

## Manor Township Zoning Hearing Board Minutes

Wednesday, January 4, 2023

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 January 4, 2023 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, Jeff Klugh and Scott Ream

Staff Present: Nate Taggart and Peg Hess

Township Solicitor: Susan P Peipher

Visitors: See attached Sign-In Sheet

### Re-Organization

Appointment to the Zoning Hearing Board by the Township Supervisors – Bradley Singer was appointed for a three-year term, beginning January 3, 2023 and expiring December 31, 2025.

### Election of Officers

Chairman- Dennis Funk made a motion to appoint Brad Singer as Chairman of the Zoning Hearing Board for 2023 and Jeff Klugh seconded, and the motion carried unanimously.

Secretary – Dennis Funk made a motion to appoint Jeff Klugh as Board Secretary. Brad Singer seconded, and the motion carried unanimously.

Vice Chairman – Jeff Klugh made a motion to appoint Dennis Funk as Vice Chairman of the Zoning Hearing Board for 2023. Brad Singer seconded, and the motion carried unanimously.

Alternate – Brad Singer commented that Scott Ream will continue in capacity of Alternate to the Board for 2023.

### Set Meeting Dates

The Zoning Hearing Board will meet the first Wednesday of each month at 7:00 p.m. If there are any changes to the schedule, the meetings will be dually advertised according to the Municipalities Planning Code.

Scott Ream commented he will not be attending the March 1<sup>st</sup> or July 5<sup>th</sup> meetings.

Dennis Funk made a motion to approve meeting minute dates. Jeff Klugh seconded, and the motion carried unanimously.

### Selection of the 2023 Zoning Hearing Board Solicitor

Susan Peipher is being appointed as Solicitor for the Zoning Hearing Board for 2023. Ms. Peipher is a firm partner and practicing Attorney at the Law Firm of Blakinger/Thomas. She comes to this position with areas of practice including Civil Litigation, Bankruptcy, Municipal Law, and Zoning. She is the principal solicitor for four townships and the Lititz Borough Zoning Hearing Board.

Brad Singer made a motion to appoint Susan Peipher Solicitor. Jeff Klugh seconded, and the motion carried unanimously.

**Previous Month Minutes** – Jeff Klugh made a motion to approve the December 7, 2022 meeting minutes as they have been submitted. Dennis Funk seconded, and the motion carried unanimously.

## **New Business**

### **Case 1-2023**

Old Blue Rock Properties, LLC. Subject Property: 321 Old Blue Rock Road (Manor Township) Lancaster, PA. The applicant has filed an appeal from the determination of the Zoning Officer dated October 27, 2022, pursuant to Section 425-123.E and, in the alternative, a variance from Section 425-13.B. (Low Density Residential Zone Permitted Uses) to permit the storage of headstones and use of a headstone lift on the property. The property in question is located at 321 Old Blue Rock Road, Millersville, PA 17551, Tax ID 410-31740-0-0000 and is in the Low Density Residential (RL) Zone. The applicant is represented by Council.

Chairman Singer explained the procedure that the Board takes is somewhat formal. The applicant will present evidence. The evidence will be in the form of testimony, exhibits or both. Everyone will give testimony and those wanting to make comment for or against will be sworn in. Testimony is being recorded by the stenographer and an audio recording. Each case will be heard separately in the order as listed on the agenda. The applicant will present his/her evidence in support of the Application. When the applicant has completed his/her testimony the applicant will be subject to questions from the Zoning Board, from the Solicitor or any person opposing the application and anyone with interest in the application. Each person will be subject to the same process. When the applicant has completed his/her testimony and submission of evidence, any person opposing the application will have the opportunity to present testimony or other evidence. Each person will likewise be subject to questions from the Zoning Hearing Board members and the Solicitor. Although any person may ask questions to the applicant, people other than the applicant who are interested in the application may consider becoming a party to the case. To be a party to the case, a person must be affected by the application. The significance of party status is that every person who is a party will be entitled to receive a copy of the written decision and will be entitled to participate in any further proceedings in this case. When the testimony is completed the Zoning Hearing Board will consider voting upon the application. The Zoning Hearing Board must vote upon a decision within 45 days after the completion of the hearing. Only one person may speak at a time, no one should speak or ask a question until recognized by the Board Chair. If there are questions of

Law or procedure which arise, those will be determined by the Board with the help of our Solicitor if we are proceeding with the hearing. Any written materials such as photographs, other documents which are intended to become part of the evidence will be marked by the stenographer as an exhibit. The Board will retain all such exhibits as they become part of the formal record of the case.

Solicitor Peipher asked for those taking a part in this application to be sworn in. Jason Hess stated there were attendants there that will be participating. Solicitor Peipher did a group swearing in. This is an appeal of the determination of the Zoning Officer and the Township will go first in presenting their case. And then the request for a variance will be taken in two steps.

Nate Taggart confirmed with Solicitor Peipher that this hearing was properly advertised in accordance with the MPC, properly posted and neighboring property owners notified of this hearing. The application with addendums and exhibits were marked as Exhibit 1.

Jason Hess from Morgan, Hallgren, Crosswell, and Kane, P.C., the Solicitor for the Township spoke that the Township is taking a position only on the first part of this matter which is the appeal of the determination of the Zoning Officer. The Township is not taking a position on the actual request for a variance. A request for determination was made to Zoning Officer that there is a continuation of a nonconforming use. The use in question, which was an alleged commercial use of a garage, the previous owner never received permission for that use. The use was never lawfully allowed. A non-conforming use must predate any zoning restriction that prohibits it. In 1999 when application for permit was made for a garage it was for storage of the owners' antique cars. No commercial use was mentioned. No evidence has been received showing the Township ever gave the owner permission for a commercial purpose. The commercial use was prohibited at that time. This was not a non-conforming use; it was an unlawful use. The Township does not want to allow the precedent to be made that a property owner can do something without the Township's knowledge or permission and later claim it is a non-conforming use.

Exhibits – Township 1 – 5 were submitted into evidence. No objections were made.

Nate Taggart stated he has been Zoning Officer for 5 ½ years. Mr. Taggart was asked to make a determination regarding the property at 321 Old Blue Rock Rd.

Exhibit – Township 3 – Request for determination letter from Attorney Reilly Noetzel, from Barley Snyder, Attorneys at Law. Nate confirmed the understanding of said request was regarding the non-conforming commercial use of the garage on the property. The applicant has the burden to establish the non-conforming use as lawful. The applicant did not provide evidence to determine that the non-conforming commercial use was lawful. The garage permit application was submitted and built in 1999 by then owner Andrew Sheid.

Exhibit – Township 1- Permit application by Andrew Sheid. The application was marked for a residence and handwritten with garage owner antique cars. He could have circled commercial building instead of residence if he intended any commercial use. The building permit was issued for the garage.

Exhibit – Township 2 – The copy of the building permit issued for the garage. The driveway permit is also attached. The permit states that this is an accessory structure to a residential home, garage to house antique cars. The description of work states to construct a detached 5 car garage on the recorded lot to house the residents' cars. There were no records found that Mr. Sheid ever requested permission to house commercial vehicles in this garage. The applicant did not present evidence showing the Township ever consented to allow Mr. Sheid to house commercial vehicles in such garage.

To change a structure's use from a residential to a commercial use, you would need to obtain a permit from the Township. No permit was ever attained for a commercial use. The zoning officer would not have been able to change this use to commercial because it is not a permitted use. No commercial use is permitted in a low-density residential zone. In 1999 the property was listed in a low-density residential zone, which the zoning ordinance at that time did not allow commercial uses.

Exhibit – Township 5 – Copy of relevant pages of the Zoning Ordinance in 1999. Exhibit includes a cover page, municipal directory, table of contents, and copies of Section 203 Low Density Residential Zone pages. The commercial use was not permitted then and it is still not permitted now. There has never been a time between 1999 and now where a commercial use was a permitted use in a Low-Density Residential Zone.

Nate Taggart determined that the commercial use of the garage is an unlawful non-conforming use of the garage. A letter was written with that determination.

Exhibit – Township 4 – Response letter for Request of Zoning Determination.

Since the response letter was issued, no other evidence was submitted showing a commercial use was permitted.

No questions for the Township were requested. Solicitor Peipher closed the testimony on the appeal.

The Board confirmed to Solicitor Peipher that they wanted to render a decision on the appeal.

Dennis Funk made a motion to deny the appeal. Jeff Klugh seconded, and motion carried unanimously.

The Use Variance request testimony was started with Reilly Noetzel, Esquire. Chad Snyder, Charles Snyder Funeral Home and Crematory, Kathy Snyder Guidos and Beth Keown with Heritage Monuments. Jim Boyer from David Miller and Associates who is a consultant on the property. They may all be called for testimony.

While the applicant can empathize with the Townships position on the appeal. Procedurally the applicant is trying to clean up past uses of the property. They would like to have the property conforming and approve the use of the property as it has been historically used.

The request for a use variance is for a very small portion of the property for a headstone lift. The applicant is Charles Snyder Funeral Home, who is the owner of 321 Old Blue Rock Road, through the entity Old Blue Rock Properties, LLC. They are also owners of the previous Sheid

Funeral Home building across the street. The applicant was under the assumption and understanding that these properties were always used together as one to support the other. The owner did use the garage for some commercial uses such as the storage of hearses and commercial funeral equipment even if the Township was unaware. This garage would not be used in this manner. The Sheid Funeral Home property is very limited. It has a building and access for parking spaces but not for storage or lawn areas where cemetery materials can be stored. Chad would like to use a very small portion of the 321 Old Blue Rock property, across the street, to store headstones and install a small piece of loading equipment to load and unload headstones to and from trucks to take to the cemeteries.

The property is in a low density residential zoning district, so a variance is needed for this use. It will not be the primary use on this property but a small minor commercial use. The home on the property will continue as a residential use.

Applicants Exhibit 2, updated plan prepared by David Miller and Associates which shows the same features as in the previously submitted plan but this one has setback lines added.

Applicants Exhibit 3 – Letter in support of this application as it relates to the proposed headstone lift. Letter from Neil Scheid at 316 Old Blue Rock Road.

Applicants Exhibit 4 – Letter in support of this application as it relates to proposed headstone lift. Letter from Paula Toomey at 309 Old Blue Rock Road. This owner's property is adjacent to where the headstone lift would be located.

Applicants Exhibit 5 – Pictures from 321 Old Blue Rock Road showing historical commercial uses that were previously done on the property. The current owner wants to correct such unlawful uses.

Applicants Exhibit 6 – Letter from Bellavance Logistics confirming the ability to make tractor trailer deliveries to the property.

Applicants Exhibit 7 – Letter from Heritage Monuments, LLC – Statement of meeting between Bellavance Trucking at Blue Rock Road location.

Chad Snyder (Charles Snyder III), is the third generation in the family business of Charles F. Snyder Funeral Home and Crematory. They knew that Andrew Sheid had been using the garage for 20 years for commercial space to operate his business. The photographs submitted show his active daily commercial fleet and not one is an antique vehicle. The pictures submitted show corporate parties, funeral luncheons and a decedent cooler in the garage. At all of their funeral home locations within the county, their decedent coolers are in commercial spaces.

So even though he did not apply for a commercial use permit 20 years ago, it clearly was being operated as a commercial use. They acquired the property and the intent for the garage was to be used as a storage shed. They would like to install a lift that is operated 2 days a week, 2 hours at the most. That would be 8 times a month. A quiet lift, the motor is quieter than a car engine. They have significant landscape between them and the adjacent owner, Dr. Paula Toomey. She has signed a letter of support on this lift.

Kathy Snyder Guidos, Conestoga resident, manages Heritage Monuments which has been in business since 1985. The plan is to move this company to the Blue Rock Road funeral home property and would like to use a portion of the property next to the garage for the lift. A flatbed truck would pull in and drop off a headstone and pull back out. Their installer, Wilson Roth, a West Lampeter Township cemetery caretaker, would come in with his truck, maybe a couple times a month, lift up the headstones in groupings and deliver them to the cemeteries of their clients. It's a very limited use and is basically used as a storage facility. No offices, no employee stations, or desks in the garage. It will be a drop off site and storage location.

Chad confirmed lift will be less than 15' in height. Loading would be between normal business hours. During drop off times, 4 employees, his aunt and 3 co-workers, would be positioned in the funeral home building will be able to walk across Old Blue Rock Rd to supervise the drop off. A convenient factor which is why they are requesting this location. No commercial trucks will be parked permanently on this property. The operation of the lift will be done by Wilson Roth and all certifications to use the lift will be held by Wilson Roth. Roth Cemetery Services installs their headstones and has 20 years of experience.

The headstones will be no wider than 4' – 6'. Standard multiple color granite headstones waiting to be installed. Typically, they are dropped for a couple of weeks and then delivered to the sites.

The lift does not make sense to be located on the funeral home property. Their current lift is in an inconvenient location but also in a residential style setting with no issues and is always maintained and serviced. Because of the pine trees on the side of the property, it is also in a private setting so that it is camouflaged. You won't even see it from the road. By the garage there is a lane with a dozen pine trees between our property and Dr. Toomey's property. She is fine with this as well as Neil Sheid of Sheid Produce. Mr. Sheid owns the warehouse across the alleyway and the produce company across the street on Blue Rock Road. The same size trucks used in the produce company will be servicing their garage and lift.

Chad stated he felt there was already a commercial character to some of these properties in this area. This use will not be affecting the overall character of the neighborhood.

Jim Boyer, David Miller and Associates, President of DMA and registered professional engineer in PA. The property is a little over 37,000 sq foot, which is approximately 0.86 acres. The setback lines are purple for accessory uses and accessory buildings. The side yard setbacks for the property are marked. The lift is less than 15' high so the side yard setback would be 5' and we are well within that. The area of screening is a row of pine trees and in addition is an existing solid fence which is on the adjoining property. This would allow additional screening for the lift and headstones.

In the area of storage there are pine trees that will screen off Old Blue Rock Road. Current impervious coverage lot is slightly over 30%. To avoid stormwater management work they are proposing to remove some existing impervious surface area. In addition to the 9'x9' concrete pad for the lift, we are proposing to widen the driveway to 24' wide to allow slightly more area for delivery trucks to maneuver. To offset the new hard surface for the driveway and pad, they

are proposing to remove some impervious area in the rear that is not needed. This would have no impact on stormwater management and will reduce impervious coverage area to less than 30%.

All applicable area and bulk requirements are met with this plan.

The detailed information about the legal standard for the variance and the application was provided as part of the application. They did propose some conditions for the Board's consideration as part of the application that they are willing to agree to which is consistent with the testimony that was heard this evening.

Jeff Klugh inquired if it was considered to locate the lift to the rear of the garage and asked if the monuments were to be stored along the side as the drive is only 12' wide. The monuments will be placed next to the lane. The truck driver from Bellavance did test the area for truck delivery access. The headstones in waiting will be placed in between the trees. The truck would back up and the lift swings onto the flatbed and picks up and drops off. If the lift went behind the garage, the delivery truck could not make the turn going down the lane and back behind it. The lift would swing in a 180 degree fashion.

The existing home is a rental to one of their employees.

Dennis Funk, commented that he thinks even with a 12' drive, the lift could have been positioned in the rear of the property. The lift will be seen out front if you look very hard for it. Mr Snyder stated that most cars driving by will not notice it. The corner of the garage and the trees will camouflage it.

Dennis Funk inquired about the size of the lift. Kathy Snyder Guidos, resident of Manor Township for many years, and Beth Keonon were introduced. Typically, the load from the trucking company comes with all of the monuments in crates. Typical weight for a monument, 200# - 800#. Bases are crated separately. This is less than a ton. Dennis inquired needing such a large lift for picking up there. Kathy commented how each monument is crated separately. The monuments are bound together, and they are picking up a load. Dennis asked about using a mobile crane. Wilson Rock, their installer, has a mobile crane to lift monuments to the cemetery. Monuments are never delivered to sites, always drop sites.

Dennis Funk asked if this will be a storage site for all their facilities. The garage is a storage facility, holding furniture for renovations. This property is mainly for headstones and a work bench could be used to paint things or work indoors in a safe space. No crematory is to be located here as they have two in their Lititz Pike and Willow Street locations. Items will be stored here as this is a dry storage area. It will not be an active mechanic garage. Andrew Sheid used this garage as an oil change facility, which they will not be doing. They take their vehicles to a mechanic's garage.

Solicitor Peipher asked their council if they have filed a variance to use this garage as a commercial storage. They had not. Solicitor Peipher commented until that happens you are limited to residential storage. It is not being asked for in this application.

Dennis Funk inquired how many headstones would be stored at this location at a time. Chad confirmed with Kathy and Beth that it could be possible to have 30 headstones or more. The monuments might be there because the foundations have not been poured yet at their final location. The monuments are picked up in groupings to be delivered in a cluster of cemeteries for efficiency.

Jeff Klugh inquired about closing their other facility. Chad confirmed that the other property is touching a residential property and they are paying rent. Since they purchased a property, they plan on displacing their existing location to this new location. The new location would look similar to the picture provided where a grouping would be around the base of the lift.

Brad Singer commented in the attachment to the application, page 2 addendum to Manor Township Zoning Hearing Board application. Item number 3, the unnecessary hardship has not been created by the appellant. The applicant did not create the hardship, the hardship results from the inability to place a lift on the funeral home property due to site configuration and from the existing and past uses of the property. Chairman Singer emphasized the hardship is not created by the property for which you are asking relief. Chairman Singer asked isn't the hardship caused by a related property? Council commented that their position is that it is caused by the fact that these properties were always historically used as one together. Chairman Singer responded by pointing out that this is two separate properties; one has a commercial use on it. The property in discussion is a residential property. The hardship of a commercial use has not been caused by the property itself. Council agreed. Chad Snyder commented that many of their 8 locations are mixed commercial and residential combination. Funeral homes typically were a residentially located business. Chad grew up living above his family's funeral home, which was his residence. They look at it as you can't have one without the other and that is how they looked at buying this property. It was always viewed as a single property to the point of Mr. Sheid's death. He lived in the farmhouse, operated his funeral home and his antique car garage. All of their other locations are predominantly a mixed commercial and residential combination on multiple addresses.

Zoning Officer Nate Taggart asked if the headstone storage along tree line will be within the side yard setback. Council stated that it could or will be per the use.

Solicitor Peipher inquired if Township had any other questions. It was opened to the public for questions or statements. There were none.

Chairman Singer made motion for testimony to be closed. Dennis Funk seconded. Vote was unanimous, testimony was closed.

Solicitor Peipher stated that decision must be rendered within 45 days at a future meeting or they can take a break and have a legal discussion separately to make a decision tonight. Chairman Singer requested a 5-minute break for discussion with the Solicitor to render a decision.

Chairman Singer brought the meeting back to order.

Dennis Funk made a motion to deny the variance request. Jeff Klugh seconded.



Chairman Singer opened the discussion by commenting that the hardship is his issue with granting the variance. We are talking about two separate properties. The purchase of a commercial property and a purchase of a separate residential property. There was no hardship proven on the residential property that they are proposing to put the crane on. During testimony, it was stated that the hardship is caused by the commercial property. Dennis Funk agreed with Chairman Singer.

Chairman Singer called for the vote. The motion carried unanimously to deny the variance request.

Chad Snyder addressed the room with comments on his thoughts of the process to attempt to get his proposals approved with the township.

Solicitor Peipher stated that the decision has been made and the Board cannot comment on Mr. Snyder's comments.

Dennis Funk made a motion to adjourn the meeting. Chairman Singer seconded and the meeting adjourned at 8:15 pm.

Respectfully Submitted,

Jeffrey Klugh  
Secretary

Recording Secretary  
Peg Hess