

January 25, 2023

The regular meeting of the Zoning Hearing Board was held on Wednesday, January 25, 2023, at 6:00p.m. in the Assembly Room of the Millcreek Township Municipal Building, 3608 West 26th Street.

PRESENT: Messrs. Tanner, Calhoun, DiPlacido, Attorney Timothy Zieziula, Matthew Puz, Zoning & Development Office, and Julie Maggio, Assistant Planning & Development Officer.

A reorganization meeting was held with the following results:

Robert Tanner – Chairman John DiPlacido– Vice Chairman Scott Calhoun-Secretary

BUSINESS:

Mr. Tanner informed the public that Appeal 23-02 was continued after all parties involved in this appeal consented to an extension of the deadlines when the initial hearing must occur to the March 2023 meeting.

Atty. Lydia Caparosa counsel for Millcreek Township, stated that they were informed that one of the Board members were unable to attend the February meeting which she conveyed to Atty. Papa. Atty. Papa was concerned with only two members in attendance and could result in a split decision which would not be favorable for the applicant. They would prefer to attend the March meeting. The Township had no objection to the March meeting.

Appeal No. 23-01: WESTMINSTER DEVELOPMENT, LLC, for property located at 4810 Pittsburgh Avenue, seeking a variance from buffer requirements for a proposed driveway in the I1 Light Industrial District. **Index 776-012**

For the record Atty. Zieziula informed the Board members that his law firm does business for the Westminster Group and its related companies. Therefore, he would not be able to participate in the deliberations and would reserve the right to draft the adjudication subject to any objections anyone might have. If the Board needed any legal advice, they would need to make arrangements for them to do so.

Mike Sanford, Sanford Surveying and Engineering, 4721 Atlantic Avenue, was present to discuss this appeal. He handed the the Board **EXHIBIT A (SKETCH PLAN FOR THE PROPERTY)** which was also located in the packet submitted for the appeal. He stated that the applicant was seeking a variance to expand the existing building and parking at the rear portion of the parcel. The applicant needed to construct the driveway on the north side of the building so vehicles would be able to access the parking lot. They were requesting relief from Section 145-29 C3 which is related to Buffer C. They understood that a land development plan and stormwater plan were required but had to get a variance before the land development submission. He reviewed the five criteria needed as follows:

*Unique physical conditions- This property has a unique topographical condition which has a 4' elevation difference from north to south. He realized that 4' might not sound like much with a 126' wide piece of land. In this particular case the building was 100' wide.

*Physical circumstances or conditions there was no possibility the property could be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable reasonable use of the property- In order to access the rear of the property, the developer has to have a driveway. They have 15' to provide a proposed 12' wide driveway which was wide enough for a one-way driveway. Because they have a 3' elevation difference, they needed a retaining wall which would make them run out of the ability to provide the 5' Buffer C that the Zoning Ordinance required. Due to these factors, the property could not be developed in strict conformity with the current ordinance. Therefore, a variance was required for this property.

*Unnecessary hardship was not created by the applicant- He noted that the developer always had a plan to construct more parking on the west side of the property and a driveway on the north side of the property to access it. The developer had this plan recorded in the year 2000. They were here because the Zoning Ordinance had changed and adopted in 2022, which changed the Buffer C requirement. The change in the Ordinance was what created the hardship because they were unable to implement the plan.

*The variance, if authorized, would not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development or adjacent property, nor detrimental to the public welfare-This building addition would be an improvement to the property and provide additional building space for the tenants use and parking. The property was in an industrial area with no residential properties in the area. The addition and parking would be in the rear of the property.

*The variance, if authorized, would represent the minimum variance that would afford relief and would represent the least modification possible of the regulation in issue- Appellant met with the Township staff to review the project prior to land development but were informed that due to the Zoning Ordinance Amendment, they must comply with the new ordinance or seek a variance. To be compliant with the side Buffer C they would like relief from the 5' Buffer C to the north side but the developer was offering all the plantings that would have been required in the same buffer and would put them elsewhere on the property where he could.

Mr. Tanner asked what the height of the retaining wall would be. Mr. Sanford replied that it would be 2' in height. Mr. Tanner noted that would explain why nothing could be planted on the top of the wall because there was not enough room to grow anything. Mr. Sanford responded that was correct.

Mr. Cahlhoun asked if that would be the only entrance to the parking area. Mr. Sanford replied yes, that was the only entrance for employees to park.

There were no other comments from the public.

A motion was made by Mr. Calhoun, seconded by Mr. Di Placido that this appeal be granted. Motion 3-0

19194

Appeal No. 23-02: STEVEN L WALES AND CASSANDRA WALES, for property located at 509 Arbuckle Road, seeking a Special Exception for Adaptive Re-Use of a Nonresidential Structure, seeking to establish a nonconforming use for Agricultural Activities, seeking a variance for Agricultural Activities, and appeal the determination of the Zoning Officer for an enforcement action in the CR Conservation Residential District. **Index 845-067**

Mr. Puz distributed to the members **OPPOSITION 1 (Memorandum)** provided by Atty. Bax along with **TOWNSHIP EXHIBIT A & B (PHOTOS)** from the Zoning Office of the property in question for the record.

Atty. Zieziula stated for the record that a continuance was requested and granted by the Board. The appeal would be heard at the March meeting. The reason for not having the meeting in February was due to one member that would not be present. All parties agreed on the March meeting.

A motion was made by Mr. Tanner, seconded by Mr. Calhoun, that this appeal be carried over until the March 2023 meeting. Motion 3-0

There being no further business, the meeting was adjourned at 6:40 p.m.

Scott Calhoun - Secretary