

DILLSBURG BOROUGH ZONING HEARING BOARD
MINUTES
MARCH 27, 2008
7:00 PM

The Dillsburg Borough Zoning Hearing Board held their business meeting at the Dillsburg Borough Office on the above-mentioned date. Zoning Hearing Board Members in attendance were Donald Will and Jeff Beitzel. Also present were Solicitor Linus Fenicle, Stenographer Roxy Cressler, Borough Manager Karen Deibler and Borough Secretary/Treasurer Debbi Beitzel. Chairman Boelhouwer was absent.

The following visitors were present: Chris Hoover from Hoover Engineering, Applicants Daniel and Jeannette Mikos, Kristine Deibler, Ken and Ellen O'Connor, Sara and Charles Pifer.

The meeting was called to order by Don Will at 7:00 PM.

The first item on the agenda was the nomination of a Second Chairperson. Jeff Beitzel nominated Don Will. Don Will seconded the nomination. There were no other nominations. – Motion Carried.

The second item on the agenda was the approval of the February 28, 2008 meeting minutes. Jeff Beitzel moved to approve the minutes as presented. Don Will seconded the motion. – Motion Carried.

Don Will indicated the purpose of this continuance hearing was a request for several variances from Daniel and Jeannette Mikos for the property at 30 Greenbrier Lane.

Stenographer Roxy Cressler had sworn in the two (2) additional people (Daniel Mikos and Charles Pifer) that planned on speaking.

Solicitor Fenicle indicated the Zoning Hearing Board held an Executive Session on Tuesday, March 25, 2008 for the purpose of discussing certain legal issues in regards to the application.

Solicitor Fenicle indicated in regards to the last hearing, he stated the subdivision matters would have to be handled before Borough Council. However, there was one item that appeared to be a zoning issue which is all off-street parking must be 3 feet from any property line (Section 27-507(1)(A)(2)). Solicitor Fenicle stated the submitted plan seems to have parking closer than the 3 foot requirement and asked if the engineer wanted to include the variance as part of the request. Chris Hoover indicated they would like to amend the application to include this variance. Solicitor Fenicle stated this was a legitimate amendment to the application and advised the ZHB they could legally allow the amendment.

Don Will asked why the ZHB didn't have to address the set back requirements. Mr. Hoover indicated since the property is on a corner lot, two front yards are required and the plans are showing a rear and side yard. The side yard is currently along the southern side of the property and the rear yard is on the western side of the property. He stated graphically they could change the setback to make the rear yard 15' and the side yard 15', which is required to be 30', to eliminate the encroachment.

Don Will asked if the engineer and/or the applicants had any other comments to address. Daniel Mikos stated he took the original plan into the Borough Office and asked what he needed to do. He indicated the comment that was given from the Borough Staff was to pay \$300.00 and proceed from there. Mr. Mikos indicated since they owned the property, out of the ten off-street parking spaces only two or three are used 90% of the time. Mrs. Mikos indicated the ten off-street parking spaces are mainly to be used for emergency parking. She also indicated the large bush in front of 30 Greenbrier Lane has been cut down and the visibility has improved greatly.

Manager Deibler indicated the Borough Council doesn't have any problems with having a lot smaller than 10,000 square feet in this particular zone, as long as what is left conforms to the surrounding properties. Mr. Mikos stated the potential buyer is considering tearing down one bay of the existing three bay garage in order to provide more green space.

Charles Pifer (potential buyer) indicated behind the garage is a gravel area, which once the subdivision is approved will become green space.

Don Will stated the board's concern is safety and the flow of traffic coming out of one driveway. Mr. Will asked the engineer/applicants if they had any thoughts on the possibility of moving some of the off-street parking to the north of the apartments and putting in a new curb cut in order to separate the lots. Mr. Mikos stated the apartment building is completely rented out and rarely are there more than two or three cars parked on the lot. Jeff Beitzel asked if the off-street parking isn't being used, why would there have to be two parking spaces on the other lot. Mr. Hoover indicated it's an ordinance requirement and meets the requirement of two off-street parking per unit. Mr. Hoover stated if the ZHB would grant a variance to the required number of parking spaces, they could eliminate the overlap onto lot 4 and confined it to lot 3. Solicitor Fenicle stated they didn't request a variance from the requirement of two off-street parking spaces per unit on the present application. Mr. Will asked if the variance could be included with the current application or did it have to be done separately. Solicitor Fenicle stated they could make the request, if desired. Mr. Hoover indicated they wouldn't make the request at this time. Solicitor Fenicle asked if the engineer/applicants looked into the possibility of putting in a separate access drive dedicated to the apartment dwelling. Mr. Mikos stated they did, however the fire hydrant was a \$6,000.00 issue and Dillsburg Area Authority wasn't going to move it. Mr. Will asked how far away from the fire hydrant would the driveway have to be. Mr. Hoover indicated the closest they could get to the fire hydrant with the access drive is ten feet. Mr. Mikos stated one driveway would be better than two driveways.

Solicitor Fenicle asked if there were any more testimonies. There weren't any. Mr. Will closed the record and stated the board would withdraw for a brief executive session.

The Zoning Hearing Board meeting reconvened at 7:33 PM.

Solicitor Fenicle indicated the Board would address each variance individually requested:

1. Section 27-413.A(1)(a) – Lot Size – Requires 10,000 square feet per dwelling unit. The applicants have requested a variance of 4,685 square feet for the creation of Lot 4 for a single family dwelling which would have an area of 5,315 square feet. Don Will moved to grant the variance requested from Section 27-413.A(1)(a) – minimum lot area requirements within the Residential Suburban Zone with the condition to allow Lot 4 on the proposed Plan to have an area of 5,315 square feet, or a variance of 4,685 square feet. Motion was seconded by Jeff Beitzel. – Motion Carried.
2. Section 413.A(2)(a) – Width Size – Requires 65 feet at the front setback line and the plan shows Lot 4 having a minimum lot width of 56.31 feet. The applicants have requested a variance of 8.69 feet. Don Will moved to grant the variance requested from Section 27-413.A(2)(a) – minimum lot width requirements within the Residential Suburban Zone with the condition to allow proposed Lot 4 to have a lot width of 56.31 feet in lieu of the required 65 feet, or a variance of 8.69 feet. Motion was seconded by Jeff Beitzel. – Motion Carried.
3. Section 27-507(1)(A)(4) – Parking Spaces may be located on a lot other than that containing the principal use with the approval of the ZHB. This plan shows two off-street parking spaces for the benefit of Lot 3 to be on Lot 4. The applicants have requested for this be allowed. Don Will moved to allow two parking spaces for the use of Lot 3 on Lot 4. Motion was seconded by Jeff Beitzel. – Motion Carried.
4. Section 27-507(1)(A)(2) – No off-street parking spaces shall be located less than 3 feet from any property line. The plan shows some off-street parking spaces which appear to be within 3 feet from property lines. The applicants have requested a variance. Don Will moved to grant a variance from the provisions of Section 27-507(1)(A)(2) to allow the off-street parking on Lot 3 to be within the 3 foot buffer from a property line. Motion was seconded by Jeff Beitzel. – Motion Carried.
5. Section 27-507(1)(A)(2) – Related to the Subdivision and Land Development Ordinance. Solicitor Fenicle stated it was his opinion that it wasn't the jurisdiction of the ZHB to make a decision on

whether to grant a variance, waivers or modifications of these sections. Don Will moved that the variance request from the Subdivision and Land Development Ordinance Sections set forth in Section 27-507(1)(A)(2), referencing certain Subdivision and Land Development Sections, isn't in the jurisdiction of the Zoning Hearing Board, and the request for said variances is denied on that basis. Any request for modification or waivers of sections of the Subdivision and Land Development Ordinance must be presented to the governing body, the Borough Council, and is within the jurisdiction of the Borough Council. Motion was seconded by Jeff Beitzel. – Motion Carried.

Solicitor Fenicle indicated the Board has addressed all the variances requested and the plan is part of the application and anything that has been granted needs to be done pursuant to this plan and the plan would become an official part of the record for this proceeding.

Donald Will moved to adjourn at 7:40 PM. Motion was seconded by Jeff Beitzel. – Motion Carried.

Respectfully Submitted,

Debbi L. Beitzel, Secretary/Treasurer

cc: Zoning Hearing Board Members
Solicitor Fenicle
Dillsburg Borough Council Members
Dillsburg Borough Planning Commission
Mayor Snyder
Manager Deibler
Solicitor Allshouse
Engineer Knoebel