

COLERAIN TOWNSHIP ZONING HEARING BOARD MINUTES
Michael Brown Case 2022-04
June 1, 2022 at 7:00 P.M.

Members present were: Bob Stanley, Chairman, Doug Eaby, Vice-Chairman, and Tammy Rineer, Member. Josele Cleary, Zoning Hearing Board Solicitor was present as well as Allen Blank Court Reporter. Allen can be reached at 717-687-8942. A listing of others in attendance will be kept on file.

This being the third hearing of the night which immediately followed the first and second hearing. Introductions were made and procedures were presented at the first hearing.

Bob Stanley called the meeting to order at 8:45 P.M.

Ms. Cleary announced the hearing by reading the notice and recognized the applicant was present with council. She also asked if anyone wished to be recognized as a party for this application. The following people stepped forward. Terri Lamar 566 Pumping Station Road, Enno Jurisson 588 Pumping Station Road, Ann Louise Johnson 596 Pumping Station Road, and Larry Garver 577 Pumping Station Road.

Ms. Cleary asked the applicants council Mr. Thomas if he had any objections to any of the persons above being recognized as parties. He did not have any objections.

A motion was made by Doug Eaby and seconded by Bob Stanley to approve party status to all four people that requested. The vote was unanimous.

Mr. Jim Thomas, council for the applicant presented a booklet which contained 11 sections each marked with their own Exhibit number. Each Board member as well as any interested people that were granted party status were handed this booklet. Mr. Thomas stated his case by explaining the Special Exception Request, reading from the pertaining Zoning Ordinance Sections, explaining the deed changes that had to be made including removing water rights. Mr. Thomas also went through each section of the booklet #A1 through #A11. Those sections are titled Entry of Appearance, Aerial Site Map, Deed 4-14-21, Easements, deed 3-22-01, Demo Permit, DEP Notification, Application for Transfer of a Chapter 105 Permit, Proclamation of Disaster Emergency, Order-Closure of Not Life-Sustaining Businesses, and PA Supreme Court Quotes.

Mr. Thomas called Michel Brown as his first witness. All witnesses were sworn in.

Mr. Thomas asked Mr. Brown how and when he became aware of the property in question and he explained. He also questioned him on the timeline of all that was involved in attempting to buy the property due to it being owned by a water company and also how the COVID-19 affected this timeline. After being asked Mr. Brown explained his history and how he and his family came to be in Pennsylvania. Mr. Thomas then presented Exhibit #A12 which is a drawing that shows the proposed residence, septic area, road access, existing pumping station that provides water to some of the neighbors on Pumping Station among other items. Mr. Thomas questioned Mr. Brown on the existing pumping station and he explained that an easement was provided to PAWC so they could continue use and provide water. As well as maintain the pump and well. He also asked Mr. Brown if he planned on building anything other than a residence and he stated yes possibly a barn or shed. After being asked, Mr. Brown stated he would agree to a deed restriction stating that he would not subdivide the parcel.

Mr. Thomas had no further questions for Mr. Brown.

Bob Stanley questioned Mr. Brown about the proposed barn. Doug Eaby asked Mr. Brown about the topography at the area where the residence is proposed.

At this time Ms. Cleary asked the parties if they had any questions for the witness. Ann Louise Johnson questioned Mr. Brown if he would allow motorized bikes to ride in the creek. Also, will he be removing trees. He let her know he will not allow riding in the creek and he will keep all the trees he can.

Larry Garver asked Mr. Brown if we aware that the property was zoned conservation when he bought it, and stated he was aware. Mr. Garver asked is Mr. Brown has checked that all the demoed building has been removed even down to the sub-structure. This information will be presented by Brian Masterson, Mr. Brown's Project Manager. Mr. Garver asked if Mr. Brown will still allow the PA Fish and Boat Commission to stock and he stated yes and he would allow fishing on one side of the creek.

At this time, Brian Masterson pointed out areas of different locations on the plan marked as Exhibit #A12 such as the proposed residence, demoed pumping station, existing pumping station, floodplain delineation, proposed septic area. Mr. Thomas asked Brian if there were any state or local regulation that could not be met as this plan is proposed and stated no. Would there be any detriment more than what the old pumping station would have had. Mr. Masterson stated not as this plan is proposed. Mr. Thomas asked if you could see the property from the road, Mr. Masterson stated no.

Doug Eaby and Bob Stanley expressed concerns about the floodplain and Brian addressed their concerns.

Bob Stanley asked if there was any consideration about the Octoraro Creek being designated a PA Scenic River. Brian stated there was not but since it is a high- quality watershed the Conservation District will be watching the project very carefully. Bob questioned Brian on areas of the GIS Aerial photo plan that were not labelled and Ms. Cleary had Brian mark up Exhibit # A2 with a red pen.

Ms. Cleary asked the parties if they had any questions for Mr. Masterson and Ms. Lamar came up to view the plan and Mr. Masterson pointed out where proposed buildings will go. She also asked about the impervious calculations as in relationship to her home and Brian explained.

At this time, Ms. Cleary opened up questions from the audience and Scott Kulicke questioned Mr. Masterson about the FEMA floodplain in relationship to the proposed residence and Mr. Masterson explained that it will not be in the floodplain.

At this time Ms. Cleary asked the applicant if he would be willing to comply with the following conditions of the Board would decide to grant the application:

Applicant shall install the dwelling at the general location shown on Exhibit # A2

Applicant shall record a restriction to prohibit further subdivision of the property

Applicant shall limit development of the property to one single family detached dwelling and residential accessory structures

Applicant shall minimize removal of trees during construction of dwelling

All structures shall be located outside the floodplain

Applicant shall not install any new points of access from Pumping Station Road

Applicant shall adhere to the testimony that any violation of these conditions shall be considered a violation of the Zoning Ordinance and will be subject to all penalties, remedies of the PA Municipalities Code.

Applicant shall obtain all permits and approvals required under zoning, storm water management, and the UCC.

These conditions are binding on the applicant, landowners and, and successor owners of the property.

Mr. Brown agreed to all conditions.

At this time Mr. Thomas moved to enter Exhibits # A1 through # A12 into the record. Ms. Cleary made mention that there should be an A12 copy made available for the Township files and there was.

At this time Ms. Cleary asked for any testimony the parties. All that testified were sworn in.

Mr. Jurisson expressed his support for the Brown family.

Ms. Johnson also expressed her support for the Brown family.

Mr. Garver expressed concern over the Township differentiating between spot zoning and conservation and wonders how often this would be allowed but also felt that if the house will be built on the berm proposed it should be protected from a 100- year storm.

At this time Ms. Cleary asked for any comments from the audience other than those with party status.

Scott Kulicke commented on the section of the Zoning Ordinance about non-conforming substitution that Mr. Thomas referred to and reminded the Board they are not required to make a substitution. Also, he read the Conservation definition language from the Zoning Book.

Richard & Connie Price also expressed support for the Brown family.

Tammy Rineer asked Mr. Brown if would remove the existing fence at the road and he stated yes and will replace with a more attractive option.

John Hoffman encouraged Mr. Brown to continue to allow fishing in the gorge area.

At this time, Ms. Cleary recommended that the Board close testimony.

A motion was made by Bob Stanley and seconded by Doug Eaby to close testimony. The vote was unanimous.

At this time Ms. Clearing explained the options available to the Board for the purposes of rendering a decision.

At 9:50 P.M. Bob Stanley announced the Board would adjourn for an executive session which they returned from at 9:56 P.M. and Bob Stanley called the meeting back to order.

A motion was made by Doug Eaby to grant the application subject to the conditions which were previously read by the Ms. Cleary. Bob Stanley seconded the motion. The vote was unanimous.

A motion was made by Doug Eaby and seconded by Bob Stanley to adjourn at 9:58 P.M. The vote was unanimous.

Respectfully Submitted,

Carmen B. Wiker, Asst. Zoning Hearing Board Secretary