

PENN TOWNSHIP ZONING HEARING BOARD

MINUTES OF NOVEMBER 12, 2009

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The Penn Township Zoning Hearing Board (ZHB) met on Thursday, November 12, 2009, at 7:00 p.m. in the Penn Township Municipal Building to conduct hearings. A list of visitors is on file in the Township Office.

Secretary conducted the roll call of the ZHB.

Present: Vince Bernhard, Member
JoAnn Glossner, Member
David Grow, Alternate
Dennis Shatto – Zoning Solicitor
Helen Klinepeter- Secretary

HEARINGS

ROBERT E. SHAFFER, SR, DOCKET 2009-12

The ZHB opened the hearing at 7:00 p.m.

See Transcript for testimony.

Visitors Sworn In: Robert E. Shaffer, Sr. Patricia Shaffer, Mr. Lucas, Helen Klinepeter

Evidence Submitted:

Applicant:

- 1 6/2/09 letter from Shaffer to Township
- 2 6/26/09 letter from Township to Shaffer with/6/4/09 letter from Township to Shaffer
3. 8/17/09 letter from Zoning Officer to Board of Supervisors
4. 8/27/09 letter Twp Secretary to Shaffer
5. 9/3/09 Zoning Hearing Board Application of Robert Shaffer
6. Portion of Subdivision Plan showing proposed burial site
7. 9 Pa C.S. §101 – Burial Grounds statute definitions

Township:

- 1 9/22/09 Letter of Zoning Officer

Synopsis:

Mr. Dennis Shatto announced that Mr. Robert Shaffer had been a member of the Penn Township Municipal Authority and he represents the Municipal Authority. He offered that several years ago he represented Mr. Shaffer in a personnel manner. All parties and the ZHB indicated that there was not a problem with Mr. Shaffer advising the ZHB.

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Mr. Lucas, Applicant's Attorney requested to amend the application for an appeal of the Zoning Officer's determination. After discussion and reading the legal notice, the ZHB granted the amendment to the Zoning Hearing Board Application.

Mr. Lucas asked Mr. Shaffer background information on the property concerning the size of the property, how long the property has been in the family, what is the zoning and use of the property. Mr. Shaffer explained that the property was approximately 15 acres and has been in the family for 100 plus years. He continued that portions of the original farm have been deeded to family members and that the zoning is Agricultural/Rural and the use of the property has been and still is for agriculture purposes.

Mr. Lucas offered that the Penn Township Zoning Ordinance does not have a definition of cemetery or private burial. He continued that Section 1612 deals with cemeteries without connection to a religious building. Mr. Lucas showed in Applicant Exhibit 7, Pennsylvania Statutes and Consolidation Statutes Currentness, Title 9 pa C.S.A Burial Grounds definition states that a Cemetery is a place for the disposal or burial of deceased human beings, by creation or in a grave, mausoleum, vault, columbarium or other receptacle, but the term does not include a private family cemetery.

The ZHB asked Mr. Shaffer how he would allow for people to access the burial area to visit and maintained the site. Mr. Shaffer offered that there would be an easement on the deed and the burial site will not be subdivided off from the house. Mr. Shaffer offered that the burial plot will be approximately ½ an acre.

Ms. Glossner asked how the burial plot could be protected from being subdivided off after their deaths. Mr. Shaffer offered that he does not see in his life time subdividing the property and that he could set up that the responsibility of the burial plot would be whoever survives and whomever buys. Mr. Lucas offered that if the ZHB accepts their argument then the burial plots would have to be with the house and cannot be subdivided off separately.

Mr. Bernhard asked Mr. Shaffer what the purpose of section 1612 in his interpretation was and what the purpose of grandfathering of properties. Mr. Shaffer offered that his understanding of Section 1612 was for commercial cemeteries. He continued that grandfathering was done through the non-conforming use registration and that the types of registration were lot size, setback allowances, and the uses not allowed in a zone. Mr. Bernhard asked questions on the number of persons to bury and a discussion commenced on the access if the property was ever sold from the family. Mr. Shaffer stated that only 2 persons will be buried in the plot.

Mr. Bernhard recessed the hearing from 7:43 – 7:51 p.m. Upon reconvening the hearing Mr. Bernhard asked for a motion. Upon a Bernhard/Glossner motion, the ZHB voted unanimously uphold the Appeal of the Zoning Officer decision.

Upon a Bernhard/Glossner motion, the ZHB closed this hearing at 7:52 p.m.

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VISITOR

Barbara Zeigler – Ms. Zeigler of Wheatfield Township Zoning Hearing Board apologized for being late and asked what happened at the hearing. The ZHB and Solicitor explained what the request was and the amendment to the application and a synopsis of the hearing and the decision.

MINUTES – Secretary presented the minutes of October 8, 2009 for review. After discussion, and upon a Glossner/Grow motion, the ZHB voted unanimously to approve the ZHB minutes of October 8, 2009 with corrections.

NEW BUSINESS

Appointment of Members – Secretary informed the ZHB that there are two positions to be filled. Mr. Bernhard has won the Supervisors position and therefore cannot be on the ZHB. Mr. Bigley's term is up and he has notified the Secretary that he cannot continue on the ZHB due to conflicts in his schedule. Ms. Glossner made a motion to appoint Barbara Van Horn to replace Mr. Bigley and Mr. David Grow to replace Mr. Bernhard. After discussion, Ms. Glossner withdrew her motion and upon a consensus, the ZHB will table the item until the December 10 meeting.

Upon the completion of all business, and upon a Bernhard/Glossner motion, the ZHB voted by majority to adjourn the ZHB meeting at 8:25 p.m.

Respectfully Submitted;

Helen Klinepeter
ZHB Secretary