

YORK TOWNSHIP

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

York Township Zoning Hearing Board
March 28, 2017
6:00 p.m.

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

Those in attendance were:

John ←
Chow

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

MINUTES OF FEBRUARY 28, 2017

A correction was made to the minutes to reflect
that Kathleen Cronin was present at the meeting.
The Zoning Hearing Board minutes of the February
28, 2017, meeting were approved as amended.

DECISIONS OF FEBRUARY 28, 2017

The Zoning Hearing Board decisions of the
February 28, 2017, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2017-02: Clay Smeltzer and Amanda Flanders
request a Special Exception to construct a fence that
exceeds 3' in height in a front yard on property located at

York Stenographic Services, Inc.

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

York Township Planning Commission
Tuesday, March 21, 2017
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179 Vinmar Drive in a Residential Medium Density (RM)
District.

Present: Clay Smeltzer
Amanda Flanders

MOTION: On Application 2017-02, Clay Smeltzer
and Amanda Flanders request a Special Exception
to construct a fence that exceeds 3' in height in
a front yard on property located at 179 Vinmar
Drive in a Residential Medium Density (RM)
District, that the application be approved.

CONDITIONS: Approved for a 17' distance from the
house towards Ebony Drive.

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

Application 2017-03: Daniel J. Byrnes requests a Special
Exception to establish the Noncommercial Keeping of
Livestock on property located at 2520 Springwood Road in a
Residential Low Density (RL) District.

Present: Daniel Byrnes
Katie Fitzpatrick

MOTION: On Application 2017-03, Daniel J. Byrnes
requests a Special Exception to establish the
Noncommercial Keeping of Livestock on property
located at 2520 Springwood Road in a Residential
Low Density (RL) District, that the application
be approved.

MOTION MADE BY: Kathleen Cronin
SECONDED BY: James Barnes
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2017-03
Hearing Date: March 28, 2017
Applicant: Daniel J. Byrnes
Property Owner: Daniel J. Byrnes
Property: 2520 Springwood Road
UPI: #54-000-HJ-0195-A0-00000
Existing Zoning District: Residential Low (RL) Zone

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-651 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 Applicant, Daniel J. Byrnes, was present.
3. The Applicant is requesting a Special Exception to allow him to keep noncommercial livestock consisting of no more than 15 miniature horses on the Property (the "Use"), which is in a Residential Low (RL) Zone.
4. An equine professional, Katie Fitzpatrick, also appeared and testified on behalf of the Applicant.
5. Mr. Byrnes and Katie Fitzpatrick testified as follows:
 - a. The Property is 19.5 acres and was purchased from a commercial nursery.
 - b. The Applicant removed both the greenhouses that existed on the Property and approximately 2 acres of impervious surface.
 - c. The Applicant will use the existing buildings on the Property and will not construct additional buildings or increase the blueprint of the existing buildings at this time.
 - d. The barn on the Property will be used to house the miniature horses.
 - e. All fencing will be installed at a minimum of 10 feet from the Property line.
 - f. The fencing will be electric and warning signs will be posted; however, the voltage will not be strong enough to hurt a person.
 - g. The miniature horses weigh, on average, approximately 250 pounds.
 - h. The miniature horses are in a Group 4 category, meaning that under Section 265-651, the Ordinance permits 1 horses per acre, or a total of 19 horses.
 - i. The Applicant has 10 miniature horses and will not have more than 15 on the Property.

- j. Only 3 to 4 miniature horses are permitted in the pasture at a time for safety and pasture management.
 - k. Screening exists around the Property in the form of large trees and bushes, and Applicant will work with neighbors to determine additional vegetation to be planted around the border of the Property.
 - l. The animal waste will be removed from the Property.
6. Mr. Byrnes submitted an aerial photograph, which the Board accepted as an Exhibit.
 7. Identified on that photograph was the house, existing barn, the proposed pastures, and the vegetation barrier.
 8. With regard to the specific requirements of Section 265-651, Mr. Byrnes provided additional testimony as follows:
 - a. The minimum required lot size of 2 acres is met. The miniature horses are a Group 4 livestock based on the fact that the adults weigh greater than 200 pounds and the Applicant will have a maximum of 15 miniature horses total.
 - b. The barn used to house the miniature horses will not be within the required setback of 100 feet from the Property line.
 - c. There is fencing to prevent escape, which is at least 10 feet from the Property line.
 - d. Waste management will be managed in accordance with PA-DEP regulations or guidelines.
 - e. The Applicants shall comply with all applicable federal and state laws.
 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 is consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use is 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.
 10. Craig Van Pelt, a resident of 365 School Street, stated that he lived in a neighboring property for 29 years and he is happy to hear about the proposed Use.
 11. The Zoning Officer indicated that the Township received a few phone calls about the Special Exception request and every caller was pleased with the Use.

CONCLUSIONS OF LAW

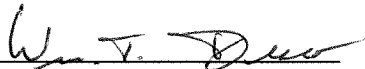
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The General criteria for a Special Exception as set forth in Section 265-1009 have been met.
2. The Specific criteria for a Special Exception for keeping noncommercial livestock in a Residential Low (RL) Zone as set forth in Section 265-651 have been met.

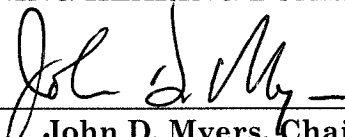
Accordingly, Kathleen Cronin moved and Jim Barnes seconded, to grant the Special Exception to allow Applicants to keep noncommercial livestock on the Property located at 2520 Springwood Road in a Residential Low (RL) Zone. There were no conditions placed on the granting of the Special Exception. The motion passed with Glenn Myers, William Descar, John D. Myers, Kathleen Cronin and Jim Barnes voting in favor of the motion. Timothy Salvatore was absent.

WITNESS/ATTEST

**YORK TOWNSHIP
ZONING HEARING BOARD**



Secretary

By: 

John D. Myers, Chair
4/25/17

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: 2017-02
Hearing Date: March 28, 2017
Applicant: Clay Smeltzer and Amanda Flanders
Property Owner: Clay Smeltzer and Amanda Flanders
Property: 179 Vinmar Drive
UPI: #54-000-20-0104-00-00000
Existing Zoning District: Residential Medium (RM) District

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. Mr. Clay Smeltzer and Ms. Amanda Flanders were present representing themselves.
3. The Applicant explained that they desire to construct a fence in their front yard that exceeds 3 feet in height (the "Fence" or "Use") and are seeking a Special Exception pursuant to Section 265-513 of the Ordinance.
4. The Applicant presented information in support of the Special Exception request as follows:
 - a. The Property is located on a corner and thus subject to two front set-backs, which creates an additional need for the Special Exception.
 - b. The Fence shall be six (6) feet high, white, and uniform with the house and surroundings.
 - c. The Fence shall not extend further than 40 feet from the road.
 - d. The Fence facing Ebony drive will not obstruct the view of a driver approaching the intersection of Ebony Drive and Vinmar Drive from either direction.
 - e. The Fence will not obstruct the neighbor's view of the road from their garage or driveway.
 - f. A gap will exist between the Fence and the ground, and therefore, will have no negative effect on drainage on the Property or adjacent property.
 - g. There are no current drainage problems on the Property.
 - h. The Fence will provide privacy and security to the Applicant.
5. The Applicant presented updated exhibits to support the Application, marked as Exhibit A, Exhibit B, and Exhibit C.

- a. Exhibit A shows two options suitable to the Applicant, one extending the Fence out from the side of the house at a distance of 17 feet and the other extending the Fence from the side of the house at a distance of 25 feet.
 - b. Exhibit B demonstrates the 6 foot distance between the Applicant's screened in porch and the side of the house, showing the position of the fence if a Special Exception is not granted. The gate placed on the Fence and the Applicant's door to the screened in porch would create overlap and make it difficult to enter and exit through those gates.
 - c. Exhibit C shows the 17 foot and 25 foot option from the side of the house as well as the set back line applicable if the Applicant were to build an addition onto their house.
6. In support of the criteria for a Fence as set forth in Section 265-513(a), the Applicant testified as follows:
 - a. The Fence shall not be constructed within the public right-of-way or within a required clear sight triangle.
 - b. The portion of the Fence facing adjoining property or the public right-of-way shall be finished.
 - c. There shall be no barbed wire, or similar type wire, on the Fence.
 - d. The Fence shall not be electrically charged.
 - e. The Fence will not go beyond the Property line or right-of-way line.
 - f. 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 Use is consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use is 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.
8. Attorney John Baranski appeared on behalf of Jeremy Wachter, owner of the adjacent property located at 1889 Ebony Drive, in opposition to the Application.
9. In response to cross-examination by Attorney Baranski, the Applicant testified as follows:
 - a. The reason to desire a six (6) foot fence is for privacy and security purposes and also to respect the neighbors when the Applicant's child and dog are in the yard.

- b. The Applicant does not currently have a pool but anticipates having one in the future.
 - c. A pool will require a four (4) foot fence surrounding it.
 - d. There are other properties in the neighborhood that have 6 feet high fences.
10. Mr. Wachter testified against the Application as follows:
- a. Mr. Wachter would not oppose a 3 foot high fence.
 - b. A downward slope exists between the Applicant's Property and Mr. Wachter's property.
 - c. There are two windows on the first floor, in the garage and a playroom, and the view will be obstructed by the Fence.
 - d. Mr. Wachter is a real estate agent and is concerned about the resale value of his property, the curb appeal, and the site view.
 - e. Mr. Wachter is concerned that water will run off the Fence into his yard.
 - f. The view from the screened in porch on Mr. Wachter's property will be blocked by the Fence.
 - g. Mr. Wachter admitted two exhibits referred to as Objector 1 and Objector 2.
 - h. Objector 1 shows a silver line indicating where a fence can be placed that would conform to the provisions in the Ordinance.
 - i. Objector 2 shows the proposed Fence and indicates that Mr. Wachter objects to it.
11. The Board noted that the photographs show that Mr. Wachter's view from the screened in porch is already blocked by a large Rhododendron bush.
12. The Zoning Officer indicated that the Township received one other phone call about the Special Exception request and the Fence, but upon receiving general answers, no objection was lodged.
13. In granting a Special Exception, the Board may attach such reasonable conditions and safeguards as it deems necessary.
14. The Board, as a condition to granting the Special Exception, requires the Applicant to only extend the Fence 17 feet from the house as shown on Exhibit A, Option 1 (the "Condition").

CONCLUSIONS OF LAW

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

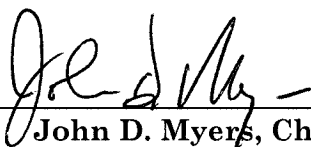
- 1. The specific criteria for the Special Exception as set forth in Section 265-513(A) have been met.
- 2.
- 3. The general standards for Special Exception as set forth in Section 265-1009(C) have been met.
- 4.
- 5. The Fence will extend far enough from the road as to not obstruct the view from the neighbor's property.
- 6.
- 7. In granting a Special Exception, the Board may attach such reasonable conditions and safeguards as it deems necessary, and due to the view from the adjacent property, the Board attaches the Condition.

Accordingly, Glenn Myers moved, and William Descar seconded, to grant the Special Exception to construct a Fence higher than three feet (six feet proposed) in a front yard on Property located at 179 Vinmar Drive in a Residential Medium (RM) District. The motion passed with a vote of 5 to 0, with John D. Myers, Glenn Myers, William Descar, Jim Barnes, and Kathleen Cronin voting in favor and no one voting against.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD


Secretary

By: 
John D. Myers, Chair
4/25/17
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.