

Minutes of the  
ZONING HEARING BOARD  
Regular Meeting  
February 1, 2018

**ATTENDANCE:** Present: Angeline Domanico, Chairman  
Joanne Redding, Vice Chairman  
Albert Champion, Secretary  
Barbara M. Kirk, Solicitor  
George Seymour, Member  
Ronald Gans, Township Engineer  
Michael Brill, Member

**ITEM 1** Meeting opened at 7:30 P.M. with the Pledge of Allegiance

**ITEM 2** Introductions of Board Members and Statement of Rules and Procedures by the Solicitor.

**ITEM 3** Approval of December 14, 2017 Minutes

**ITEM 4** Reorganization of the Board

- a.) Chairperson - Joanne Redding
- b.) Vice-Chairperson - Albert Champion
- c.) Secretary - Angeline Domanco
- d.) Meeting dates - Confirmed with changes. July 5, 2018 meeting is rescheduled to July 12, 2018 and December 6, 2018 meeting rescheduled to December 13, 2018. The meeting time was also changed from 7:30 p.m.-11 p.m. to 7 p.m.-10:30 p.m.
- e.) Solicitor - Barbara Kirk, Esquire
- f.) Court Reporter - Kim Bursner & Associates
- g.) Clerk and fee - Danielle Campbell; \$250.00 per meeting
- h.) Official Publication - Courier Times

**ITEM 5** **Continued hearing for Frank Minch**  
**Appeal #2017-577**  
**Location: 4531 Magnolia Ave**  
**Tax Parcel: 02-017-011**  
**Request: Variance for setbacks for accessory structure (shed).**

**DISCUSSION**

Frank Minch is sworn in. Solicitor marks the Certificate of Service as Exhibit A-2. Applicant explains he has a wood bin where he keeps wood before he burns it. His fence is six inches from his property line, so he moved it 8.8 inches. It is ten feet from the house. The Plan shows 8.1 feet side yard setback. Township Engineer explains it needs to be 9 feet from the side property line and complies with R-2 required setbacks.

The audience is asked if anyone is for or against this application. No one is present.

**MOTION** Mr. Champion motions to close testimony, Ms. Redding seconds, and all favor. Mr. Champion motions for the hearing for Frank Minch; Appeal #2017-577; Location: 4531 Magnolia Ave; Tax Parcel: 02-017-011 be approved, Mr. Seymour seconds, and all favor.

<b>VOTE</b>	Ayes:	Mr. Champion, Ms. Redding, Ms. Domanico, Mr. Seymour, Ms. Redding, Mr. Brill
	Nays:	None
	Abstain:	None
	Absent:	None

**MOTION CARRIED** **5-0**

**ITEM 6** **Hearing for John Titty and Arun Cherian**  
**Appeal #2018-601**  
**Location: 4450 Remo Crescent Rd**  
**Tax Parcel: 02-041-071**  
**Request: Variance for rear yard setback for deck.**

**DISCUSSION** The following are exhibits of the application;

The following are exhibits of the application;

- A-1 Application & accompanying documents
- A-2 Certificate of Service
- A-3 Photo of pool and rear yard fence
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Proof of posting

Joanne recused herself. Titty John, Arun Cherian and Joan Downs (Realtor) are sworn in. Applicant explains they bought the property on December 1, 2017. She received a call that they did not get the permit needed for the deck before settlement. The deck is already built from prior owners. The deck is 10 feet by 25 feet. It was built in 2006. The Township did an

inspection for the pool and found the deck was in violation. The steps of the deck are in violation. Applicant states the steps can't be moved because it will violate the side yard setback. Photo of pool and rear yard fence is marked as Exhibit A-3.

**MOTION** Mr. Seymour motions to close testimony, Mr. Champion seconds, all are in favor. Mr. Seymour motions for the hearing for Titty John and Arun Cherian; Appeal #2018-601; Location: 4450 Remo Crescent Rd; Tax Parcel #02-041-071 be approved, Mr. Champion seconds, and all are in favor.

**VOTE**

Ayes:	Mr. Champion, Ms. Redding, Ms. Domanico, Mr. Seymour, Ms. Redding, Mr. Brill
Nays:	None
Abstain:	None
Absent:	None

**MOTION CARRIED 5-0**

**ITEM 7** **Continued hearing for Mittal and Sons, LLC**  
**Appeal #2017-570**  
**Location: 3179 Hulmeville Rd**  
**Tax Parcel: 02-033-088**  
**Request: Use variance to allow mixed use on property.**

**DISCUSSION**

Joanne recused herself. Mr. DiBias marks Exhibit A-27, 2018 License Renewal Residential Rental Property application. Mr. Mittal just received it this past week for 3179 Hulmeville Rd.

Mr. Marlier cross examines Mr. Mittal. Mr. Mittal explains he is part owner of five restaurants. He states he is not familiar with zoning or the process. Mr. Mittal states he has never dealt with Zoning before. Mr. Marlier asks Mr Mittal if he has acted with due diligence. Mr. Mittal states he did and acted with good faith. Mr. Mittal states he was issued a U and O sometime in Summer of 2017. Mr. Marlier asks if he would have use for the property if he could not use it for renting/professional use. Mr. Mittal states there is no use if only for professional use because he needs rental space for his employees. He is not interested in renting to others people other than his employees. He is already stressed with his restaurants. He quit his job to do restaurants and only wants to do that, not use the property for other uses.

Mr. Marlier questions about the tenants of the property. He asks if the cable bills are only in one name. Mr. Mittal states yes. His employees are the only tenants. Mr. Mittal states the names of his tenants are Swatantra Singh, Raghu, Bahdur, Mahindra, and Bjiroy. There is five tenants living in property. He does not know their full names. Four tenants have been living at the property since September 2016, and Bijoy has only been living there a few months. Mr.

Marlier asks about the leases for tenants. Mr. Mittal states he does not have leases. They have an agreement with Mittal and Sons and Indian Hut. Mittal and Sons charges Indian Hut for rent. Mr. Mittal asked neighbors and was not told any concerns or issues with his tenants. Mr. Mittal states the manager of the restaurant have oversight of people living in property. Mr. Mittal is taking care of both the tenants and restaurant. Indian Hut is not a full service restaurant. If someone leaves, someone needs to replace them and they will then live in the property.

Mr. Mittal states he not very familiar with surrounding properties. He also does not remember submitting the Zoning application to Township. Mr. Mittal states he only signed the application submitted to the Township by the seller. Mr. Marlier asks if Mr. Mittal remembers turning in zoning application in early 2016 to the township. Mr. Mittal states he signed off electronically. Mr. Mittal was then asked if he recalled filing a Zoning application a few weeks prior to this one. Mr. Mittal states it is his handwriting. It stated the proposed use was residential and professional. It also had a handwritten note on back that it was a doctors office before, but did not state on application that it was proposed mixed use. Mr. Mittal stated he was not familiar with how it worked and would not say anything to get what he wanted. Mr. Mittal recalls the September 2016 application writing that the former use was dental office and residential. Mr. Mittal states he relied on the seller for application information despite affidavit and certification. Mr. Marlier shows Mr. Mittal that the Township issued a Certificate in February 2016 for business/professional only, not residential. Mr. Mittal states the Township did not tell him that it was not residential. Mr. Marlier marks Exhibit T-2, Township Certificate. Mr. Mittal states he never saw the response from the Township about strictly professional use. July 2017 Residential license certificate application was asked to be complete. Mr. Marlier asks Mr. Mittal if he remembers it asking for names of the tenants. He does not remember. The Township Residential Property Rental License Application is marked as Exhibit T-3. He was out of the country and he did not sign the document. Utsav completed and signed off on application with Mr. Mittal's approval. Mr. Mittal only put one tenant on the application, who is an employee of the restaurant.

Mr. DiBias redirects. Mr. Mittal asks if he saw Exhibit T-3 application before it was filed. Mr. Mittal states he did not. Utsav did not have help filling out the application. Exhibit T-2 is referenced. The Certificate was issued to current owner/seller. Applicant states the information provided was to the best of his knowledge and belief. He states he was relying on the Township to make sure he was complying with the requirements. The manager of the restaurant is Utsav Singh and is responsible for the property. He has lived there since September 2016. Mr. DiBias asks if Applicant is familiar with the apartment complex behind property. Mr. Mittal states yes and there is turn over of tenants. Mr. Mittal would not rent to anyone other than tenants and only purchased the property to rent to employees since it was close to Indian Hut. He did not purchase to make money. He submitted information of the remodel for the residential and professional office use. Mr. Mittal states he was told he had what he needed to proceed by his seller and buyer and relied on Township zoning certification to be sufficient.

Mr. Marlier questions Mr. Mittal about the filed application stating the use was commercial, professional office. Then , the second time filed application stated professional use and residential use, prior use was mixed use. Mr. Mittal doesn't know who filled this in and it came as electronic document. He signed electronically. Mr. Mittal states the apartment building behind the property has tenants that use lease agreements and has full names of tenants.

10 MINUTE RECESS – 9:05 p.m.

Realtor, Ray Guin is sworn in. Mr. DiBias references Exhibit A-26, Zoning Certification document. Mr. Guin states he filled out the document to the best of his knowledge. The application says office and residential use. He wrote existing use is dental use and office. Mr. Gun states he remembers former residence many years ago.

Mr. Marlier cross examines Mr. Guin. Mr. Marlier references Exhibit T-1. Mr. Guin states he did not complete this document and does not recognize the handwriting.

Mr. DiBias examines Matthew Takita, Bensalem Township Director of Building and Planning. Mr. Takita is sworn in. He states he has been the Zoning Officer for Bensalem Township for 26 years and is currently the director of the department. Mr. Takita states he oversees the staff and the day to day operations. He explains applicants pay a fee to file application and the fee depends on the application. Zoning does not have a fee. An Application for Zoning certification determines if a property is compliant. Mr. Takita states he is familiar with 3179 Hulmeville Road. Mr. DiBias references Exhibit A-8. Mr. Takita states he is familiar with document (zoning application). He personally does not review this. The “Plans Examiner” does. The Plans Examiner looks at the proposed use and zoning. Then reviews for accuracy. Zoning district is business professional. The proposed use on application filed February 2, 2016 says residence and professional office. The amount of work determines the fees. Mr. DiBias references Exhibit A-9 (plot plan). Mr. Takita states he is familiar with this. Per the plot plan, the principal structure is split into 2/3 residential and 1/3 office. This was submitted to the zoning office. Mr. DiBias references Exhibit A-26, the Zoning application for property, which was filed February 22, 2016. The purpose of the application is if existing and proposed uses complies with the Townships requirements. There were phone numbers were on the application for the applicant if zoning office had any questions. Mr. Takita doesn't know if anyone called. Mr. Takita is asked what the process for zoning is. Mr. Takita states they take a look at application and zoning district to see if it conforms or not. The Township then issues a letter if they are approved or disapproved. Mr. DiBias references Exhibit A-10, Zoning Certification per Exhibit A-8 and Exhibit A-26 applications. This was issued to the owner of the property. It states the use of residential and office use is an existing non-conformity. Mr. Takita states the Township does have paper files for all applications. There are no limitations on application use of office and residential. Mr. DiBias references Exhibit A-15, Plan 1 without changes. Mr. Takita is familiar with this document. He states it is a plan of 3179 Hulmeville Road. It shows 3 bedrooms and 1 bathroom. It was zoning approved by Township. Steven Terlecki, Building Inspector, signed digitally on July 13, 2016. Mr. DiBias references Exhibit A-16, Plan 2 with changes. The toilet is replaced with a shower and has 3 bedrooms. The Township approved the building plans, plumbing, and electric. Steven Terlecki signs the approval. Mr. Takita states the electronic signature seals the PDF, so no one can alter. Mr. DiBias references Exhibit A-20, Notice of Violation from April 2017. The property is residential. This is not permitted in Business Professional and requires commercial use permit. Violation is signed by the Township. Exhibit A-23, Residential Rental Certificate is referenced. The inspections done by Township and the zoning was not verified. Based on prior applications, they assumed it residential with conditions. The Township issued a stop work order. The applicant states he did not know he was in violation. Township did discuss the violation with the Applicant and told him it was not permitted to use a residential. Mr. Takita did not tell him his permits were revoked. Exhibit A-

25, Township November Notice of Violation is referenced. This was issued after the U and O. It does not say the permit was revoked. Mr. DiBias references Exhibit A-27, Township 2018 Residential Property Rental License application. This is a renewal application. Mr. Takita references Exhibit A-25. This was intended to revoke U and O and all prior approved permits. Since the matter is under appeal, everything stays status quo and remains current status. Mr. Takita states Applicant has complied with Township requests to his belief. Mr. DiBias asks if in a Business Professional district, do they have mixed uses in this area? Mr. Takita states "yes". Mr. DiBias asks if they have variances? Mr. Takita states he does not know. Mr. DiBias asks what the definition of family is. Solicitor questions why this is necessary. Mr. DiBias states he wants to clarify that this is not a some type of boarding home. Group of individuals can live together in a residential property without violation township ordinances. Mr. Champion asks if they would issue a U and O without a shower or bathing unit in the plan. Mr. Takita states they would.

Mr. Marlier references Exhibit A-8 and asked Mr. Takita if the Plan Examiner would rely on the information provided by the applicant. Mr. Takita states "yes." Mr. Gans would have been relying on the information provided to him on Exhibit A-26, the Zoning Certification application. Mr. Marlier asks if Mr. Takita would ever assume an applicant is lying. Mr. Takita says he would not. Mr. Marlier asks if on Exhibit A-9, would the Plans Examiner be relying on information given. Mr. Takita states "yes." Mr. Marlier submits the Notice of Violation dated December 14, 2016 as Exhibit T-4. Township relied on Zoning Certification issued. Mr. Marlier submits Exhibit T-5 as Township Notice of Violation from April 2017. The Township relied on Zoning Certification issued. Mr. Marlier references Exhibit T-3, Application Residential Rental License. The Township relies on the information given. Mr. Mittal did not sign and did not put all tenants on document. Mr. Marlier states the Township assumes information is true. Mr. Marlier marks Exhibit T-6, Township Fire Documents. Fire inspectors inspect commercial properties only. They stated since 2012, this property was not residential. Mr. Marlier marked Exhibit T-7, Occupancy application from 1973. The property was used as a doctor's office. Mr. Marlier marks Exhibit T-8, Notice of Violation dated September 1, 2017. The property was not used residential. Mr. Marlier asks Takita if he knows what Trend is. He states he does and that it is updated as settlements occur.

Mr. DiBias asks Mr. Takita if Zoning Certification and Zoning permit were both issued. (Exhibits A-15 A-16) Mr. Takita states they both were. Mr. Takita states he asked the Fire Marshall and he stated he knows the property was never residential.

Applicant requests a continuance to special meeting in order to complete this application without taking up more time in the regular monthly meeting. Mr. DiBias and Mr. Marlier agree to continue to March 8, 2018 and waves all applicable time restraints. George motions, all seconds, all favor.

**MOTION** Mr. Seymour motions to close testimony, Mr. Champion seconds, and all favor. Mr. Seymour motions for the hearing for Mittal and Sons, LLC; Appeal #2017-570; Location: 3179 Hulmeville Rd; Tax Parcel: 02-033-088 be approved, Mr. Champion seconds, and all favor.

**ITEM 8**                      **Continued hearing for Michael R. Nugent**  
**Appeal #2017-566**  
**Location: 3247 Clive Ave**  
**Tax Parcel: 02-066-065**  
**Request: Variance to use lot for commercial parking.**

**DISCUSSION**

Christopher Stewart is present and represents Applicant, Michael Nugent. Mr. Stewart requests a continuance to March 1, 2018 due to time needed for other application. Applicant is waiving any applicable time restrictions.

**MOTION**                      Mr. Seymour motions for the hearing Michael R. Nugent; Appeal #2017-566; Location: 3247 Clive Ave; Tax Parcel: 02-066-065 be continued to March 1, 2018, Mr. Champion seconds, and all are in favor.

**ITEM 9**                      **Continued hearing for Michael R. Nugent**  
**Appeal #2017-567**  
**Location: Clive Ave**  
**Tax Parcel: 02-075-047**  
**Request: Variance to use lot for commercial parking.**

**DISCUSSION**

Christopher Stewart is present and represents Applicant, Michael Nugent. Mr. Stewart requests a continuance to March 1, 2018 due to time needed for other application. Applicant is waiving any applicable time restrictions.

**MOTION**                      Mr. Seymour motions for the hearing Michael R. Nugent; Appeal #2017-567; Location: Clive Ave; Tax Parcel: 02-075-047 be continued to March 1, 2018, Mr. Champion seconds, and all are in favor.

**ITEM 10**                      **Continued hearing for Michael R. Nugent**  
**Appeal #2017-568**  
**Location: 3259 Clive Ave**  
**Tax Parcel: 02-075-049**  
**Request: Variance to allow natural state to be less than 45%.**

## **DISCUSSION**

Christopher Stewart is present and represents Applicant, Michael Nugent. Mr. Stewart requests a continuance to March 1, 2018 due to time needed for other application. Applicant is waiving any applicable time restrictions.

**MOTION** Mr. Seymour motions for the hearing Michael R. Nugent; Appeal #2017-566; Location: 3259 Clive Ave; Tax Parcel: 02-075-049 be continued to March 1, 2018, Mr. Champion seconds, and all are in favor.

**ITEM 11**                    **Continued hearing for Michael R. Nugent**  
**Appeal #2017-569**  
**Location: 3242 Moore Ave**  
**Tax Parcel: 02-075-056**  
**Request: Variance to use lot for commercial parking.**

## **DISCUSSION**

Christopher Stewart is present and represents Applicant, Michael Nugent. Mr. Stewart requests a continuance to March 1, 2018 due to time needed for other application. Applicant is waiving any applicable time restrictions.

**MOTION** Mr. Seymour motions for the hearing Michael R. Nugent; Appeal #2017-569; Location: 3242 Moore Ave; Tax Parcel: 02-075-056 be continued to March 1, 2018, Mr. Champion seconds, and all are in favor. are in favor.

**ITEM 12**                    **Continued hearing for Soutchay Chareunsack**  
**Appeal #2017-548**  
**Location: 2155 River Rd**  
**Tax Parcel: 02-064-126**  
**Request: Variance to permit construction in flood plain.**

## **DISCUSSION**

Applicant is not present. Solicitor marks correspondence to the Applicant confirming the January meeting as Exhibit A-4. Solicitor marks correspondence sent to the Applicant regarding the February meeting Exhibit A-5.

**MOTION** Mr. Seymour motions to close testimony, Mr. Champion seconds, and all are in favor. Mr. Seymour motions for the hearing for Soutchay Chareunsack; Appeal #2017-548; Location: 2155 River Rd; Tax Parcel #02-064-126 be denied, Mr. Champion seconds, and all are in favor.

**VOTE**

Ayes:	Mr. Champion, Ms. Redding, Ms. Domanico, Mr. Seymour, Ms. Redding, Mr. Brill
Nays:	None
Abstain:	None
Absent:	None

**MOTION CARRIED** **5-0**

**ITEM 13** **Continued hearing for Calatlantic Group, Inc.**  
**Appeal #2017-561**  
**Location: Somerton Valley Homes**  
**Tax Parcel: All real estate affected by impervious surface coverage**  
**Request: Variance for impervious surface coverage.**

**DISCUSSION** Solicitor states she received email this afternoon from Mr. Murphy, Applicant's attorney, requesting a continuance to March 1, 2018. The correspondence is marked as Exhibit A-5.

**MOTION** Mr. Champion motions for the hearing for Calatlantic Group, inc.; Appeal #2017-561; Location: Somerton Valley Homes; Tax Parcel: All real estate affected by impervious surface coverage be continued to March 1, 2018, Mr. Seymour seconds, and all are in favor.

**ITEM 14** **Hearing for Mar Mar Builders, Inc.**  
**Appeal #2018-602**  
**Location: 1186 Byberry Rd**  
**Tax Parcel: 02-074-110**  
**Request: Variances to construct an 8 lot subdivision.**

**DISCUSSION**

Solicitor received correspondence from Mr. Murphy, Applicant's attorney, requesting a continuance to March 1, 2018 due to the lengthy agenda for tonight's meeting. Solicitor marks the correspondence as Exhibit A-1.

**MOTION** Ms. Redding motions for the hearing for Mar Mar Builders, Inc.; Appeal #2018-602; Location: 1186 Byberry Rd; Tax Parcel #02-074-110 be continued to March 1, 2018, Mr. Champion seconds, and all are in favor.

**ITEM 15**                    **Hearing for Outfront Media LLC**  
**Appeal #2018-603**  
**Location: 2511 Lincoln Highway**  
**Tax Parcel: 02-011-001-003**  
**Request: Variance for Digital Sign.**

**DISCUSSION**            Solicitor received letter dated January 31, 2018 from Douglas Maloney, Applicant's attorney, requesting a continuance to March 1, 2018 due to the volume of cases. Solicitor marks the correspondence as Exhibit A-1.

**MOTION**            Ms. Redding motions for the hearing for Outfront Media, LLC; Appeal #2018-603; Location: 2511 Lincoln Highway; Tax Parcel #02-011-001-003 be continued to March 1, 2018, Mr. Seymour seconds, and all are in favor.

**ITEM 16**            **CORRESPONDENCE – None**

**ITEM 17**            **FROM THE BOARD**

There were no items for discussion.

Meeting adjourned at 11:10 P.M.

Court Reporter: Kim Bursner

Respectfully submitted by Danielle Campbell