

Manor Township Zoning Hearing Board Minutes

Tuesday, June 10, 2025

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 June 10, 2025 at 7:00 p.m. Chairman Singer led those in attendance in the Pledge of Allegiance and introduced the Board.

Members Present: Bradley Singer, Jeffrey Klugh, Mike DeBerdine, and Dennis Funk

Staff Present: Nate Taggart, Supervisor John Wenzel

Township Solicitor: Susan P Peipher

Visitors: See attached Sign-In Sheet

Previous Month Minutes – Jeffrey Klugh made a motion to approve the May 7, 2025 meeting minutes as they have been submitted. Dennis Funk seconded, and the motion carried unanimously.

Old Business

Case #5-2025: Applicant: Barley Farms LP (Robert Barley, Star Rock Services), 175 Chestnut Grove Road, Conestoga, PA 17516. The applicant is requesting a special exception to section 425-11.G(1) of the Manor Township Zoning Ordinance. The applicant seeks to increase the lot coverage on the subject parcel beyond the 10% criteria as noted in the ordinance. The existing lot coverage is 15.53% and the applicant is requesting an increase in lot coverage to 16.33%. The applicant also requests 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 total permitted surface area of individual solar panels. The proposed total surface area of all solar panels is 61,442 sf. The property in question is located at 141 Chestnut Grove Road, Conestoga, PA 17516, Tax ID 410-66770-0-0000 and is in the Agricultural (A) Zone.

Solicitor Peipher gave a brief description of the hearing. This case is a continuation of last month as we needed to advertise an additional Variance request. The Applicant will come forward and present additional testimony. Dylan Kautz, US Solar Development, was sworn in. The Applicant does not have any further testimony. This Variance is requested because there was a change to the solar panels dimensions which changed the lot coverage square footage which also affected the Stormwater calculations. Solicitor Peipher confirmed that the lot coverage request is for 16.33%.

Chairman Singer closed testimony. Mike DeBerdine made a motion to approve Case #5-2025. Jeffrey Klugh seconded, and the motion carried unanimously.

Case #5 – 2023: Substantive Challenge to Zoning Ordinance and May, 289 Donerville Road. The applicant is requesting that the commencement of the hearing on this challenge be delayed until December 31, 2025.

Solicitor Peipher stated that this was a case where the Board had previously made several requests to proceed with a hearing. The applicant filed a subsequent validity challenge as a protective measure, which would be a hearing before you as the Zoning Hearing Board. While they are working through their Land Development process with the Township, they have asked for continuance. Their current continuance expires this month. This was a request from their counsel to continue the start of that hearing until the end of the year, December 31, 2025.

Jeffrey Klugh made a motion to grant the request for a continuance for Case #5-2023. Dennis Funk seconded, and the motion carried unanimously.

New Business

Case #7-2025: Applicant: Hari Niroula, 321 Post Oak Road, Lancaster, PA 17603. The applicant is requesting a Variance to section 425-17.B. (Permitted Uses) of the Manor Township Zoning Ordinance. The applicant seeks to convert an existing office building into a 13-room rental facility offering individual rooms for residential rental purposes. The property is owned by RAA Capital LLC, Dhakar Bhandari, and Pabitra Dhungana. The property in question is located at 2306 Columbia Avenue, Lancaster, PA 17603. Tax ID 410-81240-0-0000 and is in the General Commercial (GC) Zone.

Solicitor Peipher gave instructions on how the next two cases will be conducted. Zoning Manager Taggart confirmed all both cases were properly advertised, and properties were posted.

Mr. Niroula stated that they acquired this property two months ago and we were discussing how we can divide this property. It has 13 rooms and has an 18 parking lot. His business partner now owns a building on Columbia Avenue which he also has been renting. He has been renting rooms to people who have lower income. Mr. Niroula also owns a Home Care business, in which he helps people with disabilities. Mr. Niroula and his business partner see these people struggling to pay their rent. Mr. Niroula thought that he could utilize these 13 rooms and give them to people with low income. He can help people with homelessness by giving them a place to stay. This is the main goal. The property is located in a prime area, near a gas station, urgent care facility and near transportation.

Per Mr. Niroula, the building had used as a Law Office. The maximum tenant occupancy would be two, but most rooms would only have one occupant. 18 parking spaces are provided with 14 being required per boarding house regulations. The average length of stay would depend on the situation, but it is possible to be 3 years up to 10 years. The rooms will not be a government assisted project, no Section 8. The rates could be flexible though.

Mr. Singer inquired since building used to be a law office, could this building be utilized for any other use. Mr. Niroula stated that it could be an office building, but the residential housing would be a better use because of the conveniences close by.

Mr. Funk received confirmation that there would be one kitchen, one ladies room, and one men's bathroom shared between the 13 rented rooms. These would be considered common area. There would be no services provided to the renters.

Solicitor Peipher received confirmation that no social services are being provided to these tenants. Mr. Niroula stated that the tenant is responsible for any home care or extra services on their own. Solicitor Peipher asked if there would be anyone overseeing the property on a daily basis. Mr. Niroula stated that there will be an on-call site manager at the property. There will be rules and regulations for the tenants to follow but a copy of such was not available to share. The Tenant would have to supply their own furniture. A sample lease agreement was offered to the Board for review. Each tenant will have their own lock and key to their rooms. Mr. Niroula did state that each tenant will have a key. Mr. Niroula stated that there will be a time frame of when the residents can come and go and public access will be prohibited.

Kamal Kaffey, 833 Stone Bridge Road, Lancaster, was sworn in. Mr. Kaffey and Mr. Niroula are partners on this project. Mr. Kaffey commented that the partners will pay all related expenses for the property. The Tenant will pay for room rent only. There is a need for inexpensive room rentals. The Applicant has had a room rental property for three years.

Solicitor Peipher stated that this property is located in the General Commercial Zone. Per the Applicant the adjoining properties are residential. The Applicant had not had any conversations with its neighbors about making this use change in this building.

Solicitor Peipher inquired about the hardship of this property necessitating this Use Variance. Mr. Niroula stated that they want to help people that cannot afford to pay rent and make it affordable. They have tried it before and have been successful.

John Wenzel representing the Manor Township Board of Supervisors was sworn in and relayed following statement. The Manor Township Board of Supervisors wishes to provide a statement on the record in connection with the application of Hari Niroula for the property at 2306 Columbia Avenue. The application requests permission to convert the existing building into a boarding house in the (GC) General Commercial Zone, a zoning district that does not permit boarding houses. The applicant seeks to locate a boarding house in a location it is not permitted despite the fact that five zoning districts in the Township permit boarding houses by special exception (RM, RH, V, RM1, and RH1). Furthermore, the proposed boarding house would allow occupancy exceeding the occupancy limit of 10 individuals permitted in boarding houses pursuant to the definition set forth in Section 425-10 of the Zoning Ordinance.

Section 910.2(a)(1) of the Municipalities Planning Code and Section 425-123.D of the Zoning Ordinance require that an applicant for a variance establish that "there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located." Furthermore, an applicant must establish that "because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable reasonable use of the property."

The application does not identify any hardship based on any unique physical circumstance of the property, and it is apparent there is none. Furthermore, there is nothing preventing the applicant from using the property as an office (its previous use) or another use permitted in the GC Zone. Examples of other uses permitted in the GC Zone are banks and similar financial institutions; dry cleaners; laundromats; funeral homes; mortuaries; hotels; motels; restaurants; taverns; retail establishments; and contractor shops. There is no way the applicant can satisfy the heavy burden of establishing physical circumstances creating a hardship and that any such alleged hardship would prevent the applicant from using the building for a use permitted within the GC Zone.

It is well established under Pennsylvania law that it is the governing body of a municipality which has power to enact laws to regulate land use pursuant to its police power. *See e.g., Hill v. Zoning Hearing Bd. of Maxatawny Twp.*, 597 A.2d 1245 (Pa. Cmwlth. 1991). Even if the Zoning Hearing Board decides that the applicant's property is appropriate for a boarding house, a zoning hearing board may not "substitute [its] concept of a better ordinance than the one enacted." *Piscioneri v. Zoning Hearing Board of the Borough of Munhall*, 568 A.2d 610, 611 (Pa. 1990). The Board of Supervisors, in its discretion, decided which zoning districts to allow boarding houses, and it does not include the GC Zone. Therefore, the Zoning Hearing Board has no authority to approve proposed use without the Applicant satisfying its heavy burden of proving a hardship. For the above reasons, the Board of Supervisors requests that the application be denied.

Mr. Niroula stated that he can utilize the property by using two rooms as office space and leaving the other rooms vacant.

Chairman Singer called for a five minute recess. Chairman Singer reconvened the meeting.

Dennis Funk commented to Mr. Niroula about his unique project regarding our shortage of housing but overall, the hardship was not shown to the Board. Dennis Funk made a motion for case #7-2025 to deny the Variance to section 425-17.B. Jeff Klugh seconded, and the motion carried unanimously.

Case #8-2025: Applicant: Paradise Solar and Electrical, 128 Red Lion Road, Southampton, NJ 08088. The applicant is requesting a Variance pursuant to Section 425-104.1.B(4) of the Zoning Ordinance to permit as Accessory Solar Energy System (ASES) that exceeds the maximum total permitted surface area of individual solar panels. The proposed total surface area of all solar panels is 1,800 square feet. The property in question is owned by Robert Musser, located at 547 Donerville Road, Lancaster, PA 17603, Tax ID 410-95991-0-0000 is in the Rural (R) Zone.

Richard Albano, Paradise Solar, 128 Red Lion Rd., Southampton, NJ was sworn in. Robert Musser has an electrical usage of 48,200kw hours per year. Using solar energy is being considered to offset this electric demand. The current demand as a farmer is exceeding the allowance per the Ordinance. These would be ground mounted and be done using current technology following all the technical regulations.

Solicitor Peipher inquired if any consideration had been made to attach the panels to an existing structure. The existing barn is not structurally sound for roof mounted panels and the home would hold very few panels. The current electrical usage exceeded the amount of roofing available to attach panels. The property is 11.9 acres and 1800sf of land would be used for solar panels. Ground screw installation would be used in lieu of a concrete foundation. The panels would be located beside an existing greenhouse where farming is not conducive. Property maintenance around these panels would be grass and able to be mowed.

Robert Musser Jr, owner was sworn in. The area the panels are proposed is a swale area and unfarmable. The galvanized barn roof was installed approximately in 1955 and does not currently leak. Building on such could create leaks and the roof was not large enough to hold all the panels. The house has a slate roof. Mr. Musser might sell some of his electric back to the grid to start but would negate if he made improvements to his equipment.

Testimony was closed. John Wenzel commented that Mr. Musser is a good farmer providing for our community. Jeff Klugh made a motion to approve the Applicants request for the Variance pursuant to Section 425-104.1.B(4) of the Zoning Ordinance. Dennis Funk seconded, and the motion carried unanimously.

Next meeting is scheduled for Wednesday, July 2, 2025. Jeffrey Klugh made a motion to adjourn the meeting, Dennis Funk seconded, and the meeting adjourned at 8:05 pm.

Respectfully Submitted,

Jeffrey Klugh
Secretary

Recording Secretary
Peg Hess