

MINUTES  
WEST MANCHESTER TOWNSHIP  
PLANNING COMMISSION  
DATE: 5/14/2019

The meeting was called to order by Richard Gordon at 7:00 P.M. Members present: Ronald Ruman, and David Beecher. Others present: Rachelle Sampere, Township Zoning Officer

**Approval of Minutes:**

MOTION: by David Beecher to approve the April 9, 2019 meeting minutes.

SECOND: by Ronald Ruman

MOTION PASSED: Unanimously (3-0)

ZONING HEARING BOARD CASES

**ZHB Case 19-07 – Karl Jacoby** requests a Variance of Section 150-51 Permitted Uses to allow a personal service business (barber shop) in a single-family detached dwelling located at 2225 School Street (Tax Map: 10; Parcel: 0222) in the R-3 Residential Zone.

Mr. Karl Jacoby presented the variance request to the Planning Commission. Mr. Jacoby explained that he was the previous owner to the barber shop located at 2215 School Street. He sold the business three (3) years ago and has been working there part-time. Mr. Jacoby said he was not ready to retire, but the current barber shop needs the chair he currently rents. In order to continue to serve his customers, Mr. Jacoby would like to open a barber shop in the basement of his home located at 2225 School Street. He explained that he had plenty of off-street parking space and would only serve a few customers by appointment only. Mr. Gordon explained that variances go with the property and that he did not see a hardship in this matter because the applicant has been able to make reasonable use of his property which is a single-family dwelling. Mr. Gordon explained that the property located at 2215 School Street is located in a different zoning district where personal service businesses are permitted, but Mr. Jacoby's single-family dwelling is located in the R-3 Residential zone where personal service businesses are not a permitted use in the Zoning Ordinance.

MOTION: by Ronald Ruman to recommend the Zoning Hearing Board deny the variance request due to lack of hardship.

SECOND: by David Beecher

MOTION PASSED: Unanimously (3-0)

**ZHB Case 19-08 – Lisa Oriolo** requests an Interpretation of Section 150-33 Permitted Uses (Accessory uses customarily incidental to residential uses) and Special Exception Section 150-9 to allow a use not specifically permitted (Short Term Rental) and a Variance of Section 150-33 Permitted Uses to use a single family detached dwelling as a Vacation Rental, Bed-and-Breakfast and/or Tourist Home located at 1126 St. Andrews Court (Tax Map: 31; Parcel: 0033) in the R-1 Residential Zone.

Attorney Christopher Naylor represented the applicant, Lisa Oriolo, who was also in attendance. Attorney Naylor explained that their appearance at tonight's meeting was prompted by a Notice of Violation sent by Zoning Officer Sampere. They believe the Notice of Violation was sent without merit because a vacation rental is incidental and customary to the permitted use of a

single-family detached dwelling. Ms. Oriolo has owned the property for ten (10) years and has been renting her home out to people for approximately two (2) years without complaint prior to receiving the Notice of Violation. Ms. Oriolo rents her home through Airbnb.com and VRBO.com. She lives in the five (5) bedroom dwelling. She does not provide breakfast, nor any meals, to the guests renting her home. Ms. Oriolo explained that she has rules in place that are more stringent than her neighborhood's rules. She spoke to two (2) of her adjoining neighbors, both of whom did not have any problems with her current operation. Attorney Naylor and Ms. Oriolo believe this is a use not specifically provided for, and therefore applied for a special exception. Attorney Naylor read the definitions of Bed-and-Breakfast and Tourist Home from the Zoning Ordinance and explained that Ms. Oriolo's use does not fit into either one of those definitions. He also explained that the Township has the authority to update its Zoning Ordinance to account for new zoning trends. Ms. Sampere explained that it was her interpretation that this use was not customarily nor incidental to a single-family detached dwelling because landlords typically do not live in the house they are renting to tenants. Dwellings are typically rented out for a year at a time to the same individual or family, not to multiple people for various weeks throughout of the year. Ms. Sampere also explained that she interpreted this use to be a bed-and-breakfast which is not a permitted use in the R-1 Residential Zone. Ms. Sampere said that this is a home occupation in which the owner is renting her dwelling for financial gain. Ms. Sampere also explained that this property is now considered a two-dwelling unit since the basement was remodeled and a kitchen was installed despite the condition listed on the permit, "Not for use as a second dwelling unit. Not for in-laws quarters. Not for any kitchen." Mr. Beecher asked how the Township knew there was a kitchen in the basement. Ms. Sampere explained that after she sent the Notice of Violation to the property owner, she received a call from the property owner's contractor. He asked if his permit included a kitchen. Ms. Sampere explained that the drawing did not show a kitchen, but the contractor informed her that a kitchen was installed and inspected. Mr. Beecher asked if the Township had received any complaints regarding this property and its operation. Ms. Sampere confirmed there were complaints received by the Zoning Department. Mr. Beecher stated that whether breakfast is provided or not, this is being operated like a bed-and-breakfast. Mr. Ruman asked if rooms were being rented out. Ms. Oriolo said she rents out the entire house. Mr. Ruman asked if she stays in the house when she's renting it to guests. Ms. Oriolo explained that she does stay in the house while she rents it to guests.

MOTION: by David Beecher to recommend the Zoning Hearing Board deny the special exception and variance requests.

SECOND: by Ronald Ruman

MOTION PASSED: Unanimously (3-0)

**ZHB Case 19-09 – Trubru Acquisitions, LLC** requests a Variance of Section 150-283.B (Permitted Sign Chart) to allow an attached sign to be larger than allowed by the ordinance located at 1410 Kenneth Road (Tax Map: 30; Parcel: 0025) in the Highway Commercial Zone.

Attorney Carrie Nase of Fox Rothchild presented the variance request on behalf of the property owner, Trubru Acquisitions, LLC. Attorney Nase stated that this property was formerly occupied by Toys 'R Us and Babies 'R Us. The property is located in the Highway Commercial zone situated approximately one-hundred eighty feet (180') from Kenneth Road and three-hundred eighteen feet (318') from the access drive to the West Manchester Mall. The property is also bordered by Route 30. The 40,000 square foot building is going to be occupied by a retail store selling carpet and flooring. The property owner is seeking a variance to allow a sign larger than the ordinance allows in order to provide visibility to the site. The letters are approximately 5' high. Attorney Nase explained that there will be sign experts present at the Zoning Hearing

Board to testify as to why it is necessary to have 633 square feet sign which includes lettering for Carpet & Tile Mart Flooring Supercenters and the company's logo. Mr. Ruman stated that the Township sees multiple variance requests for increased sign dimensions due to the nature of the Ordinance. Mr. Ruman also stated that signs large enough to be visible are necessary for the applicant to make reasonable use of the property.

MOTION: by Ronald Ruman to recommend the Zoning Hearing Board approve the variance request, as requested by the applicant.

SECOND: by David Beecher

MOTION PASSED: Unanimously (3-0)

**ZHB Case 19-10 – Lisa Gilbert** requests a Variance of Section 150-229.A to allow a fence higher than 3' in a front yard area located at 3505 Woodberry Road (Tax Map: HH; Parcel: 0031) in the Rural Residential Zone.

Lisa Gilbert presented her request to the Planning Commission, explaining that her home is situated nearly ¼ of a mile back a shared driveway off of Woodberry Road. The property is comprised of a dwelling and a farm on fifty-seven (57) acres. Ms. Gilbert stated that she would like to install a five foot (5') high fence around her dwelling to protect her personal pets (dogs) from stray dogs and wild animals from entering her yard immediately around her house. She also explained that the fence would allow her to keep unwanted hunters from walking through her yard. Mr. Gordon asked if staff could see any problems with this request. Ms. Sampere stated that while the Zoning Ordinance defines a front yard as the area between the principal and the street right-of-way line, but consideration could be given to the fence being located nearly ¼ of a mile back from Woodberry Road.

MOTION: by David Beecher to recommend the Zoning Hearing Board approve the variance, as requested by the applicant.

SECOND: by Ronald Ruman

MOTION PASSED: Unanimously (3-0)

**ZHB Case 19-11 – Walter Oakhem** requests a Variance of Section 150-229.A to allow a fence higher than 3' in a front yard area within the required 10' setback on the non-address side of a double frontage lot located at 2290 Sunset Lane (Tax Map: 10; Parcel: 0185) in the R-3 Residential Zone.

Mr. Walter Oakhem presented the variance request to the Planning Commission members. Mr. Oakhem explained that he owns a double-frontage lot located at the corner of Sunset Lane and Sycamore Road. The Zoning Ordinance allows a six foot (6') high fence to be installed in the front yard area on the non-address side of a double-frontage lot as long as the fence is setback ten feet (10') from the street right-of-way. Mr. Oakhem explained that if he would meet the requirements of the Zoning Ordinance, the fence would cut off approximately one third of his yard. The fence would go right through the area of a large mature oak tree. Mr. Oakhem explained that a fence higher than three feet (3') is necessary to contain his dog which is a jumper. Mr. Oakhem explained that there is an alley behind his property that he uses to access his garage. Mr. Beecher stated that documentation should be presented to the Township Engineer to show the fence will not be located in the clear sight triangle of the alley and Sycamore Road.

MOTION: by Ronald Ruman to recommend the Zoning Hearing Board approve the variance request subject to the applicant providing documentation to the Township Engineer indicating that the fence will not be located within the clear sight triangle of the unnamed alley and Sycamore Road.

SECOND: by David Beecher

MOTION PASSED: Unanimously (3-0)

#### NEW BUSINESS

#### **T-844 Church of the Open Door Lot Consolidation & Final Land Development Plan**

located at 8 Carlisle Court. *Applicant requested to table the plan until the June 11, 2019 Planning Commission meeting.*

The plan was tabled at the request of the applicant.

#### PUBLIC PRESENT

Mr. Bart Barthalamew of 1576 Haviland Road was present and approached the Planning Commission members to discuss his concerns regarding the Act 537 Plan approved by the Township. Mr. Barthalamew explained that he received a letter from the Township informing him that he and sixteen (16) surrounding properties will be required to connect to the public sewer. He asked the Planning Commission members if they were aware of the requirement and asked why the Township did not inform the property owners in a timelier manner since the Township had approved the Act 537 Plan in 2015 and updated the plan in 2017. Mr. Ruman explained that the Planning Commission meeting was not the venue in which to seek these answers. Mr. Gordon recommended that he attend the public Board of Supervisors meeting to voice his concerns and ask questions specific to the Township's directive from DEP for the properties along Haviland Road to connect to public sewer. Mr. Gordon also suggested he contact the Township Manager for information regarding the same.

Being that there was no additional agenda items, the meeting adjourned at 8:41 p.m.