

**FERGUSON TOWNSHIP ZONING HEARING BOARD**  
**REGULAR MEETING**  
**TUESDAY, SEPTEMBER 25, 2018**  
**7:00 PM**

**I. ATTENDANCE**

The Zoning Hearing Board held its regular meeting on Tuesday, September 25, 2018 at the Ferguson Township Municipal Building. In attendance were:

**Board:**

Michael Twomley—Chairperson  
Michael MacNeely—Secretary  
Swamy Anantheswaran  
Susan Buda  
Irene Miller  
Marc Friedenberga—Alternate, absent

**Staff:**

Jeffery Ressler, Zoning Administrator  
Jeff Stover, ZHB Solicitor

Others in attendance included: Marcella Bell, Recording Secretary; Ray Stolinas, Planning & Zoning Director; Ron Seybert, Township Engineer; John Sepp, PennTerra Engineering; Laura King, King Wealth Strategies; Thomas King, King Wealth Strategies; and Mark Torretti, PennTerra Engineering

**II. CITIZENS' INPUT**

There was no citizens' input.

**III. KING WEALTH STRATEGIES – APPEAL AND VARIANCE REQUEST**

Mr. Ressler stated that the property that is the subject of this hearing is located at 222 Blue Course Drive, State College, tax parcel 24-012-012-0000. The property is owned by Thomas and Laura King and is located in the C-General Commercial Zoning District and Corridor Overlay. The applicants are proposing to renovate an existing dwelling into an office space. The applicants are appealing the Zoning Administrator's decision that a variance to Chapter 27-206 Yard Requirements is required to encroach into the front setback with pedestrian walkway, ramps, and paver landings. Chapter 27-206.1 reads as follows, "No structure shall be placed in front, side, or rear yard 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." In the alternative that the appeal is not granted, the applicants have requested a variance to Chapter 27-206 yard requirements to be permitted to construct pedestrian walkways, ramps, and paver landings in the front setback. The applicants have also filed an appeal to the decision of the Township Engineer that the project must meet the stormwater management ordinance. There was a previous Zoning Hearing Board hearing for this property on October 17, 2017. Several variances were granted.

The Board will address the appeal to the Zoning Administrator's decision first. Mr. Sepp introduced himself and stated that he and the applicants were here about a year ago to request a variance for a reduction of two parking spaces in the parking area. He stated that because of the small lot and the setbacks of the lot, it is very difficult to do anything within the regulations of the Zoning Ordinance. The applicants have the required parking for customers, but they don't have a way to get the customers from the parking lot to the front door. The applicants are proposing two walkways—one on the west side of the property and one on the south side of the

property. Mr. Sepp provided the Board with several exhibits. Exhibit 1 shows the site in its current configuration. Exhibit 2 shows the proposed lot with required parking and the requirements of the variance obtained last year. Exhibit 3 is a rendering of what the property would look like if the applicants receive approvals and is constructed as planned. Exhibit 4 shows plans and aerial photos of 102 Clinton Avenue and the highlighted walkways in the setback. Exhibit 5 shows the plans of a building at the intersection of North Atherton and North Hills Place with the walkways highlighted in the setback. Exhibit 6 shows the plans of an office located at the intersection of Old Gatesburg and Blue Course Drive which has a planter between the sidewalks. Mr. Sepp stated that Mr. Ressler is interpreting the walkway as a structure and the applicant believes it is not a structure, just a walkway. Mr. Sepp explained that the retaining wall is serving the purpose of making the grade and is decorative in nature as well. He stated that these features are necessary and do not go against the spirit of the ordinance. Mr. Sepp stated that if the appeal is not granted, the variance request would go hand in hand with the approved variance request from last year.

In response to a question from Mr. MacNeely, Mr. Sepp stated that at the time of last year's variance request, he doesn't believe the walkways were shown at the time. The applicants did not realize the walkways would need a variance.

In response to a few question from Ms. Miller, Mr. Sepp stated that if the walkways were not approved in the proposed locations, the customers would have to walk in the driveway to get to a walkway. Mr. Ressler explained that the proposed walkways are different from traditional sidewalks due to the width of the walkways, and there are sections of the walkway that are elevated like a patio or porch. Mr. Sepp stated that the walkways have more aesthetic appeal and are wider than normal sidewalks, but it functions like a sidewalk.

In response to a question from Mr. Twomley, Mr. Sepp stated that without the retaining wall, there would be a steeper area for mowing—the retaining wall helps with maintenance and landscaping purposes. The retaining wall is an integral part of the walkway since it is right up against the walkway. The retaining wall also provides a level area between the driveway and walkway.

The Zoning Hearing Board and Attorney Stover had a brief discussion on the impacts of granting an appeal versus a variance request. It was of Attorney Stover's opinion that the appeal would have more of a substantial value and would set a precedent for issues like this in the future.

A motion was made by Ms. Miller and seconded by Mr. MacNeely to grant the appeal of the Zoning Administrator's decision regarding Chapter 27-206.1. The motion failed 0-5.

A motion was made by Mr. MacNeely and seconded by Ms. Miller to grant the variance to Chapter 27-206.1 to allow the construction of walkways as presented in Exhibit 3. The motion carried 5-0.



The Zoning Hearing Board then discussed the appeal to the Township Engineer's decision that the project must meet the Stormwater Management Ordinance.

Mr. Seybert, Township Engineer, provided the Zoning Hearing Board with sections of the Stormwater Management Ordinance. Mr. Seybert explained that there is not a variance process for the Stormwater Management Ordinance; however, there are exemptions given to those who meet certain criteria. Mr. Seybert referred to Chapter 26-110 Exemptions of the Stormwater Management Ordinance and explained that according to the application, he believes the applicant is appealing Chapter 26-110.1, which exempts an applicant from the requirement to submit a stormwater management site plan to the Township for review, but remains subject to the design standards and criteria of the Stormwater Management Ordinance. Mr. Seybert provided the Board with two comment letters, his and Mr. Scott Brown, the Township's stormwater consultant.

Mr. Sepp stated that there is a discrepancy in the square footage of the site because of a patio that was removed. Mr. Sepp explained that since this lot is very small, there is a limited amount of area that stormwater facilities can be placed on. He added that there is a detention basin on Blue Course Drive and Martin Street that this property drains to. He stated that he is confident that there will be no issues with stormwater drainage to the Blue Course Drive and Martin Street detention basin.

There was a very lengthy discussion regarding what exactly the applicants are appealing within the Stormwater Management Ordinance. Mr. Seybert clarified that the applicants have to follow the requirements in the Stormwater Management Ordinance if they do not meet the criteria set forth for an exemption. It was of Mr. Seybert's opinion that the applicants do not meet the criteria for an exemption, and it would only be an exemption of the requirement to submit a stormwater management site plan to the Township for review. The applicant would still have to follow the design standards and criteria of Chapter 26-110.

Mr. Sepp stated that he would like the Board to consider tabling this item so that he and the applicants can take another look at the stormwater issues. He went on to say if there is not additional substantial information for the Zoning Hearing Board to review, the applicants will consider withdrawing their appeal.

A motion was made by Mr. Twomley and seconded by Mr. Anantheswaran to table the Kith Wealth Strategies stormwater appeal until the next hearing. The motion carried 5-0.

#### **IV. APPROVAL OF THE MEETING MINUTES FROM THE AUGUST 28, 2018 REGULAR MEETING**

A motion was made by Mr. Anantheswaran and seconded by Ms. Buda to approve the August 28, 2018 regular meeting minutes. The motion carried 5-0.

**V. ADJOURNMENT**

With no further business to come before the Zoning Hearing Board the September 25, 2018 meeting adjourned at 8:10 PM.

RESPECTFULLY SUBMITTED,

  
Michael MacNeely, Secretary  
For the Zoning Hearing Board

Date approved by the Board: 10/23/18