

BUTLER TOWNSHIP ZONING HEARING BOARD
APRIL 7, 2021

The Zoning Hearing Board of Butler Township met on Wednesday, April 7, 2021 at 6:30 p.m. at the Butler Township Municipal Building, 290 South Duffy Road, Butler, PA 16001.

The following Members were present: Chair Greg Haughey, Vice-Chair Tom Holman, and Alternate Joe Gray.

Also present were Secretary Theresa Giesler, Zoning Officer Jesse Hines, Solicitor David A. Crissman, and Court Reporter Cheryl Eckstein.

Chair Haughey called the meeting to order at 6:30 p.m.

Motion by Vice-Chair Holman to appoint Greg Haughey as Chair, seconded by Gray and carried unanimously.

Motion by Vice-Chair Holman to appoint Brent Thomas as Vice-Chair, seconded by Gray and carried unanimously.

Motion by Holman to reappoint David Crissman as Solicitor at \$170.00/hour, seconded by Gray and carried unanimously.

Motion by Holman to reappoint Theresa Giesler as Secretary at the current rate of compensation, seconded by Gray and carried unanimously.

Motion by Holman to permit any Member to act as hearing officer, seconded by Gray and carried unanimously.

Chair Haughey opened the first hearing at 6:33 p.m.

Chair Haughey swore in the Township Secretary, Zoning Officer, applicant and all who wished to testify.

Secretary Giesler read **Appeal #2021-01** received February 8, 2021. The applicants are James and Barbara Lyon. They are asking for a special exception for a comparable use not specifically listed for an indoor baseball training facility. The property is located at 142 Evans Road, Butler, PA (Map & Parcel 7-D120). The property owner is Mercer Rd. Vol. Fire Co. The application was marked at Board Exhibit 1.

The written notice of the hearing given to the applicant was marked as Board Exhibit 2.

The Township Planning Commission and Zoning Officer were informed of the hearing.

The written notice of the hearing that was given to the property owners within 200 feet of the subject property as supplied by the applicant was marked as Board Exhibit 3.

The public notice that was published once each week for two successive weeks with the first publication not more than 30 days, and the second publication not less than 7 days from the date of the hearing was marked as Board Exhibit 4.

The written notice of the hearing that was posted on March 30, 2021 on the subject property was marked as Board Exhibit 5.

Mrs. Barbara Lyon of 317 Sawmill Run Road was in attendance to represent the application. Mrs. Lyon gave an overview of the application.

Discussion was held regarding the number of people at any one time, hours of operation, parking, and proposed modifications to the building.

Zoning Officer Hines went over the criteria for the special exception. They meet all the criteria.

Mr. John McCarrier was in attendance and wanted to confirm that it would be indoor only. Mrs. Lyon indicated that all activities would be indoor.

The Zoning Hearing Board went off record at 6:43 p.m.

The Zoning Hearing board went on record at 6:46 p.m.

Motion by Holman to grant the special exception to use the subject property for an indoor baseball training facility subject to the condition that the applicants apply for an occupancy permit by April 1, 2022, seconded by Gray and carried unanimously.

Chair Haughey informed all present that anyone aggrieved by the decision of the Zoning Hearing Board may appeal to the Court of Common Pleas within thirty days of the written decision.

Chair Haughey adjourned the first hearing and the meeting at 6:50 p.m.

Chair Haughey opened the second hearing at 6:51 p.m.

Chair Haughey swore in the Township Secretary, Zoning Officer, applicant and all who wished to testify.

Secretary Giesler read **Appeal #2021-02** received February 10, 2021. The applicant is Great Living, LLC. The property owner is AFE & Allman Land Group, LLC. They are asking for an Interpretation of the January 15, 2021 determination by the Zoning Officer regarding density. The property is located at the southeast corner of South Duffy Road and Highfield Road in Butler, PA. The application was marked at Board Exhibit 1.

The written notice of the hearing given to the applicant was marked as Board Exhibit 2.

The Township Planning Commission and Zoning Officer were informed of the hearing.

The written notice of the hearing that was given to the property owners within 200 feet of the subject property as supplied by the applicant was marked as Board Exhibit 3.

The public notice that was published once each week for two successive weeks with the first publication not more than 30 days, and the second publication not less than 7 days from the date of the hearing was marked as Board Exhibit 4.

The written notice of the hearing that was posted on March 30, 2021 on the subject property was marked as Board Exhibit 5.

Ms. Maureen Sweeney with Blumling & Gusky, LLP, counsel for the applicant, was in attendance to represent the application. Ms. Sweeney gave an overview of the application. She explained that the applicant submits that the Zoning Officer's interpretation was incorrect in light of certain ambiguities in the provisions and should be interpreted in favor of the applicant per 53 P.S. § 10603.1.

Ms. Sweeney submitted the following:

1. Zoning Hearing Board Application, which was entered into the record as Applicant Exhibit A,
2. Zoning Officer's Determination Letter dated January 15, 2021, which was entered into the record as Applicant Exhibit B,
3. Boundary / existing Conditions Plan, which was entered into the record as Applicant Exhibit C,
4. Site Plan (Index), which was entered into the record as Applicant Exhibit D, and
5. Letter from Victor-Wetzel Associates to Ms. Maureen Sweeney dated April 6, 2021, which was entered into the record as Applicant Exhibit E.

Witness for the applicant, Mr. Brad Simmons with Sheffler & Company, Inc. discussed Applicant Exhibit C and Applicant Exhibit D.

Witness for the applicant, Mr. Steve Victor with Victor Wetzel Associates, read Applicant Exhibit E. Mr. Victor was questioned by Mrs. Sweeney and the Zoning Hearing Board.

Ms. Sweeney stated that it is their submission that because of the ambiguity created by the lack of detail in 300 Attachment 1, the MPC requires that any ambiguity be determined in favor of the applicant and if there is any doubt that there is ambiguity it has to be determined in the property owner's favor.

Mrs. Rebecca Black with Lutz Pawk, & Black was in attendance as Solicitor for Butler Township. Mrs. Black questioned Zoning Officer Hines. Mrs. Black supplied the Zoning Hearing Board and Mrs. Sweeney with a statement. Mrs. Black read the statement. She does not agree that the ordinance is ambiguous.

Mrs. Sweeney questioned Zoning Officer Hines in regards to the ambiguity. She respectfully disagrees with Mrs. Black.

Mr. Ken Schultz of 232 Abner Drive was in attendance. He is concerned with the density calculations.

The Zoning Hearing Board went off record at 7:35 p.m.

The Zoning Hearing board went on record at 7:48 p.m.

Motion by Holman to deny the application and uphold the Zoning Officer's interpretation of the Ordinance, seconded by Gray and carried unanimously.

Chair Haughey informed all present that anyone aggrieved by the decision of the Zoning Hearing Board may appeal to the Court of Common Pleas within thirty days of the written decision.

Chair Haughey adjourned the second hearing and the meeting at 7:50 p.m.

Theresa Gusler