

Manor Township Zoning Hearing Board Minutes

Wednesday, November 9, 2022

Time: 7:00 p.m.

Chairman, Bradley Singer called the Manor Township Zoning Hearing Board meeting to order in the Manor Township Municipal Building located at 950 West Fairway Drive, Lancaster, PA 17603 on November 9, 2022, at 7:00 p.m. Chairman Singer led those in attendance in the Pledge of Allegiance and introduced the Board.

Members Present: Bradley Singer, Dennis Funk, and Scott Ream
Staff Present: Nate Taggart, Michelle Smith, and Peg Hess
Township Solicitor: James McManus
Visitors: See attached Sign-In Sheet

Previous Month Minutes – Scott Ream made a motion to approve the October 5, 2022, meeting minutes as they have been submitted. Dennis Funk seconded, and the motion carried unanimously.

Old Business

Case #7-2022: Andre & Angela Martin, 365 N Duke St, Millersville, PA 17551. The applicant is requesting a Special Exception to section 425-13.C(4) (Low Density Residential Zone Special Exception Uses – Accessory Dwelling Unit) & 425-73 (Accessory Dwelling Unit) to install an Accessory Dwelling Unit on their property for occupancy by a family member. The property in question is located at 365 N Duke St, Millersville, PA 17551, Tax ID 410-89145-0-0000 and is in the Low Density Residential (RL) Zone.

Chairman Singer provided an overview of the procedure the Board followed and stated the draft Decision includes Findings of Fact, Conclusions of Law, and the Decision. James McManus further explained that the draft Decision before the Board reports the facts that were presented at the hearing, acknowledges the participation of Parties of Interest, and applies case law. The draft Decision would grant the Special Exception with conditions.

Dennis Funk read the decision. The application of Andre Martin and Angela Martin with address at for a special exception pursuant to the provisions of Sections 425-13.C(4); 425-73 and 425-123.C.2 of the Zoning Ordinance to allow the conversion of the attached garage of the single-family detached dwelling as an accessory use for occupancy by the parents of Angela Martin on the Property Applicants own and at which they reside located at 365 N. Duke Street, Millersville, Pennsylvania 17551, Parcel ID# 410-89145-0-0000, is granted.

The approval of the aforesaid special exception is subject to the following conditions:

1. The Applicants shall at all times comply with and adhere to the plans, Exhibits and all other evidence presented to the Board by Applicants at the hearing held on October 5, 2022.
2. The Applicants shall execute and record an accessory dwelling unit agreement as required by 425-73 G. of the Zoning Ordinance in a form acceptable to Manor Township prior to the occupancy of the Accessory Dwelling.
3. Prior to construction of the Accessory Dwelling the on-lot water system serving the Property shall be approved as adequate for use by the occupants of both the existing dwelling and proposed Accessory Dwelling addition.

4. The Accessory Dwelling shall be discontinued as an independent living unit within 12 months after it is no longer occupied by the person or persons who qualify for its occupancy.
5. The Applicants shall comply with all other applicable governmental rules, ordinances and regulations regulating the construction, provision of utilities, use and occupation of the proposed accessory dwelling use.

Any violation of the conditions contained in this Decision shall be a violation of the Zoning Ordinance and shall be subject to the penalties and remedies as set forth in the Pennsylvania Municipalities Planning Code.

Dennis Funk made a motion to approve the Special Exception subject to the conditions as read. Scott Ream seconded and the motion carried unanimously. The Board signed three copies of the Decision which were given to the Zoning Officer for distribution. One copy was given to Applicant at the hearing.

New Business

Case #8-2022: Weston Paul Shertzer and Sara Jayne Shertzer, 105 Garrity Rd, Millersville, PA 17551. The applicant is requesting a Variance to section 425-12.M (Agricultural setback requirement) and, to the extent necessary, 425-39.B (Driveway setbacks). The applicant is requesting approval to construct a new home on the property to be located approximately 35 feet from the adjoining farm where a 100-foot setback is required for a dwelling unit on property adjoining land within the Agricultural Zone. The applicant is also proposing to construct a driveway that would be located within three feet of the adjoining farm. The property is located at 500 Shultz Rd, Washington Boro, PA 17582, Tax ID 410-41002-0-0000 and is in the Rural (R) Zone.

Chairman Singer explained the procedure that the Board will follow for the hearing. Testimony will be presented this evening. Board members will individually give their thoughts and decisions to the Board Solicitor, who will then draft a Decision.

James McManus asked the attendees to identify themselves. James Ortman, 421 Shultz Rd, is interested in the application with regards to storm water runoff. Mr. McManus explained that tonight's meeting will only address zoning matters, what can be built and where. Before a building permit is issued, the Township would review Land Development issues such as stormwater and confirm it complies with all applicable standards. Tonight's meeting will not appropriately address where water will run to.

Others in attendance included Weston Paul Shertzer, Mike Rohrer, 123 Charlestown Road, Peter Wertz; Attorney with McNees, Wallace and Nurick, Mike Saxinger, Landscape Engineer with ML Saxinger and Associates, and Nate Taggart. All were collectively sworn in. Nate Taggart is the Zoning Officer for Manor Township. In that capacity, Mr. Taggart administers and receives the applications that come before the Zoning Hearing Board. He received the application indexed at #8-2022 requesting a Variance. The application was completed on a standard form provided by the Township along with a four-page narrative of project. The Application was submitted with a list of adjoining property owners and three aerial photos. Also included was a page showing the roadway in relation to the proposed building site, topographical plan prepared by ML Saxinger & Assoc., Inc. and a page showing an extension of the plan detailing a proposed driveway to Shultz Road. The application was marked as Exhibit #1.

Mr. Taggart posted a notice of the time, date, place, and subject matter of the hearing in Lancaster Newspaper on October 26, 2022, and November 2, 2022. The property that is subject of this application was posted with the same notice on November 2, 2022. Additionally, a notice was posted in the lobby of the Manor Township Municipal Building on October 26, 2022. All notices contained the same information.

James McManus further explained the procedure for this evening. The Applicant or Counsel for the Applicant will speak to the Board. Individuals in support of application will also have the opportunity to present evidence to the Board. After each witness has concluded their testimony anyone else in attendance who has interest in application may ask questions. The Board may have questions at the conclusion of the Applicant's presentation and will have opportunity to clarify or make amendments to the testimony.

Peter Wertz, Attorney representing Weston Paul Shertzer distributed exhibit packets to the Board:

- Exhibit A1: Aerial map showing 3.9-acre tract located at 500 Shultz Road owned by Weston and Sarah Shertzer. The lot is predominantly vacant and unimproved. It is half wooded and half grassy, with grassy area located north and northeast and south of property adjoining to neighboring 64-acre farm owned by Mike Rohrer, ML Rohrer LLC. The farm is located in the Townships Agricultural district. The property in question is located in a Rural district. The property has a gradual slope, downward from east to west in the grassy area. As you approach the wooded area the slope intensifies up to the right of way of Shultz Road where it is really sheer at that point, almost a cliff.
- Exhibit A2: Street view photographs showing western side of property from Shultz Road. View is from south to north; the western side of property is characterized with these sheer cliffs along the right of way of the road.
- Exhibit A3: Proposed development of a single-family dwelling. It is proposed to be located in the grassy portion of property toward north side which is the only area of the property that can accommodate due to construction topographical limitations. Because of steep slopes on western side of Shultz Road the driveway is proposed to be located over a portion of the adjoining farm as that driveway travels north to south and connects to Shultz Road that is much more accessible.

There are two relief requests for consideration. The first request is necessary and second is believed to be unnecessary for the Board to grant. The Applicant is requesting a Variance to section 425-12 of the zoning ordinance. The proposed home would be located 35' from the agricultural farm with the ordinance stating that it must be 100'. The farm adjoins the property on the east and south sides. A 35' setback is consistent with the Rural district. The 100' setback in an agricultural tract is for sunlight obstruction of crops. Because of the grade of the property there are no implications that there will be adverse realities with having a dwelling in that position. The second Variance request relates to section 425-39 B of the Zoning Ordinance. The Ordinance states that a driveway will not be located within 3' of adjoining lot line unless it is an approved shared driveway. Per site plan, the proposed driveway is crossing over into farm and connecting to Shultz Road. By necessity, it is within 3' of the shared lot line. An easement agreement will be entered between Mr. Rohrer and Dr. Shertzer. That agreement is going to afford Dr. Shertzer access over that portion of the farm and have Mr. Rohrer reserve the right to access the driveway to his crops with farm equipment. With this, they will be sharing the driveway. This Variance request may not be necessary.

Michael Saxinger, Registered Landscape Architect, and owner of ML Saxinger & Associates is an expert witness in landscape architecture with 30 years of experience. He prepared the site plan and explained the plan to the Board. Mr. Saxinger reviewed the proposed and existing conditions of the property. A pool and pool house might be added in future. For the current project, the grades will be tied into the existing banks. Stormwater management will be done at a future time.

The existing septic system would need to be enlarged for the proposed dwelling. A home foundation is on the site, but the project was never completed. Currently, there is a detention pond, but a stormwater management facility

will be part of the proposed project. An existing gravel driveway leading to grass way was started from the previous owner and abandoned. This drive will not be utilized as it would require an extensive retaining wall. The wall would be at least 20' and could be dangerous in the wintertime. They are looking at alternative locations for a driveway, which is why Mr. Rohrer's farm and wooded area adjacent to farm field are being considered as an access to Shultz Road. Mr. Saxinger showed on the plan how placement of the dwelling would be undesirable as it would be coming down a hill and you would be looking at a really big retaining wall. This would also create a lot of land disturbance on the site which they are trying to avoid. It is nearly impossible to position the dwelling on a flat area with the proposed location past the 100' line. The property has limited access as the lot has very steep cliffs. There will be a 9' wall and the building itself will be sitting down.

Peter Wertz distributed Exhibit B to the Board

Exhibit B1: SunShot photo at 8 am on July 4th

Exhibit B2: SunShot photo at 6 pm on July 4th

The evening photo shows the shadow just coming to the retaining wall. Neither photo shows a shadow line on the neighboring fields. The 100' setback on agricultural lot was to prevent shadows on crops. The proposed single-family dwelling will not create shadows on the field. The dwelling is right at the edge with the front corner of the dwelling is getting to steep slope. The steep terrain has led to this property being one of most difficult projects Mike Saxinger has ever worked on.

Dennis Funk asked if a shared driveway agreement has been prepared. It has not but will be presented when they file the stormwater plans. Mr. Funk stated that a temporary construction easement agreement will need to be written to do the grading over the easement. Dennis Funk asked if Agriculture Preservation Board was worried about farm. They were not as the disturbance is in the wooded area and not the tillable area. Dennis Funk asked if any utilities will be run under the proposed shared driveway. Electric is currently run to the lot in another area. Peter Wertz commented that utilities could be considered in this easement area which would minimize any disturbance to agricultural land. The driveway will be created in an existing wooded area and will actually expand the farmland. This was considered as part of the Ag Preserve Board decision.

An N.P.D.E.S. permit will be applied for as the driveway will be disturbing more than 1 acre of land.

This property was sub-divided from the existing Rohrer farm by Jay and Pauline Frey. When he purchased the lot Dr. Shertzer intended to build a dwelling and he knew there would be a hardship. Mr. Saxinger added that by creating the shared driveway some trees will be eliminated which will decrease the shading on the farm field. This will help the intent of the ordinance.

Scott Ream asked if Dr. Shertzer would be responsible for the shared driveway maintenance. Dr. Shertzer said he would be exclusively responsible for driveway maintenance.

Brad Singer asked the proposed building height. The shading photos used the maximum height allowed which is 35'. The building would not be more than that.

James McManus asked for clarification about the driveway. The shared driveway will comply with ordinance rules being within 28' easement and 10' wide and paved. Mr. Taggart testified the proposed driveway does follow zoning guidelines and if a shared driveway agreement is in place, this will comply with zoning ordinance and a Variance would not be necessary. Peter Wertz requested to withdrawal the driveway Variance 425-39.B.

Weston Shertzer is a physician at LGH. He purchased the property in June 2021 with intent to build a single-family home as his fulltime residence. Dr. Shertzer has been in communication with Mr. Rohrer of his intent from the beginning. Mr. Rohrer is in support of the application. Mr. Rohrer is interested in a shared driveway agreement so he will have access to his farm.

Mike Saxinger acknowledged an on-site well water is in place. A refined stormwater management plan will be submitted showing more definitive plans prior to issuing the building permit.

Peter Wertz commented that topographical limitations make it impossible to develop/build any further south on lot which is case for variance of 35' setback for dwelling construction.

Mr. McManus closed testimony. Mr. Singer stated that the Decision for this case will be rendered at the December 7, 2022, meeting. With no further business to discuss the meeting closed. Dennis Funk made a motion to adjourn the meeting. Scott Ream seconded and the meeting adjourned at 8:00 p.m.

Respectfully Submitted,

Jeffrey Klugh
Secretary

Recording Secretary
Michelle Smith/Peg Hess