

PENN TOWNSHIP ZONING HEARING BOARD

MINUTES OF SEPTEMBER 11, 2008

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The Penn Township Zoning Hearing Board (ZHB) met on Tuesday September 11, 2008, at 7:00 p.m. in the Penn Township Municipal Building to conduct hearings concerning Fishing Creek Valley Associates, L.P. Docket 2008-05 and Bernard Radocha Remandation Hearing. A list of visitors is on file in the Township Office.

Secretary conducted the roll call of the ZHB.

Present: Jonathan Bigley, Chairman
Vince Bernhard, Member
JoAnn Glossner, Member
Barbara Van Horn, Alternate
Lenny Sizer – Alternate Zoning Officer
Dennis Shatto – Zoning Solicitor
Helen Klinepeter- Secretary

Fishing Creek Valley Associates Hearing

Chairman Bigley opened the continued hearing for Fishing Creek Valley Associates, L.P. Docket 2008-05 at 7:05 p.m.

Visitors Sworn In: Betty Smith, Duncannon Cemetery Association Secretary
John Murphy, Alpha Engineering, Applicant's Engineer & representative
Todd Wilson, Alpha Engineering, Applicant's Engineer
W. Max Shradley, Township Engineer
Paul Hepler, Alpha Engineering
Leonard Sizer, Township Zoning Officer
Helen Klinepeter, Zoning & Township Secretary

Evidence Submitted:

Applicant:

- D Plan showing entrance at 10% road slope.
- E. Plan showing entrance at 7% road slope

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1. Yiengst letter withdrawing two of the variance requests dated August 13, 2008.
2. Barbara Simple-Sullivan letter written on behalf of Garry Raub dated July 16, 2008

Mr. Bigley offered that this was a continuance of the Fishing Creek Valley Associates variance hearing request from the August 12, 2008. Mr. Shatto offered into the record the written request withdrawing two variance requests. Mr. Bigley asked for all persons wishing to testify to please state your names and be sworn in. Mr. Bigley requested Mr. Murphy to present his case.

Mr. Murphy informed the ZHB that he and the Township Engineer Max Shradley met and worked out the redesign of the entrance. Mr. Murphy explained that there are two exhibits being presented. He offered that the reason for the two exhibits is that the Penn Township Subdivision and Land Development Ordinance (SALDO) has a maximum requirement of a seven percent (7%) percent road slope and that in his opinion the minimum impact to the steep slopes is the ten percent (10%) road slope. Mr. Murphy

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explained the difference of the disturbance for each road slope percentage. Mr. Murphy offered that he is requesting the variance for the ten percent (10%) road slope.

Mr. Shradley asked if Mr. Murphy was asking the ZHB to grant a waiver of the SALDO requirements. Mr. Murphy offered that he is not asking for the waiver of the SALDO from the ZHB but that he is asking for the ten percent (10%) road slope exhibit impact area. Mr. Shradley asked if there was a lower road slope percentage that will lessen the impact to the precautionary and prohibitive steep slope should Fishing Creek Valley Associates build to that road slope percentage. Mr. Murphy offered that if a lower road slope would work than yes that is what we would do.

After further questioning and in the interest of clarification Mr. Bigley offered that the request is for a variance of impact with a range of 7% to 10% road slope but not to exceed 10% with the understanding that the SALDO requirements needs to be met. After questions from the board, the ZHB went into a recess from 7:40 p.m. until 8:10 p.m. After the recess the ZHB had more questions for the applicant on the amount of encroachment of the steep slopes and about the surroundings driveways toward the south side of the entrance. The ZHB went into a second recess from 8:25 p.m. until 8:44 p.m.

Upon a Bernhard/Glossner motion the ZHB voted unanimously to grant the variance to the steep slopes provisions with an approximately 650 foot access road not to exceed 10% with the minimum disturbance.

Mr. Bigley informed the applicant that the ZHB had struggled with this decision and requested that the applicant further explore the possibility to move the cartway to the east and to work the Township to insure that the disturbance is minimized.

Upon Glossner/Bernhard motion, the ZHB voted unanimously to adjourn the hearing at 9:47 p.m.

Bernard Radocha Remandation Hearing

Chairman Bigley Remandation hearing for Bernard Radocha Hearing 2007-08 at 8:53 p.m.

Visitors Sworn In: Chester Kope, Neighbor
Jacqueline Georgantis, Daughter of the Radocha's
Bernard Radocha
Grey Berrier
Leonard Sizer, Township Zoning Officer
Helen Klinepeter, Zoning & Township Secretary

Evidence Submitted:

Applicant:

4. Letter from William and James Berrier dated 8/26/08.
5. Letter from Kathy Jo and John Kisner dated 7/11/08

Berrier:

7. Letter from Lenny Sizer to Bernard Radocha dated 3/1/07
8. Second Zoning Permit Application (2 pages) dated 7/3/07
9. Letter from Lenny Sizer to Radocha (1 page)
10. Picture of garage and car as appears today (date on picture wrong) taken 7 or 8/07

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11. Picture of back of garage (date on picture wrong) taken 7 or 8/07
12. Picture of back of garage (date on picture wrong) taken 7 or 8/07

Mr. Shatto explained that this hearing is a Remandation from Judge Rehkamp of the appeal that Mr. Grey Berrier submitted. Mr. Shatto explained that the ZHB will hear any additional information and accept any additional exhibits. He continued that any exhibits presented would continue from the original hearing numbering.

Mr. Bigley explained the difference between the ZHB membership from the last time. Mr. Bigley requested Mr. Jerry Philpott, Solicitor for Mr. Grey Berrier, to present his case.

Mr. Jason Weinstock, Solicitor for Mr. Bernard Radocha, offered that he believed that the previous ZHB had properly ruled in the previous hearing and objects to this hearing taking place. Mr. Bigley acknowledged the objection.

Mr. Philpott questioned Mr. Sizer on the first zoning permit and the subsequent action of the revocation of the permit. Mr. Philpott continued to question Mr. Sizer on the second permit and “the placement of the garage on the property as it sits today”.

Mr. Weinstock questioned Mr. Sizer on the forms and the amount help Mr. Sizer gave to the Radocha's. Mr. Weinstock questioned Mr. Berrier regarding the date on the pictures identified as B10 through B12. Mr. Berrier responded that he did not remember the exact date but that the pictures were taken after the 8/16/07 letter was sent. The date shown on the picture is the default date of the camera. Mr. Weinstock continued to question Mr. Berrier on what his legal address was and on the amount of time that he spent on his property in 2007 and 2008.

Mr. Weinstock acknowledged a letter from two of the Berrier siblings that was dated 9/21/07 from the original hearing. Mr. Philpott objected to that letter as it has no bearing on the case and being hearsay. Mr. Bigley noted the objection.

Mr. Bigley offered any one else a chance to make a statement or present evidence. Mr. Chester Kope of 16 Railroad Street offered that he has known Mr. Berrier and the Radochas for a number of years and that he felt the garage is appropriate to the area. Railroad Street is a one lane private right-of-way and with the garage setting back where it is makes two vehicles passing a safer endeavor.

Mr. Weinstock offers that Mr. Radocha wished to make a presentation. Mr. Radocha offered that the neighbors do not have a problem with the garage as per the letters from Mr. and Mrs. Kisner and William and James Berrier. Mr. Philpott questioned Mr. Radocha on the survey that was commissioned. Mr. Philpott continued to question on the process that Mr. Radocha completed to get a permit to place the garage on the property. Mr. Philpott asked questions regarding the distances of the setbacks for the garage and the distances stated on the survey for the property lines.

Mr. Shatto asked if anyone else wished to testify. Ms. Jacqueline Georgantis offered that she wished to be a character witness for the Radochas.

Mr. Philpott offered that the applicant asked for a variance after the fact and was clearly informed where the setback line was to be and did not believe the applicant has shown an undue hardship.

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Mr. Weinstock offered that when notified of the requirement, that the Radochas sought the permit and talked to the Zoning Officer for the correct procedure. The neighbors supported the garage placement and do not feel that it is an eyesore.

The ZHB went into a recess from 10:10 p.m. until 10:19 p.m. Mr. Bigley offered that the ZHB was ready to make a decision on this matter as one of the members was at the original hearing and the other has read the transcript from the first hearing in preparation of this hearing.

Upon a Glossner/Bernhard motion the ZHB voted by majority to grant the variance of the setback requirements. Mr. Bigley abstained based on his not reading the transcript of the previous hearing.

Upon Glossner/Bernhard motion, the ZHB voted unanimously to adjourn the hearing at 10:20 p.m.

MINUTES – Secretary presented the minutes of August 12, 2008 for review. After discussion, and upon a Bernhard/Glossner motion, the ZHB voted unanimously to approve the ZHB minutes of August 12, 2008.

OLD BUSINESS

Mr. Bigley reminded the ZHB of the October 1, 2008 zoning hearing from Penn 1155.

Upon the completion of all business, and upon a Glossner/Berhard motion, the ZHB voted by majority to adjourn the ZHB meeting at 10:22 p.m.

Respectfully Submitted;

Helen Klinepeter
ZHB Secretary