

YORK TOWNSHIP

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

York Township Zoning Hearing Board
March 22, 2016
6:00 p.m.

The March meeting of the York Township Zoning Hearing Board was called to order by Glenn Myers, Chairman.

Those in attendance were:

Glenn Myers, Chair
John D. Myers, Vice Chair
William Descar, Secretary
David Fishel, Asst. Secretary
Timothy Salvatore, Member
James Barnes, Alternate Member
Kathleen Cronin, Alternate Member
Jeffrey Rehmeyer, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF FEBRUARY 23, 2016

The Zoning Hearing Board minutes of the February 23, 2016, meeting were approved.

DECISIONS OF FEBRUARY 23, 2016

The Zoning Hearing Board decisions of the February 23, 2016, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Appl.2016-03: Gerry E. and Randi B. McCullough request a Variance to construct an accessory structure (shed) in a front yard area on property located at 2668 Vireo Road in a

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

York Township Zoning Hearing Board
 Tuesday, March 22, 2016
 Page 2

Residential Agricultural (RA) District

Present: Gerry E. McCullough
 Randi B. McCullough

MOTION: On Application 2016-03, Gerry E. and Randi B. McCullough request a Variance to construct an accessory structure (shed) in a front yard area on property located at 2668 Vireo Road in a Residential Agricultural (RA) District, that the application be approved.

MOTION MADE BY: David Fishel
 SECONDED BY: Timothy Salvatore
 MOTION PASSED 4-1 - Kathleen Cronin voted negatively, Glenn Myers recused himself.

Appl.2016-04: Jason L. and Julie F. Sekeres request a Special Exception to establish a Home Occupation (salon) on property located at 890 Cape Horn Road in a Mixed Residential Commercial (MRC) District.

Present: Kurt Blake, Esquire
 Jason Sekeres
 Julie Sekeres

MOTION: On Application 2016-04, Jason L. and Julie F. Sekeres request a Special Exception to establish a Home Occupation (salon) on property located at 890 Cape Horn Road in a Mixed Residential Commercial (MRC) District, that the application be approved.

MOTION MADE BY: William Descar
 SECONDED BY: John Myers
 MOTION PASSED UNANIMOUSLY

ATTEST:



 William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2016-03
Hearing Date: March 22, 2016
Applicant: Gerry E. and Randi B. McCullough
Property Owner: Gerry E. and Randi B. McCullough
Property: 2668 Vireo Road
UPI: 54-000-36-0005-00000
Existing Zoning District: Residential Agricultural Zone (RA)

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-404.D.1.d. 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. The Applicants were present and represented themselves.
3. At the commencement of the hearing, Mr. Glenn Myers noted that he has done some work with Mr. McCullough in the construction industry previously, believes he has a conflict of interest, and therefore recused himself. It was determined that Mrs. Cronin would hear the Application in his place and vote on the Decision.
4. Mr. McCullough provided information and testimony as follows:
 - a. The Applicants have owned their home for 38 years.
 - b. The Applicants sought certain zoning approvals for the construction of a swimming pool years ago.
 - c. The Property is a corner lot, on Vireo Road and McKinley Drive.
 - d. While the mailing address is on Vireo Road, the front of the home faces McKinley Drive.
 - e. The Applicants would like to install a pre-built accessory structure, namely, a shed, in conjunction with the existing swimming pool (the "Shed").
 - f. The Shed will be 12 feet by 20 feet in dimension.
 - g. The Shed will serve as a location to store equipment and supplies for the swimming pool.
 - h. Mr. McCullough has had three hip and knee replacements and accordingly, the placement of pool equipment and supplies closer to the pool will allow continued use of it.
 - i. The Shed would be placed on the existing driveway, upon the existing 12 feet by 20 feet turnaround.

- j. The placement of the Shed would essentially fill-in the corner of the rectangular, fenced area that surrounds the pool.
 - k. The Shed would not be any closer to Vireo Road than the existing, previously approved fence.
 - l. Mr. McCullough presented a photograph of the proposed Shed and a rendering of the Shed when placed in conjunction with the fence
5. In support of the Variance, Mr. McCullough offered certain information about the Property as follows:
 - a. There is a drainage area behind the home and beside the pool that would preclude placing the Shed on the far side of the pool away from Vireo Road.
 - b. The Applicants did provide prior approval documentation relative to those sewage facilities.
 - c. The yard area slopes away from the fence in all locations.
 - d. There are a number of trees that would interfere with the placement of the Shed at various locations around the fence.
 - e. There is a propane tank beside the tank, opposite the location of the home.
6. In response to the criteria for the Variance, the Applicants offered the following:
 - a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, including the slope of the lot, the long-standing growth of trees and shrubbery, and such unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provision of this chapter in the neighborhood or district in which the Property is located.
 - b. Because of such physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the provisions of this Chapter and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, and more specifically, the swimming pool by the Applicants as long-standing residents in their home.
 - c. The unnecessary hardship is not being created by the Applicants.
 - d. The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the Property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare, as the Shed will be placed at a location that allows it to fit nicely with the existing fence, along the front yard on the Property that is at the side of the house facing Vireo Road. The Shed will encroach no further in the set-back than the previously authorized fence.
 - e. The Variance, if authorized, does represent the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.
7. With regard to prior approval for the pool, the Solicitor noted that Application 1997-8 involved the Applicants' request for a Variance to construct a swimming pool that would encroach on the front set-back (the "1997 Variance") and a Special Exception for a fence that would exceed three feet in the area bounded by the street on the Property (the "1997 Special Exception"). The 1997 Variance and 1997 Special Exception may be referred to collectively as the "1997 Zoning Relief".
8. The 1997 Zoning Relief was granted following a Motion, second and unanimous vote of the 1997 Zoning Hearing Board in support thereof.
9. There were no questions from attendees for the Applicants.
10. There was no testimony for or against the Applicants from any attendees.
11. The Zoning Officer indicated that she received two calls from neighbors, but neither of them voiced any concern or objection.

CONCLUSIONS OF LAW

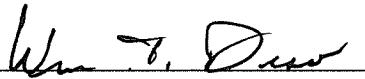
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

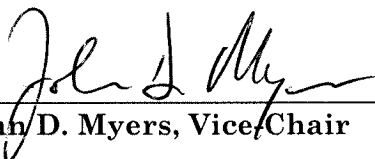
1. It was very significant to the Board that the Applicants sought, and received the 1997 Zoning Relief. The Board interpreted such Decisions, made unanimously, to indicate that the criteria for both the Variance and Special Exception were met at that time. The prior grant of such relief by the Zoning Hearing Board is significant to this Decision.
2. The Board believes that the Applicants have met the general criteria for the Variance.
3. It is significant to the Board that the Applicants are long-standing residents of their Property and need the Variance for the Shed to enable their continued use of their swimming pool for both enjoyment and health.
4. The size of the Shed, and its placement on the existing driveway turnaround such that it will encroach no further into the set-back than the fence that has been in place for decades is also a basis for relief. The placement of the Shed in such a way that is no closer to Vireo Road than the existing fence shall be considered a "Condition" and prerequisite for zoning relief per this Decision.

Accordingly, David N. Fishel moved, and Timothy Salvatore seconded, to grant the Variance to construct an accessory structure (Shed) in a front yard area on Property located at 2668 Vireo Road, in a Residential Agricultural (RA) District, subject to the Condition. The motion passed with a vote of four to one in favor, with John D. Myers, Timothy Salvatore, David N. Fishel and William Descar voting in favor, and Kathleen A. Cronin voting against.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD


Secretary

By: 
John D. Myers, Vice Chair

4/26/16
Date

The Variance 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 Variance, pursuant to Section 265-1009. E. of the Ordinance.

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2016-04
Hearing Date: March 22, 2016
Applicant: Jason L. and Julie F. Sekeres
Property Owner: Jonathan E. and Colette J. Burg
Property: 890 Cape Horn Road
UPI: 54-000-16-0006-000000
Existing Zoning District: Mixed Residential Commercial Zone (MRC)

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-640 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. The Applicants were present.
3. The Applicants were represented by Kurt Blake, Esquire.
4. The Applicants are seeking a Special Exception (the "Special Exception") for a Home Occupation, namely, a Salon (the "Use.")
5. Attorney Blake called Mr. Sekeres, who provided the following testimony:
 - a. The Property is under contract for purchase, contingent upon zoning relief to allow for the continued Home Occupation of a Salon in it.
 - b. Mrs. Sekeres has had a career as a hair stylist.
 - c. The home has in it a beauty shop/salon already, which has been in operation since 1972, for over 43 years.
6. Attorney Blake called Mrs. Sekeres who provided the following testimony:
 - a. She is currently a hairdresser for the Lutheran Home and Rumors.
 - b. She wants to own her own hair salon.
 - c. Hair styling is her passion.
7. In response to the Specific Criteria for a Home Occupation in Section 265-640 of the Ordinance, Mrs. Sekeres offered the following:
 - a. She will be the person primarily responsible for Home Occupation, as a full-time resident of the premises. There will be no other employees.
 - b. No more than 25% of the gross area of the dwelling unit will be used for the Home Occupation. The gross floor area of the dwelling is 3,743 square feet. The Salon is proposed to be 720 square feet, which is 19%.

- c. No displays on the building façade, including the dwelling and all accessory buildings, shall indicate from the exterior that the dwelling is being utilized for purposes other than a dwelling.
 - d. The Home Occupation shall limit external evidence of the Home Occupation to the existing sign, which has been in place for decades.
 - e. Storage of materials used for the Home Occupation shall be wholly enclosed, shall not be visible from adjacent streets or properties and shall not be included as part of the 25% referenced above.
 - f. The Home Occupation shall be conducted entirely within the dwelling.
 - g. There shall be no deliveries, and accordingly, traffic circulation shall not be restricted.
 - h. Traffic generated by the Home Occupation shall not exceed volumes that would normally be expected in a residential neighborhood, as there will only be 1 car at the Property at a time.
 - i. The Home Occupation shall not produce dust, obnoxious odors, vibrations, lighting glare, fumes or smoke detectable on any adjacent streets or properties, nor shall it produce electrical interference.
 - j. The disposal of all materials, fluids and gases shall be in a manner which complies with all regulations of the York Township Water and Sewer Authority and all other applicable government codes.
 - k. No goods are expected to be sold on the Property and if any are sold in the future, they shall be incidental to the Home Occupation services performed.
 - l. There shall be no utilization of highly explosive, highly flammable or hazardous materials.
 - m. The hours of operation shall be Monday through Saturday, from 8:00 am to 9:00 pm and Sunday by appointment only.
 - n. The Applicant shall request the permit for the Home Occupation required by the Ordinance, including all necessary information.
 - o. The Applicant understands the limitations of a Home Occupation permit.
 - p. The Applicant understands that the permit shall expire annually and be subject to the appropriate renewal process.
 - q. The Applicant understands that inspections are required per the Ordinance and York Township personnel shall have the right of access.
 - r. There shall be parking for use of the dwelling and the Home Occupation as required by the Ordinance, including 16 parking spaces for clients and an area to turn around before entering the Cape Horn Road.
8. Bob Argento who was present, provided testimony in support of the Applicants as follows:
- a. The existing sign was installed in 1972.
 - b. The sign has not been changed since that time except that it has been electrified.
 - c. The approximate size of the sign is 2 feet by 4 feet.
 - d. The business access to the Salon on the Property is via Cape Horn Road.
 - e. The access to the dwelling is via Skylight Drive.
 - f. There are 16 delineated parking spaces available for the Salon.
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 Use appears to be consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use shall be in the best interest of properties in the general area, as well as the community at large, when viewing the proposed Use 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 Use 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 Use has adequate ingress, egress, interior circulation of pedestrians and vehicles, off-street parking and accessibility to the existing Township street system.
- f. The Use shall be in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Townships' Subdivision and Land Development Ordinance.

CONCLUSIONS OF LAW

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

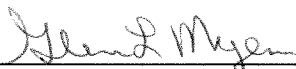
1. It is significant to the Board that the Property has had on it a hair salon, with continuing signage for decades. The Board views this Use and the sign, to a certain extent, as a pre-existing non-conformity.
2. The Applicants have met the Specific Criteria for a Special Exception for a Home Occupation as a Hair Salon.
3. The Applicants have met the General Criteria for a Special Exception.

Accordingly, William Descar moved, and John D. Myers seconded, to grant the Special Exception to establish a Home Occupation (Salon), on the Property located at 890 Cape Horn Road in a Mixed Residential Commercial (MRC) District. The motion passed unanimously with Glenn Myers, Timothy Salvatore, David N. Fishel, William Descar and John D. Myers voting in favor of the Motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD


Secretary

By: 
Glenn Myers, Chair
4/26/14
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.