

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
FEBRUARY 3, 2022**

MEMBERS IN

ATTENDANCE: Dale Achenbach, Chairman
David Seiler, Vice Chairman
Sande Cunningham, Secretary
Chris Shuttlesworth (Zoom)
Mark Bair
Stacey Ankrum, Alternate

ALSO IN

ATTENDANCE: Timothy Holmes, Incoming Zoning Officer
John Luciani, Township Engineer
Gavin Markey, Solicitor
Abby Gibb, Communications Manager
Sue Sipe, Stenographer

1. CALL TO ORDER:

A. Pledge of Allegiance

Chairman Achenbach called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance. He introduced the members of the Board.

2. ACTION ON THE MINUTES

A. DECEMBER 2, 2021

MR. SEILER MOVED FOR APPROVAL OF THE DECEMBER 2, 2021 ZONING HEARING BOARD MINUTES AS PRESENTED. MR. BAIR SECONDED. MOTION UNANIMOUSLY CARRIED.

Chairman Achenbach asked if the cases were properly advertised. Mr. Luciani responded that notifications had been made.

3. REORGANIZATION

MS. CUNNINGHAM MOVED TO RECOMMEND APPOINTMENT OF THE FOLLOWING SLATE OF OFFICERS FOR 2022:

Dale Achenbach, Chairman
David Seiler, Vice Chairman
Sande Cunningham, Secretary

SECONDED BY MR. BAIR. MOTION UNANIMOUSLY PASSED.

4. OLD BUSINESS

Case Zone-2021-0012 – Susan Barnett - 51 Jean Lo Way

Solicitor Markey stated this case is a continuation from the December 2 meeting. The applicant is requesting a zoning variance to allow a reduced rear yard setback minimum for a proposed deck in the R-20 Zoning District. Due to an issue with the homeowner's association, the applicant is requesting a continuance until the March 3, 2022 meeting. Solicitor Markey indicated the applicant has assured they are waiving any time restrictions under the MPC.

MR. SEILER MOVED IN THE CASE OF ZONE 2021-0012 TO CONTINUE THE CASE UNTIL MARCH 3, 2022. SECONDED BY MR. BAIR. MOTION UNANIMOUSLY PASSED.

Case Zone 2021-0016 – Angelise Collazo - 2580 Eastern Blvd.

Solicitor Markey stated the case has originated from the Certificate of Occupancy which has seven conditions placed on the property for the owner's operation. The owner has filed an appeal of the Certificate of Occupancy to the Board. Solicitor Markey indicated they have been working with the applicant and her attorney to construct a stipulated agreement to expedite the case. They have narrowed it down to one contested condition and both the attorney representing Ms. Collazo as well as the Township solicitor requested to have their case continued until March 3, 2022.

MR. BAIR MOVED IN THE CASE OF ZONE 2021-0016 TO CONTINUE THE CASE UNTIL MARCH 3, 2022. SECONDED BY MR. SEILER. MOTION UNANIMOUSLY PASSED.

5. NEW BUSINESS

Case Zone 2022-0001 – SAIA Motor Freight line, LLC – 1550 Whiteford Road

Bryan Klement, HF Lenzs Company, Consulting Engineers

All witnesses were sworn in.

Mr. Luciani indicated this case is a variance application for the location at 1550 Whiteford Road. He noted this parcel is across the roadway from LCBC Church. It was previously a truck terminal which has been vacant for more than three years. Mr. Luciani pointed out the ordinance states when a non-conforming business has ceased being used for a year or more it is no longer viable. Since the former truck terminal was vacated, PennDOT constructed a concrete median to prevent vehicles exiting driveways on the west side of North Hills Road from making left turns in or out of those facilities. Also the driveways on the east side are right in, right out. This was done in the interest of traffic safety. Mr. Luciani indicated since that time this area has been designated as a flexible development district, which does not include truck terminals. He indicated the applicant is requesting a zoning variance in order to use the lot in the flexible development zone as a truck terminal. Mr. Luciani stated the adjoining property owners have been notified and a sign has been posted on the site indicating there is an application for zoning relief.

Mr. Klement stated his company is the consulting engineer on behalf of the proposed developer and purchaser of the property which is SAIA Motor Freight. He noted the site is 5.96 acres. They are requesting a variance to utilize the parcel as a trucking terminal. He indicated the current F-D zoning district indicates a truck terminal is not a permitted use, however, a previous variance had been granted to the property owner to operate as a truck terminal. Since the site has been vacant for more than a year, the zoning variance is null and void. Mr. Klement indicated they are requesting a variance to use the property based on the fact it was previously granted a variance to use the trucking facility.

Solicitor Markey stated for clarification originally the request had been stated as a request for rezoning. Mr. Klement stated that was an error in their cover letter – they are not asking for a zoning change, only a zoning variance.

Mr. Luciani asked what access from the site would trucks use to enter and exit, noting the roads bounding the property are North Hills Road and Route 30, as well as Whiteford Road.

Mr. Klement stated at this time he was unsure, but speculated since the entrance on North Hills Road is only a right out that would be inconvenient, and he anticipated the usage would be to enter Whiteford Road to access Route 30.

Mr. Luciani asked if building improvements would be done as part of the re-occupation of the site. Mr. Klement responded they are not far enough into the process to determine the scope of renovation both to the building as well as the site.

Solicitor Markey stated improvements to the site would trigger a land development plan and a traffic impact study would be determined given the location of the property at the intersection. He also indicated in determining the use variance, the applicant is asking to utilize the property in a fashion that is not allocated within the F-D zoning district. He noted the law requires when requesting a use variance, it must be demonstrated the property cannot be used for a permitted purpose. Solicitor Markey stated there are a number of items that weigh in favor of ameliorating that burden of proof which weigh in favor of the use variance, the pre-existing non-conforming nature of that property although abandoned it was previously a trucking terminal. He acknowledged the site lends itself to that type of use. He noted should the applicant not obtain a use variance, they have other options available to them, i.e., they could do a text amendment to try and incorporate a trucking terminal into that zone, or they could request a rezoning to a G-I, pending how that would affect surrounding zones.

Ms. Cunningham asked if the applicant was planning to keep the terminal as is. Mr. Klement stated he anticipated they would be renovating it, however, there are no plans to change the orientation.

Discussion was held regarding truck turning movements into and out of the site.

Mr. Bair asked how many trucks are anticipated to go through the facility. Mr. Klement stated currently the plans are for a 40-truck bay terminal.

Mr. Bair asked to clarify the manner in which the trucks would head west either on North Hills Road or out Whiteford Road.

Mr. Klement stated probably Whiteford Road, however, that will be determined through the land development process.

Concern was expressed about truck traffic going through Whiteford Road which is a residential neighborhood. Mr. Klement stated there would be no need for truck traffic to proceed down Whiteford Road. It was noted the trucks would make a right turn onto Route 30.

Solicitor Markey stated it would be appropriate to establish the method of egress and ingress of the truck traffic in order to make a determination on the use variance request in terms of any adverse impact to public safety, health and welfare. He maintained an option for the applicant would be to obtain additional information on the planned egress and ingress, traffic impact as well as the proposed site plan developments for the land development aspects.

Mr. Klement asked for a 30-day continuance in order to consult with his client to provide additional information.

MR. BAIR MOVED IN THE CASE OF ZONE 2022-0001 TO CONTINUE THE CASE UNTIL MARCH 3, 2022. SECONDED BY MR. SEILER. MOTION UNANIMOUSLY PASSED.

Case Zone 2022-0002 – Jennifer Koller – 2115 Eden Road

Sadie Koller

Steven Koller

All witnesses were sworn in.

Mr. Luciani indicated the applicant is requesting an appeal from the zoning officer's determination of a violation of the property owner harboring chickens which are not permitted in the R-7 zoning district. He pointed out the location of the home on the map.

Ms. Koller indicated she is Mr. Koller's daughter and is the owner of the chickens. Mr. Koller explained five chickens were purchased by Ms. Koller's boyfriend for his daughter. Because the boyfriend had to move, the chickens were relocated to their home. Ms. Koller in researching the Springettsbury Township regulations, saw six or less chickens were allowed but no roosters, not realizing they were not permitted in the R-7 zoning district where she resides. She donated the two roosters to a farmer, believing she was now in compliance. Mr. Koller indicated the chickens are family pets. He noted none of their neighbors have voiced any complaints. Mr. Koller stated a temporary fence was erected due to wildlife in the area. The neighbor behind their property owns a 5-acre property which is farmland and woods. The fence can be removed at night to allow deer to go through their property. On the one side of their property is a creek with woods which is a natural barrier.

Ms. Koller presented 30 photos showing the chickens in their environment. She noted she is a full-time college student and works part-time at Target. She stated she designed her schedule around the care of the chickens and spends much of her time at home with them. She indicated their names are Malachi, Hennessey which are Plymouth Rock chickens and Arrow which is a Plymouth Blue Rock chicken. She pointed out the chicken coop on the photos which she purchased from Tractor Supply which is built for

six chickens. There are three nesting boxes. The coop is insulated to maintain a warm environment. She asserted they have plenty of space in their yard and are out 5 hours a day.

Mr. Bair commended Ms. Koller on her presentation, acknowledging her excellent job. He asked if she would be willing to erect a permanent fence so the neighbors have the assurance that the chickens would not enter their property.

Mr. Koller stated they would purchase a larger run for them. He noted as the property owner additional chickens would not be purchased as the chickens expire.

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

All witnesses were sworn in.

Joe Herman – 460 Paradise Road

Mr. Herman stated he lives across the street and has no problem with the chickens and indicated his support. He agreed with the permanent structure.

Kathleen Herman – 460 Paradise Road

Mrs. Herman agreed with Mr. Herman's comments.

Darren Zimmer – 2125 Paradise Road

Mr. Zimmer stated he lives two houses west. He agreed with the favorable comments and noted he sees more wildlife that run through the properties, including deer and wild turkeys. He indicated he was in support of the chickens.

Solicitor Markey stated decisions made on previous recent cases involving chickens included imposing conditions. He indicated if the Board is inclined to allow the family to keep the chickens, a motion would be necessary to overrule the zoning officer's determination based on the fact the zoning ordinance creates an ambiguity which needs to be resolved in favor of the property owner and against any implied extension of that restriction. He recommended the following conditions:

- All areas used for grazing or exercising the chickens shall be securely fenced in terms of expansion of the run.
- All animals except for pasturing, exercising or grazing shall be housed in a building erected or maintained for sheltering the animals.
- The accumulation and storage of odor producing substances shall not be permitted.
- No more than three chickens and no roosters shall be allowed to be reduced to zero when they naturally expire.

MR. BAIR MOVED IN THE CASE OF ZONE 2022-0002 TO SUSTAIN THE APPLICANT'S APPEAL SUBJECT TO THE FOLLOWING CONDITIONS AS IDENTIFIED BY SOLICITOR MARKEY:

- **ALL AREAS USED FOR GRAZING OR EXERCISING THE CHICKENS SHALL BE SECURELY FENCED IN TERMS OF EXPANSION OF THE RUN.**
- **ALL ANIMALS EXCEPT FOR PASTURING, EXERCISING OR GRAZING SHALL BE HOUSED IN A BUILDING ERECTED OR MAINTAINED FOR SHELTERING THE ANIMALS.**
- **THE ACCUMULATION AND STORAGE OF ODOR PRODUCING SUBSTANCES SHALL NOT BE PERMITTED.**
- **NO MORE THAN THREE CHICKENS AND NO ROOSTERS SHALL BE ALLOWED TO BE REDUCED TO ZERO WHEN THEY NATURALLY EXPIRE.**

SECONDED BY MR. SEILER. MOTION UNANIMOUSLY PASSED.

5. ADJOURNMENT

CHAIRMAN ACHENBACH ADJOURNED THE MEETING AT 7:07 P.M.

Respectfully submitted,

Secretary
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