

LOWER MACUNGIE TOWNSHIP
ZONING HEARING BOARD MINUTES
November 23, 2010

The November 23, 2010 Zoning Hearing Board hearing was called to order at 7:00 p.m. by Chairman, Larry Schneider. Members present were Larry Schneider, Robert Rust, III, William Royer and Alternate Brian Higgins. Also in attendance were Brian Joyce, Esq., Solicitor to the Zoning Hearing Board, James Lancsek, Zoning Officer, and Bobbie Brown, Keystone Consulting Engineers, Inc. The hearing was held at the Lower Macungie Township Municipal Campus, 3400 Brookside Road, Macungie, PA 18062.

On a motion by Mr. Rust, second of Mr. Royer, and a unanimous vote, the Zoning Hearing Board recommends payment of the invoice of Brian R. Joyce, Esq., dated November 23, 2010, in the amount of \$1,092.00.

On a motion by Mr. Rust, second by Mr. Royer, and a unanimous vote, the October 26, 2010 Zoning Hearing Board minutes were approved.

Appeal No. 10-019, of Kevin Oldt, 4339 South Drive, Allentown PA 18103; property owner, Kevin Oldt, 4339 South Drive, Allentown PA 18103; property address: 4339 South Drive, Allentown PA 18103; Pin #548527087389-1; zoned Semi-Rural; requests a hearing pursuant to Lower Macungie Township Ordinance No. 1998.11, as amended, to determine a Variance of Section 705 – Lot Area, Width, Building Coverage and Height Regulations and Section 706 – Minimum Yard Requirements, and any other relief as may be required from the Lower Macungie Township Zoning Ordinance.

John Stover, Esq. 537 Chestnut Street, Emmaus PA 18049, represented the applicant. Eugene Berg, Jr. , of Gouck Architects of Allentown, testified about ADA regulations and explained the submitted plans. Mr. Berg submitted Exhibits A-1 containing ADA regulations for maneuverability for wheelchairs in a bathroom, at doors, and counter height in a kitchen. Mr. Oldt is disabled and wishes to renovate his home in accordance with current ADA guidelines. He proposes to add an addition of 24' x 54.5'. The current home has a footprint of 1,080 feet. The front porch contains approximately 120 SF. The proposal of the Applicant will increase the building coverage to 24% in an area where 20% coverage is permitted. The Applicant is also seeking a side-yard variance. The adjoining neighbors, Mr. O'Connor and Mr. Kish, expressed their concerns, but did not object to the proposal of the Applicant.

The variance as requested is the minimum which will afford relief to the Applicant and will not alter the essential character of the immediate neighborhood nor will it be detrimental to the public at large.

By motion of Mr. Royer, second by Mr. Rust, and a unanimous vote, to grant the applicants request.

In order for a noted appeal to be heard (namely the Streck, et al in regards to the zoning and SALDO changes resulting from the MOU between Lower Macungie Township Board of Commissioners and Jaindl Realty) due to the recusal of both Robert Rust and Larry Schneider diminishing the size of the Zoning Hearing Board from three members and one alternate to one member and one alternate, it was our understanding unfortunately unfounded, that the hearing mechanism would be the remaining board member Mr. Royer and an elevated to member status Mr. Brian Higgins.

Issues concerning the board are:

1. Can the recused members vote to appoint a hearing officer? The recused members can vote.
2. Do you want to have input into this case in the form of appointing a hearing officer?
3. The BOC have appointed an alternate after the commencement of the litigation, so is the alternate tainted.

Those are the issues that need to be discussed. It was decided to generally discuss tonight and come back at the next meeting when its advertised and the litigants council could present legal argument at that time. One thing to keep in mind that if you appoint a hearing officer you would not have the issue of a split decision on the evidence issue.

Donald Miles, Esq., council for the appellants, spoke about the MPC requirements.

Peter Lehr Esq, whose firm was recently hired by the Township as Solicitor, stated he was not at liberty to dialog at this time. He is agreeable wait for a decision to be reached at the next board meeting in December.

Joseph Zator Esq, council for Jaindl Realty - His client is busy and could not be present at this time. Issues are complex and he would like to study up a bit and discuss at the December meeting.

On a motion by Mr. Rust, second by Mr. Royer, and a unanimous vote, the meeting was adjourned at 9:10 PM.

Respectfully submitted,
Bobbie Brown
Keystone Consulting Engineers