

BENSALEM TOWNSHIP ZONING BOARD MEETING

JANUARY 9th, 2020

7:00 p.m.

Attendance:

Present:

Joann Redding, Chairwoman

Albert Champion, Vice Chairman

Matthew McHugh, Solicitor

Ken Farrall, Zoning Officer

Michael Brill, Member

George Seymour, Member

Harry Kramer, Member

ITEM 1: MEETING OPENED WITH THE PLEDGE OF ALLEGIANCE.

ITEM 2: INTRODUCTION OF BOARD MEMBERS AND THE STATEMENT OF RULES AND PROCEDURES BY MATTHEW MCHUGH.

Matthew McHugh stated that the Zoning Board is Appointed but otherwise Independent. He stated that there are 5 voting members and that a majority must vote to approve a variance request. He stated the Rules and Procedures for the Board and Applicants.

ITEM 3: APPROVAL OF MINUTES - NOVEMBER 7TH, 2019.

MOTION: To Approve Minutes November 7TH, 2019

MOTION MADE BY: Michael Brill

SECONDED BY: George Seymour

VOTES AYES: Joanne Redding, Albert Champion, Michael Brill, George Seymour

NAYS: None

ABSENT: None

ABSTAIN: Harry Kramer

MOTION CARRIED: 4 - 0 - 1

ITEM 4: RE – ORGANIZATION OF THE BOARD

A: CHAIRPERSON:

MOTION: To Nominate Joanne Redding as Chairwoman

MOTION MADE BY: Michael Brill

SECONDED BY: George Seymour

VOTES AYES: Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: Joann Redding

MOTION CARRIED: 4 - 0 - 1

B. VICE – CHAIRPERSON

MOTION: To Nominate Albert Champion as Vice - Chairperson

MOTION MADE BY: George Seymour

SECONDED BY: Michael Brill

VOTES AYES: Joann Redding, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: Albert Champion

MOTION CARRIED: 4 – 0 – 1

C. SECRETARY

MOTION: To Nominate George Seymour as Secretary

MOTION MADE BY: Michael Brill

SECONDED BY: Harry Kramer

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: George Seymour

MOTION CARRIED: 4 - 0 -1

D. MEETING DATES.

Albert Champion stated that no conflicting meeting dates.

MOTION: To Approve the Meeting Dates

MOTION MADE BY: Albert Champion

SECONDED BY: George Seymour

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

E. SOLICITOR

Joann Redding asked for a Motion to Nominate a Solicitor

MOTION: To Nominate Matthew McHugh as Solicitor

MOTION MADE BY: Michael Brill

SECONDED BY: Albert Champion

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

E: COURT REPORTER

MOTION: Motion Made to Nominate Kim Bursner as Court Reporter

MOTION MADE BY: Albert Champion

SECONDED BY: Michael Brill

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 - 0

F: CLERK AND FEE

MOTION: To Nominate Donna Sponheimer – Smith as Clerk

MOTION MADE BY: Albert Champion

SECONDED BY: Michael Brill

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

H. OFFICIAL PUBLICATION

Not too many choices to pick from

MOTION: To use the Courier Times as the Official Publication

MOTION MADE BY: Albert Champion

SECONDED BY: Michael Brill

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

ITEM 5: DECISION HEARING FOR PRICESMART, INC. APPEAL # 2019 – 2374

Location: Marshall Lane and Winks Lane

Tax Parcel: 02 – 075 – 079

Request: Variances to construct office/warehouse with parking.

Matthew McHugh stated that received Correspondence from the Attorney representing Item 5: Decision Hearing for Pricesmart, Inc. Appeal # 2019 – 2374 that they're Withdrawing the Application.

Albert Champion asked if the Protestor's Attorney had been notified and Matthew McHugh stated that they had been notified.

ITEM 6: CONTINUED HEARING FOR SOUCHAY CHAREUNSACK APPEAL # 2019 – 2811

Location: 2155 River Road

Tax Parcel: 02 – 064 – 126

Request: Variance to construct a single-family dwelling in flood plain.

Matthew McHugh stated that received Correspondence from Applicant Item 6: Continued Hearing for Souchay Chareunsack Appeal # 2019 – 2811 that Applicant is Withdrawing the Application.

ITEM 7: CONTINUED HEARING FOR FRED MERZ APPEAL # 2019 – 3383

Location: 3430 Trevoise Avenue

Tax Parcel: 02 – 004 – 150

Request: Variance for lot area yards, density and steep slope disturbance to construct a single-family dwelling.

Matthew McHugh stated that received Correspondence from Applicant Item 7: Continued Hearing for Fred Merz Appeal # 2019 – 3383 that Applicant is asking for a Continuance to the February Meeting.

Joann Redding asked for a Motion for Continuance for Continued Hearing for Fred Merz Appeal # 2019 - 3383.

MOTION: Made for a Continuance for Continued Hearing for Fred Merz Appeal # 2019 -3383 to February Meeting

MOTION MADE BY: Albert Champion

SECONDED BY: Michael Brill

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

ITEM 8: HEARING FOR WILLIAM AND GENEVIEVE FLANNERY APPEAL # 2019 – 4221

Location: 1430 Wells Drive

Tax Parcel: 02 -070 – 007 – 010

Request: Variance to permit disturbance of steep slopes and expansion of a non – conforming commercial building.

Matthew McHugh stated that received Correspondence for Item 8: Hearing for William and Genevieve Flannery Appeal # 2019 – 4221 asking for a Continuance. Applicant is going to discuss issue with neighbors.

Joann Redding asked for a Motion for a Continuance for Hearing for William and Genevieve Flannery Appeal # 2019 – 4221.

MOTION: Made for a Continuance for Hearing for William and Genevieve Flannery Appeal # 2019 – 4221 to February Meeting.

MOTION MADE BY: Albert Champion

SECONDED BY: George Seymour

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

ITEM 9: HEARING FOR MATTHEW AND DIANE TORRES APPEAL # 2019 – 4224

Location: 4219 Roberts Circle

Tax Parcel: 02 -077 -006

Request: Variance to have stone driveway.

B - 1: Letter to Applicant

B - 2: Proof of Posting

B - 3: Proof of Publication

A - 1: Application and Accompanying Documents

A - 2: Certificate of Service

Applicant Matthew Torres was sworn in.

Matthew McHugh asked Matthew Torres if had documentation that hand delivered to the names sent regarding the Application and Matthew Torres said Yes.

Matthew McHugh stated that all documents appear to be in order.

Matthew Torres stated that wants to put in a stone driveway with intent to pave but the bad weather may put that on hold. Research and discussion, it's a good idea to pack down with stone before paving.

Ken Farrall stated that they got a temporary U&O it is a new house built that moved into. It is late in the season to be paving and Ken has no issue granting extension.

Albert Champion stated that a variance goes with the property, what if they sell it before they pave it? Matthew McHugh stated that could add condition to the Motion. It is a slippery slope if don't pave it. Could table it for 6 months to revisit it.

Matthew McHugh to Matthew Torres – You have certain rights to have application hearing heard within a certain amount of time, would you be willing to waive that? Matthew Torres stated that Yes is willing to waive.

Albert Champion asked Matthew Torres Would you be ready to give plans for a driveway by June? Matthew Torres – Yes

Joann Redding asked if anybody in the Audience would like to speak for/against this Application? No Audience Member.

Joann Redding asked for a Motion.

MOTION: Made to Grant extension for Hearing for Matthew and Diane Torres to June 4th Meeting for Appeal # 2019 – 4224.

MOTION MADE BY: Albert Champion

SECONDED BY: George Seymour

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

Matthew McHugh stated that no additional notices have to be sent out.

ITEM 10: HEARING FOR INSPIRE CREDIT UNION APPEAL # 2019 – 4225

LOCATION: HULMEVILLE AND GALLOWAY ROAD

TAX PARCEL: 02 – 041 – 022 – 022

REQUEST: VARIANCES FOR FRONT AND SIDE YARD SETBACKS AND BUFFER YARD TO CONSTRUCT A FINANCIAL INSTITUTION.

B-1: Letter to Applicant

B-2: Proof of Posting

B-3: Proof of Mailing

B-4: Application

B-5: Certificate of Service

Applicant is represented by counsel, J. Todd Savarese

George Seymour stated that documentation was received late and has not had a chance to look at it. They have to send documentation in early enough so that Board can look at it.

Matthew McHugh said it is Revised Plans dated 1/8/2020 and it includes withdrawn variances.

Mr. Savarese, Attorney for Applicant, stated that the Revised Plans has only 1 variance request instead of the original 9. They took out the Drive Thru and has copies of the Revised Plan to hand out. In December, the Planning Commission had question about the Drive Thru as did neighbors. In response, Inspire made several changes. This hearing was to be held in December, but it was continued at the request of the Board. Can assure the Board that if allow testimony it will show good faith. The impact to the neighbors and the concern by the Planning Commission have been addressed. The new plans were not made to complicate things.

Matthew McHugh stated the Board has a concern that may not have adequate information to make a decision but can still give testimony if would like to do that.

B-5: Applicant's Exhibit Package dated 1/9/2020.

Mr. Savarese stated that the property is .8 of acre. They're requesting only 1 variance now instead of 9 by shifting the building 15ft. closer to Hulmeville instead of Galloway. The building has been relocated 75ft. from Galloway to comply with the required front yard setback. The Original Plan had it closer to Galloway. The building size has been reduced from 3,000 sq.ft. to 2,710 sq.ft. The drive through teller and associated bypass lanes have been eliminated.

Joann Redding stated it is like the issue with Street Road.

Albert Champion stated that it was subdivided, and it is not residential as it was before the Galloway Extension.

Albert Champion stated that 5 things for a variance and 1 is that it is not created by an owner. This is an owner (Lesenevec) created hardship when it was additionally rezoned, Walter and Kathleen Lesenevec understood the hardships.

Mr. Savarese stated that yes that they understood the hardship but in Mr. Gans review letter, if Mr. Levsenevec had not created the hardship, Inspire wouldn't have been able to build. In fact, nobody would be able to build, Mr. Lesenevec would have an unbuildable property.

Matthew McHugh stated that there is a difference when it is a rezoned act of Council as approved and when a property owner asks for it and then asks for a hardship.

Mr. Savarese disagrees and gives Ordinance Z- 594 (11/26/07) and Z – 595 (4/14/08) Exhibits A -7 and A-8 in the Applicant's Exhibit Package.

Mr. Savarese states again that only asking for 1 variance instead of the original 9.

Albert Champion asked Mr. Savarese if Mr. Savarese is agreeing it was self-created?

Matthew McHugh stated Buyer Beware, Mr. Gan's letter is alerting that may have issue when go to build on it.

Mr. Savarese stated that understands the argument and that is self-created but Inspire wants to build on the property, they want to be a good neighbor in the Community. Also recognizes that it still has to go through Land Development but without the variance they can't build on the property.

Mr. Savarese would like to have James Merrill as a witness.

James Merrill was sworn in.

James Merrill is the President/ CEO.

Mr. Savarese said that the Sketch Plans were introduced in December 2007 for Inspire and James Merrill was present at the Planning Commission Meeting.

Mr. Savarese asked Mr. Merrill why did Inspire make changes to the Original Plan?

James Merrill stated that Inspire is a Community Business with a commitment to the Community.

They wanted feedback and took the sketch plans to the Planning Commission they got feedback and they went back to discuss and made changes to accommodate.

Mr. Savarese asked James Merrill if the New Plan description is accurate?

James Merrill - Yes.

Mr. Savarese asked James Merrill to describe Inspire?

James Merrill said it was created in 1936. As a Credit Union to the School Districts. In 2004 it was a Credit Union for entire Bucks County with Offices located in Bristol and Langhorne. They offer personalized service that is different and that gives financial success.

Mr. Savarese asked James Merrill if understands that if granted a side yard setback it would still require additional approval from Land Development and outside agencies such as PennDOT?

James Merrill – Yes.

Albert Champion asked about trash dumpster on the property.

James Merrill stated they have a Cleaning Company that collects trash and it's taken to Corporate Offices in Newtown.

Albert Champion asked about loading zones.

James Merrill stated No loading zones. Armor Truck delivery and normal UPS and FedEx delivery.

Albert Champion asked if had spoken to PennDOT yet?

James Merrill stated Yes but hasn't gotten any feedback yet.

Mr. Savarese asked that Gregory Glitzer be sworn in as a witness.

Gregory Glitzer was sworn in.

Gregory Glitzer is the Executive Vice President of Gilmore and Associates Engineering and Consulting Services who has 34 years' experience as Civil Engineer and has been accepted by other Zoning Boards as an expert witness.

Matthew McHugh stated that the Board has no issue with Gregory Glitzer's credentials and qualifies as an expert.

Mr. Savarese asked Gregory Glitzer to bring the Board up to speed with Inspire and the Revised Plan.

Gregory Glitzer stated that developed the Sketch Plans submitted to Traffic Department for the assessment and also filed with PennDOT, waiting for feedback.

Gregory Glitzer stated that is familiar with the lot, it is short of an acre.

Mr. Savarese asked Gregory Glitzer how many times bigger is the lot than is required?

Gregory Glitzer stated that it is 5x the lot size than what is required.

Gregory Glitzer stated that the Original Plans encroached in the buffer required. They corrected that by reducing the size of the building and moved it away from Galloway. Those changes cancelled 8 of the 9 original requested variances.

Mr. Savarese asked Gregory Glitzer Do you think that the property has unique shape characteristics?

Gregory Glitzer stated that Yes, the narrowness is the uniqueness.

Mr. Savarese do you agree and give expert testimony that unless the side yard setback variance is granted the property will not be useable?

Gregory Glitzer stated Yes because of Zoning requirements.

Mr. Savarese to Gregory Glitzer Can you address Albert Champion's comments regarding that Mr. Levenesec hardship was self-created?

Gregory Glitzer stated that the variance seeking, the line was not created by Mr. Levenesec with the subdivision at the Galloway extension / High School property, it was present before that.

Mr. Savarese concluded that the building won't have an adverse effect on the Community.

Albert Champion stated that TD Bank has own lane to pull over to go to Bank instead of having to turn right into lot.

Gregory Glitzer stated that don't know if PennDOT would allow that and stated that the Highway Occupancy Permits have not been issued yet.

Joann Redding stated that is concerned it is a very narrow lot and could be issue with parking, concerned with not a Drive Through customers must get out of vehicles.

Gregory Glitzer stated that believes there is plenty of room.

Joann Redding stated that doesn't know about the other banks could be a different building than the other banks, but concern is still parking.

Gregory Glitzer stated that is why asking for relief.

Ken Farrall was sworn in.

Mr. Savarese asked Ken Farrall, do you agree that 9 variances were requested in the Original Plan?

Ken Farrall stated Yes 9 variances.

Mr. Savarese asked Ken Farrall, do you agree that in Applicant's Exhibit packet Exhibit A - 2 and A - 3 that there is a change and that 8 of the variances have been eliminated?

Ken Farrall – Yes

Mr. Savarese asked Ken Farrall Do you agree that if a side yard set back variance is not approved.

Matthew McHugh stated that was not appropriate question.

Mr. Savarese asked Ken Farrall, do you think in your assessment is Inspire asking for any more variances than they need?

Ken Farrall – No.

Matthew McHugh asked Mr. Savarese can the Applicant formally withdrawal the 8 variances except the side yard setback.

Mr. Savarese – Yes, but moving forward Applicant still needs the 1 variance.

Albert Champion stated that the Township approved but still in limbo about legality.

Mathew McHugh stated that the facts presented and Mr. Gan's review letter the Township in essence approved knowing conflict existed.

Albert Champion asked if the Board could get a copy of the Council Minutes?

Matthew McHugh stated that it's a complicated. The Applicant's lawyer showed Mr. Gan's letter as proof.

Joann Redding asked if Anybody in the Audience would like to speak for/against this Application?

Vincy Benny was sworn in. Vincy Benny lives in the 1st house and sent a letter to the Township Building.

Vincy Benny stated that is objecting to the construction of the bank at Hulmeville and Galloway. Vincy Benny bought new house next to property, has privacy security and peace and feels that the bank being built will threaten those values and that she has no solution to combat them.

Vehicles will be entering and exiting the bank. The Applicant's solution is to plant a buffer to designate a boundary but it wont guarantee my privacy. In the humid seasons when I roll down windows to get fresh air will be hindered by vehicle fumes along with frequent of vehicles will create inconvenient noise for 12 hours a day. Along with my personal concern, biggest issue is its location in an already congested location. Galloway is a pivotal road to many drives attempting to get to their destination. It is predominantly used by individuals driving to Bensalem High School which is located directly behind my property. Traffic at the 4-way intersection is very hectic with school hours/school zones/and narrow roads. It is frequently difficult to enter and exit driveway. It is unimaginable to think of how crowded the vicinity will become with the addition of the bank.

Joann Redding stated it was common knowledge that it was zoned commercial.

Joann Redding stated that Vincy Benny bought the property knowing it back up to school and that traffic in the vicinity.

Albert Champion asked about a fence?

Vincy Benny stated that there is no fence.

Vincy Benny asked What if want to sell the house?

Joann Redding stated to Vincy Benny that you bought the house from somebody and somebody else will buy it from you if you decide to sell it.

Joann Redding stated the Board would take her testimony under advisement.

Ashley Benny was sworn in. Ashley lives next door too.

Ashley Benny stated that there is a 15mph school zone that is not followed, and the vicinity is already congested with vehicles. TD Bank has a separate lane. It is difficult to get into and out of the driveway now. Would not like to see it be a bank because it is next to residential properties. People drive into the driveway now and make a U turn etc. along with at least 15 buses going back and forth.

Joann Redding stated that the Board would take her testimony under advisement.

Brian Derby was sworn in.

Brian Derby lives in a house along Galloway.

Brian Derby has no objection to it being built but if it is, would like to see the 25mph speed limit be enforced with the heavy traffic.

Robert Mosley was sworn in.

Robert Mosley has lived in the vicinity for 50 years.

Byberry Road has a lot of traffic. Hulmeville and Park has many accidents. Add in the congestion of the schools. He is appreciative of the Traffic Study but when was it completed? Robert Mosley goes to neighbors, the Derby's, and almost got hit.

Robert Mosley is not for it.

Joann Redding stated that the Board would take his testimony under advisement.

Joann Redding asked for a Motion to Close Testimony.

MOTION: Made to Close Testimony for Inspire Federal Credit Union at Hulmeville and Galloway Appeal # 2019 – 4225.

MOTION MADE: Harry Kramer

SECONDED BY: Michael Brill

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

Matthew McHugh suggested that the Board look at everything and then they have 45 days from hearing to vote on the Application. Hearing to be scheduled at the February Meeting.

ITEM 11: HEARING FOR GLENN AND DONNA PIERCLEY APPEAL # 2019 – 4524.

LOCATION: 4570 Garland Avenue

TAX PARCEL: 02 – 007 – 096

REQUEST: Variance to construct pole building larger than principal structure.

B-1 Letter to Applicant

B-2 Proof of Posting

B-3 Proof of Publication

A-1 Application and Accompanying Documents

A-2 Certificate of Service

Matthew McHugh asked Applicant if they have the Certificate of Service?

Applicant said Yes, they were hand delivered to the names on the list.

Glenn Pierciey was sworn in.

Glenn Pierciey stated that wants to build a 30 x 32 pole building at the back of property. Allowed is 35% of impervious surface, it'll be at 21.4%

Joann Redding asked how tall is it? 10 ft?

George Seymour stated that it looks higher much higher than that.

Harry Kramer plan states it 12'5 and 5 ft. that is over 18 ft.

Glenn Pierciey was asked what he plans to do with it.

Glenn Pierciey stated it'll have a garage door, is going to be retiring and is going to get a motor home and put the motor home inside of it. Is using it as storage until gets a motor home. Glenn Pierciey's father passed away and he did woodworking that is what is going to be stored in it. No driveway leading to it.

Albert Champion stated that some people build items like this and use them as dwellings.

Albert Champion stated that it looks like it doesn't have a 2nd floor as it's a pole barn.

Glenn Pierciey stated that it doesn't have a 2nd floor.

It is like a Lego building, put it up in a day.

Joann Redding stated it is a deep lot.

Albert Champion stated that Applicant may want to move the pole barn up, may want to build a driveway and it may be over the impervious surface % with it being farther away.

Glenn Pierciey stated that would like to keep it at that location, wants to keep the trees and use the trees to hide the pole barn.

Albert Champion stated that it seems to be a vacant lot next to it that won't be developed, 80 – 100 ft. across. Storm water runoff is 9 ft down.

Joann Redding asked if any Audience Member would like to speak for/against this Application? No Audience Member.

Joann Redding asked for a Motion to Close Testimony.

MOTION: Motion made to close Testimony for Glenn and Donna Pierciey Appeal # 2019 - 4524

MOTION MADE BY: Albert Champion

SECONDED BY: George Seymour

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

MOTION: Motion made to Approve Variance for Hearing for Glenn and Donna Pierciey Appeal # 2019 - 4524 to construct a Pole Building.

MOTION MADE BY: Albert Champion

SECONDED BY: George Seymour

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 – 0

Matthew McHugh stated that is giving a copy of the decision to the Applicant.

ITEM 12: HEARING FOR JOHN MORTON APPEAL # 2019 – 4526

LOCATION: Mulberry Avenue

TAX PARCEL: 02 – 005 – 359

REQUEST: Variance for lot frontage and side yard setback to construct a single-family dwelling.

B-1 Letter to Applicant

B-2 Proof of Posting

B-3 Proof of Publication

A-1 Application and Accompanying Documents

A-2 Certificate of Service

John Morton, the Applicant was sworn in.

John Morton stated that wants to build a small house but has to get a variance as it's short at the front yard setback. The property backs up to the railroad track, nobody is behind the property.

Albert Champion stated that it is 45ft. need 50ft. Not too much farther because of a steep slope.

Albert Champion asked if the Applicant plans to live in the house?

John Morton stated No does not.

Michael Brill asked if the property is at Mulberry and Hazel?

John Morton stated Yes it is.

Are the property 2 parcels? Was it subdivided?

John Morton stated that It was not subdivided, it is 2 separate parcels with 2 separate taxes.

Matthew McHugh asked the Applicant, do you have an Agreement of Sale to buy the lot?

John Morton stated Not yet but is going to get it.

Matthew McHugh asked if the Owner was present?

John Morton stated that the Owner couldn't attend the meeting but that they have a verbal Agreement of Sale.

Matthew McHugh stated that to present the Application you would need Agreement of Sale or the Owner and Tenant would have to be present at the meeting. We have no Legal Document and the Owner is not present. The Board can't decide without it. Applicant will have to ask for a Continuance.

John Morton asked if had to reapply and stated could contact the Owner and get Owner to the meeting by about 10:30 p.m.

Matthew McHugh stated that Applicant didn't have to reapply. That the Application would be Continued and that at the next meeting the Applicant should bring the Agreement of Sale and that would be sufficient.

MOTION: Motion Made for a Continuance to February's Meeting for Hearing for John Morton Appeal # 2019 - 4526

MOTION MADE BY: Michael Brill

SECONDED BY: George Seymour

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

MOTION CARRIED: 5-0

ITEM 13: HEARING FOR AV HOTELS LLC, DEEPAK VERMA APPEAL # 2019 – 4527

LOCATION: 1329 Bristol Pike

TAX PARCEL: 02 – 030 -108

REQUEST: Variance for lot width and building setbacks to subdivide parcel.

B-1: Letter to Applicant

B-2: Proof of Posting

B-3: Proof of Publication

A-1: Application and Accompanying Documents

A-2: Certificate of Service

Matthew McHugh stated that everything appears to be in order.

Deepak Vermer Applicant and Owner is sworn in.

Deepak Vermer stated is the Owner of the Holiday Inn Express and wants to subdivide the property for tax bill. Requirement is a Variance for a setback

Not selling to Bob Evans, Bob Evans doesn't want to buy it. The property tax is big.

Discussion about the reciprocal easement rights between hotel lot and Bob Evans lot. The Variance that is asking to would allow Applicant to do that. Township would have to show easements. This is a complicated issue.

George Seymour stated that as Owner of the Property would advise the Deepak Verna to retain a Lawyer and get legal advice as too many issues with it.

Joann Redding stated that believes it is a cross easement.

Albert Champion stated if the Board allows it, they could put up a fence and not allow access.

Albert Champion asked if Applicant could withdrawal the Appeal and go to Council to ask.

Matthew McHugh stated that Applicant would still need to get variance.

Joann Redding stated that she didn't think that the Board could address it. Applicant has Legal Agreements that must handle before the Board can address it.

Matthew McHugh stated that the Board would have a difficult time approving the Appeal Request with the cross-easement issue.

Matthew McHugh stated that the Applicant may want to talk to somebody who handles Real Estate Law about the issues.

Deepak Verna stated that the Township Clerk said to go to Zoning Board and that is why at Meeting. Joann Redding stated that is probably because the Clerk didn't exactly get what you want to do.

Albert Champion asked if February meeting would be enough time?

Joann Redding stated that it is a complicated issue and should ask for a Continuance until March's meeting and go get Legal Advice.

Matthew McHugh stated that it sounds easy what Applicants wants to do but it's not. The entire parcel is complicated, and that Deepak Verna is going to have to get Legal Counsel.

Joann Redding stated to Deepak Verna to get Legal Counsel and then you can present presentation.

Harry Kramer stated that there is also a drainage issue, that some tenants not addressing it.

Joann Redding asked for a Motion for Continuance.

MOTION: Motion made for a Continuance to March Meeting for Hearing for AV Hotels LLC Deepak Verna Appeal # 2019 – 4527.

MOTION MADE BY: Albert Champion

SECONDED BY: Harry Kramer

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 -0

Matthew McHugh stated to Applicant to speak to Legal Counsel and if any questions to contact him.

ITEM 14: HEARING FOR RICHARD AND GAIL RUBIN APPEAL # 2019 – 4574

LOCATION: 3106 Allison Court

TAX PARCEL: 02 -050 – 029

REQUEST: Variance for deck setback to property line.

B-1: Letter to Applicant

B-2: Proof of Posting

B-3: Proof of Publication

A-1: Application and Accompanying Documents

A-2: Certificate of Service

Joann Redding asked the Applicants what it is they want to do?

Richard and Gail Rubin the Applicants were sworn in.

Applicants stated that they built a deck, the backyard is level ground then it slopes off, it's a hazard, it's about a 3-1/2ft. to 4ft. drop they leveled it with dirt topsoil and put up a deck. It has been up for 2 years. We didn't get a permit for it.

Ken Farrall asked if it was a new house?

Applicants stated No.

Applicants stated that there is a Utility easement behind the property.

Applicants stated that they thought that Township did Inspection of the vicinity and that is what triggered it.

Ken Farrall stated the township goes only goes out after a complaint is made.

George Seymour stated that something triggered it, probably a neighbor.

Applicants stated that nobody can see it and that the neighbor behind wrote a letter to support it.

Michael Brill asked if it was about 5ft. from the end of the deck to the easement.

Applicants stated Yes. The original deck was about 13ft. it was doubled.

Ken Farrall stated the procedure is that Owner gets a Building Permit and that Township goes out only after it is completed to see that is correct.

George Seymour asked Applicant if it is safe?

Applicant said Yes, it is safe, and it was built by a contractor.

Albert Champion asked about any Stormwater Issues?

Applicants stated that lattice and stone at end and it absorbs better than before.

Albert Champion stated that it is no different than other properties in the vicinity but that they took initiative.

Joann Redding asked if any Member of the Audience would like to speak for/against the Application.

Natasha Tarampi was sworn in.

Natasha Tarampi is neighbor at 4108 Allison Court.

Natasha Tarampi stated that the Rubins enjoy their backyard and that she supports it but only concern is about the property line. What if she wants to build a fence?

Ken Farrall stated that a 6ft fence is allowed and that it can be put on the property line.

Natasha Tarampi stated that she wasn't aware of that.

Joann Redding stated that maybe could put up a fence and split the cost.

Joanne Redding asked for a Motion to close Testimony.

MOTION: Motion Made to Close Testimony for Hearing for Richard and Gail Rubin Appeal # 2019 – 4574

MOTION MADE BY: Harry Kramer

SECONDED BY: George Seymour

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5-0

MOTION: Motion Made to Approve Variance For Deck Setback To The Property Line for Richard and Gail Rubin Appeal # 2019 - 4574

MOTION MADE BY: Harry Kramer

SECONDED BY: Albert Champion

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5 -0

Matthew McHugh stated that is giving a copy of the Decision to the Applicants.

Item 15: CORRESPONDENCE

ITEM 16: ADJOURNMENT

Joann Redding asked for a Motion to Close the Meeting.

MOTION: Motion Made to Close Meeting.

MOTION MADE BY: Albert Champion

SECONDED BY: George Seymour

VOTES AYES: Joann Redding, Albert Champion, Michael Brill, George Seymour, Harry Kramer

NAYS: None

ABSENT: None

ABSTAIN: None

MOTION CARRIED: 5-0

MEETING IS ADJOURNED.

MINUTES SUBMITTED BY: Donna Sponheimer – Smith

THE MINUTES ARE NOT VERBATIM, THEY'RE A SYNOPSIS OF THE MEETING.

