

YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313

Phone (717)741-3861 Fax (717)741-5009

The February 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
William Descar, Secretary
Anthony Pantano, Asst. Secretary
Timothy Salvatore, Member
Albert Granholm, Alternate Member
Jeffrey Rehmeier, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF JANUARY 25, 2022

The Zoning Hearing Board minutes of the January 25, 2022, meeting were approved.

DECISIONS OF JANUARY 25, 2022

The Zoning Hearing Board decisions of the January 25, 2022, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES, APPEALS

Application 2022-03: Chris and Erica Wilson request a Variance to encroach into the required building setback for a proposed sunroom addition to the existing single-family dwelling on property located at 2780 Clearview Way, York, PA, in a Residential Low Density (RL) District.

Present: Erica Wilson

MOTION: On Application 2022-03, Chris and Erica Wilson request a Variance to encroach into the

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

York Township Zoning Hearing Board
Tuesday, February 22, 2022
Page 2

required building setback for a proposed sunroom addition to the existing single-family dwelling on property located at 2780 Clearview Way, York, PA, in a Residential Low Density (RL) District, that the application be approved.

CONDITIONS: The depth of the sunroom be limited to 11 feet at the point that it encroaches on the side setback.

MOTION MADE BY: Timothy Salvatore
SECONDED BY: John Myers
MOTION PASSED 4-1 - Anthony Pantano voted negatively.

Application 2022-03: Chris and Erica Wilson request a Special Exception for a fence in the front setback.

Present: Erica Wilson

MOTION: Application 2022-03, Chris and Erica Wilson request a Special Exception for a fence in the front setback, that the application be approved.

MOTION MADE BY: Anthony Pantano
SECONDED BY: James Barnes
MOTION PASSED UNANIMOUSLY

Application 2022-04: Holstein Capital Management LLC requests a Special Exception to establish a Vertical Self Storage Facility use (four two-story buildings) on property located at 2430 Cape Horn Road, York, PA in a Commercial Shopping (CS) District.

Present: John Murphy
John Gilliland
Daniel VonBussenius

MOTION: On Application 2022-04, Holstein Capital Management LLC requests a Special Exception to establish a Vertical Self Storage Facility use

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

York Township Zoning Hearing Board
Tuesday, February 22, 2022
Page 3

(four two-story buildings) on property located at
2430 Cape Horn Road, York, PA in a Commercial
Shopping (CS) District, that the application be
approved.

MOTION MADE BY: Anthony Pantano
SECONDED BY: Timothy Salvatore
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2022-03
Hearing Date: February 22, 2022
Applicant: Chris and Erica Wilson
Property Owner: Christopher S. Wilson and Erica R. Schmuck
Property: 2780 Clearview Way
UPI: #54-000-40-0021-B0-00000
Existing Zoning District: Residential Low Density (RL) Zone

Relief Requested- A Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") pursuant to Section 265-1009.C and a Special Exception pursuant to Section 265-513 and

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. Erica Wilson was present as the Applicant.
3. The Applicant is seeking a Variance to encroach into a required building set-back for a proposed sunroom addition (the "Sunroom") to the existing single-family dwelling on the Property.
4. The Applicant is also seeking a Special Exception for a portion of the Fence to be in the front yard.
5. By way of background, Mrs. Wilson explained the following regarding the Sunroom:
 - a. The Property has a unique shape, as it is situated along the curve in the roadway, specifically Clearview Way, such that the front yard area is curved, and the side yards are closer to the house as they go toward the rear of the Property where they end in what is nearly a point.
 - b. The positioning of the house is such that it is closer to the Western Property line and the adjacent property.
 - c. Others built the dwelling years ago.
 - d. The location of the house itself creates a non-conformity.
 - e. Prior owners built a deck on the Property.
 - f. The Sunroom that is proposed would be largely in place of the existing deck.
6. Mrs. Wilson testified about the Fence as follows:
 - a. The existing deck is approximately 10 feet by 11 feet.
 - b. There is a fence along the rear portion of the Property and those Property lines (the "Fence").
 - c. A Permit was obtained for the Fence in the back yard, but not in the front yard.

- d. The Fence does come across a portion of the front yard, to contain anything leaving the front door.
 - e. As part of the Hearing process, the Applicant recognized that a portion of the Fence requires authorization by Special Exception. Accordingly, a request for a Special Exception for the Fence in the front yard was presented to the Board.
7. In response to questions, the Applicant indicated as follows:
- a. The tree along the Western Property line would not be an issue for the Sunroom.
 - b. The location of the Sunroom is such that it would enclose a pre-existing cat-door into the dwelling, but not go so far as to encapsulate a hose bib and dryer vent.
 - c. The Sunroom itself would likely be 11 feet by 13 feet, which is slightly larger than the deck.
 - d. There would be a small additional intrusion of a portion of the Sunroom into the set-back beyond the existing intrusion of the deck.
 - e. Previously, the set-back along that portion of the Property was greater than it is now.
 - f. Accordingly, there is some degree of non-conformity that exists because of changes in the zoning from what was in place when the subdivision plan was done years ago and present day.
8. 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, including lot shape, lot depth, and prior actions, 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, specifically, the unique shape of the Property, the location of the house and the change in the set-back, 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, as the Variance is necessary for adequate and safe use.
 - c. The unnecessary hardship is not being created by the Applicant.
 - 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.
 - 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.
9. 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 on the Fence.
 - 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.

10. 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 will 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.
11. There were no questions from the Board.
12. There were no questions or testimony from the public participating in the meeting.
13. The Township Zoning Officer expressed no concerns with regard to the Sunroom and the Fence.
14. The Board required that the depth of the Sunroom be limited to 11 feet (the "Condition") and the Applicant agreed to that Condition.

CONCLUSIONS OF LAW

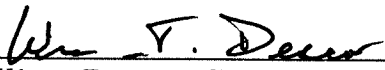
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Applicant has met the criteria for a Variance.
2. The additional intrusion in the side set-back is minimal.
3. While the Special Exception for the Fence was not requested with the Application, the Applicant is allowed to add relief requested without notice. *See Mitchell v. Zoning Hearing Board of Mount Penn*, 838 A.2d 819 (Pa. Cmwlth. 2003).
4. The Applicant has met the specific criteria for a Special Exception for the Fence in a front yard.
5. The Applicate has met the general criteria for a Fence in a front yard.

Accordingly, Timothy Salvatore moved, and John D. Myers seconded, to grant the Variance to permit a Fence in the front yard on the Property located at 2780 Clearview Way, in a Residential Low Density (RL) Zone. The motion passed with a vote of James Barnes, John D. Myers and William Descar voting in favor of the motion and Anthony Pantano voted against the motion.

Accordingly, Anthony Pantano moved, and James Barnes seconded, to grant the Special Exception to permit a Fence to be in the front yard on the Property located at 2780 Clearview Way, in a Residential Low Density (RL) Zone. The motion passed with a vote of James Barnes, John D. Myers, William Descar, Timothy Salvatore and Anthony Pantano voting in favor of the motion.

WITNESS/ATTEST



William Descar, Secretary

YORK TOWNSHIP
ZONING HEARING BOARD

By: 

James Barnes, Chair

3/22/22

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: 2022-04
Hearing Date: February 22, 2022
Applicant: Holstein Capital Management, LLC
Property Owner: TTMT, LLC
Property: 2430 Cape Horn Road
UPI: #54-000-39-0092-00-00000
Existing Zoning District: Commercial Shopping (CS) Zone

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-407.C.17, 265-688.1 and 265-1009.C. 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. John Gilliland, owner of the Applicant; Daniel VonBussenius, representative of the Applicant and John Murphy, of Alpha Consulting Engineers, Inc. were present on behalf of the Applicant.
3. The Applicant is seeking a Special Exception to construct a Vertical Self-Service Storage Facility on the Property pursuant to Section 265-407.C.17, 265-668.1 and 265-1009.C. of the Ordinance (the "Facility" or "Proposed Use").
4. The Applicant provided the following with regard to the Facility:
 - a. There will be four, two-story Buildings (each a "Building" or if more than one, collectively the "Buildings").
 - b. Three Buildings will be 25,300 square feet.
 - c. The last Building will be 24,200 square feet.
 - d. The Facility will have approximately 400 exterior and interior storage units, some of which will be climate controlled.
 - e. If approved, one Building will also contain a 1,100 square foot office.
 - f. All customers will access the Facility through a gate using a keycode.
 - g. The general public will not have unrestricted access to the Property or the storage units.
 - h. There will be one manager on-site during the daytime hours, from approximately 9 am until 5 pm.
 - i. There will be a telephone number that can be used for customers at times when a manager is not on-site.
 - j. Based upon similar facilities owned by the Applicant, the Facility will be visited by approximately 30 to 80 customers per day.

5. With regard to the Property, John Murphy offered the following:
 - a. While the Property has an address of 2430 Cape Horn Road, the Property does not actually front on Cape Horn Road.
 - b. The Property is accessed via Cape Horn Road and Belle Road, using a private driveway that runs behind the adjacent Rutters and Credit Union.
 - c. The Property is also adjacent to numerous multi-family dwellings in many Buildings.
 - d. The Property is vacant.
 - e. The Applicant is an equitable owner, with an interest in the Property pursuant to an Agreement for the Purchase and Sale of Real Estate, a redacted copy of which was attached as Exhibit A to the Application.
6. The Applicant provided additional information with regard to the Facility and the use thereof via testimony as follows:
 - a. The Applicant confirmed that access would be limited from 6 am until 10 pm, rather than 24 hours as noted in the Application.
 - b. The storage units on the top level of each Building would be accessed from the Southern side of that Building. Correspondingly, the storage units on the bottom level of each Building would be accessed from the Northern side of that Building, as each Building would be constructed bank barn style.
 - c. Within the Buildings, there would be access via hallways, which would be horseshoe shaped.
 - d. More than half of the storage units would be accessed from the interior.
 - e. Many storage units would also be accessed from the outside.
 - f. The Facility is similar to five others owned by the Applicant in York County.
 - g. There will be 11 designated parking spaces on the Property.
 - h. However, customers accessing the storage units would likely park by the doorways, because the access drives are wide.
7. With regard to the specific criteria for a Special Exception for a Vertical Self-Service Storage Facility pursuant to Section 265-668.1, the Applicant offered the following:
 - a. Buildings shall be two stories in height and not exceed a maximum height of 45 feet.
 - b. Parking for the Facility shall consist of 11 spaces, which exceeds one space per 50 storage units, plus two spaces for an on-site manager.
 - c. Trailer/truck rentals shall not be permitted.
 - d. All lighting shall be shielded to direct light away from adjacent properties and streets, and sufficient light levels shall be provided to ensure public safety during operations.
 - e. An accessory office for the Facility shall be in one of the Buildings.
 - f. The Facility does consist of multiple Buildings, which are permitted.
 - g. There shall be adequate area for loading and unloading provided in proximity to the exterior doors of each Building.
 - h. The following uses shall not be permitted in or about the storage units and all rental and/or use contracts shall specifically prohibit the following uses:
 1. Bulk storage of flammable, combustible, explosive or hazardous material.
 2. Repair, construction, or reconstruction of fabrication of any item.
 3. Auctions, except as provided for in accordance with the Self-Service Storage Facilities Act, commercial, wholesale or retail sales not related to the storage activity on the premise, or garage sales.
 4. The operation of power tools, spray-tanning equipment, compressors, welding equipment, kilns or other similar tools or equipment.

5. Any business activity in the storage units.
6. Outdoor storage of any kind.
- i. The Applicant provided it sample Lease to the Zoning Officer.
8. In response to the General Standards for a Special Exception in Section 265-1009.C., the following was provided:
 - a. The intended purpose of the Proposed Use shall be 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 Proposed Use 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.
9. In response to inquiry, the Zoning Officer indicated no specific concerns from the Township perspective and explained that the Facility had been in review for a number of months, which allowed questions to have been answered.

CONCLUSIONS OF LAW

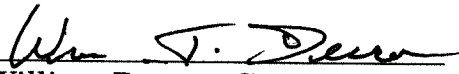
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

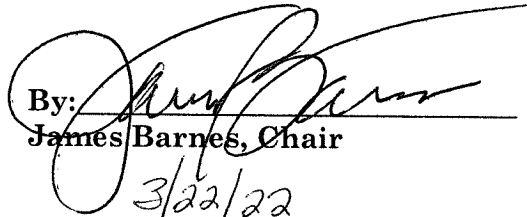
1. The specific criteria for a Special Exception in Section 265-668.1. have been met.
2. The general criteria for a Special Exception in Section 265-1009.C. have been met.

Accordingly, Anthony Pantano moved, and Timothy Salvatore seconded, to grant the Special Exception to establish a Vertical Self-Service Storage Facility Use (for two-story Buildings) on the Property located at 2430 Cape Horn Road in a Commercial Shopping (CS) District. The motion passed with James Barnes, John D. Myers, William Descar, Timothy Salvatore and Anthony Pantano voting in favor of the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD


William Descar, Secretary

By: 
James Barnes, Chair
3/22/22
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.