

YORK TOWNSHIP

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

The June 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
Timothy Salvatore, Member
Sean Fields, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF MAY 22, 2018

The Zoning Hearing Board minutes of the May 22, 2018, meeting were approved.

DECISIONS OF MAY 22, 2018

The Zoning Hearing Board decisions of the May 22, 2018, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2018-09: Christopher G. Aldous requests a Variance of Section 265-656.D in order to establish an accessory Outdoor Recreation Facility (swimming pool) to an existing Indoor Recreation Facility (Gymnastics of York) on property located at 2615 Course Road, York, PA, in a Commercial Shopping (CS) District.

Present: Christopher G. Aldous
Stacey MacNeal, Esquire

York Stenographic Services, Inc.

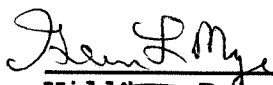
34 North George St., York, PA 17401 - (717) 854-0077

York Township Zoning Hearing Board
Tuesday, June 26, 2018
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MOTION: On Application 2018-09, Christopher G. Aldous requests a Variance of Section 265-656.D in order to establish an accessory Outdoor Recreation Facility (swimming pool) to an existing Indoor Recreation Facility (Gymnastics of York) on property located at 2615 Course Road, York, PA, in a Commercial Shopping (CS) District, that the application be approved.

MOTION MADE BY: William Descar
SECONDED BY: James Barnes
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary
Glenn Myers ASST

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2018-09
Hearing Date: June 26, 2018
Applicant: Christopher G. Aldous
Property Owner: Christopher G. Aldous
Property: 2615 Course Road, York, PA 17402
UPI: #54-000-HI-0005-L0-00000

Existing Zoning District: Commercial Shopping Zone (CS)

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-656.A and 265.656.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. Stacey MacNeal, Esquire represented the Applicant, and Applicant, Christopher G. Aldous was also present.
3. The Applicant is requesting approval of a Variance to build an outdoor swimming pool as an accessory use for Gymnastics of York.
4. Specifically, Applicant seeks a variance from the lot size requirement for an outdoor recreational facility, as referenced in Section 265-656.A, and Section 265-656.D, of the Zoning Ordinance and the accompanying table, from the following requirements:
 - a. A variance to Section 265-656 A. Recreation Facility (Outdoor) stating, "The minimum required lot area shall be five (5) acres."
 - b. Section 265-656-D, that includes a requirement that, "Screening and buffering shall be as provided in accordance with the SALDO, unless otherwise specified by the Zoning Hearing Board."
5. Attorney MacNeal provided Exhibits to the Board, which included the following:
 - a. Exhibit No. 1 was a map of the location of the proposed swimming pool.
 - b. Exhibit No. 2 was a map of new parking area and Handicap Access to Pool area.
 - c. Exhibit No. 3 was a diagram of the proposed members swimming pool at Gymnastics of York.
 - d. Exhibit No. 4 was a photograph and map of current buffer planting on each side of Property parking lot.
6. Attorney MacNeal called Christopher G. Aldous who testified as follows:
 - a. The Applicant is seeking a variance for the Property located in a commercial shopping (CS) zone.

- b. The Applicant has been the owner of the Property for approximately 18 years, and the Property consists of 2.34 acres.
 - c. The Applicant owns and operates Gymnastics of York on the Property.
 - d. Gymnastics of York currently offers members gymnastics and karate for children with a membership for Gymnastics of York.
 - e. Applicant testified that during the summer months Gymnastics of York typically loses members because gymnastics is a more popular activity during the during the other months of the year.
 - f. The primary reason that Applicant seeks a variance is so that he can build an a an outdoor swimming pool on the property as an accessory use to the indoor facility in order to retain members for his business during the summer months.
 - g. Applicant stated that access to the swimming pool would be limited to individuals who have a membership with Gymnastics of York. Therefore, the Property will not require additional parking spaces.
 - h. The operation of the outdoor swimming pool will be limited to approximately ten (10) weeks during the summer months of the year.
 - i. Applicant stated that the swimming pool would be surrounded by fencing higher than four (4) feet and would not require an outdoor sound system.
 - j. There is a significant amount of current buffer on the borders of the property where the swimming pool would be located.
 - k. Applicant stated that his property is abutted by both commercial properties and residential homes.
 - l. Because the applicable zoning ordinance requires a lot size of 5.0 acres for an outdoor swimming pool and Applicant's property currently consists of 2.34 acres, Applicant cannot currently build the outdoor swimming pool as an accessory use for his current facility without a variance.
 - m. Applicant takes the position that a residential outdoor swimming pool is a reasonable accessory use for his current indoor recreational facility.
 - n. Applicant has agreed to fill in current gaps in buffer through additional planting subject to the approval of the zoning officer.
7. In response to the criteria for the Variance, the Applicant provided the following:
- a. The unnecessary hardship that exists is due to unique physical circumstances or conditions. The restriction of a 5 acre minimum lot size would prevent Applicant from the implementation of an outdoor swimming pool as an accessory use for his current indoor facility due to the current size of his lot. Additionally, the construction and use of outdoor swimming pool on the Property in order to retain membership for Applicant's business would be overly burdened by the minimum lot size requirement in the zoning ordinance. Moreover, 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. Due to the size of the existing parcel and the current existing indoor recreation facility, an outdoor pool cannot be built under the current parcel restrictions. Therefore, the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, as the Variance for minimum lot size and buffering requirements are necessary for adequate and safe use.
 - c. The unnecessary hardship is not being created by the Applicant, as the current lot size is 2.34 acres with an existing indoor recreational facility and the minimum lot size requirement would not permit Applicant to construct an outdoor swimming

pool for an accessory use for Applicant's business which relies on the retention of individual memberships.

- 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. The outdoor swimming pool with existing screening and fencing, would be located in a Commercial Shopping zoned property. Additionally, the use would not require additional parking and it is unlikely that any additional traffic would result from the outdoor use.
- e. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.
- f. The Applicant confirmed that it would be agreeable to the following condition: That Applicant will submit plan for additional buffering and screening for approval to the Township's zoning officer (the "Condition").

CONCLUSIONS OF LAW

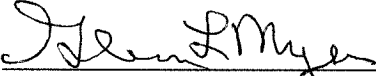
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

- 1. That the Applicant has met the criteria for a Variance under Section 265-656.A and Section 265-656.D, on the Property.
- 2. The imposition of the Condition is both reasonable and necessary for the grant of relief.

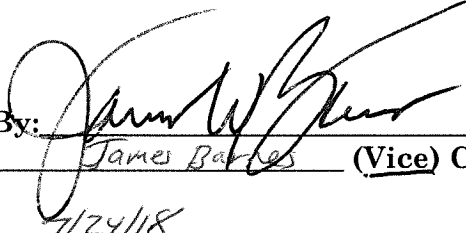
Accordingly, William Descar moved and James Barnes seconded, to grant the Variances to Section 265-656.A and Section 265-656.D in order to establish an accessory outdoor recreation facility (swimming pool) to an existing indoor recreation facility (Gymnastics of York), subject to the Condition, on the Property located at 2615 Course Road , York PA 17402, in a Commercial Shopping (CS) Zone. The motion passed unanimously with John D. Myers, William Descar, Jim Barnes and Timothy Salvatore voting in favor of the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD



William Descar, Secretary
Glenn Myers ASST

By: 

James Barnes (Vice) Chair
7/24/18
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-D of the Ordinance.