement Officer that Applicant has re-tested a back up septic site because the proposed construction is within the previously approved back-up area. This property was developed prior to the Natural Resource Protection Ordinance in 2005. Based on current Ordinance requirements, the parcel has a net buildable area of 0.66 acres, and as such the existing impervious coverage is 7,429 ft<sup>2</sup> or 25.8%. The proposed coverage is 8,829 ft<sup>2</sup> or 30.7%. Applicant will need approximately 4.9 % of additional relief from the maximum allowable impervious coverage permitted by §180-22C.

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

Mr. Dishong appeared along with Anthony Caciolo who is going to install the pool and Bruce Rader of Burks Surveying and Engineering Inc. who prepared the plan.

Mr. Rader told the Board that after the use on this land was under construction, the Township changed the regulations concerning the computation of the maximum allowable impermeable coverage. Due to certain features on the land the net buildable area of this 4.77 acre lot is only 0.66. So the existing

coverage is in itself nonconforming.

Mr. Caciolo testified that the pool will be approximately 700 ft.<sup>2</sup> and will contain a deck of the same area. In response to a question from the Board, he said that this pool was a little bit on the small side compared to the pools he normally installed. He also testified that the pool, while being excluded for calculations, actually contains 6 inches of freeboard so it can absorb rainwater. Thus the pool is a *de minimis* addition to any impervious coverage. He also testified there is a storm water management plan that is dealing with water coming off the roof, and so the net effect of this proposal will be to have less water flowing on the ground and hence the increase in impermeable cover will not be at all detrimental.

Mr. Kunsman moved, seconded by Mr. Lazar, to grant the requested variance and the motion passed by a vote of 4 to 0.

#### **Variance Appeal of Michael & Martha Kreck - Variance 10-15**

Chris Garges, having been previously sworn, testified that Applicant's property is 0.86 acres in size and contains a single family farm house, an existing one car detached garage, and an accessory structure. The parcel is located in an RA zoning district and is unique in that it does not meet the required minimum lot size of 2 acres, and as such it is an existing nonconformity.

Applicant would like to remove an existing one-car garage and construct a 720 ft<sup>2</sup> two car garage in its place. The proposed new structure will not encroach any further into the front yard than the existing structure. The net increase in impervious coverage is minimal and will not require zoning relief.

Applicant will need approximately 3' feet of relief from the 50' front yard required by §180-23A. Applicant will need approximately 14' feet of relief from the 40' of side yard required by §180-23B.

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

Mr. Kreck said that he had nothing to add to what Mr. Garges testimony. No one in the audience wished to be heard concerning the matter.

Mr. Easley moved, seconded by Mr. Banonis, to grant the requested variances. The motion passed by a vote of 4 to 0.

#### **Variance Appeal of Ben Franklin Technology Partners - Variance 11-15**

Chris Garges, having been previously sworn, testified that Applicant leases a 4.68 acre area within a 450+ acre parcel. There is a very small area of the parcel within Lower Saucon Township which is most accurately depicted on the surveyed plans that accompany this application. The remainder of the parcel is located in the City of Bethlehem.

Applicant is proposing to construct an addition to an existing building. The addition will encroach into the front yard and will exceed the maximum allowable building height, although the actual height of the building will not be increased due to an existing nonconformity. The actual area of addition in Lower Saucon Township is very minimal as seen on the drawing submitted with the application.

The application stated that Applicant will require 17.75' of relief from the maximum allowable building height of 50' set by §180-88E. The application also stated that Applicant will require 25.89' of relief from the front yard setback of 75' required by §180-89A.

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

Attorney Catherine Durso appeared representing Applicant. Attorney Durso, at the invitation of the Board, made an offer of proof as to what her witnesses would say. She had present Charles Diefenderfer the representative of Ben Franklin Technology Partners and Kevin Markell of the firm of Barry Isett & Associates Inc. that prepared the plans.

Attorney Durso noted that the proposed addition is located mostly in the

City of Bethlehem with only a small corner in Lower Saucon Township. The proposed structure is in addition to an existing building and is being sized so as to fit in with what already exists. She noted the plan submitted to the Board shows the existing structure as well as the addition, and also shows that only a small portion of it will be in Lower Saucon Township. She noted that in order to assure compliance and allow for some variation during construction, she was orally amending the application so that the request for a height of 67.75' was being increased to 68.5', and the requested setback of 45 feet was being increased to 49.11 feet. The reason for these additions is that due to differences in various sections of the finished grade of the property the height of the structure will vary depending upon where it is measured. The setback will vary between 45 feet and 49.11 because of the curve in the road along side of the building. There will be no impact on any sightlines.

Attorney Durso also noted that all the surrounding properties are owned by the University.

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

Mr. Banonis moved, seconded by Mr. Kunsman, to grant the variances in accordance with the oral amendment of the application requested during the testimony before the Board, acknowledging that they are slightly larger than what was requested on the original application. The motion passed by a vote of 4 to 0.

### **Old Business**

The solicitor noted that the Commonwealth Court had rendered an opinion in the Tidd appeal which upheld the decision of the board. This decision appears to acknowledge that deference should be paid to a decision of a zoning hearing board and appellate court should be hesitant to substitute its judgment for that of a zoning board.

**New Business**

Mr. Garges said that it appears that there will be one hearing on the agenda for next month.

**Adjournment**

There being no further business before the Board, Mr. Lazar moved, seconded by Mr. Easley, to adjourn the meeting. The motion passed by a vote of 4 to 0 and the meeting adjourned at 7:50 p.m.

Respectfully submitted,

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George A. Heitzman  
Solicitor