

**EDGMONT TOWNSHIP ZONING HEARING BOARD
REGULAR MEETING MINUTES
FEBRUARY 24, 2009**

1. **Open Meeting**: Thomas Lawrie called the meeting of the Zoning Hearing Board to order at 7:10 p.m. In attendance were Thomas Lawrie, chairperson; Thomas Donatucci, member; Neil Wasserstein, alternate member; J. Adam Matlawski, solicitor; Samantha Reiner, Township Manager/Zoning Officer; Susan Sharp, Recording Secretary; and 5 guests. The court reporter, Maria Lairdieson O'Neill, was present to transcribe the hearings.
2. **Public Comment**: There was no public comment
3. **Meeting Minutes**: Mr. Donatucci made a motion to approve the minutes from January 27, 2009. Mr. Lawrie seconded the motion. Mr. Wasserstein abstained as he was not at the meeting. The motion carried without further discussion.
4. **Old Business**
 - a. **Mindy Chernoff - 2056 Pony Trail Drive** – The applicant requests variances from Zoning Ordinance Sections 1912.A.8.d & e, which require structures for shelter of livestock to be located no closer than 100 feet to property line and which prohibits livestock within 10 feet of a property line) and Section 1506.B.1(a) , which prohibits structures in flood hazard area, to allow placement of a 10 ft. by 20 ft. run-in shed for horse(s) to be located approximately 10-20 feet from property line in the R-1 zoning district. This hearing was opened in January and was originally scheduled to be concluded tonight. However, Ms. Chernoff asked that it be continued at the March 24, 2009 meeting.
 - b. **Eagle National Bank – 5000 West Chester Pike** – on March 26, 2007, the applicant received a special exception from section 1913.B.1 to allow the alteration and enlargement of a non-conforming structure and variances from section 1913.B.1, which requires compliance with zoning for expansions; section 1003A.E to allow 44.5 foot front yard and 25.9 foot rear yard setbacks where 60 foot setbacks are required; and section 1705.G to allow an off-street loading area in the front of the lot. On March 25, 2008, they requested and received an extension of time to apply for a building permit. They are requesting an additional extension of time. Mr. Wasserstein made a motion to approve the extension of time to apply for a building permit for an additional year. Mr. Donatucci seconded the motion. The motion carried unanimously without further discussion.

5. New Business

- a. National Realty Corporation / Paul deBotton - Edgmont Square Shopping Center, 4801-4859 West Chester Pike - The applicant requests variances from the following Zoning Ordinance Sections to allow new signage at the shopping center: (1) 1802.C.10.a to allow directional signs of 25 square feet (ordinance limits to 2 square feet); (2) 1802.C.10.b to allow directional signs to contain advertising; (3) 1801.B.3 to allow sign to be located within the street right of way; and (4) 1801.B.6 to allow more than one free standing or ground sign per street frontage. This hearing was opened at January's meeting, although there was no testimony presented. Although the Board expected to hear testimony tonight, the applicant has requested a continuance until March.

- b. Thomas & Diane Milowicki - 1318 Sycamore Mills Road – the applicants request variances from (1) Zoning Ordinance Section 1909.D.4.b to allow placement of a swimming pool in the front to be set back twenty (20') feet from the street right of way, where Ordinance prohibits pools in the front yard and further requires a minimum 40 ft. setback from any property line in the R-1 zoning district and (2) Article 15 and specifically Section 1506.B.1.c(2) to allow construction of the pool in the Flood Hazard Area. The applicant, Thomas Milowicki was present, along with his attorney, Michael Lyons, Esquire.

The following exhibits were entered into the record:

Board's Exhibits:

- B-1: The application form; a plan labeled Zoning Plan for Proposed Pool, prepared by G.D. Houtman & Son Inc., dated January 16, 2009; and a deed, dated November 20, 1988, between Raymond & Julie Rishel Burke, grantors and Thomas & Diane L. Milowicki, grantees.
- B-2: Proof of publication – the notice was published in the Delaware County Daily Times on February 9, 2009 and February 16, 2009.
- B-3: Look-up list and certified mail receipts for the November 25, 2008 meeting. All green cards were returned to the Township.

Township's Exhibits:

- T-1: Zoning Officer Report

Applicant's Exhibits:

- A-1: A plan labeled Zoning Plan for Proposed Pool, prepared by G.D. Houtman & Son Inc, dated January 16, 2009. (see B-1)
- A-2 through A-7: Photographs of the applicant's property.

The Zoning Officer confirmed that the property was posted.

Mr. Lyons called Gustave Houtmann, P.E., as his first witness. The Zoning Hearing Board recognized Mr. Houtmann as an expert in civil engineering. Mr. Houtmann explained about the property and the surrounding area. The lot is non-conforming with regards to size of the lot (1.8 acres where 2 acres are required in the R-1 zoning district); the house is non-conforming as to front yard setback. The house sits approximately one to two feet from the ultimate right of way, where 65 feet is required. Mr. Houtmann pointed out that due to the unique shape of the property, throughout most of the property the distance between the front and rear lot lines is 130 feet or less. Since both front and rear yards require 65 foot setbacks, this means that there is no place where a house can be placed and conform to the Zoning Ordinance. Mr. Houtmann then spoke about the FEMA 100 year flood zone. According to the FEMA Flood Insurance Rate Map, the proposed location of the pool is within the 100 year flood plain. But, as Mr. Houtmann noted, FEMA did not perform any detailed studies of the area; the 100 year flood zone was based on existing topography. Mr. Houtmann's firm performed a location survey and a detailed analysis of the flow through the culvert. This information was the basis of a Letter of Map Amendment submitted to FEMA on behalf of the applicant to have the 100 year flood zone corrected on FEMA's maps. Ms. Reiner asked where the water from the pool would be drained to. Mr. Houtmann stated that for pool maintenance, water would be discharged over the lawn area, but during an intense rain, where the pool may flood, water would flow downhill into the stream. Mr., Houtmann noted that the effect of any chlorine that got into the stream would be negligible, as the pool water would be diluted by the rain event. Mr. Donatucci noted that there were probably many pools near the riparian buffer in the Township. Mr. Lyons called Mr. Milowicki as his next witness. Mr. Milowicki showed the Board photographs of his yard from various points of view. He also detailed the extent of flooding during Hurricane Floyd, which is considered a hundred year flood. Mr. Milowicki said the flooding nearly matched the 100 year flood plain as calculated by Mr. Houtmann. Testimony was taken from a resident, Sheryl Payne, 1000 Cedar Knoll, who wanted to know how deep the pool would be and whether there was a chance that there was bedrock in the area. THE COMPLETE NOTES OF TESTIMONY CAN BE FOUND IN THE TRANSCRIPT IN THE ZONING HEARING FILE FOR THIS PROPERTY. After a brief recess, Mr. Wasserstein made a motion to approve the applicants' request, with the following conditions: 1) the applicant submits a request to FEMA for a revision of the floodplain boundary and FEMA issues a Letter of Map Amendment consistent with the revised boundaries shown on the applicant's exhibit. This must be completed before any permits are issued for the pool; 2) if the pine trees fronting on Sycamore Mills Road are removed for reasons such as road widening, the trees must be replaced by the

applicant with plantings approved by the Township to provide a visual buffer between the pool area and the street; 3) the applicant shall comply with all federal, state and local codes and obtain all required permits. THE COMPLETE CONDITIONS CAN BE FOUND IN THE ZONING HEARING FILE FOR THIS PROPERTY. Mr. Donatucci seconded the motion, which carried without further discussion.

6. **Adjournment**: At 8:15 p.m., Mr. Wasserstein made a motion to adjourn and Mr. Donatucci seconded the motion. There was no further discussion and the motion was carried unanimously.

Susan Sharp
Zoning Hearing Board Secretary