

August 30, 2023

The regular meeting of the Zoning Hearing Board was held on Wednesday, August 30, 2023, at 6:25 p.m. in the Assembly Room of the Millcreek Township Municipal Building, 3608 West 26th Street.

PRESENT: Messrs. Tanner, Calhoun, DiPlacido, Attorney Jeremy Toman, Matthew Puz Jr., Zoning & Development Officer, and Julie Maggio, Assistant Zoning & Development Officer.

BUSINESS:

Appeal No. 23-17: LEXINGTON HEIGHTS, LLC, for property located at 5149 Henderson Road, seeking a variance for the expansion of a nonconforming Mobile Home Park to add additional mobile homes in the R3 Moderate Density Residential District. **Index 913-086**

Ashley Lord, 2716 Atlantic Ave, spoke on behalf of this variance. She stated their park plan showed they had 147 spaces, and all are currently occupied except 12 spaces that are vacant lots.

Mr. Tanner asked if there were mobile homes on the vacant lots at one time and if so when were they removed.

Nicole Spauling, 1676 Pinegrove Way, Erie PA, informed the board that they had closed on the park June 30th, 2023, and did not have any records of when the mobile homes were removed. She realized since they have been vacant for so long, they were only approved to have 133 mobile homes on the site. They would like to fill the 12 lots with new mobile homes, which would give them a total of 143 lots filled.

Mr. Tanner asked Mr. Puz if he had any record of when the homes were removed. Mr Puz replied no he did not.

Mr. Calhoun asked if this was because of the zoning change. Mr. Puz replied that this was considered an expansion of a non-conforming use. The R-3 District did not allow mobile home parks. He used aerial Pictometry to determine how long the lots were vacant which indicated that they have been over 1year. This would require a variance for the lots to bring it up to the amount that was previously permitted.

Mr. DiPlacido asked about the unit variation from 133 to 143 and questioned the non-conforming use. Mr. Puz explained the non-conforming use and how zoning affected it.

Atty. Toman wanted to confirm that they were not expanding the mobile community just filling the 10 vacant spots. Ms. Spauling replied that was correct. Atty. Toman asked if approved what period of time would it take. Ms. Spauling replied that they would have 6 months to do that.

Mr. Tanner asked if the homes for sale would be new. Ms. Spauling replied yes, they would be new homes.

Mr. DiPlacido asked if the expansion was necessary for the survival of the enterprise. Ms. Spauling responded that the park was purchased with the understanding that there were 143 units. It was not until they had already closed on the property that they became aware that they were only licensed for 133. She did not believe that if they did not get this variance the park would not survive. There probably would be legal ramifications because the purchase was based on 143 mobile home lots.

There were no other comments from the public.

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

Appeal No. 23-18: ILYAZ VEYSALOV, for property located at 3919 Colonial Avenue, seeking a dimensional variance for a front yard setback for an attached accessory structure in the R1 Single Family Residential District. **Index 429-023**

Ilyaz Veysalov, 3919 Colonial Ave, spoke on behalf of this variance. He stated that this structure was located on the side of his home.

Mr. Tanner asked Mr. Puz to clarify the location of the structure. Mr. Puz replied that the structure in question was located on the corner of Sierra Drive and Colonial Avenue which was considered double frontage. The home faces Colonial Avenue and the structure was located on the side of Sierra Drive and infringed on that front yard setback.

Mr. Veysalov stated that the carport was located on the side of his home not the front. Mr. Tanner explained since he was located on a corner lot his property had two frontages of the property.

Mr. Veysalov explained that he wanted to construct a garage in the same area but due to stormwater management and the cost of it, he decided to construct a carport. He contacted BIU and asked if he needed any permits. BIU responded that if it was under 1,000 square feet, no permit was needed and proceeded to construct the carport.

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Mr. Tanner asked if he had contacted the Zoning Office to ask if a permit was needed. Mr. Veysalov replied no he did not and was not aware until he received a notice. He proceeded to inform the Board that the carport was constructed on gravel having no sides and was built to protect his vehicles from the elements. He noted he did get an estimate for a garage which was \$20,000 and the stormwater management cost was \$11,000. It was not worth it and cost too much money, so he decided to construct the carport.

Mr. Tanner asked the request for a variance the hardship was apparently financial hardship, and asked if the carport was attached to the home. Mr. Veysalov replied that there was a 2'-3' separation from the house and the carport.

Mr. DiPlacido asked if the setback should be 20'. Mr. Puz explained that the plan approved for the house was a 20' setback under the old ordinance and the current ordinance would be a 15' setback.

Mr. Tanner, for clarity, asked that the current setback was 0. Mr. Puz responded that was correct and it may be infringing on Sierra Drive if the structure was 2' from the home. Mr. Veysalov interjected that the structure was 10' from the Sierra Drive Road.

Mr. Calhoun wanted to know where the breakdown of communication was from when he contacted the Township concerning the construction of a garage. Mr. Veysalov replied that after he received the information about the garage, he was notified that he needed to extend the underground stormwater system through the Zoning Office. He believed it was not true because BIU (Building Inspection Underwriters) had informed him that he needed nothing from them because it was less than 1,000 square feet. He noted that he did ask Zoning about the carport, and they informed him he needed more stormwater management and still believed it was not true because of the conversation with BIU.

Atty. Toman asked Mr. Puz if additional stormwater was needed. Mr. Puz explained that there was a stormwater system in place. Anything additional would have a stormwater management review regardless of an attached or detached structure. Atty. Toman then asked Mr. Veysalov if he would have built the garage but the additional cost of stormwater management deterred him from doing so. Mr. Veysalov responded that was correct.

Mr. DiPlacido asked if there was any way to reduce the size of the carport. Mr. Veysalov responded no, it was all or nothing.

Mr. Tanner asked Mr. Puz if the carport could be built in compliance. Mr. Puz responded yes, but not in its current position. Mr. Puz then excused himself to get the original plot plan for this property that would give them the exact measurements and numbers. Mr. Puz presented **TOWNSHIP EXHIBIT A (PLOT PLAN)** the house was 23.3' away from Sierra Drive.

Atty. Toman asked Mr. Veysalov if he knew the separation of distance of the carport. Mr. Veysalov could only estimate.

Atty. Michael Agresti, 300 State St, represented Nick Montagna who resides on Sierra Drive. He informed the Board that his client's preference was to keep the location of the carport where it was and requested that Mr. Veysalov follow the stormwater management requirement.

Donald Wolozanski, 4015 Colonial Ave, stated he lives next door. He had no objection to the carport but would have preferred him to build the garage.

Gary Haythorn, 3917 Colonial Ave, stated he had no objection to the structure.

Mr. Puz informed the Board that he received several messages from the neighbors, and they were against this variance.

There were no other comments from the public.

A motion was made by Mr. Calhoun, seconded by Mr. DiPlacido, that this appeal be denied. Motion 3-0

There being no further business, the meeting was adjourned at 7:37 p.m.



Scott Calhoun - Secretary