

June 29, 2022

The regular meeting of the Zoning Hearing Board was held on Wednesday, June 29, 2022, at 6:30 p. m. in the Assembly Room of the Millcreek Township Municipal Building, 3608 West 26<sup>th</sup> Street.

**PRESENT:** Messrs. Calhoun, DiPlacido, Attorney Jeremy Toman, Matthew Puz Jr., Zoning & Development Officer, Julie Maggio, Assistant Zoning & Development Officer. Absent were Mr. Tanner and Mrs. Spry.

**BUSINESS:**

**Appeal No. 22-9: KAREN GONZALEZ**, for property located at 1745 West Grandview Blvd, asking for a variance for a nonconforming change of use from a professional service to a personal service in the R-2 Low Density Residential District. **Index 707-014**

Karen Gonzalez, 1745 W Grandview Blvd, spoke on behalf of this variance. She brought Joe Herbert her realtor to present her appeal.

Joe Herbert, 4528 Zuck Rd, stated that he was representing her purchase of 1745 W Grandview Blvd. He stated this property currently was a dental office Zoned R2 with a variance to be used as professional services. The property was currently listed as a commercial property not as-a residential property. They were seeking a variance to change the non-conforming use to personal services. Mr. Herbert submitted **EXHIBIT A (PHOTOS OF PROPERTY AND INSIDE THE BUILDING)**. He stated that Ms. Gonzalez would be using the rooms as is for the nail salon along with the parking. This salon would be a perfect use with the location of LECOM and surrounding apartment area. If the variance was granted, it would be required to be approved by PA Cosmetology Board and would be compliant.

Mr. Calhoun asked if there were any other options for locations. Mr. Herbert replied that they did look around and none of the properties had the functionality built out as this property had. This property was in her price range, correct size for her business, and location was ideal. Mr. Calhoun asked what they would do if this appeal was denied. Mr. Herbert replied that they would have to try and look for another location.

Mr. DiPlacido asked what the hours of operation would be. Ms. Gonzalez replied Tuesday through Friday 9a.m. to 8 p.m., Saturday and Sunday 9 a.m. to 5 p.m. She stated her business would have four nail technicians, with parking in the front and rear of the building.

Atty. Toman asked if there would be any additional signage. Ms. Gonzalez replied that she would have a business sign that would light up rather than a banner.

Mr. DiPlacido asked again why she picked this location. Ms. Gonzalez replied that this location was a good location in Millcreek and with the current market, it was hard to find a space to either purchase or rent within her budget range. She noted that this was her first business that she was opening. She was lucky to find this place because she did find two other places, but she was outbid.

Mr. Calhoun asked Mr. Puz if the Township had any issue with this appeal. Mr. Puz replied that the Township did not.

Mr. Calhoun asked if Ms. Gonzalez spoke to any of the neighbors concerning her business. Ms. Gonzalez replied that she did not speak to anyone around the location.

Atty. Toman asked that the current owner of the dental office speak on terms of parking for the business.

Dr. Lawrence Blake, 1745 W Grandview Blvd, stated he was retiring. He purchased this property approximately twenty-two years ago as a home, had it remodeled into a dental office with two- and a half employees. The property was a great location and had nice neighbors. Atty. Toman asked about the patients at any given time and the parking situation. Dr. Blake replied that all the patients could park in the front of the building and the employees parked in the back of the building with a total of seven parking spaces.

Andrew Heinlein, 1735 W Grandview Blvd, state he was concerned with more traffic and longer business hours than the dentist office, which closed at 5 p.m. He was not opposed to the business.

Mr. Calhoun asked Ms. Gonzalez to expand on her business hours and what to expect at 5 p.m. Ms. Gonzalez replied that the hours would be Tuesday through Friday 9 a.m. -8 p.m. Saturday and Sunday 9a.m. – 5 p.m. by appointment only (no walk-ins). The appointments were usually forty minutes to two hours depending on the services they wish to have done. There would be three technicians and herself. The traffic would not be excessive because the establishment would be by appointment only and a technician might not have any appointments for an hour or so. Mr. Calhoun asked if it would be rare that she would have seven or eight cars there two plus hours at a time consecutively, or if it would be more sporadic. Ms. Gonzalez agreed with Mr. Calhoun.

19194

Mr. DiPlacido thought that if they were serving four customers, the next appointments could possibly come when they were with the other customers. Therefore, there would be a lot of cars to be parked at one time. He then asked how she would handle the overflow of vehicles. Ms. Gonzalez replied that if that became an issue, she would consider expanding the parking lot.

Mr. Calhoun asked Ms. Gonzalez if she had done projections for her bank loan and how many appointments were projected. Ms. Gonzalez gave the Board **EXHIBIT B (BUSINESS PLAN)** and explained it to them.

Atty. Toman asked Ms. Gonzalez if it would be sustainable if the hours were reduced to 9-5 type operation. Ms. Gonzalez replied that it was not typical of the nail salon business and would hurt the business. With the business open until 8 P.M., they would be able to have customers that would come after work. She noted that she would like to be open on Sunday but did not have to be and they could have more flexible hours.

Dr. Blake informed the Board that there was a streetlight that lights up the back parking lot that had seven parking spaces. They could have two more parking spaces if they remove the big tree in the back.

Mr. Herbert indicated that across the street, there was on-street parking if more parking was needed. He also referenced his business property that he shares with a salon and informed them that they were not like typical businesses and customers usually stay one to two hours. This would not generate more traffic and be similar to the dental office.

There were no other comments from the public.

A motion was made by Mr. Calhoun that this appeal be granted. Due to a lack of a second, this appeal was denied.

**Appeal No. 22-10: BENJAMIN LEOPOLD**, for property located at 1359 Marshall Drive, asking for a variance for an expansion of a nonconforming use and a variance from buffer requirements in the R-1 Single Family Residential District. **Index 278-002**

Atty. Toman informed the members that his law firm had previously represented Mr. Leopold in a real estate transaction and he would not be participating in any deliberations for this appeal. If there was no objection, he would write the adjudication as he normally would. Mr. Leopold replied that was acceptable.

Ben Leopold, 3919 W 12 St, spoke on behalf of this variance. He stated when he purchased this property, it was Light Industrial and he ran his tree service there. He had problems retaining employees due to COVID which was when he had the use change, to the gymnasium at this property. His business has grown, and he would like to expand it. The proposed building would store equipment from his previous business, mowers, snow plowing equipment, etc. that was used at this property. He noted he would like to build the additional building so he would no longer have to pay for a storage place for his equipment. The building would have electric only and be for storage of equipment including old gym equipment.

Mr. Calhoun asked what the size would be. Mr. Leopold replied that it would be 42'x40' to match the other building. He noted that nothing has changed with this property and if he would have built this three months ago, he would not be asking for a variance. The Township amended the Zoning Ordinance and that was the only reason why he was here tonight.

Mr. Calhoun asked if he had talked to any of the neighbors about this variance. Mr. Leopold responded that the only neighbors were the Erie Regional Airport and Mr. Shames who purchased the property he owned behind him, neither had said anything.

Mr. DiPlacido informed Mr. Leopold the Ordinance only allows for a 25% increase and if he made it smaller, he would not have to have a variance. Mr. Leopold responded that 25% would only be 800 square feet and that would not be big enough for what he had needed. This would be the last addition on this property and why build it if it does not meet his needs. This building would not increase the traffic. Mr. DiPlacido asked if this was just for storage or the gymnasium business. Mr. Leopold replied that it was for storage of equipment for the gym and property maintenance of the parcel. Mr. DiPlacido asked again if Mr. Leopold was sure he could not just increase the size by 25%. Mr. Leopold replied no he could not. If the Township did not change the property zoning to R-1 from the Light Industrial, he would be allowed to build this building. He purchased this property as Light Industrial and that was why it was purchased; the Township had changed the zoning district with the new Zoning Ordinance change in May.

Mr. Calhoun asked Mr. Puz if the Township had a position on this appeal. Mr. Puz replied that the Township did not.

Atty. Tomas asked Mr. Leopold if all the space was used in the existing building. Mr. Leopold that all the space was used and if he were to add anything else, something would have to be removed.

There were no other comments from the public.

A motion was made by Mr. Calhoun that this appeal be granted. Due to the lack of a second, this appeal was denied.

**Appeal No. 22-11: ANTONIO FERRARO**, for property located at 5325 West 54<sup>th</sup> Street, asking for a variance to construct an open front porch beyond a recorded building line, a variance for an In-Law Apartment over 720 square feet, and a Special Exception for an In-Law Apartment in the R1 Single Family Residential District. **Index 517-089**

Antonio Ferraro, 5325 W 54 St, spoke on behalf of this variance. He gave them **EXHIBIT A (DRAWN PLAN AND PHOTOS) EXHIBIT B (SIGNATURES OF NEIGHBORS IN FAVOR OF THIS APPEAL)** and stated that he would like to construct an eight hundred eighty-four- square foot addition above the garage with the maximum square footage being seven hundred twenty. His son and daughter-in-law would be living in the addition with no separate utilities. It would not be rented out. He had a mother that was 84 years old and a mother-in-law that was ninety and, someday, they may use this addition or possibly his wife and himself. The entrance to the addition would not be visible from the exterior of the residence. He then explained the exhibit pictures. He felt that the construction was being done by professional builders and it would only increase the property value and add to the property value of all homes. The addition would not have an adverse effect on the neighborhood. He would also like to construct a roof over the 6'x6' slap in the front of his home. By constructing this, it would prevent the weather from ruining the front door, siding, and water damage. He noted that his home was sixty-five feet from the center of the road which was farther back than other homes. Other homes in the neighborhood had roofs covering the front doorways. He felt that his projects were in line with the neighborhood because the neighbor on one side of him had a roof covering the front entry way and the other neighbor had an in-law-apartment.

Mr. Calhoun asked what other issues there were. Mr. Ferraro replied the issue was the HOA for the front porch roof. Mr. Calhoun asked if the Township had a position on this appeal. Mr. Puz replied not at this time.

Mr. DiPlacido asked Mr. Ferraro if the in-law apartment could be built according to the ordinance. Mr. Ferraro replied that he would rather not, and the amount was only 164' more. Also, the carport would have a 10' overhang. Mr. DiPlacido asked again if Mr. Ferraro could live with the seven hundred two-foot addition. Mr. Ferraro replied that he was not sure if he would do the project because it would be too small for them. He wanted it comfortable. Mr. DiPlacido asked how the roof would be supported for the front porch. Mr. Ferraro replied that it would be a roof with two pillars.

Atty. Toman asked what the square footage was for his home, if there was an existing in-law apartment in the home, and if this in-law apartment if approved would only be occupied by family members. Mr. Ferraro replied that the home would be approximately 2600 square feet, and this would only be for family members staying there.

Brian Hammer, 5106 Deerfield Dr, HOA Board member of the 185 homes. He stated that Millfair Heights had a private water system, and deed restrictions since 1963. He informed the Board that the HOA had deed restrictions that nothing was to exceed the building line and Mr. Ferraro's did according to **OPPOSITION 1 (PERMIT OF PROPOSED DWELLING) OPPOSITION 2 (MILLFAIR HEIGHTS ASSOCIATION INC BUILDING PERMIT APPLICATION)**. The other deed restriction was that no other dwelling shall be erected other than a single-family dwelling. He was concerned that if Mr. Ferraro would see his home who would not say if that person would rent that space.

Mr. Calhoun asked if Mr. Hammer had checked on the property with the in-law apartment next door to Mr. Ferraro's. Mr. Hammer replied he did not know what was happening in other people's homes.

Atty. Toman informed Mr. Hammer that in-law apartments are only restricted to family.

Mr. Hammer stated that all deed restrictions were binding, and a copy was given to them at the closing and were posted on millfairheights.com. He understood that this Board only deals with Ordinances not the HOA. This appeal may be granted here but not with the HOA. He noted that Mr. Ferraro had ignored the HOA.

Mr. Ferraro stated that the next-door neighbor purchased that house because they wanted the mother to live with them. Mr. Calhoun asked if it was an in-law suite or just a room. Mr. Ferraro replied it was a suite. Mr. Ferraro informed Mr. Hammer that he did not ignore the HOA. He had submitted the form and he had been approved on both projects that he (Mr. Hammer) had signed.

Diane Ferraro, 5325 W 54 St., stated she was passionate about her home, how it looked, and the upkeep of it. They would like to construct the in-law suite for their autistic child so that they could keep an eye on him because he had a desire to live on his own. The in-law apartments were very desirable, and it would not be meant for a rental just family.

There were no other comments from the public.

A motion was made by Mr. Calhoun, seconded by Mr. DiPlacido that this appeal be granted for the open front porch.

Motion 2-0

A motion was made by Mr. Calhoun, seconded by Mr. DiPlacido that this appeal be denied for the in-law apartment over 720 square feet and the special exception for an in-law apartment in the R1 Single Family Residential District. Motion 2-0

There being no further business, the meeting was adjourned at 8:51 p.m.

John DiPlacido – Acting Secretary