

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
AUGUST 1, 2013**

The Springettsbury Township Zoning Hearing Board held a regularly scheduled meeting on the above date at the Township offices located at 1501 Mt. Zion Road, York, Pennsylvania 17402.

MEMBERS IN

ATTENDANCE: Dale Achenbach, Chair
James Deitch
John Schmitt
Sande Cunningham
David Seiler

ALSO IN

ATTENDANCE: Trisha Lang, Zoning Officer
Gavin Markey, ZHB Solicitor
Angela Liddick, Director of Community Development
Sue Sipe, Stenographer

NOT PRESENT: Michael Papa
Kevin Hevner

1. CALL TO ORDER

Chairman Achenbach called the meeting to order at 6:00 p.m. He introduced the members of the Board. It was noted that Mr. Seiler would be filling in as a voting member for this meeting. .

Chairman Achenbach led the Pledge of Allegiance.

2. ACTION ON THE MINUTES

A. May 2, 2013

MOTION MADE BY MS. CUNNINGHAM, SECONDED BY MR. SCHMITT TO APPROVE THE MINUTES OF MAY 2, 2013 AS PRESENTED. MOTION UNANIMOUSLY CARRIED.

Chairman Achenbach asked Ms. Liddick if all cases were properly advertised. She responded that notifications had been made.

Chairman Achenbach noted the applicants agreed to the expedited process for presentation.

3. OLD BUSINESS - NONE

4. NEW BUSINESS

A. Case Z-13-07 Pawel & Melanie Ochalski

Pawel & Melanie Ochalski
Don Dale, Dale Building Designs

All witnesses were sworn in.

General Case Summary:

Article XXIX, Permitted Uses Authorized by Special Exception or as a Conditional Use
325-159. Accessory dwelling unit for additional family members.

A. A single-family dwelling unit may be converted by allowing a second kitchen for the incorporation of one additional dwelling unit for a family member in any residence district. For the purposes of this section, the term "incorporation" shall mean either completely within an existing principal building or added to an existing principal building, provided that both dwelling units shall be attached by a common wall, floor or ceiling and not simply by an attached breezeway or porch and shall be contained within one building. For purposes of this article, family members shall include and be restricted to the following:

(1) Grandparent, (2) Parent, (3) Children, (4) Grandchildren.

B. The dwelling in question shall be owner-occupied during the duration of the special exception which shall be renewed on an annual basis.

C. The additional dwelling unit shall be occupied by a family member, no rent shall be charged and under no circumstances shall more than two individuals occupy this unit.

D. The additional dwelling unit shall not exceed 450 square feet of floor area, unless parts of an existing dwelling are otherwise arranged or designed to be transformed into a larger one-bedroom unit. The maximum floor area of the additional dwelling unit shall not be more than 30% of the total floor area of the principal dwelling, excluding basement area.

E. Prior to the issuance of a zoning permit, a certificate in the form of an affidavit to verify that the owner is in residence and that one of the occupants of a particular dwelling unit is a family member shall be presented to the Zoning Hearing Board. Thereafter, the applicant shall submit such notarized affidavit to the Zoning Officer by January 31 of each year as a requirement for the continuance of the special exception.

F. At such time as the owner is no longer in residence or the approved family member is no longer an occupant of the unit, the owner shall immediately notify the Township, and the unit shall be returned to use as a part of the normal single-family home.

Comments: The applicant is requesting a special exception to construct a guest pool house (accessory dwelling unit, by definition), with additional indoor storage area. The foundation for the accessory dwelling already exists, and has since the initial construction of the primary dwelling in 2005. The pool house/storage area is proposed to be 1,000 square feet. This parcel is located in the R-20 zoning district on a 10.1 acre tract.

Mr. Dale stated the applicant is seeking a special exception for an accessory dwelling unit for overnight guests and family members. He provided background regarding the property, noting he designed the original house for another client in 2004. A permit was issued for the construction of the pool house on the property, as well as a man-made pond, a swimming pool and landscaping. Construction began around November 2005 and went through 2006. Included in the permit was a pool house design that was separate from the house. The house was constructed but the pool house was not except for the foundation. Aerial photographs were provided of the property. The swimming pool was not installed. They are seeking a special exception to build that structure on top of the existing foundation including one bedroom and bathroom on the second level of the pool house. They are also requesting an additional 5X 25 ft. concrete covered porch, which is a correction to be made on the application under Item #2 of Section 2.

He noted the packet shows an overall site plan which was approved for permitting an application for the construction of the buildings. The overall site plan shows the guest pool house as well as a close up to give a better perspective of the pool house to the existing house. The next page shows the floor plan of the first floor which includes a storage area of approximately 450 ft. and the pool house area which is approximately 550 ft. This would be an enclosed pool house room with 23 ft. doors on the side that will face the swimming pool and be completely open. The next page shows a close up of the floor plan indicating the doors and the covered patio area attached to the building.

The plan also shows the second floor. Mr. Dale noted under the Ordinance, Article 29, 325-159 Accessory Dwelling Unit, Item D; an additional dwelling unit shall not exceed 450 square feet of floor area. In this plan the bedroom and bathroom area will be 18 x 25 feet which is 450 square feet.

The next several pages show the elevations of the pool house and guest house. The architectural features are designed to match the existing house structure. Mr. Dale stated the guest house will be utilized for overnight guest who visit on weekends.

A question was raised as to whether the SEO was contacted about the septic being large enough to handle the guest house. Mr. Dale noted at the time the Ochalski's purchased the property 13 months ago they had a new septic system put in, designed for 5 bedrooms. It was noted their house has three bedrooms. Mr. Ochalski confirmed the SEO officer provided a final certificate which he could provide.

A lengthy discussion was held as to how the proposed use and the proposed building would fit within the special exception.

Mr. Dale stated when filling out the application he noted the Ordinance allows an accessory dwelling unit, but an accessory building is not defined in the Ordinance which is what the applicant is requesting.

Att. Markey noted that an accessory building is not a permitted use within the R-20 district. He further noted the only allocated use type that would seem to be appropriate for the applicant would be as noted in Section 325-159 which is for family members, but requires attachment to the principal building, and the applicant does not want to attach or join to the primary dwelling.

Ms. Lang stated the applicant is not actually creating a dwelling unit only a bedroom and a bathroom, so technically it would not qualify as an accessory building, however, this would be the closest fit for what the applicant is requesting.

The floor plan shows a sink and a refrigerator – it does not have a stove. It is not a full kitchen.

Attorney Markey stated the plan could be termed a use variance since it is creating a use category for this particular proposal that is not contemplated within the ordinance. He recommended that the applicant request a continuance from the Board in order to revisit each of the specific criteria as referenced by the Zoning Officer to determine what could be changed or revised to alleviate concerns raised by not being able to match the criteria; then consider possible conditions to present to the ZHB to potentially be imposed on an approval.

Mr. Dale requested a continuance until the next meeting.

MR. DEITCH MOVED IN THE CASE OF Z-13-07 TO GRANT A CONTINUANCE UNTIL THE SEPTEMBER MEETING. SECONDED BY MR. SEILER. MOTION UNANIMOUSLY PASSED.

B. Case Z-13-08 – Christen & Alex Hinderer

Christen Hinderer

Alex Hinderer

Witnesses were sworn in.

General Case Summary:

Article XXVI, Supplemental Regulations.

325-121. Fences.

- A. Fences may be erected, altered and maintained within the yards, provided any such fence or wall shall not exceed four feet in height.
- D. A fence may be erected higher than four feet in the following instances:

(1) A fence six feet in height is permitted on the rear and/or side property line of residential parcels.

Comments: The applicant is requesting a variance in order install a six (6) foot fence on their property. This property is situated on the corner of Forrest Lane/Cortleigh Drive. Both sides of the parcel that have frontage on a street are considered to be front yards, by definition of the zoning ordinance. This would only permit a fence up to four (4) feet in height. The fence, as requested, would be set back approximately five (5) feet from the public ROW line, as to not interfere with an electrical box that is also located on the property. Similar variances have been granted in the vicinity of this neighborhood.

The property is located at 2990 Forrest Lane. Mrs. Hinderer stated they are filing a variance to erect a six foot fence around their property. She indicated the busyness of the neighborhood creates a hazard with their three small children playing outside. They are also unable to leave their dog out without a leash. For the safety of the children they are requesting this fence. A smaller fence which previously existed was torn down when the former owners moved out. Mrs. Hinderer stated she has spoken to all the neighbors and they do not have a problem with it.

The property is a corner lot considered to have two front yards. The yard on Cortleigh approved for a 4 foot fence is the one they are asking to be a six foot fence. Mrs. Hinderer stated two fencing companies measured from center of the road and confirmed the setback is 5 feet. She noted there is an electrical box at that location so they want to keep it outside of the fence. There are also trees in that vicinity to be enclosed by the fence. The fence would be in their back yard, not around the entire property. This would be a white solid fence.

Ms. Lang stated that the area that they want to fence does not go around the entire property and does not come towards the corner so it would not cause a visual conflict with the clear sight line. It was noted there is similar 6 foot fence on another corner in the neighborhood.

Chairman Achenbach asked if there was anyone in attendance who wished to speak for or against the applicant.

Attorney Markey determined the facts are in order as stated by the applicant and the Township aided them in that regard.

MS. CUNNINGHAM MOVED IN THE CASE OF Z-13-08 TO GRANT THE VARIANCE FOR THE FENCE TO BE 6 FT. HIGH AS DEPICTED IN THEIR APPLICATION. SECONDED BY MR. SEILER. MOTION UNANIMOUSLY PASSED.

5. ADJOURNMENT

Chairman Achenbach adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Secretary

/ses