

**WEST LAMPETER TOWNSHIP
ZONING HEARING BOARD
August 9, 2022**

A meeting of the West Lampeter Township Zoning Hearing Board was held on Tuesday, August 9, 2022 at 6:00 p.m. in the Township Building at 852 Village Road in Lancaster County, PA. Members present were Raymond Lanas, Terry Kauffman and John Lines. Also, present were Attorney Matthew Creme, Recording Secretary Kim Yepremian, Court Reporter Ray Danyo and Community Development Director Amanda Hickman.

MINUTES APPROVAL – Terry Kauffman made a motion to approve the July 12, 2022 minutes, seconded by John Lines. Motion approved 3-0.

Perfect Potts – 745 Strasburg Pike, Strasburg, PA. Continued from the July 12, 2022 hearing. Ray Lanas was not present during the previous hearing and abstained. Applicant Laura Lapp is requesting a Variance(s) from §285-57 to §285-62 Signs and §285-43D(9) Walls and §285-69 Minimum Setbacks from Existing Streets.

Parties: Nancy Tipton, Advanced Sign & Graphics, Lancaster
Laura Lapp, 401 Wendover Way, Lancaster
West Lampeter Township

Nancy Tipton, Advanced Signs & Graphics and Laura Lapp appeared before the Board to request dimensional and setback variances for a free-standing commercial sign, and also a setback variance for a front-yard wall. Applicants presented a brief overview and timeline for the original sign, which was recently removed due to rotting posts. The application for the replacement sign was denied because the proposed sign was too large, too high, and in the PennDOT right-of-way, which extends 30-ft from the centerline of Strasburg Pike. There was discussion regarding the desire to keep commercial signage to a minimum in the Agricultural zoning district and appropriate placement of a sign that would be visible to traffic. Allowing a Commercial Zoning District-sized sign would be contrary to the purpose of sign limitations in the A-zone. The Board also has no authority to grant permission for any use in another entity's right-of-way. A temporary, 6-sf sign that is currently placed in the right-of-way would also have to be relocated, if applicant wants to continue its use. The applicant stated that placing a sign 40-ft from the centerline would not be visible to traffic coming from either direction due to a tree-line and a house that block view. They request to place the sign as close as possible to the right-of-way. A sign that meets dimensional requirements for the A-zoning district, and placed outside of the clear sight triangle and PennDOT right-of-way is amenable to all parties.

In or about 2014, a stone wall was installed along the front of the property, in place of a wooden fence. No permit granted for this wall. The wall currently sits 19' back from the centerline of the street, which lies in the PennDOT right-of-way of 30' (SALDO Section 240-24J). Applicant is requesting a variance to the requirement that a wall be installed outside of the right-of-way, so that it may remain in place. The Zoning Hearing Board does not have the authority to grant a variance that encroaches upon a State road's right-of-way. The ZHB cannot require the applicant

to remove the wall. The applicant has asked the landowner to remove the wall. The applicant subsequently withdrew the request for the variance to the wall.

Terry Kauffman made a motion seconded by John Lines to approve the Applicant's request for variance approval under Section 285-62, Note 5 to permit the placement of a 30-inch x 30-inch sign on a pole, outside of the clear sight triangle as generally shown on Applicant's Exhibit #1, and setback from the edge of right of way as far as possible as to remain visible from Strasburg Pike. This approval is conditioned on the following:

1. Applicant is bound by the testimony and evidence presented at the hearing.
2. Applicant shall obtain all necessary permits and approvals as required by applicable ordinances and regulations as a matter of law and as well as by a specific condition of this approval.
3. The sign shall be placed in the general location as shown in Applicant's Exhibit 1 and as approved by the Zoning Officer as part of the permitting process.

Motion approved 2-0, with one abstention (Ray Lanas)

951 Village Road – Applicant Loren Hershey is requesting a Variance from §285-26 Special Exception Standards and a Special Exception from §285-43D(13) Keeping of Pets.

Parties: Loren Hershey, 951 Village Road, Lancaster
West Lampeter Township

Applicant Loren Hershey provided testimony in support of his application. Applicant has a 3.1-acre property on Village Road where his family keeps 40 chickens but no roosters, ten goats and 2 llamas. The chickens are permitted on a minimum lot of 1-acre, at a limit of 500-lbs (4-lb average per layer hen equals 125 chickens). A horse or similar animal is permitted on a lot of at least 2-acres, and each an additional acre would be required for 2 horses or similar animals. Since the property is 3.1 acres, two llamas are permitted, albeit they are considerably smaller than an average horse. A special exception is required for the keeping of goats. The applicant desires to keep a maximum of 100 chickens, 25 goats, and either 2 llamas or 8 alpacas, which are smaller animals. The applicant now has a permit for the fencing and shed. The manure is composted in the large family garden or in-situ. The applicant has a background in large agricultural operations, and is very familiar with nutrient management plans care of poultry and livestock. The goats and alpacas are rotated among the two pastures (2.1-acres) and keep the grass down. The property and neighbors are all on public water and sewer.

The Township had no objections to the requests and stated similar special exceptions for goats have been recently granted by the ZHB. A letter of support from a neighbor of 4 Thunder Lane was read aloud, and Dave Fisher of 957 Village Road spoke out in support of the Hershey family and their animals.

Ray Lanas made a motion seconded by John Lines to approve Applicants' request for Special Exception approval under Section 285-43.D(13) related to the keeping of pets, specifically no more than 25 goats, no more than 100 chickens, and no more 2 llamas or 8 alpacas. This approval is conditioned on the following:

1. Applicant is bound by the testimony and evidence presented at the hearing and specifically shall not exceed the maximum number of animals by type as described herein.
2. Applicants shall obtain all necessary permits and approvals are required by applicable ordinances and regulations as a matter of law and as well as by a specific condition of this approval.
3. The transfer of ownership to the Property or occupancy of the Property by persons other than the immediate family of Applicant shall require an application for new special exception approval from this Board for the keeping of pets.

Motion approved 3-0

2048 Silver Lane – Applicants Steven and Teresa Villbrandt are requesting a Special Exception for the construction of a new detached building to house a Unit for Care of Relative per §285-43D(19).

Parties: Teresa Villbrandt, 2048 Silver Lane, Willow Street
John Smucker, Forest Ridge Builders Inc., Gap PA
William Pelhan, 2101 Silver Lane, Willow Street
West Lampeter Township

Applicant Teresa Villbrandt and contractor John Smucker testified to their plans to construct a Unit for Care of parents Dave and Kim Capuito. The Villbrandts purchased the 1.5-acre property a year ago, which was the original Brubaker farm house on the land that became the Hayward Health Development. The Applicants first wanted to convert an old farm out-building to a Unit of Care, which is permitted by right, but the structure is too old and deteriorated. The Applicants wish to demolish the old building and build a new structure to house a garage and Unit of Care, which triggered the Special Exception process. Applicants testified that no new impervious coverage would be added to the lot. The new building would be on a different footprint and further from the side property line than the current structure, exceeding the minimum required 10-ft setback. The unit would be served by public sewer and well water. Adequate off-street parking already exists on site. Applicants would file an ADU agreement with the Township and pay an annual permit fee. The new structure could be repurposed when no longer in use, to a pool-house and garage, per the ordinance requirements.

The Township has no objections, although the setbacks were not included in the plan. It was agreed that a stake-out inspection would be a requirement in the permitting process.

Mr. Pelhan had concerns that the Applicants were seeking approval for a new Unit for Care by “combining the steps” outlined in our ordinance. The ordinance requires a Special exception for a new or modular Unit for Care, but it must be converted back to an accessory structure after no longer used for this purpose. The applicants are building an accessory structure to immediately convert it to a Unit for Care. Mr. Pelhan also asked about the exterior appearance, which will be vinyl siding and asphalt shingles.

John Lines made a motion seconded by Terry Kauffman, to approve the Special Exception request under §285-43D(19) Unit for Care of a relative, conditioned on the following:

1. Applicants are bound by the testimony and evidence presented at the hearing.

2. Applicants shall obtain all necessary permits and approvals are required by applicable ordinances and regulations as a matter of law and as well as by a specific condition of this approval.
3. A legally binding mechanism in a form acceptable to the Township will be established to prohibit the use as a second dwelling, once the relative no longer resides in the unit.

Motion approved 3-0.

1618 Millport Road – Applicant Millport Farm LLC is requesting a Special Exception for the substitution of a Non-Conforming Use, and an Interpretation of the Zoning Ordinance for Uses Not Listed.

Parties: Christopher Glick, Principal owner Millport Farm, LLC.
William Nathaniel McCormick, Esquire, Blakinger Thomas, P.C.
Dean & Nikki Metzler, 1802 Millport Road, Lancaster
David & Jeanne Payeur, 921 Lampeter Road, Lancaster
Ed Forry, 751 Lampeter Road and 1605 Millport Road, Lancaster
Kathy Bunning, 1613 Millport Road, Lancaster
Jeffrey Gehman, 1611 Millport Road, Lancaster
Bradley Micciche, 1798 Millport Road, Lancaster
West Lampeter Township

The Applicant desires to renovate and continue the averred pre-existing use of a two-family dwelling on a 50-acre farm in the R-1 zoning district, purchased by the Applicant in October 2021. It is the position of the owner/Applicant that the farmhouse-converted duplex was existing when he purchased the property last year. Although the structure has been unoccupied for about 10 years, the Applicant is asserting that this pre-existing, non-conforming use has the right to continue. In the R-1 zoning district, the conversion of a dwelling to increase the number of dwelling units is Not Permitted. Amanda Hickman, the WLT Zoning Officer, was asked by the Applicant for Registration of the legal, non-conforming use, per the requirements of the Zoning Ordinance. The Zoning Officer's conclusion was that based on the available public records, the Township did not have evidence to deem that the conversion of the single-family dwelling into a duplex, occurred legally. There is no documentation of a permit for the conversion. There was documentation and a recorded land development plan that indicated the farm house would be demolished at some point in the future. A non-conforming use that is abandoned or that does not have proof of being legally established, does not have the right to continue.

The Zoning Officer's determination that the use was not lawful or that it was abandoned is rebuttable. The Applicant wishes, under §285-67A to register the prior non-conforming use in order to legally continue the use as a residential duplex. Legal representation for Millport Farm LLC rebuts the Township position that the use was abandoned based on the future intent to demolish the farm house: abandonment requires intent followed by removal or razing of the use or structure.

The Applicant presented recent photographs showing that the house contained two dwelling units: two meter bases, two breaker panels, two kitchens, two separate entrances from the outside, and separate living areas with their own bathrooms and bedrooms. Millport Farm LLC intends to renovate the units and then rent them out. A new on-lot septic system was installed for

the appropriate number of bedrooms in the house. A minor revision to the drain field would be required to account for and conform for a two-unit dwelling. There would be considerable expense to convert the structure back to a single-family dwelling, if zoning approval was not granted.

Ed Forry testified that growing up across the street from the farm-house since 1963, he remembers the house always being occupied on the top floor by the Mr. & Mrs. Mellinger, while the bottom floor was rented out. The use continued until Mrs. Mellinger sold the house to a developer in or around 2008. Jeffrey Gehman stated that he welcomes the opportunity for two more families to live in the neighborhood.

The Applicant's position is that vacancy of the of the structure is not considered abandonment. The use could have been established prior to the enactment of a Zoning Ordinance in the Township and certainly prior to the current Zoning Ordinance. Amanda Hickman stated for the record that tonight's hearing was the first time the Township was presented any evidence regarding the long-term use of the house as a duplex or assertion that the use was lawful. Although the Township agrees that the dwelling appears to have been functioning as a duplex, a duplex is not currently permitted in this Zoning District and no proof as to the legal establishment of such use has been provided.

Ray Lanas made a motion seconded by Terry Kauffman, that Applicant has met its burden and has demonstrated that the pre-existing nonconforming use of the two-unit dwelling house on the property has not been abandoned pursuant to terms of Section 285-67.E(3). As the Decision is essentially based on an appeal of a determination made by the Zoning Officer, there are no conditions given as there would be with a Special Exception or a Variance. However, the Applicant is still bound by the testimony and evidence presented in the hearing, and Applicant shall obtain all necessary permits and approvals as required by applicable ordinances and regulations as a matter of law and as well as by a specific condition of this approval.

Motion approved 3-0.

There being no further business before the Board, John Lines adjourned the meeting at 8:23pm.
Motion approved 3-0.

Respectfully submitted,
Kim Yepremian