

**FERGUSON TOWNSHIP ZONING HEARING BOARD  
REGULAR MEETINGS  
TUESDAY, JULY 23, 2019  
7:00 p.m.**

**I. ATTENDANCE**

The Zoning Hearing Board held a Zoning hearing on Tuesday, July 23, 2019, at the Ferguson Township Municipal Building. In attendance were:

**Board:**

Michael Twomley  
Michael MacNeely-Asent  
Swamy Anantheswaran  
Susan Buda  
Irene Miller  
Stefanie Rocco, Alternate-Absent  
Jeff Stover, ZHB Solicitor

**Staff**

Jeff Ressler, Zoning Administrator  
Lindsay Schoch, Interim Planning & Zoning Director

Others in attendance were: Summer Krape, Recording Secretary; Joe Perotti, Attorney; Michael Lassitor, Dan Myers, Service Representative; Pam Salokangas, Centre Region Parks and Recreation Authority Director, Robin Froehlich, Stahl Sheaffer Engineering; Brian Auman, Landscape Architect; Kathy Madison, Centre Region Parks and Recreation Chair; and Jim Carpenter, Centre Region Parks and Recreation.

**II. CALL TO ORDER**

The Ferguson Township Zoning Hearing Board meeting was called to order by Mr. Mark Twomley on Tuesday July 23, 2019 at 7:01 pm.

**III. PLEDGE OF ALLEGIANCE**

**IV. CITIZENS INPUT**

None

**V. INTRODUCTION OF BOARD MEMBERS**

**VI. SWEARING IN OF THOSE THAT WISH TO TESTIFY**

**VII. THE ZONING HEARING BOARD SOLICITOR EXPLAINS THE BASIS FOR GRANTING A VARIANCE/APPEAL**

Mr. Jeff Stover the Zoning Hearing Board Solicitor explained the criteria for a variance to the audience.

**VIII. ZONING OFFICER EXPLAINS THE BASIS OF VARIANCE/APPEAL REQUEST**

**IX. SBA TOWERS II, LLC-VARIANCE REQUEST**

Mr. Ressler stated that the first variance request is for SBA Towers II, LLC. The property is located at 200 Jackson Trail and is zoning district is forest and game lands. Tax parcel 24-007-500-0003 is owned by the Commonwealth and is leased by SBA Towers. The applicant is requesting to replace the existing lattice tower with a new lattice tower. The existing tower does not meet the

required 500 feet set back. SBA Towers, LLC is requesting a variance for Chapter 27 209 4D 3i and 27 409 4D 3i. The second request is chapter 27 209 4F all new towers be monopole towers. There was a previous hearing held on September of 2017 that granted the setback variance but denied lattice tower request.

Attorney Mr. Joe Perotti is present from Sitt and Cortez law firm on behalf of applicant SBA Towers. Mr. Perotti stated that this variance request is identical to the variance request that was approved in 2017. SBA is seeking the same two variances. Mr. Perotti stated the Mr. Michael Lassitor a professional engineer and Mr. Dan Myers a service representative are present to answer any questions the Board may have. Mr. Perotti explained that the present tower is about to fall over. Mr. Myers stated that the rural customers won't have access to internet services if this tower would fall and they were not able to replace. Mr. Myers stated that they have been unable to climb the pole to fix it for two years as it is unsafe. Mr. Lassitor explained the tower, the equipment on the tower, and safety equipment technician's use on the tower. Mr. Myers stated that they will not be able to mount the number of dishes they need on a monopole. Mr. Twomley asked why this variance is different than the denied variance request in 2017. Mr. Perotti stated that at the hearing in 2017 they did not have testimony from engineers and service representatives. Mr. Perotti stated the hardship is health and human risk. The existing pole is going to fall, that is a risk and people will lose service.

Mr. Anantheswaran made some hypothetical scenarios to help convince his colleagues of the hardship. Mr. Myers stated that the tower is a pre-existing tower and services a lot of areas. Ms. Buda stated that this may need to be taken to the Board of Supervisors and it may need to be an ordinance change not a Zoning Hearing Board issue. Ms. Buda asked what Mrs. Schoch's thoughts are on this. Mrs. Schoch stated that we currently have amendments to the zoning ordinance update. Mrs. Schoch stated that per the zoning officer's request staff could put this specific amendment into the draft. Mr. Ressler stated that if the Board would want to amend this, this could be a route we could take. Ms. Buda requested that the Board meet with the ZHB solicitor Mr. Stover. Ms. Buda moved to go into executive session and Mr. Anantheswaran seconded the motion.

The Board reconvened 8:11 pm. Ms. Buda moved that the property located at 200 Jackson Trail, tax parcel 24-007-500-0003 be granted a variance to chapters 27-209-4D.3I and Chapter 27-209-

4F to replace the lattice tower and to have a variance in the right of way set back. Mrs. Miller seconded the motion.

**X. J & G MOYER, LLC-VARIANCE REQUEST**

The second variance request is for J & G Moyer. The property is located 3005 Enterprise Drive, State College PA. Tax parcel 24-465-061. Property is owned by Judith and Gary Moyer, issue is as follows applicants are proposing to enclose a 12 x 18 loading dock at the north end of the building to create additional storage. Mr. Gary Moyer stated that the property has been in Cato Industrial Park and Collegiate Pride has been owned by his family for 35 years. Mr. Moyer stated that the foot print won't change. The loading dock has a foundation and roof and he would only like to enclose it and improve the appearance of the property. Ms. Buda moved that the property located at 3005 Enterprise Drive, State College, PA tax parcel 24-465-061 be granted a deminimus variance to enclose an existing 12X24 foot loading dock. The variance will be for Chapter 27-1003.1.E.3 to not require a land development plan. Mrs. Irene Miller seconded the motion.

**XI. CENTRE REGION PARKS & RECREATION-VARIANCE REQUEST**

The third variance request is for Centre Region Parks and Recreation the property is location is at the extension of Blue Course Drive where the regional park will be located, tax parcel 24-004-094G. The applicant for the hearing is Mrs. Pamela Salokangas, Director, Centre Region Parks and Recreation. The property is zoned RA. The variance requests are as follows: Chapter 27 807.15B, Chapter 27 807.8A, Chapter 27 807.8C.

Chapter 27 807.15B requires a total of 220 canopy trees, 157 under story trees, and 189 shrubs to comply with the buffer yard standard. The applicant is requesting to reduce the planting to 74 canopy trees, 42 under story trees, and 30 shrubs. Chapter 27 807.8A requires a minimum caliper size of canopy trees to be at least 2 inches at planting. The applicant is requesting to reduce the size of the canopy trees at planting to 1 ½ inches. Chapter 27 807.8C requires that the minimum caliper size of under story trees be 1 ½ inches and the applicant is requesting to reduce the caliper size of the under story trees to 1 inch at the time of planting. Mr. Ressler stated that there was a previous hearing held Feb 25, 2014 to eliminate 80 raised parking lot islands and 80 canopy trees. The variance was granted with the condition that the applicant will plant an additional 33 canopy trees around the perimeter of the parking areas. Mrs. Pam Salokangas stated that they have prepared a PowerPoint to go over the plan, reasons for the variances, and show some of the other parks in Ferguson Township. Mrs. Robin Frolic stated that the variance

request that was granted in 2014 was for a different site plan. Since then they have submitted another site plan and the islands with canopy trees are included. Robin stated they can retract that site plan or do what is necessary. Ms. Frolic stated that a buffer is supposed to protect the character of the community and this buffer will actually go against this property. She spoke about the land surrounding the park and that SCBWA and PSU have long term plans in place for that land that abuts the park. The buffer yards would make a hard ridged buffer from the community and would go against what a buffer yard is supposed to be. The intent of the park is to encourage connectivity with an open inviting experience. Ms. Frolic explained that the park will also abut the Cottages, in that area they are only asking for a deviation in the width of the buffer.

Mr. Auman explained looking at the buffers from a public safety standpoint the buffer will have detrimental effects on trail use. He explained the real and perceived safety the public would see using the space. A full buffer planting would create a dense space that would be counterproductive for the trail system. Visual access is very important for public use and law enforcement patrolling. Mrs. Salokanagas stated that they are interested in putting in buffers but really want open connectivity. Mrs. Salokanagas showed the Board pictures of various parks that are owned by Ferguson Township. Visuals from across the street, pictures of the trails, and the park buffers. Mrs. Salokangas noted that Tudek Park is tied for number one in the park system. Although it does have some mature forest areas it also has many open areas and open buffers. She also noted that like the PSU land that abuts the Whitehall Road Regional Park that is used for farming Ceil Irvin Park has farm lands that abuts it as well. Mrs. Salokangas also spoke about different projects/grants they are trying to take advantage of for trees.

Mrs. Schoch stated that on Monday July 1, 2019 the Ferguson Township Board of Supervisors reviewed the request for the variance to minimize the buffer requirements and tree plantings for the Whitehall Regional Park phase one land development plan. The Board of Supervisors opposed all three variances requested because they did not believe sufficient testimony was provided to demonstrate a hardship associated with the land and that the relief requested would be out of alignment with intent of the ordinance. Mrs. Salokangas noted that they were not at the meeting nor did they know about the meeting. The Board asked Mrs. Schoch if she was present at the BOS meeting and why they made that decision. Mrs. Schoch stated that she cannot speak for the BOS but an issue is the drastic amount of reduction of trees.

Mr. Twomley also agreed stating that he is not speaking for the BOS but one issue is the drastic reduction of trees and another concern is funding even though the board cannot consider. Mrs. Salokangas stated that she wanted reduced buffers for connectivity and safety. Ms. Buda discussed the downfalls of the small buffers. Mr. Twomley stated that he looks at buffers as a way to help with noise and lighting. You've got Stonebridge, the apartments across the street, residential areas that would be impacted by the noise and lighting when the park is busy. Mrs. Salokangas noted that the smaller parks that are acting as regional parks, the activities going on at these parks are loud and neighboring residential areas have not complained. The Whitehall Road Regional Park is 1,100 feet from the closest house and there is a road between, that road will break up a lot of noise. She also stated that there will be special lighting to help with light pollution. Mrs. Miller stated that it does make a lot of sense after seeing the pictures of the parks she didn't realize how the open buffers really do play a role psychologically. Mr. Ressler stated that the other parks were made before we had the buffer ordinance.

Mrs. Irene Miller made a motion to grant the variance for extension at the Blue Course, tax parcel 24-004-094G to reduce the required number of buffer plantings in the required perimeter buffer yards. Mrs. Miller made the motion to approve however, Ms. Buda, Mr. Twomley and Mr. Anantheswaran denied the motion. Mrs. Miller made a motion to grant the variance for the extension at 1954 Blue Course Extension, tax parcel 24-004-094G request number two. Variance to chapter 27 807.8A to reduce the minimum caliper size of a canopy tree at planting to 1 inch instead of 2 inches at the time of planting. Ms. Buda seconded the motion. Mrs. Miller made a motion to grant the variance for the 1954 Blue Course Extension, tax parcel 24-004-094G request Chapter 27 807.8C to reduce the minimum size of understory trees at planting to be 1 inch instead of 1 ½ inches at planting. Ms. Buda seconded the motion.

**XII. APPROVAL OF THE MEETING MINUTES FROM JUNE 25, 2019 REGULAR MEETING**

Ms. Buda made a motion to approve the minutes from June 25, 2019. Mrs. Miller seconded the motion.

**XIII. ADJOURNMENT**

The Zoning Hearing Board meeting was adjourned at 10:00 pm.

  
\_\_\_\_\_  
Susan Buda, Secretary  
For the Zoning Hearing Board