

# YORK TOWNSHIP

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

The March 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, Member  
Jeffrey Rehmeier, Esquire, Solicitor  
Lisa Frye, Zoning Officer

## MINUTES OF FEBRUARY 22, 2022

The Zoning Hearing Board minutes of the February 22, 2022, meeting were approved.

## DECISIONS OF FEBRUARY 22, 2022

The Zoning Hearing Board decisions of the February 22, 2022, meeting were approved.

## REQUEST FOR EXTENSION

Burkentine and Sons Builders, Inc. requests an extension of Special Exception #2021-12 to establish a Multi-Family Dwelling use on property located along the north side of Springwood Road at the intersection of Pauline Drive (113.03 acres) in Mixed Residential Commercial (MRC) and Residential High Density (RH) zoning districts.

Present: Mickey Thompson

York Stenographic Services, Inc.  
2303 East Philadelphia Street, York, PA 17402 (717) 854-0077

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MOTION: On Burkentine and Sons Builders, Inc requests an extension of Special Exception #2021-12 to establish a Multi-Family Dwelling use on property located along the north side of Springwood Road at the intersection of Pauline Drive (113.03 acres) in Mixed Residential Commercial (MRC) and Residential High Density (RH) zoning districts, that a six-month extension be approved.

MOTION MADE BY: Anthony Pantano  
 SECONDED BY: William Descar  
 MOTION PASSED UNANIMOUSLY

SPECIAL EXCEPTIONS/VARIANCES, APPEALS

Application 2022-05: Allan and Theresa Bagnall request a Special Exception to construct a fence higher than 3' in a front yard area on property located at 2621 Chronister Farm Road in a Residential Low Density (RL) District.

Present: Allan Bagnall  
 Theresa Bagnall

MOTION: On Application 2022-05, Allan and Theresa Bagnall request a Special Exception to construct a fence higher than 3' in a front yard area on property located at 2621 Chronister Farm Road in a Residential Low Density (RL) District, that the application be approved.

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

Application 2022-06 and 2022-07: Luigi and Jamie Romano request 1) a Special Exception to construct a fence higher than 3' in a front yard area and 2) a Variance to encroach into the 25' required rear yard setback for an uncovered deck on property located at 78 Hudson Boulevard in a Residential High Density (RH) District.

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Present: Matthew Eby  
 Luigi Romano

MOTION: On Application 2022-06, Luigi and Jamie Romano request a Special Exception to construct a fence higher than 3' in a front yard area, that the application be approved.

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

MOTION: On Application 2022-07, Luigi and Jamie Romano request a Variance to encroach into the 25' required rear yard setback for an uncovered deck on property located at 78 Hudson Boulevard in a Residential High Density (RH) District, that the application be denied.

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

Applications 2022-08, 2022-09 and 2022-10: Heartland Builders, Inc., requests 1) a Special Exception to establish a multi-family use (50-unit apartment building wit 25 accessory garages 2) a Variance for reduction of building setbacks for apartment building and accessory garages and 3) a Variance for reduction of buffer planting strips consistent with Section 610 of the Subdivision and Land Development Ordinance, on property located at the northwest corner of the intersection of South Queen Street and Locust Hill Road in a Mixed Residential Commercial (MRC) District.

Present: Claudia Shank, Esquire  
 William Swiernik  
 Jason Provanzo

MOTION: On Applications 2022-08, 2022-09 and 2022-10: Heartland Builders, Inc., requests 1) a Special Exception to establish a multi-family use

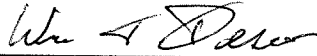
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(50-unit apartment building wit 25 accessory garages 2) a Variance for reduction of building setbacks for apartment building and accessory garages and 3) a Variance for reduction of buffer planting strips consistent with Section 610 of the Subdivision and Land Development Ordinance, on property located at the northwest corner of the intersection of South Queen Street and Locust Hill Road in a Mixed Residential Commercial District, that a continuance be granted for Application 2022-08 and 2022-10, and that Application 2022-09 be withdrawn.

MOTION MADE BY: Anthony Pantano  
SECONDED BY: William Descar  
MOTION PASSED UNANIMOUSLY

ATTEST:



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William Descar, Secretary

# DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

**Application Number:** 2022-05  
**Hearing Date:** March 22, 2022  
**Applicant:** Allan J. and Theresa M. Bagnall  
**Property Owner:** Allan J. and Theresa M. Bagnall  
**Property:** 2621 Chronister Farm Road  
UPI: #54-000-HI-0081-Z0-00000  
**Existing Zoning District:** Residential Low Density (RL) District

**Relief Requested-** Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-513 thereof.

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## 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. Allan Bagnall was present representing himself and his wife.
3. The Applicant is seeking a Special Exception to install a Fence (the " Fence"), a portion of which would be adjacent to Lanie Court.
4. The front of the dwelling on the Property faces Chronister Farm Road, but the driveway and side front Lanie Court. Thus, approval of a Special Exception is necessary because the Lanie Court portion of the Property is considered to be subject to a front setback 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 information about the Fence to include the following:
  - a. The Fence is intended to contain the pets and grandchildren of the Property Owner, as well as keep out pets owned by others.
  - b. The Fence would align with the fence on the neighbors' property to the rear of the Property, which fence is also runs along Lanie Court.
  - c. The neighbors' fence is a 4 foot high aluminum fence.
  - d. The Fence would not connect to the neighbors' fence.
  - e. The Fence would not be on the neighbors' property.
  - f. In fact, there would be a gap between the Fence and the neighbors' fence.
  - g. Along the rear of the Property, there are substantial evergreen trees that create a barrier of their own.
  - h. The Fence would be 4 feet in height.
  - i. The Fence would be black aluminum.

- j. The Fence will be located 15 feet from the curb, where the curb meets the asphalt.
  - k. Based upon the drawing provided with the Application, the Fence would leave the Northwest corner of the house, to the West of the driveway, and go approximately 28 feet to a location that is 15 feet from the curb. Then the Fence would go 60 feet to the West, toward the rear of the Property.
  - l. There would be a corresponding fence for which a Special Exception would not be required, along the Southern Property line of the Property, which fence would come between the evergreens and connect to the Southwest corner of the house.
6. With regard to the Specific Criteria for 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.
7. 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 Use is consistent with the Township's development objectives as established in the Comprehensive Plan.
  - b. The Use is in the best interest of properties in the general area, as well as the community at large, when viewing the 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 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 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 Township's Subdivision and Land Development Ordinance.
8. The Board asked some questions with regard to the Fence and the neighbors' fence, and the Applicant answered them.
9. There were no questions or testimony from the public participating in the meeting.
10. 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:

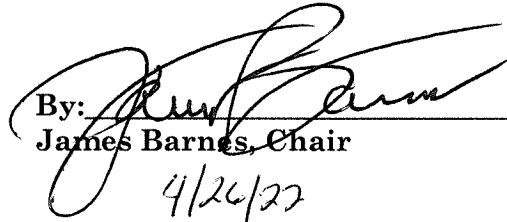
1. The Applicant met the Specific Criteria for a Fence in Section 265-513.
2. The Applicant met the General Criteria in Section 265-1009.C.

**Accordingly, Timothy Salvatore moved, and Anthony Pantano seconded, to grant the Special Exception to construct a Fence higher than 3 feet in a front yard area on the Property located at 2621 Chronister Farm Road in a Residential Low Density (RL) District. The motion passed unanimously 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**  
4/26/22  
\_\_\_\_\_  
**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.

# DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

**Application Number:** 2022-06  
**Hearing Date:** March 22, 2022  
**Applicant:** Luigi A. and Jamie Lynn Romano  
**Property Owner:** Luigi A. and Jamie Lynn Romano  
**Property:** 78 Hudson Boulevard  
UPI: #54-000-66-0126-00-00000  
**Existing Zoning District:** Residential High Density (RH) District

**Relief Requested-** Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-513 thereof.

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## 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. Jamie Lynn Romano was present representing herself as the Applicant. Matthew Eby, with Keystone Hardscape and Construction, LLC the proposed contractor, was also present.
3. The Applicant is seeking a Special Exception to install a fence (the "Fence"), a portion of which would be adjacent to Avon Drive.
4. The front of the dwelling on the Property faces Hudson Boulevard, but the side of the dwelling fronts on Avon Drive.
5. Thus, approval of a Special Exception is necessary because the portion of the Property fronting Avon Drive is considered to be subject to a front-setback and the Fence, at that location is subject to a height restriction of 3 feet, unless a Special Exception is granted (with such approval being the "Special Exception").
6. Mr Eby provided testimony with regard to the Fence as follows:
  - a. The Fence as proposed has been approved by the Homeowners' Association.
  - b. The Fence would be located 25 feet off the centerline of Avon Drive.
  - c. There are no site-line issues.
  - d. The Fence would be 4 feet in height.
  - e. The Fence would consist of black aluminum.
  - f. The Fence would not enclose the utility boxes beyond the rear of the Property.
  - g. The Fence would begin at the front corner of the dwelling on the Property, at the Southwest and go towards Avon Drive 37 feet; then the Fence would run parallel to Avon Drive 70 feet to the rear of the Property; thereafter, the Fence would run 62 feet along the rear of the Property; and then the Fence would come back towards and connect to the dwelling for a final run of 30 feet.



7. With regard to the Specific Criteria for 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.
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 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 Township's Subdivision and Land Development Ordinance.
9. In response to a question from the Board, Mr. Eby confirmed that the utility boxes shown in the Application are not on the Property and would not be inside the Fence.
10. There were no questions or testimony from the public attending the meeting.
11. The Township Zoning Officer expressed no concerns with regard to the Fence.

## CONCLUSIONS OF LAW

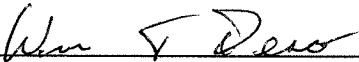
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

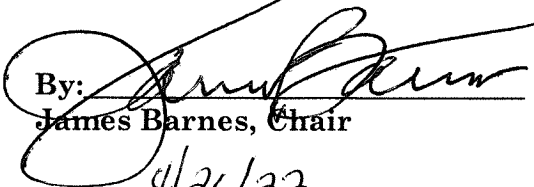
1. The Applicant has met the Specific Criteria pursuant to Section 265-513.
2. The Applicant has met the General Criteria for a Special Exception pursuant to Section 1009.C.

Accordingly, William Descar moved, and John D. Myers, seconded, to grant the Special Exception to construct a Fence higher than 3 feet in a front yard area, on the Property located at 78 Hudson Boulevard in a Residential High Density (RH) District. The motion passed unanimously with James Barnes, John D. Myers, William Descar, Timothy Salvatore, Anthony Pantano voting in favor of the Motion.

WITNESS/ATTEST

YORK TOWNSHIP  
ZONING HEARING BOARD

  
\_\_\_\_\_  
William Descar, Secretary

By:   
\_\_\_\_\_  
James Barnes, Chair  
4/26/22  
\_\_\_\_\_  
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.

# DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

**Application Number:** 2022-07  
**Hearing Date:** March 22, 2022  
**Applicant:** Luigi A. and Jamie Lynn Romano  
**Property Owner:** Luigi A. and Jamie Lynn Romano  
**Property:** 78 Hudson Boulevard  
UPI: #54-000-66-0126-00-00000  
**Existing Zoning District:** Residential High Density (RH) District

**Relief Requested-** Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-536.

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## 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. Jamie Lynn Romano was present representing herself as the Applicant. Matthew Eby, with Keystone Hardscape and Construction, LLC, the proposed contractor, was also present.
3. The Applicant is seeking a Variance from Section 265-536.B. to allow for a proposed, uncovered deck (the "Deck") to be installed to encroach into a 25 foot required rear yard setback on the Property (the "Variance").
4. Mr. Eby provided testimony as follows:
  - a. The Deck is proposed to be 10 in width by 15 feet in length.
  - b. The edge of the Deck would be 20 feet from the rear Property line, thus encroaching into the setback by 5 feet.
  - c. The Deck would be located on the second floor of the dwelling and have stairs to the ground level.
  - d. The Deck would be similar to other decks in the community.
  - e. However, the Deck encroaches in this instance because the front of the dwelling is set further from Hudson Boulevard than certain other dwellings.
  - f. The adjacent dwelling units in the same building do not currently have decks.
  - g. The builder of the dwelling did not disclose that the installation of the Deck would encroach in the setback.
5. In response to questions, the Zoning Officer provided information as follows:
  - a. The end dwelling units in the buildings are setback 5 feet than those in the middle.
  - b. Some other units may have decks that encroach into the setback, although which units and the extent of the encroachments are not yet certain.

- c. The other decks are also second floor decks.
  - d. The other decks also have steps.
  - e. To her knowledge, the Homeowners' Association has approved those decks as well.
6. In response to the criteria for the Variance, the Applicant explained the following:
- a. The unnecessary hardship that exists is due to unique physical circumstances or conditions of the Property, specifically the location of the dwelling and its setback as opposed to the setbacks of other dwellings in the community, 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 Ordinance and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, as it is zoned currently, with the Applicant arguing that reasonable use would be the ability to install a Deck similar to others in the community that and such Deck is necessary for adequate and safe use of the Property.
  - 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.
7. There were no questions or testimony from the public attending the meeting.
8. The Township Zoning Officer did indicate some concerns with regard to the grant of relief to include the following:
- a. If relief is granted in this instance, it may create implications for other units in the community.
  - b. She is not certain what the builder is doing with regard to this issue generally, and the builder is currently on notice about the issue.

## CONCLUSIONS OF LAW


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

- 1. The Criteria for a Variance has not been met.
- 2. Specifically, there are not physical conditions peculiar to the particular Property, such as irregularity, narrowness or shallowness of lot size or shape, or exceptional topography, but rather, the only circumstance that might be different than some other properties is the setback of the dwelling, which in and of itself is certainly not unique.
- 3. The Property has been developed in strict conformity with the provisions of the Ordinance, as it currently exists, and is now utilized as a dwelling.
- 4. Further, the authorization of a Variance is not necessary to enable the reasonable use of the Property, as the Deck as proposed is desired but not necessary.
- 5. The unnecessary hardship is being created by the Applicant, specifically the Applicant's desire for the Deck.

6. The Applicant did not prove that 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.
7. The Variance does not represent the minimum Variance in order to afford relief nor the least modification possible for the regulation at issue.

Accordingly, Timothy Salvatore moved, and Anthony Pantano seconded, to deny the Variance to encroach into the 25 foot required rear yard setback for an uncovered Deck on the Property located at 78 Hudson Boulevard in a Residential High Density (RH) District. The motion passed unanimously with James Barnes, John D. Myers, William Descar, Timothy Salvatore and Anthony Pantano voting in favor of the motion to deny the Variance.

WITNESS/ATTEST

  
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William Descar, Secretary

YORK TOWNSHIP  
ZONING HEARING BOARD

By:   
\_\_\_\_\_  
James Barnes, Chair

4/24/22  
Date