

Manor Township Zoning Hearing Board Minutes

Tuesday, July 9, 2024

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 July 9, 2024 at 7:00 p.m. Chairman Singer led those in attendance in the Pledge of Allegiance and introduced the Board.

Members Present: Bradley Singer, Jeffery Klugh, and Dennis Funck

Staff Present: Nate Taggart and Peg Hess

Township Solicitor: Susan P Peipher

Visitors: See attached Sign-In Sheet

Previous Month Minutes – Dennis Funk made a motion to approve the June 5, 2024 meeting minutes as they have been submitted. Jeff Klugh seconded, and the motion carried unanimously.

Old Business

Solicitor Peipher explained the procedure that the Board will follow for the hearings. Nate Taggart confirmed to Solicitor Peipher that this hearing for all cases was properly advertised in accordance with the MPC and the Township Zoning Ordinances.

Case #8-2024: Franklin View Farms, 1700 Prospect Rd, Washington Boro, PA 17582. The applicant is requesting a Special Exception pursuant to Section 425-11.G(1) of the Zoning Ordinance to permit the increase in the total lot coverage on their property to 17.5%. The property in question is owned by James L. & Nelson R. Breneman and is located at 1700 Prospect Rd, Washington Boro, PA 17582, Tax ID 410-12441-0-0000 and is in the Agricultural (A) Zone.

Cameran Renehan, from TeamAg was representing the Owners of Franklin View Farms was sworn in. John Williamson from TeamAg was present at last month's meeting. Most of the Testimony was already completed but there were questions about the additional impervious area for the gravel lane and cell towers at the southern end of the property. This additional impervious area has been added to the plans per the previous zoning application. This additional area did add just over a quarter of an acre of impervious area. The lot coverage is now 17.9% lot coverage instead of the 17.5% as previously documented. This request is to Amend the lot coverage request to 17.9% coverage. Brad Singer confirmed the only changes to this request was the amended lot coverage amount. A supplemental site plan has been added to the original application. There was no public comment. Brad Singer closed the hearing. Jeff Klugh made a motion to approve the Special Exception pursuant to Section 425-11.G(1). The lot coverage on the property will be 17.9%. Dennis Funk seconded the motion carried unanimously.

New Business

Case #9-2024: Barley Farms LP (Robert Barley) Star Rock Services, 175 Chestnut Grove Rd, Conestoga, PA 17516. The applicant is requesting a Variance pursuant to Section 425-104.1.B(4) of the Zoning Ordinance to permit an Accessory Solar Energy System (ASES) that exceeds the maximum permitted surface area of all individual solar panels. The proposed areal surface area of all solar panels is 56,545 square feet. The property in question is located at 141 Chestnut Grove Rd, Conestoga, PA 17516, Tax ID 410-66770-0-0000 and is in the Agricultural (A) Zone. Robert Barley, part-owner of Star Rock Farms and Dylan Kautz, US Solar Development, were sworn in. When the Barleys preserved their farm they had done some research into installing solar panels in the future in the areas that cannot be farmed because of drains. Most of the 175 acres drains into one spot which currently is grass. An Ordinance has been adopted since this research was done. Asking for a Variance because the new Ordinance has changed some of the guidelines. They had

meetings with the neighbors prior to answering any questions or concerns they had. Dylan Kautz, owner of US Solar Development, specializes in Commercial and Industrial private businesses. The Zoning Variance request is to install an accessory solar energy system for Star Rock Farms that is over 1000sf. The Zoning Code has no distinction on accessory solar, for residential or commercial. 1000sf of solar panels would be the equivalent of 34 panels which would produce \$250 of electricity. Anyone with acres of land looking to install solar panels on the ground will most likely also be requesting a variance of the code as currently written. US Solar is a local company, and this solar panel job is exclusively for the on-site electric use of Star Rock Farms. This project is owned by the Barleys for their use and will produce about 90% of their current electricity demand. In 2022 when they started working on this project, there were no zoning codes. They are here today because they now have all the other approvals needed to move forward. Star Rock has over 10,000 acres of farmed land in Lancaster and York County. The placement for the panels is the only available place in Lancaster. Undesirable farmland was evaluated, down on the side of hills, next to trees, on the buildings. Some panels were installed on a building in 2013, but this is not optimum. The area proposed is a 5 ½ acre plot, half of which will have solar panels on it. This area is sloped and not preserved because unfarmable, but the slope is desirable for solar panels. This slope is south facing creates less shading, allowing more panels in a tighter area. This is also down in a drainage system and not highly visible. Stormwater management will be done. The other approvals already received are utility, internet approval which was a long utility study to see how this system would back feed into the grid could affect the grid as a whole. Substation upgrades will be occurring. The USDA required an extensive study to receive the Rural Energy for America Program grant. The amount of red tape is expediential when installing the panels on the ground. The agencies they have received approvals from for this project are: PA DEP, FEMA, PA PUC, CLEAN AND GREEN, EPA, LANC CO AGRI PRESERVE BOARD, PA STATE HISTORIC PRESERVATION OFFICE, THE TRIBES, THE US DEPT OF INTERIOR, PA FISH AND BOAT COMM, GAME COMM, PA DEPT OF CONSERVATION AND NATURAL RESOURCES, US FISH AND WILDLIFE SERVICE. The impact of this proposal was extensively studied and received approvals from all. This is a responsible project to lower energy cost to a generational farming operation in Manor Township. This is the most practical application of solar and should be supported. The Zoning Code is written to support that. Dennis Funk asked if other Barley Farms will benefit from this system. Rob Barley clarified it will service the dairy and shop at 175 Chestnut Grove Road. Jeff Klugh inquired if the upgrades to the grid were not being done, would other residents be affected by using all this proposed electricity. Dylan answered generally no. Half of the projects US Solar do have to have upgrades. PPL is planning for the future so upgrades will be done in conjunction with this project. PPL has been required to upgrade some substations that have not been done yet, so this project will make that happen. Brad Singer inquired about the lifespan of these panels. The warranty for the panels is 30 years of output. After 30 years' usage they would still have 85% output. After 30 years, when the panels need replaced the efficiencies will increase and take a smaller footprint. Rob Barley commented that during their conversations with their neighbors they offered to plant trees along the road to buffer the visual of the panels and are committed to doing so. Solicitor Peipher inquired who would be the owner of the panels, which would be Star Rock Farms. They would never consider a commercial solar panel system; the farmland is too valuable. Solicitor Peipher commented that if this were a larger system a decommissioning agreement would be a requirement. She inquired if the Applicant would be agreeable to a decommissioning agreement as a condition of approval. This is a document the Township would create as part of the approval of the stormwater management that to the extent the panels get abandoned there is a requirement for removal of them. This would require posting a financial security so that the Township has assurance this will be followed through if applicable. This is not a requirement of the Ordinance itself, but the size and scope of this request brings cause for this consideration. The amount and length of time would be at the discretion of the Township. Dylan Kautz interprets the Ordinance is written so that the Township would allow residents to install solar and not hinder that. At the principal, solar energy system clearly states that it is fully on scale solar, selling to the grid, and is a much riskier situation for the Township because there would be multiple owners involved. Having financial security for these cases makes sense but the Barley's would surely make an agreement but posting a bond and having a financial cost associated with such would be onerous because they own the land. The Township would be able to enforce this agreement since they are physical members of the Township. Solicitor Peipher asked Dylan Kautz to explain how the Ordinance as written supports this application. There are two clear definitions; accessory solar use is defined in the Zoning Code as the primary purpose of reducing on-site consumption of purchased power. The principal solar system is defined as the primary purpose of using the energy for commercial or other off-site use, which is selling it to the grid. This is clearly an accessory solar system and based on the size of this system. This is a big system for Manor Township, there is no utility scale solar systems that are 1 megawatt, they are minimum 5 megawatt, 10 to 20 megawatts. This system is small in the scheme of solar systems going in. Per Variance requests, it is required to show that this is the minimum relief necessary, Mr. Kautz commented that this system is not even at 100% of their usage. They will be using 92%. This plot of land has been determined the best as it cannot be farmed and being on

the slope, the spacing of the rows goes from a standard of 14' between rows of panels down to 9' between. This is in the smallest amount of area that they could put this size system. Mr. Barley stated that the family plans on being there as they are in their third generation of family owning this farm and the fourth generation are part of the operation and have small ownership of the operation. Solicitor Peiper commented that the plans show only using half of the non-preserved farmland for the panels. She asked if there would be plans to expand the solar. There are no plans. Per the topo map the area they are not using goes up a hill which would be very difficult to build on this 20-25% slope of land. The plan labeled Preliminary Solar Layout shows a 50' tree buffer on the non-preserved area of farmland. The plan is just showing the setback off the road, the offer is to plant the trees within 50 feet. A landscaping plan was not available. This was just drawn last week, and it will be done and can be a condition of approval for Rob Barley. Brad Singer inquired about accessory solar energy systems part B9 which states that applicant shall supply one years' worth of electrical consumption records. They did not have available at the meeting but can be submitted immediately. Public comment was taken by Mary Glazier, 269 Chestnut Grove Rd, commented that her and her husband have no objections to this project as proposed. Chairman Singer called for a recess. Chairman Singer reconvened the meeting. This is new territory for the Board. Jeff Klugh made a motion to accept the Applicant's request for the Variance pursuant to Section 425-104.1.B(4) of the Zoning Ordinance to permit an Accessory Solar Energy System subject to a condition that the Applicant enter into a Decommissioning Agreement with the Township subject to the terms to be offered and negotiated by the Township. Dennis Funk seconded, and the motion carried unanimously.

Case #3-2024: James F. & Deborah L. Colgrove, 74 Pittsburg Hill Rd, Conestoga, PA 17516. The applicant is seeking to amend a prior zoning decision dated 4/3/24 to increase the lot size of 74 Pittsburg Hill Rd. The amended variance request would subdivide 3.712 acres from 3560 River Road and transfer said acreage to 74 Pittsburg Hill Rd. The resultant lot of 74 Pittsburg Hill Rd would become approximately 4.812 acres (non-conforming lot size), and 3560 River Rd would be 2.044 acres (continuation of existing non-conforming lot size). A Variance is being requested for the resultant lot size of 74 Pittsburg Hill Rd which will become non-conforming. The property in question is located at 74 Pittsburg Hill Rd, Conestoga, PA 17516, Tax ID 410-71502-0-0000 and is in the Agricultural (A) Zone. Austin Rhodes, Trimble Surveyors was sworn in. An Exhibit 1 was added to this case, proposed lot line aerial. This is an amended page to a previously submitted exhibit at the April Zoning Hearing Board Meeting. The Colgroves live at 74 Pittsburg Hill Road. The 3560 River Road property is scheduled to be sold. While doing final surveying it was discovered that the Colgroves have been utilizing this additional 35' area and would like to retain it as part of their property. This Amendment request is to correct the encroachment area that has been in effect for quite some time. The difference between the approved request and new request is to shift the property line by 35'. This variance is to increase this lot size. Solicitor Peiper clarified that since our last meeting the properties have been surveyed, that resulted in exact measurements on the 2 lots and how they are used. So, the request is to move the property line and correct the acreage of each. Dennis Funk clarified that moving the lot was the only change and due to the original line being too close to the Colgrove's dwelling. The Colgroves would not be able to use this area as they have for years if the line were not moved as the neighboring property will be sold in the future. No public comment. Dennis Funk made a motion to amend a prior zoning decision dated 4/3/24 to increase the lot size of 74 Pittsburg Hill Rd. The amended variance request would subdivide 3.712 acres from 3560 River Road and transfer said acreage to 74 Pittsburg Hill Rd. The resultant lot of 74 Pittsburg Hill Rd would become approximately 4.812 acres (non-conforming lot size), and 3560 River Rd would be 2.044 acres (continuation of existing non-conforming lot size). Jeff Klugh seconded, and the motion carried unanimously.

Case #10-2024: Chad J Eshleman & Jennifer C Kennen, 328 Ironstone Ridge Rd, Lancaster, PA 17603. The applicant is requesting a Variance pursuant to section 425-11(B)(8)(e) to permit the noncommercial keeping of livestock in the Low Density Residential Zone and allow the applicant to keep 8 chickens on his property as pets. The applicant is also appealing the enforcement notice which was issued against them for alleged violations of Section 425-11(B)(8)(e). The property in question is located at 328 Ironstone Ridge Rd, Lancaster, PA 17603, Tax ID 410-95228-0-0000 and is in the Low Density Residential (RL) Zone. Victoria Swarz, Nikolaus and Hohenadel, LLP representing the Applicants, William Crosswell, Solicitors office representing the Manor Township Board of Supervisors, and other party members were sworn in. Atty Crosswell prepared an entry of appearance form for the Board. There are two separate manners before the board but are related. The first one goes with the appeal for the enforcement notice that was issued. Atty Crosswell called for the owners of the property, Chad, and Jen Eshleman, for cross examination. Atty Swarz made an oral amendment to the application. Jennifer Kennen's name was listed incorrectly, Mrs. Eshleman is the correct name, and they have a daughter, not a son as listed on the application. Atty Crosswell called Jennifer Eshleman to testify. Atty

Crosswell asked to describe the structure which was constructed at 328 Ironstone Ridge Rd. Mrs. Eshleman answered it was an approximate 10' x 16' to be used as a chicken coop. It had a chicken run with wire all around and a chicken house. Current construction has been paused at this time. It is to hold 8 chickens. There was a 30' setback from the rear of the neighbors and the eastern setback was about 38' from any neighbors. Their property is a little over 3 acres. Atty Crosswell handed out Exhibits T1 and T2. Atty Crosswell asked for Mrs. Eshleman to look at Exhibits and indicate whether these exhibits represent the chicken coop that has been constructed. She confirmed that it was so. Atty Crosswell asked for confirmation that the current state of the unfinished chicken coop was in this state today. It was. Atty Crosswell asked the purpose of the structure constructed. Mrs. Eshleman stated that they purchased this property about 9 years, for their residence in hopes of eventually having a garden and chicken coop for homesteading purposes and educational purposes for their children. Atty Crosswell asked if a Zoning Permit was attained prior to construction as shown on Exhibits T1 and T2? Originally when they purchased the house the Ordinance was reviewed, unfortunately they had not realized the Ordinance had changed when they decided to build the chicken coop and did not apply for a permit, which was their mistake. The permit has been applied for and approved as of this date. Regarding the change of Ordinance mentioned, Atty Crosswell commented that if she knew there were provisions in the Zoning Ordinance for applications for permits and approval for these before anything is constructed, that did not change. She confirmed that a permit application process prior to construction was not a change of the Ordinance. Mrs. Eshleman commented that the shed is removable and moveable, which is what they read in the Ordinance. This thought process was incorrect. Atty Crosswell asked if they saw something in the Ordinance that distinguished between the need for a permit for a structure that was moveable or not moveable? Mr. Eshleman answered that he did not, his interpretation was that a structure would include a foundation and something that could not be moved. Atty Crosswell asked if the Exhibits T1 and T2 looked like a pop-up and easily removeable? The Eshlemans answered yes. Mr. Eshleman did confirm with the Zoning Officer after questions were raised to try and get a better interpretation and figure out the best course of action and since that time construction has ceased. Atty Crosswell inquired that they understood not getting a permit was a violation of the Zoning Ordinance. Mr. Eshleman confirmed and stated other permits were acquired on other projects on their property, and there was no ill intent. Confirmation was made that a permit should have been applied for prior to construction by the Eshlemans. Confirmation was made that the structure is still on the property. The building is being used as a chicken coop for 8 chickens today. The Eshlemans were attending this meeting to attain approval to have a chicken coop by being granted a Variance. Confirmation was made that the 8 chickens were already at the property. Confirmation was made that the Zoning Officer issued an enforcement notice that said the structure was erected without a permit. Per Mr. Eshleman, the notice stated that they could apply for a permit within 30 days, which he did and received approval. The permit was approved for the structure but not the livestock. Clarification was made that if the Variance was not approved they would have to remove the chickens. That was understood. Mr. Taggart confirmed to Atty Crosswell that a building permit was not attained for the erection of the chicken coop prior to the notice He sent to them of their violation. The enforcement letter was a correct notice and correctly set forth the violation of the Township Zoning Ordinance. The construction of the structure had already occurred when the shed permit application was submitted. Mr. Eshleman commented that a shed permit was requested as usage will be based upon if they received approval for a chicken coop. Atty Crosswell finished with cross examination regarding the violation. Photos were accepted as part of the Township records. Solicitor Peipher asked if Atty Swarz had any questions to the witnesses limited solely to the appeal of the enforcement notice. Atty Swarz inquired with Mr. Taggart if he was aware of the structure prior to the sending of the enforcement notice. Mr. Taggart commented that he became aware of the structure when the Township received a complaint about the structure on the property. Atty Swarz acknowledged her clients know it was a violation of the Ordinance. Solicitor Peipher inquired if the Applicant wanted to withdrawal the repeal of the enforcement notice or have the Board ask questions limited to the appeal of the enforcement notice and make a decision on this aspect of the case. Atty Swarz requested to speak to her clients. The Applicant decided to withdrawal the repeal of the enforcement notice and wanted to continue with the Variance request. Solicitor Peipher stated the Applicant is withdrawing the appeal of the enforcement notice so a determination will not need to be made on that. The Township was satisfied with such. Atty Crosswell commented that withdrawing the appeal does not negate the violation. The Township point of view is the violation occurred. The property owners have admitted that such occurred. A penalty should be paid to prevent this type of activity. Atty Swarz commented that the enforcement notice gave a period of 30 days to correct the measure, and their appeal was made immediately. Up until this withdrawn appeal it was not 100% found that the violation occurred. The notice states the structure must be removed or a permit must be obtained within 30 days. The appeal was filed prior to the 30 day mark. Solicitor Peipher clarified that legally speaking the

Applicant is withdrawing the appeal of the enforcement notice. The enforcement notice stands, and the Township has rights to pursue penalties and fines in accordance with the Ordinance. There is no stay here. Atty Swarz commented that their intention was to comply after this was satisfied. The Applicants very clearly stated that they misunderstood the Ordinance, it is their responsibility to understand. They were notified and immediately to action. It was not immediate removal because they wanted to see what their options were. Application for permit was attained. It will either be a shed or chicken coop, depending on the outcome. Atty Crosswell commented that currently it is being used as a chicken coop and applying for a use variance before the Board to keep the chickens. So as of now, the Township's position is that the chickens are not permitted to be there under the zoning ordinance and that the structure was constructed without first attaining a permit. Mr. Taggart commented that no penalties will be issued tonight. The Township files civil complaints at the local magistrate office. If the variance does not go through the Township will collaborate with the Applicant and a new timeframe to become compliant. Mr. Crosswell stated the Township may want to pursue a settlement where there would be some amount paid, to deter others from violating Ordinances. Atty Swarz was not trying to evade this complaint, they have retained council to weigh their options. There was no ill intent, the plan after this decision. Mr. Crosswell reiterated that the structure attained a current permit but the current use housing chickens which are not a permitted use. Atty Crosswell cautions the Township to deter these situations from developing, consider if something is done without a permit there are penalties to pay. Per Chairman Singer the Board has accepted the Applicant's withdraw of the appeal of the enforcement notice.

Solicitor Peipher directed the Applicant to present the request for a Variance. Attorney Swarz asked questions to Mrs. Eshleman. The Applicant's name is Jennifer Eshleman, living at 328 Ironstone Ridge Road. The property consists of a home, a detached garage, chicken coop, and a large garden. The intent of the shed permit would be to house the 8 chickens for homesteading and education purposes. A garden is used for food resources and will also be used for educational purposes. The dimensions of the structure are 10' x 16', with a fence around the chicken run. The structure is setback 30' from the rear, the eastern side is 38'. Their property is 3 acres plus another acre of woods and cannot be seen from the road and is very hilly. The placement of the structure was placed on a flat surface. To put any other structures and/or a pool would require a lot of leveling. A parcel outline Exhibit was presented which indicates where the coop is located. When the property was purchased, Mrs. Eshleman understood that it was a farming agriculture area, which is why they looked at it. Atty Crosswell objected to the question. What they understood was hearsay. They looked at the Ordinance which was allowed at that time. At the time of purchase the neighbors had horses, there was and is livestock all around them. They were always basing it that it would be something they could do. Attorney Crosswell asked if they had checked with the Zoning Officer as to that use? Mrs. Eshleman stated the originally it was in the Ordinance to use it like that. Atty Crosswell asked if they had a copy of that provision in the Ordinance? Mr. Eshleman stated it could be found on the website by looking up a revision of the Ordinance from 2014 timeframe and he stated it was allowed at that time. They did not have a copy of it on hand. Mr. Eshleman confirmed as his wife commented it was based upon the neighbors having 2 horses. Mrs. Eshleman stated there are multiple houses in the neighborhood with chickens. Their intentions were to utilize their property, and they have the space. There was a pig farm down the street for years. That was her understanding, as she saw it around her. Atty Crosswell stated that her testimony is inconsistent the application before the Board. Your request is for a use variance which means that you are asking to use your property for use that is not permitted in the Zoning District where your property is located. In fact, if there were others that had animals of some type, it does not affect what the Zoning Ordinance says as to what type of uses are allowed. Your property is in the highest residential class, low density, which is the strictest zone for residential uses. Your request before the Board is for a Use Variance which means to use the property for a use that is not permitted by the Zoning Ordinance. The legal burden of proof for a use variance is extremely high and case law will be presented at a later time. The Townships position that they are not entitled to a use variance. Attorney Swarz asked Mrs. Eshleman if she understood that the Ordinance as it is now does not permit the keeping of chickens. It was understood. The understanding was at the time of their purchase of the home, it was a permissible use. Attorney Crosswell inquired if it was understood that if the Variance was denied they would have to get rid of the chickens. Understood. Atty Crosswell commented that the Township processes violations by complaint. Mrs. Eshleman was made aware by other neighbors that there was one neighbor that made a complaint. At that time, Mrs. Eshleman called Zoning Officer Taggart to ask questions as to what would happen if a complaint were submitted. They are here this evening asking if they can continue with their venture. Horses were in the neighborhood until recently, a neighbor across the street has chickens. There are chickens on Old Blue Rock Road. At Manor Middle

Park, a home on Ironstone Ridge Road who has recently moved, had pigs in the back yard. This is a farming community. It is unrealistic on 4 acres not to utilize the property for chickens. Attorney Swarz asked about the relationship between the chickens and her children. Atty Crosswell objected based on relevancy. Solicitor Peipher allowed the question. Mrs. Eshleman looks forward to teaching her 3 year old responsibility and agriculture. Having chickens will not be destructive to the neighbors as the smell is minimal and having a visual should not be considered disturbing. They will not have any roosters. This faces the back of the neighbor's properties. No ill will is intended to any neighbors. Mrs. Eshleman cleans the coop every week and will be contained in a silver container and disposed once a week with their trash. This coop will not alter the character of the neighborhood or impair the neighbor's properties. It will not be detrimental to public welfare. Attorney Crosswell inquired that with a garage on their property they are utilizing the property. Everyone within the Township could take the position they want to be a good neighbor if they are doing something that suits their own needs, which is why Zoning Ordinances exist, which is a set of rules and regulations that apply throughout that zoning district. Mrs. Eshleman confirmed she is in a low density zoning district on the Zoning Map, but she has 4 acres and wants to utilize it. Atty Crosswell asked what hardship it was to make this request. Mrs. Eshleman stated that with chickens providing eggs, it helps financially. Atty Crosswell commented that was a personal issue, not land use issues. Chairman Singer commented that the Boards decisions are based upon hardship which has been discussed. A financial hardship does not qualify, it has to do with the property and how your property can not be used for anything else, and this exception is needed. Chairman Singer asked again what the hardship was. So far no valid hardship has been stated and they would like to conclude. Mr. Eshleman stated that the hardship change is due to the Ordinance change since they purchased the property in 2014. A provision has changed that now restricts them from utilizing the property as they intended. Mr. Eshleman confirmed to Dennis Funk that the chickens will be contained inside their coop and not free range, and they would not have more than 8. Solicitor Peiper inquired when this process to begin construction and have chickens. Mr. Eshleman planned on having chickens when they purchased the property, actual construction for the coops occurred in early spring. The shed was constructed in April-May. They confirmed they currently have 8 chickens and have no intention of selling eggs. The chickens are not producing eggs yet as they are too young, but they would expect 10 – 20 eggs produced in a week. Atty Swarz presented a letter from a neighbor, Eleanor Brubaker, 304 Ironstone Ridge Road, who does not object to them having chickens. Atty Crosswell stated that the planning code states rules of evidence in a court do not apply Zoning Hearing with regards to hearsay. Solicitor Peipher suggested receiving the letter as evidence, Exhibit 2. Atty Crosswell objected stated previous cases. Zoning Officer Nate Taggart commented from the administrative perspective, he is not aware of any Ordinance change from the current revision which states that this is only permitted in the Ag and Rural Zone and no permitted or special exception use change has been done in the Low-Density Residential Zone. Atty Crosswell agreed with this statement. Mr. Taggart recalls that Mr. Eshleman called early in the year asking if they may have chickens on their property. He was told they were not. A complaint came a month or two later, when the violation letter was sent out. Mrs. Eshleman called after they received their violation letter. Items mentioned in her testimony were discussed at that time. Atty Crosswell asked Mr. Taggart if he agreed with the position he has taken on behalf of the Township during this hearing. He agreed.

Becky Reeve, 120 Stonewyck Drive, and has lived there for 36 years. Her backyard abuts the Eshlemans backyard. Mrs. Reeve handed out an Exhibit Reeve #1 showing several pictures of the coop taken from inside her home. There is a power tower that straddles three properties, hers, the Eshlemans, and the Funks. They are extremely limited as to what they can do because of the tower and lines. Mrs. Reeve read a statement that this coop is in direct view of the rear of their home and can not be blocked because of the limitations from the power line. She stated the timeline of events from her perspective and voiced her opposition to the chickens. Aron Hoyt, 132 Stonewyck Drive, commented the coop is 30' from his property line. He has never smelled anything foul from the coop and has witnessed the little girl carrying the chickens. He does not oppose this request. Nelson Breneman, 1700 Franklin Road, commented that he had no opposition to allowing the chickens.

Atty Crosswell commented that there is a division of legal responsibilities between the Board of Supervisors that enact the Ordinances and the Zoning Hearing Board which administers the Ordinance. The Zoning Hearing Board does not have the power directly or indirectly to legislatively change the Zoning Ordinance. Unless there is a legitimate legal basis for a change. Atty Crosswell has cases to submit that deal with use variances which challenge the Board to make applicable to the Residential Zone where this property is located the same regulations that apply to the Agricultural Zone. Zoning is in place to keep different kinds of uses segregated. This Applicant is asking you to rewrite the Ordinance. Atty

Crosswell will be providing with court made law that talks about the distinction between Use Variances and Dimensional Variances. If a change in the Ordinance needs to be made, it should be done at the legislative level by the Board of Supervisors rather than on a piece meal basis by the Zoning Hearing Board. Atty Swarz commented that the clients misunderstood the Ordinance to allow the chickens. The livestock definition in the Ordinance says poultry with ducks mentioned but nothing more so it is felt this is a bit ambiguous.

Chairman Singer requested a break to discuss. Chairman Singer reconvened. Atty Crosswell handed out two case law decisions supporting the Board of Supervisors position of the Ordinance as written. Dennis Funk commented how a Use Variance is more critical in an Applicant has to prove a hardship and overall, there was none shown. Dennis Funk made a motion to deny the Variance pursuant to section 425-11(B)(8)(e) to permit the noncommercial keeping of livestock in the Low-Density Residential Zone. Chairman Singer seconded and the motion carried two to one.

The next meeting will be held August 7, 2024 at 7:00 pm at the Manor Township Municipal Office at 950 W Fairway Avenue, Lancaster.

Chairman Singer commented that there was no further business to discuss. Dennis Funk made a motion to adjourn the meeting. Jeff Klugh seconded, and the meeting adjourned at 9:40 pm.

Respectfully Submitted,

Jeffrey Klugh
Secretary

Recording Secretary
Peg Hess