

**FERGUSON TOWNSHIP ZONING HEARING BOARD  
REGULAR MEETING  
TUESDAY, JUNE 26, 2018  
7:00 PM**

**I. ATTENDANCE**

The Zoning Hearing Board held its regular meeting on Tuesday, June 26, 2018 at the Ferguson Township Municipal Building. In attendance were:

**Board:**

Michael Twomley—Chairman  
Michael MacNeely—Secretary, absent  
Swamy Anantheswaran, absent  
Susan Buda  
Marc Friedenberg—Alternate  
Irene Miller—Alternate

**Staff:**

Jeffery Ressler, Zoning Administrator  
Jeff Stover, ZHB Solicitor

Others in attendance included: Marcella Bell, Recording Secretary; Ray Stolas, Planning & Zoning Director; David Pribulka, Township Manager; Joseph Green, Township Solicitor; Charlie Suhr, Stevens & Lee; and Dwight Ferguson, Cafardi Ferguson Wyrick Weis & Stotler.

**II. CITIZENS' INPUT**

There was no citizens' input.

**III. CIRCLEVILLE ROAD PARTNERS—VALIDITY CHALLENGED CONTINUED**

Mr. Twomley stated that Ms. Miller was appointed by the Board of Supervisors as a core member of the Zoning Hearing Board and will be voting on all matters.

Attorney Stover explained that the Zoning Hearing Board members have heard all of the arguments, the evidence, and have received all of the briefs. The Board may deliberate amongst themselves in public or in executive session. Mr. Twomley stated that even though testimony is closed, the Board members can ask clarifying questions.

In response to a question from Ms. Buda, Attorney Green stated that the exact public purpose for the text amendment was basically fostering, expanding, changing, and modifying an otherwise valid portion of the Traditional Town Development (TTD) Zoning Ordinance. The text amendment regulates aspects of development like the safety and organizational aspects of the community in terms of developing, building, and design standards. Attorney Green went on to explain that the text amendment was brought forward to add language specific to the modification process, which was absent from the original Zoning Ordinance. This text amendment was requested by the developer and recognized by the Township as a necessary action to incorporate the modification language.

In response to a few questions from Ms. Miller, Attorney Stover explained that anyone could come to the Township and request a text amendment for any part of the Zoning Ordinance. Attorney Ferguson stated that the Pine Hall Developer could have had

their project approved under the unamended ordinance like the Turnberry Developer did with the modification process. Attorney Ferguson explained that when the TTD text amendment was passed by the Board of Supervisors, Circleville Road Partners filed two appeals, the one before the Zoning Hearing Board and a procedural appeal that will be before the County Court in a few weeks. The appeal before the Zoning Hearing Board is substantive of the ordinance itself and the second appeal is whether or not it's the appellant's position that the procedures were not followed.

In response to a question from Mr. Twomley, Attorney Ferguson stated that he believes the TTD text amendment constituted spot zoning. The municipality only has the powers to zone based on the PA Municipalities Planning Code (MPC) and this is a one development, one parcel rezoning. Mr. Twomley stated that the text amendment applies to any TTD, including the Turnberry Development.

In response to a question from Ms. Buda, Attorney Stover explained that the Zoning Hearing Board must look at what the ordinance before them is trying accomplish. When a text amendment is challenged, they must determine if the ordinance being challenged relates in a substantial way to the interest that is protected by the Zoning ordinance.

The Zoning Hearing Board adjourned for an executive session at 7:36 PM and reconvened at 8:36 PM.

A motion was made by Mr. Friedenberg and seconded by Ms. Miller to grant the substantive challenge by the Circleville Road Partners as stated in their brief. The motion failed 0-3.

#### **IV. APPROVAL OF THE MEETING MINUTES FROM THE MAY 22, 2018 REGULAR MEETING**

A motion was made by Ms. Miller and seconded by Mr. Friedenberg to approve the May 22, 2018 Regular Zoning Hearing Board meeting minutes. The motion carried 3-0.

#### **V. ADJOURNMENT**

Mr. Twomley reminded members that the next regularly scheduled meeting has been moved to July 17, 2018 at 7:00 PM.

With no further business to come before the Zoning Hearing Board the June 26, 2018 meeting adjourned at 8:41 p.m.

RESPECTFULLY SUBMITTED,

  
Michael MacNeely, Secretary  
For the Zoning Hearing Board

Date approved by the Board: July 17, 2018