

YORK TOWNSHIP

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

The April meeting of the York Township Zoning Hearing Board was called to order by James Barnes, Chair.

Those in attendance were:

James Barnes, Chair
John Myers, Vice Chair
Anthony Pantano, Asst. Secretary
Timothy Salvatore, Member
George Cronin, Member
Jeffrey Rehmeyer, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF MARCH 23, 2021

The Zoning Hearing Board minutes of the March 23, 2021, meeting were approved.

DECISIONS OF MARCH 23, 2021

The Zoning Hearing Board decisions of the March 23, 2021, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES, APPEALS

Applications 2021-04 and 2021-05: Dairyland One LLC requests two (2) Variances, 1) from road frontage, lot width and setback requirements and, 2) reduction in required on-site parking on property located at Dairyland Square Shopping Center, Red Lion, PA, in a Commercial Industrial (CI) District.

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

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MOTION: On Applications 2021-04 and 2021-05: Dairyland One LLC requests two (2) Variances, 1) from road frontage, lot width and setback requirements and, 2) reduction in required on-site parking on property located at Dairyland Square Shopping Center, Red Lion, PA, in a Commercial Industrial (CI) District, that a request for a continuance be approved.

MOTION MADE BY: Timothy Salvatore
SECONDED BY: John Myers
MOTION PASSED UNANIMOUSLY

Application 2021-03, Daniel and Melanie Hanley request a Special Exception to construct a fence higher than 3' in a front yard area on property located at 3040 Raylight Drive, York, PA, in a Residential Medium Density (RM) District.

Present: Melanie Hanley

MOTION: On Application 2021-03, Daniel and Melanie Hanley request a Special Exception to construct a fence higher than 3' in a front yard area on property located at 3040 Raylight Drive, York, PA, in a Residential Medium Density (RM) District, that the application be approved.

MOTION MADE BY: Timothy Salvatore
SECONDED BY: John Myers
MOTION PASSED UNANIMOUSLY

Application 2021-06: Corey Ruth requests a Special Exception to construct a fence higher than 3' in a front yard area on property located at 2375 Sutton Road, York, PA, in a Residential Low Density (RL) District.

Present: Corey Ruth


MOTION: On Application 2021-06, Corey Ruth requests a Special Exception to construct a fence higher than 3' in a front yard area on property located at 2375 Sutton Road, York, PA, in a

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Residential Low Density (RL) District, that the application be approved.

MOTION MADE BY: Anthony Pantano
SECONDED BY: John Myers
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2021-06
Hearing Date: April 27, 2021
Applicant: Corey M. Ruth
Property Owner: Corey M. Ruth
Property: 2375 Sutton Road
UPI: #54-000-11-0131-00-0000
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 witness, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. Corey Ruth was present representing himself 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 Baldsmere Drive.
4. Thus, approval of a Special Exception is necessary because that portion of the Property is considered to be subject to a front set-back and the Fence, in that location, is subject to a height restriction of 3 feet, unless a Special Exception is granted (with such approval being the "Special Exception").
5. The Applicant provided, the Application materials, an electronic drawing of the Fence (completed by the Applicant), 7 color photographs of the Property, depicting Property line issues and the interior of the Property, and 1 color photograph of the style of the Fence.
6. The Applicant testified as follows:
 - a. The Applicant wants to place the Fence in the yard of the Property and the Fence will be 5 feet tall.
 - b. The Applicant desires to build the Fence to create a play area that will be safe for children and pets.
 - c. The Applicant may also build a pool in the yard, and the Fence would help create a safe space for the pool.
 - d. The Fence will be picket style, not privacy style, black in color, aluminum in material, and finished on both sides.
 - e. The Fence will not affect traffic.
 - f. The Applicant purchased the Property in January of 2021 and was unaware that the prior owner subdivided a parcel from the Property before selling to the

Applicant. This has created an issues with yard as the Applicant's Property only extends 10 feet from the Western side of the house.

7. The Applicant provided additional testimony as follows:
 - a. There is a partial existing privacy fence that is located on the Northeastern corner of the house.
 - b. Based upon the drawing and testimony provided, the Fence will connect to the Western edge of the house and go approximately 8 feet towards the Property line stopping approximately 2 feet from the Property line, following which the Fence will run parallel to the Property line approximately 75 feet to the Northwestern corner of the Property. The Fence will then go East approximately 100-110 feet towards Baldsmere Drive. The Fence will then run parallel to Baldsmere Drive approximately 75-80 feet stopping at the driveway, with this run of the Fence being approximately 25 feet from the center line of Baldsmere Drive. The Fence will then run parallel to the driveway approximately 25 feet and then connect with the existing privacy fence on the Northeastern corner of the house.
8. 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.
9. 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.

10. There was both questions and testimony from a public participant against the Special Exception and Applicant. John Wagman of 2400 Sutton Road, a neighbor, claimed party status and expressed concerns with allowing the Fence and that he had not heard the Applicant show a hardship and it was his understanding that a hardship needs to be proved for the Application to be granted.
11. Chairman James Barnes addressed Mr. Wagman's questions and testimony explaining the difference between a Special Exception (applicable here) and a Variance which requires a hardship and why a Variance is not applicable to this Applicant under the Ordinance.
12. There was no testimony for the Application.
13. The Township Zoning Officer expressed no concerns with regard to the Fence.

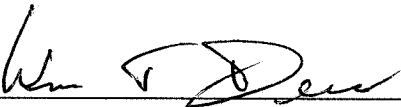
CONCLUSIONS OF LAW

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).

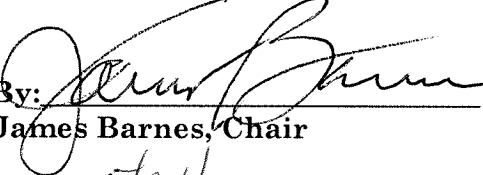
Accordingly, Anthony Pantano moved, and George Cronin seconded, to grant the Special Exception to construct a Fence higher than 3 feet in a front yard on the Property located at 2375 Sutton Road in a Residential Low Density (RL) District. The motion passed unanimously with Jim Barnes, John D. Myers, Glenn Myers, Tim Salvatore, Anthony Pantano and George Cronin voting in favor of the motion.

WITNESS/ATTEST



 William Descar, Secretary

YORK TOWNSHIP
 ZONING HEARING BOARD

By: 

 James Barnes, Chair
 5/24/01

 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.

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2021-03
Hearing Date: April 27, 2021
Applicant: Daniel and Melanie Hanley
Property Owner: Daniel and Melanie Hanley
Property: 304 Raylight Drive
UPI: #54-000-16-0174-00-0000
Existing Zoning District: Residential Medium Density (RM)

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 witness, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. Melanie Hanley 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 Daylight Drive.
4. Thus, approval of a Special Exception is necessary because that portion of the Property is considered to be subject to a front set-back and the Fence, in that location, is subject to a height restriction of 3 feet, unless a Special Exception is granted (with such approval being the "Special Exception").
5. The Applicant provided, the Application materials, an electronic drawing of the Fence (completed by the Applicant) and 5 color photographs of the Property.
6. The Applicant testified as follows:
 - a. The Applicant wants to place the Fence in the backyard of the Property and the Fence will be 4 feet tall.
 - b. The Applicant has a 2 year old child and plans to get a pet, and the Applicant desires to build the Fence to keep the child and pet safe.
 - c. The Fence will be white in color, vinyl in material, and finished on both sides.
 - d. The Fence will be similar to other fences in the development, and the Applicant feels the Fence will fit the character of the neighborhood.
7. The Applicant provided additional testimony as follows:
 - a. There is a partial existing fence that is 6 feet high on the Southeastern corner of the Property.
 - b. Based upon the drawing and testimony provided, the Fence will connect to the edge of the house and go approximately 30 feet towards Daylight Drive stopping approximately 26 feet from the center line of Daylight Drive, following

which the Fence will run parallel to Daylight Drive approximately 64 feet to the Northwestern corner of the Property. The Fence will then go Northeast approximately 113 feet to the Northeastern corner of the Property, with this run of the Fence being approximately 12-15 feet from the Property line. The Fence will then go approximately 64 feet to the South and connect with the existing 6 foot white vinyl fence on the Southeastern portion of the Property, with this run of the Fence being approximately 4p feet from the Property line.

8. 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.
9. 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.
10. There were no questions from any public participants.
11. There was no testimony for or against the Application.
12. The Township Zoning Officer expressed no concerns with regard to the Fence.

CONCLUSIONS OF LAW

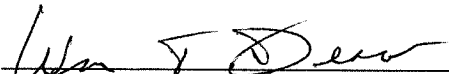
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Applicant has met the specific criteria for the Fence in Section 265-513.

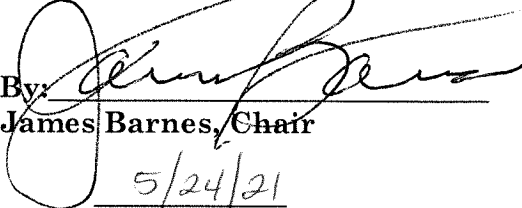
2. The Applicant has met the general criteria for a Special Exception in Section 265-1009(C).

Accordingly, Tim Salvatore moved, and John D. Myers seconded, to grant the Special Exception to construct a Fence higher than 3 feet in a front yard on the Property located at 304 Raylight Drive in a Residential Medium Density (RM) District. The motion passed unanimously with Jim Barnes, John D. Myers, Glenn Myers, Tim Salvatore, Anthony Pantano and George Cronin voting in favor of the motion.

WITNESS/ATTEST


William Descar, Secretary

YORK TOWNSHIP
ZONING HEARING BOARD

By: 
James Barnes, Chair
5/24/21
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.