

YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313
Phone (717)741-3861 Fax (717)741-5009

The October meeting of the York Township Zoning Hearing Board was called to order by John Myers, Chair.

Those in attendance were:

John Myers, Chair
James Barnes, Vice Chair
William Descar, Secretary
Glenn Myers, Asst. Secretary
Anthony Pantano, Member
Kathleen Cronin, Member
Jeffrey Rehmeier, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF SEPTEMBER 22, 2020

The Zoning Hearing Board minutes of the September 22, 2020, meeting were approved.

DECISIONS OF SEPTEMBER 22, 2020

The Zoning Hearing Board decisions of the September 22, 2020, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2020-23: Amy and Chris Kirby request a Special Exception to construct a fence higher than 3' in a front yard on property located at 151 Kreidler Avenue in a Residential Low Density (RL) District.

Present: Amy Kirby

MOTION: On Application 2020-23, Amy and Chris

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077

York Township Zoning Hearing Board
Tuesday, October 27, 2020
Page 2

Kirby request a Special Exception to construct a fence higher than 3' in a front yard on property located at 151 Kreidler Avenue in a Residential Low Density (RL) District, that the application be approved.

MOTION MADE BY: James Barnes
SECONDED BY: Glenn Myers
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2020-23
Hearing Date: October 27, 2020
Applicant: Amy and Chris Kirby
Property Owner: Amy and Chris Kirby
Property: 151 Kreidler Avenue
UPI: #54-000-50-0004-00-00000
Existing Zoning District: Residential Low Density (RL)

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-513 thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. Amy Kirby was present representing herself as the Applicant.
3. The Applicant is seeking a Special Exception to install a fence (the "Fence"), portions of which shall be on areas of the Property that are adjacent to May Apple Drive and Kreidler Avenue. Thus, approval is necessary because those portions of the Property are considered front setbacks and the Fence, in those locations is subject to a height restriction (with such approval being the "Special Exception").
4. The Applicant provided, as part of the Application materials, a Plot Plan and testified as follows:
 - a. The Applicant and her family recently moved into the home on this Property, having resided there only about one month.
 - b. The Applicant owns a dog that has loose twice, and she wants to install the Fence to contain the dog.
 - c. Applicant believes the Fence will keep the dog from seeing and barking at other dogs in neighborhood.
 - d. The Applicant also has a child that is two years old, and she wants the Fence to provide privacy.
 - e. The Fence will not affect adjacent properties.
 - f. The Fence would be similar to the other fences at homes on the street.
 - g. A portion of the Fence will be shielded from the streets and adjoining property by existing trees and bushes along the perimeter of the Property.
5. After the testimony provided by the Applicant, the Zoning Hearing Board asked questions of the Applicant to elicit the following additional testimony:
 - a. The Fence is proposed to be six feet in height at all locations.

- b. The Fence will be made of vinyl and white in color.
 - c. Based upon the Plot Plan, the Fence will connect at the back edge of the garage, run approximately 25 feet along the rear of the driveway and mulch landscaping, and go North towards May Apple Drive. The Fence will end approximately 40 feet from the centerline of that Drive. The Fence will then go West along May Apple Drive towards the rear of the Property. The Fence will then come back across the rear of the Property to the South. The Fence will end approximately 10 feet or more from the property lines. The Fence will then go East along the side of the Property, to a point near the rear of the house. The Fence will then go North towards the house. The Fence will then connect to the house.
6. With regard to the specific criteria with regard to a fence in Section 265-513, the following was offered:
- a. The Fence height will not be excessive, nor will it surround a tennis court.
 - b. The Fence shall not be constructed within the public right-of-way or within a required clear site triangle.
 - c. A finished side of the Fence shall face public right-of-way.
 - d. There shall be no barbed wire or similar type wire utilized.
 - e. The Fence shall not be electrically charged.
 - f. The Fence shall not be located on any property line or right-of-way line, but inside thereof.
 - g. The Fence shall not obstruct drainage.
7. In response to the General Standards for a Special Exception in Section 265-1009, the following was provided:
- a. The intended purpose of the proposed Fence shall be consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Fence shall be in the best interest of properties in the general area, as well as the community at large, when viewing the proposed Fence in relationship to and its potential effects upon surrounding land uses and existing environmental conditions regarding the pollution of air, land and water, noise, potential of hazards and congestion, illumination and glare, restrictions to natural light and circulation.
 - c. The proposed Fence is suitable for the Property in question and is designed, constructed and will be operated and maintained suitably for the anticipated activity and population served, numbers of participating population, frequency of use, adequacy of space and generation of traffic.
 - d. There are adequate and available utility services and facilities, such as sanitary and storm sewers, water, fire, police and other public facilities and the ability of the Township to supply such services.
 - e. The proposed Fence and Property has adequate ingress, egress, interior circulation of pedestrians and vehicles, off-street parking and accessibility to the existing Township street system.
 - f. The Fence shall be in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Township's Subdivision and Land Development Ordinance.
8. There were no questions from any public participants.
9. There was testimony from a public participant, Dani Geppi Patras of 135 Kreidler Avenue, a neighbor, in favor of the Fence due to safety concerns.
10. There was testimony from public participants against the Special Exception and Applicant as follows:

- a. Dennis Heinle of 2295 May Apple Drive, neighbor, opposes the Fence because of the recorded Protective Covenants for the Spangler Meadows development, within which Applicant's Property is located, that run with the land and do not allow for construction of fences without approval from the developer. The York Township Zoning Hearing Board Solicitor explained to Mr. Heinle that the Zoning Hearing Board is not bound by, may not consider and lacks the power to enforce the Protective Covenants in its decision. The Solicitor additionally explained that if Mr. Heinle wished to proceed in enforcing the Protective Covenants, he would need to do so personally.
 - b. Greg Bentley of 2240 May Apple Drive, an adjacent property owner to Applicant, opposes the Fence because he is concerned about the line of sight being impaired. Additionally, Mr. Bentley is only aware of one other fence in the neighborhood like the one proposed by the Applicant, and he has not heard Applicant's dog bark.
11. The Zoning Officer read an opposition letter (the "Morgan Letter") received from Kevin and Tarisa Morgan of 143 Kreidler Avenue, who are adjacent property owners to the Applicant. The Morgan Letter was read in lieu of their testimony as public participants because of their potential inability to attend the meeting for health reasons due to the COVID-19 pandemic. The Morgan Letter expressed opposition for the Fence on the basis that the proposed Fence on the Property could cause increased safety issues in an area that currently has high traffic volumes, a bus stop, and accidents. Additionally, the Morgan Letter raised opposition to the proposed Fence on the basis that they are concerned it will allow the Applicant's dog to be outside barking more and increase disruptions, that they have already experienced without the Fence, to the Morgan's working and attending school at home.
 12. The Zoning Officer expressed no concerns with regard to the Fence on behalf of the Township.

CONCLUSIONS OF LAW


Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

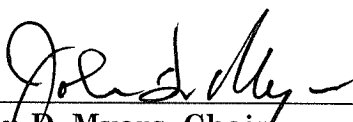
1. The Applicant has met the specific criteria for the Fence in Section 265-513.
2. The Applicant has met the general criteria for a Special Exception in Section 265-1009(C).

Accordingly, Jim Barnes moved, and Glenn Myers seconded, to grant the Special Exception to construct a fence higher than three feet in a front yard on the Property located at 151 Kreidler Avenue in a Residential Low Density (RL) District. The motion passed unanimously with John D. Myers, Glenn Myers, William Descar, Jim Barnes, and Kathleen A. Cronin voting in favor of the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD


William Descar, Secretary

By: 
John D. Myers, Chair

03/23/2021
Date

The Special Exception granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Special Exception, pursuant to Section 265-1009. E. of the Ordinance.