

# FERGUSON TOWNSHIP ZONING HEARING BOARD

## Regular Meeting

Tuesday, May 22, 2018

7:00 pm

### I. ATTENDENCE

The Zoning Hearing Board held its regular meeting on Tuesday, May 22, 2018 at the Ferguson Township Municipal Building. In attendance were:

#### **Board:**

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

#### **Staff:**

Jeffery Ressler, Zoning Administrator  
Jeff Stover, ZHB Solicitor

Others in attendance included: Marcella Bell, Recording Secretary; Ray Stolinas, Planning & Zoning Director; Al Drobka, Torron Group; Zach Blair, Thistlewood Associates; Terry Williams, Thistlewood Associates, Bill Swanick, Weis Markets, Inc.; Tom Songer, Torron Group; Alex Ororbia, Weis Markets, Inc.; Joseph Szefi, Invercon, LLC; Robert R. Cressler, Jr., Thistlewood Associates; and Gary Moyer, Torron Group

### II. WEIS MARKETS, INC – REQUEST FOR VARIANCE

Mr. Twomley stated that due to absences, Mr. Friedenberg will sit in as a core member.

Mr. Ressler stated that the property that is the subject of this hearing is located at 1400 North Atherton Street, State College, tax parcel 24-12-25. The property is owned by Weis Markets, Inc., 1000 South Second Street, Sunbury, PA. The property is zoned General Commercial (C). The property is currently used by Dunkin Donuts. A land development plan was approved for Dunkin Donuts, and a landscaping plan was approved with the land development plan. The landscaping plan was approved for a buffer yard with a fence. The applicants are requesting a variance to Chapter 27-807.15(3)(b) of the Zoning Ordinance to permit gaps in the fence due to existing large tree growth within the buffer yard. There have not been any other variance requests for the property.

Mr. Ressler referred to the PowerPoint to show the ZHB where the property is, the buffer yard, the fence, and the gaps in the fence to save some larger trees.

Mr. Swanick introduced himself as the project engineer from HRG for Weis Markets. He referred to the April 23, 2018 cover letter that was submitted with the Weis Markets variance application. The hardships that were addressed in the cover letter are as follows: the hardship is created by the existing established vegetative cover and large existing tree growth in the buffer yard separating Weis Markets, Inc., and the N/F Rutherford property; due to the location of the existing large trees where the fence is to be placed, the buffer yard cannot be developed in strict conformity with the Zoning Ordinance; the hardship has not been created by the applicant; the variance, if authorized, will not alter the essential character of the neighborhood, impair the use or development of adjacent property, or be detrimental to the public welfare. The

fencing is to be installed in an existing buffer yard area with established vegetation and tree growth; and the variance, if authorized, represents the minimum variance that will afford relief to the applicant. Only the sections of the fence needed to avoid existing trees will be eliminated. He went on to say that the applicant would like to save the three large trees in the existing buffer yard and because of the location, the buffer yard cannot be installed per the approved plan.

In response to a question from Ms. Buda, Mr. Ororbia stated that the applicants chose to install a fence as a buffer yard instead of vegetation because the vegetation would die due to the existing canopy trees. Mr. Swanick referred to the small section of fence in the southern portion of the property and stated that the applicants did not want to include this section of the fence, however, the applicants were asking for the minimum variance.

In response to a few questions from the Zoning Hearing Board members, Mr. Swanick explained that even if the fence was moved to another location, the applicants would still be asking for this variance due to how thick the existing vegetation is. He stated that the fence would not be up against the trees—the fence will be installed about a foot away from the trees to allow for growth.

A motion was made by Ms. Buda and seconded by Mr. MacNeely to grant Weis Markets, Inc., a variance to construct a fence along the property line that adjoins the N/F Rutherford property without the 31-foot section in the southern portion of the property. This variance will only be in effect while the trees remain. If the trees do not remain, the fence will be completed. The motion carried 4-0.

### **III. THOMAS SONGER II – REQUEST FOR VARIANCE**

Mr. Ressler stated that the property that is the subject of this hearing is located at 3006 Research Drive State College, PA, tax parcel -24-465-056. The property is owned by Thomas F. Songer II. The property is located in the Industrial Research District (IRD). The property is developed as a professional office building. The applicant is proposing a building addition 20 feet wide by 50 feet long over an existing paved area. The zoning ordinance in Chapter 27-1003.1.E.3 requires that a land development plan be completed for all building additions. The applicant is requesting a variance to Chapter 27-1003.1.E.3 to not be required to complete a land development plan. In place of the land development plan, the applicant would complete a minor alteration plan. The proposed addition would extend into the required 50-foot rear setback by approximately 5.96 feet. The applicants are requesting a variance to Chapter 27-206.1 and Table 602 setbacks. There have been no other variance requests for the property.

Dr. Szefi introduced himself as the president of Invercon, the company that will be occupying the addition. He gave a brief history about Invercon and the reasoning behind the move to the Kalman building.

In response to a question from Ms. Buda, Mr. Ressler stated that there was a land development plan submitted for this site when the original building was built.



Mr. Songer introduced himself as the owner of the Kalman building. He explained that he and Dr. Szefi looked at many properties around the Centre Region and most office spaces are not designed to take in 30-foot helicopter blades, specifically the delivery of the blades. Mr. Songer stated that he is putting the smallest addition (20 feet by 50 feet) on to still be able to run the business as needed. The addition is not creating any more impervious area and it will not affect the existing parking. Mr. Gary Moyer introduced himself as the owner for Collegiate Pride, which is to the west of the Kalman building. He stated that he is in support of the addition as shown on the plan. He explained that the Kalman building has been a good neighbor for the past 20 years and he would like it to stay that way. Mr. Songer stated that the neighbors to the south also reviewed the variance application and they are in support of the variance as well as the plan—the letter of support was provided to the Zoning Hearing Board members.

In response to a few questions from the Zoning Hearing Board members, Mr. Ressler clarified that minor alteration plan doesn't save the Township any money, however, it does save time. There are no other risks by not doing a land development plan. Mr. Ressler stated that a minor alteration plan does not kick in the buffer yard requirements and the Kalman building was built before the Zoning Ordinance required buffer yards.

A motion was made by Mr. MacNeely and seconded by Mr. Friedenberg to grant Thomas Songer, II, a variance to Chapter 27-1003.1.E.3 to not require a land development plan for the proposed building addition and to Chapter 27-206.1 and Table 602 Setbacks to not require a 50-foot setback. The motion carried 4-0.

#### **IV. THISTLEWOOD ASSOCIATES—REQUEST FOR A VARIANCE**

Mr. Ressler stated that the property that is the subject of this hearing is located at 151 Meadowview Drive, tax parcel 24-736-022. The property is owned by Thistlewood Associates, 2300 South Atherton Street, State College. The property is zoned Rural Residential (RR) and is a part of the Thistlewood Subdivision. The applicants are requesting a variance to the front setbacks as shown on the recorded subdivision plan. The subdivision plan shows the front setback to be 50 feet for lot #47. The plan notes for the subdivision plan states that the front setbacks are 20 feet unless otherwise noted.

The Zoning Ordinance in Chapter 27-206.1 reads as follows: "No structure shall be placed in the front, side, or rear setback areas specified for each use in Part 3 through Part 6 of this chapter, except where specifically permitted below or in other sections of this chapter." There are 53 residential lots shown on the subdivision plan, and there are 14 lots (25%) that are shown to have setbacks greater than 20 feet.

Of the 14 lots that are shown to have front setbacks greater than 20 feet, 3 lots are designed with a "flag pole" portion that extends to the road and the building area is in back of a house that fronts on the street. These 3 lots are lots 11, 12, and 47. The RR Zoning District requires a minimum of 100 feet of lot width at the street line and 150 feet at the building setback line. For lot #47, the flag pole portion of the lot is 100 feet wide and contains an easement area. The building setback area does not begin until

the lot is 150 feet wide and is past the easement area on the flag pole portion of the lot. The applicants are requesting a variance to the front setback as shown on the recorded plan to be able to locate the house 100 feet away from the floodplain. This location of the house would be out of any floodplain buffer. There have been no other variance requests for this property.

Mr. Ressler clarified that even though the Zoning Ordinance for the RR district states that the front setback is 20 feet, the recorded subdivision plan indicates that the front setback is 50 feet for lot 47.

Attorney Williams and Mr. Cressler reviewed and discussed the recorded Thistlewood Subdivision Plan and the Thistlewood Lot 47 submitted plan with the Zoning Hearing Board members.

A motion was made by Ms. Buda and seconded by Mr. MacNeely that the property located at 151 Meadowview Drive, tax parcel 24-736-022-0000, be granted a variance to Chapter 27-206.1 to allow a reduction of the setbacks as shown on the Site Plan, project number 11083. The motion carried 4-0.

**V. APPROVAL OF THE MEETING MINUTES FROM THE MARCH 27, 2018  
REGULAR MEETING**

A motion was made by Mr. MacNeely and seconded by Mr. Twomley to approve the March 27, 2018 Regular Zoning Hearing Board meeting minutes. The motion carried 4-0.

**VI. ADJOURNMENT**

With no further business to come before the Zoning Hearing Board the May 22, 2018 meeting adjourned at 8:17 p.m.

RESPECTFULLY SUBMITTED,

  
Michael MacNeely, Secretary  
For the Zoning Hearing Board

Date approved by the Board: June 26, 2018