

**EDGMONT TOWNSHIP ZONING HEARING BOARD
REGULAR MEETING MINUTES
NOVEMBER 27, 2007**

1. **Open Meeting**: Thomas Donatucci called the meeting of the Zoning Hearing Board to order at 7:10 p.m. In attendance were Thomas Donatucci, chairperson; Kevin Coyne, member; Thomas Lawrie, member; Adam Matlawski, Esquire, Solicitor; Samantha Reiner, Township Manager/Zoning Officer; Susan Sharp, Recording Secretary; and approximately 17 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. Coyne made a motion to approve the minutes from August 28. Mr. Donatucci seconded the motion. The motion carried without further discussion. Mr. Lawrie made a motion to approve the minutes from October 23. Mr. Donatucci seconded the motion. The motion carried without further discussion.
4. **Old Business**
 - a. Anthony & Lisa Palmieri – 1221 Stackhouse Mill Road – In conjunction with a proposed addition to their home, Mr. & Mrs. Palmieri requested 1) a special exception pursuant to section 1913.B.1 to permit an addition enlarging the existing non-conforming structure; 2) a variance from section 1913.B.1 to permit enlargement of the existing non-conforming structure by more than 50% of the floor area; and 3) a variance from section 1602.A.3 to permit impacting of very steep slopes during construction. This hearing was closed in October. Mr. Donatucci made a motion to grant the application, with conditions. The conditions include: remove the western portion of the driveway and plant a tree in the footprint of the former driveway; locate buildings and improvements consistent with exhibits; build the new portions to be architecturally consistent with the existing structure; restore areas of steep or very steep slopes disturbed during construction to pre-construction grade; comply with all federal, state, and local codes and ordinances and obtain all required permits. Mr. Lawrie seconded the motion and the motion carried unanimously without further discussion.
 - b. Edgmont Lot B-1, L.P. and Claude de Botton – Parcel B-1, Edgmont Country Fair Shopping Center – In conjunction with a proposed land development in Parcel B-1 of the Edgmont Country Fair Shopping Center for a Lowes store and garden center, the applicant requested a validity variance from section 1506.C.3.b.(1) or a variance from section 1506.C.3.b.(1) to permit commercial structures, being

curb, paving and retaining wall, within fifty feet of top-of-bank in a flood prone area. This hearing was closed in October. Joseph Damico, attorney for the applicant, requested an opportunity to reopen the testimony in this case at a later date. The applicant waived the time limits for a decision as stated in the Municipalities Planning Code. The applicant will give due notice as to when they would like to appear before the Board.

The following exhibits were entered into the record:

Board's Exhibits:

- B-4: A letter from Joseph A. Damico Jr., Esquire to J. Adam Matlawski, Esquire, granting an extension in the time that the Zoning Hearing Board has to announce a decision.

5. New Business

- a. Storage World – 3952 N. Providence Road – In response to a Notice of Violation issued by the Zoning Officer after complaints regarding noise ordinance infractions, the appellant is requesting that there be a determination of no violation and that the Notice of Violation be set aside. James Gavin, Esquire, attorney for the appellant, was present. David Malman, alternate Township solicitor, was present at the request of the Edgmont Township Board of Supervisors.

The following exhibits were entered into the record:

Board's Exhibits:

- B-1: Application form; a deed dated December 14, 2006 between Edward S. Green Jr. & Pamela Shuman and Keystone Storage Solutions, LLC; a copy of the Notice of Violation sent to the applicant dated September 10, 2007.
- B-2: Proof of publication – the notice was published in the Delaware County Daily Times on November 13, 2007 and November 19, 2007.
- B-3: Look-up list and certified mail receipts for the November 27, 2007 meeting.

Township's Exhibits:

- T-1: Zoning Officer Report
- T-2: Attendance sheet and report from the Storage World pre-construction meeting.
- T-3: Edgmont Township Resident Complaint Form from Joe Raspa dated May 3, 2007.
- T-4: Edgmont Township Resident Complaint Form from Joe Raspa dated June 20, 2007.
- T-5: Edgmont Township Resident Complaint Form from Joe Raspa dated August 24, 2007.

- T-6: An e-mail from Samantha Reiner to David Greth in response to T-4.
T-7A-C: Photographs taken by Arnold Kalman on the morning of September 10, 2007.

Before Mrs. Reiner could read the Zoning Officer Report, Mr. Gavin made three objections to the Notice of Violation. He stated that contrary to section 616.1.B.3 of the Municipalities Planning Code, the Notice did not specify when the violation occurred. Secondly, the Notice did not give a date before which steps must be taken. Finally, the Notice did not mention sanctions that would occur should the alleged violation continue. Mr. Malman refuted the objections, stating that the violation occurred at 4:45 a.m. on September 10, 2007. Furthermore, the Notice stated that regulations must be complied with immediately and that if the violations did not cease, a stop work order would be issued. Mr. Donatucci overruled the objections. Mr. Malman called Joseph Raspa, 8 Columbus Avenue, as his first witness. Mr. Raspa recalled the events of the early morning of September 10, 2007, which included three tractor trailers pulling into Columbus Avenue in front of Mr. Raspa's house and parking there for a period of time. Mr. Raspa was cross-examined by Mr. Gavin. Mr. Malman called Arnold Kalman, 5 Columbus Avenue, as his second witness. Mr. Kalman recounted his version of the events of the early morning of September 10, 2007. THE COMPLETE NOTES OF TESTIMONY CAN BE FOUND IN THE TRANSCRIPT IN THE ZONING HEARING FILE FOR THIS PROPERTY. Mr. Coyne made a motion to close the hearing and accept all exhibits. Mr. Lawrie seconded the motion. After a brief recess, Mr. Lawrie made a motion to deny the appeal and uphold the Notice of Violation. Mr. Coyne seconded the motion. The motion carried without further discussion.

- b. Todd & Christina Beringer - 26 Gradyville Road – The applicants are requesting that the Zoning Officer was incorrect in determining that construction of an addition created an attached garage, resulting in the violation of setback requirements. In the alternative, the applicants are requesting a special exception from 1913.B to expand a non-conforming structure or a variance from 403.B.6 to allow a side yard setback of approximately 32 feet where 40 feet are required. The applicant, Todd Beringer, was present along with his attorney, Michael Lyons.

The following exhibits were entered into the record:

Board's Exhibits:

- B-1: Application form; a deed dated January 14, 1999 between Angelina G. Hahn and Todd & Christina Beringer; and a plan, including a plot plan, for a

proposed addition at 26 Gradyville Road, drawn by 3GHC Architects LLC and dated October 30, 2007.

B-2: Proof of publication – the notice was published in the Delaware County Daily Times on November 13 and November 19, 2007.

B-3: Look-up list and certified mail receipts for the November 27, 2007 meeting.

Township's Exhibits:

T-1: Zoning Officer Report

Applicant's Exhibits:

A-1 through A-6: Photographs taken by the applicant of the existing house, garage, and driveway.

A-7: An enlarged section of the building plan (see B-1) that calls the addition a "proposed breezeway."

The Zoning Officer confirmed that the property was posted.

Mr. Beringer explained the scope of the project, and that the addition would be used for safe access between the garage and the house. THE COMPLETE NOTES OF TESTIMONY CAN BE FOUND IN THE TRANSCRIPT IN THE ZONING HEARING FILE FOR THIS PROPERTY. Mr. Lawrie made a motion to admit all exhibits. Mr. Coyne seconded the motion. The motion carried without further discussion. After a brief recess, Mr. Coyne made a motion to find that the Zoning Officer was correct in her determination that the addition created an attached garage that violated setback requirements and to grant a variance to allow a smaller side yard setback than is required by Ordinance, with the conditions that the garage never be made into living quarters and that the applicant comply with all federal, state and local codes and ordinances. Mr. Lawrie seconded the motion. The motion passed unanimously without further discussion.

- c. Michael & Susan Rhile - 1515 Pheasant Lane – The applicants are requesting a variance from 1912.A.8.d to construct a barn 50' from a side yard line, where 100' are required by code and a variance from section 1909.B.4 to allow the construction of an accessory use structure greater than 900 square feet or twenty-five (25) percent of the gross floor area of the principal permitted building. The property has an existing barn that is 27' from the side yard line. The applicants, Mr. and Mrs. Rhile, were present.

The following exhibits were entered into the record:

Board's Exhibits:

B-1: Application form; a deed dated August 27, 2003 between David Brian Hackney & Anne Raechel Katzin and Michael R. & Susan D. Rhile; a plot plan drawn by the applicant showing the location of the existing

barn and the proposed barn; a photograph of the proposed barn and five photographs of the applicants' yard showing the existing barn and location of the new barn.

- B-2: Proof of publication – the notice was published in the Delaware County Daily Times on November 13 and November 19, 2007.
- B-3: Look-up list and certified mail receipts for the November 27, 2007 meeting.

Township's Exhibits:

T-1: Zoning Officer Report

Mr. Rhile explained the need for a new barn and the limitations on where the barn could be placed due to the location of their septic system and the presence of a stream on the property. Testimony was taken from a next door neighbor. THE COMPLETE NOTES OF TESTIMONY CAN BE FOUND IN THE TRANSCRIPT IN THE ZONING HEARING FILE FOR THIS PROPERTY. Mr. Coyne made a motion to close the hearing and accept all exhibits. Mr. Donatucci seconded the motion. After a brief recess, Mr. Donatucci made a motion to allow the variance subject to conditions. The conditions include building the barn consistent with the testimony presented; providing proper manure storage and disposal facilities; limiting the number of animals to what is allowed by Ordinance; and complying with federal, state and local ordinances. Mr. Coyne seconded the motion. The motion passed without further discussion.

6. **Adjournment:** At 9:40 p.m., Mr. Coyne made a motion to adjourn and Mr. Lawrie seconded the motion. There was no further discussion and the motion was carried unanimously.

Susan Sharp
Zoning Hearing Board Secretary