

Zoning Hearing Board**August 20, 2013**

The regular meeting of the Borough of Plum Zoning Hearing Board was called to order by Chairman, Sonny Tresco on Tuesday, August 20, 2013 at 7:07 pm in the Municipal Building located at 4575 New Texas Road, Pittsburgh, PA 15239. Mr. Tresco led the Pledge of Allegiance and asked for a roll call.

PRESENT: Michelle Chapkis, Ruth Grant, Alan Vento, Sonny Tresco

Absent: Steve Harity

Also Present: Jason Straley, Planning Director, Warner Mariani, ZHB Solicitor, Aaron Wawrzyniak of Wawrzyniak Reporting and Videotape Service, Linda Stremple, Recording Secretary

Minutes

Ms. Grant made a motion to approve the minutes of the July 16, 2013 meeting; seconded by Ms. Chapkis; motion approved.

New Business – Applications

ZHB-201308- Rob Polacek -7100 Leechburg Road. - Request for a variance to construct a detached garage over the maximum allowance and to construct the detached garage as the principal structure on the lot. The request does not comply with Ordinance #772-07, Section 2.c., and Ordinance #597-98, Section 506.3 respectively. The property is zoned "R-1" Suburban Residential.

Mr. Tresco announced the first agenda item as a request from Rob Polacek of 7100 Leechburg Road for a variance to construct a detached garage over the maximum allowance and to construct the detached garage as the principal structure on the lot at 7100 Leechburg Road.

Mr. Rob Polacek, 7100 Leechburg Road, New Kensington, PA 15068 was sworn in by Mr. Aaron Wawrzyniak. Mr. Polacek then stated he would like to construct a storage garage for his truck, personal vehicles and equipment to plow his driveway.

Ms. Grant asked how many vehicles; if he had a business; what address was used for the business. Mr. Polacek answered that he had three (3) personal vehicles and two (2) machines, a skid loader and an excavator; he did have a plumbing business located at 1534 Electric Avenue, North Braddock and had the vans on his property at 7100 Leechburg, Road, for security purposes, where his employees pick them up; the mailing address for the business is 7100 Leechburg Road and materials are stored at 1534

Electric Avenue. Ms. Grant stated technically you are operating a business out of a residential area at 7100 Leechburg Road in Plum. Mr. Polacek stated that the vehicles are kept at 7100 Leechburg Road, not at Electric Avenue in East Pittsburgh, for security reasons; no customers go to that address and no materials are stored there.

Ms. Chapkis asked the following questions: if the parcel Mr. Polacek was referencing and requesting to put a structure on was vacant; to depict the structures on the drawing. Mr. Polacek replied yes he owned two (2) properties; there is an easement and a right of way down the middle; two (2) lots and blocks; the house and shed are on one lot and block and the other lot and block is on the opposite side of the road; the structure would be placed on the property across the street. Ms. Chapkis then asked if the parcels were divided by the road; if the vacant parcel was 1.3 acres. Mr. Polacek replied yes the parcels were divided by the road; there was approximately 2-1/2 acres. Ms. Chapkis asked Mr. Straley what the maximum allowable limit would be for a structure on this parcel. Mr. Straley stated the maximum size or a structure would be one-thousand (1,000) square feet. Ms. Chapkis then asked why he did not want to put the structure on the parcel where the dwelling is located. Mr. Polacek stated there was no room and also because of the easement and right of way, and he owns the other piece of property across the road with its own lot and block and why couldn't he build on it. Ms. Chapkis asked for the proposed size of the structure; the height; the material of which it would be made. Mr. Polacek stated the structure was a 1,500 square foot, fifty (50) foot wide x thirty (30) foot deep; would need to look at the actual height; metal, pre-fab garage.

Mr. Vento asked if there was a reason Mr. Polacek has not combined the two properties; Mr. Polacek answered because there is an easement and a right of way right down the middle; the neighbor has an easement right down the middle of the property; there is no sewage, can't develop it; it is a common driveway and by law he cannot do that; there is either a twenty-five (25) or twenty (20) foot cartway already there and his neighbor has purchased an additional twenty-five (25) foot easement. Ms. Chapkis asked if this additional twenty-five (25) foot easement was for access. Mr. Polacek responded he guessed it was for access, maybe development; a fifty (50) foot right of way would be a heck of a road.

Mr. Vento asked if Mr. Polacek lived in the dwelling on the one piece of property; if there was another structure on that property and if he was using that also. Mr. Polacek replied he does live in that dwelling; the additional structure was there when he bought it and he does use that wood frame structure for his lawn mowers. Mr. Vento asked Mr. Polacek for the reason he does not park his business vehicles at his place of business; if there was any indoor parking at his business. Mr. Polacek replied it would be on the road parking; it is in a distressed area; security reasons; and there is no off street

parking available for the three (3) work vans. Mr. Polacek also stated he does not have customers coming to this address; his guys just pick up the trucks; he is not bothering anyone on his 2- ½ acres; assumed he had no problems with doing this; most of his business is service; there is no indoor parking at the business.

Mr. Maiaini asked if there was a current business being operated at the location. Mr. Polacek replied yes his wife's Dog's Best Friend Grooming, which was approved two (2) or three (3) years ago. Mr. Mariani thought it was approved in 2003.

Mr. Tresco asked for any questions from the audience.

Mr. Wawrzyniak then swore in Mr. James Bridge, who owns Bridges Farm and Greenhouses next to Mr. Polacek's property. Mr. Tresco informed Mr. Bridge that this was the time for questions.

Mr. Bridge said he owned a fifty (50) foot right of way, which appears on his deed, which he discussed a month ago with Mr. Polacek and Mr. Polacek wanted to ignore, and Mr. Bridge told him he could not ignore it. Mr. Tresco once again asked if Mr. Bridge had any questions for Mr. Polacek, which he did not. Mr. Bridges then proceeded to give his concerns and showed a copy of his deed to the board which explains his fifty (50) foot right of way. Mr. Mariani asked Mr. Bridge what concerns he had. Mr. Bridge stated Mr. Polacek says he is not running a business, but Mr. Bridge presented pictures which depicted vehicles, employees' vehicles, which are parked and when a trailer truck makes a delivery, Mr. Bridge has to use his skid loader to unload the truck at the end of the road; also had pictures of more equipment and a trailer; UPS truck had to turn around in Mr. Bridge's parking lot; if Mr. Polacek builds this structure, Mr. Bridge lives below this property and is concerned about flooding from the roof runoff and whatever apron is created causing field erosion and crop damage; it is a residential neighborhood.

Mr. Mariani asked Mr. Bridge how the property is zoned, to which Mr. Bridge replied farming and R-1.

Ms. Chapkis asked Mr. Bridge to point out his property on the pictures. Mr. Bridges did so and stated he has unbelievable ditches and felt, that at least, a retention pond should be built.

Mr. Mariani asked Mr. Straley if Mr. Polacek would have to go to the planning commission and if there were any requirements of him to get a retention pond. Mr. Straley replied no to both. Mr. Mariani asked Mr. Bridge how long he had been in business, to which Mr. Bridge replied 31 – 32 years. Mr. Mariani asked if Mr. Bridge

maintains the road. Mr. Bridge stated both he and Mr. Polacek maintain the road; both plow in winter; Mr. Polacek gets the stone. Mr. Bridge explained that by the time the water gets down to his property, he has 8 – 10 – 12 inch ruts.

Ms. Chapkis asked if the current water flow is impacting Mr. Bridge's business. Mr. Bridge replied sure it is and he doesn't need more water on top of this.

Mr. Tresco asked Mr. Bridge if he was leaving the pictures. Mr. Mariani explained if they are exhibits you don't get them back. Mr. Bridge kept the pictures.

Ms. Chapkis asked Mr. Polacek what the limitations were on this parcel zoned Suburban Residential for constructing a house. Mr. Polacek stated that he cannot get sewage to develop this property because of Mr. Bridge's pond. Mr. Polacek stated if he could he would put two (2) new homes on the properties and loose the garage. Ms. Chapkis asked Mr. Polacek if he was talking about public sewage. Mr. Polacek replied yes, public sewage. Ms. Chapkis asked if a sand mount system was possible. Mr. Polacek replied the cost would be a pricey \$20,000 and would have to check if he had enough property for that system. Mr. Polacek stated that he could develop the property if the road went in, but figured he would just put in a garage.

Mr. Polcaek stated that Mr. Bridge mentioned the water runoff and if you look at the geographic of the ground, there would be no water runoff down his driveway. The runoff would be down a void of grass to Mr. Bridge's pond. Mr. Polacek also stated if there was an erosion problem, he takes cares of the road and he would take care of the erosion problem. Mr. Polceak explained he and Mr. Bridge had a discussion to see what Mr. Bridge actually wanted. Mr. Polaceck stated he originally wanted the garage in another location, but Mr. Bridge said absolutely not because of the easement. Mr. Polacek said he changed the location of the garage so it would not be over the easement. Mr. Bridge stated he also had a rain water issue. Mr. Polacek and Mr. Bridge put in asphalt bumps and that diverted the water from coming down the road.

Ms. Chapkis asked if a 1,000 square foot structure was allowed. Mr. Straley clarified that a structure under 1,000 square feet required a Zoning Certificate and meeting the setback requirements and size limitations and the reason we are here today is because it is over 1,000 square feet.

Ms. Chapkis stated that Mr. Polacek must demonstrate the hardship for going from the 1,000 to the 1,500 square foot; what is the hardship that you cannot keep the structure within the 1,000 square foot limit. Mr. Polacek stated that bigger is better; he got a good deal on a 1,500 square foot garage; he has the property to do it; he sees no hardship; he pays taxes on his property; it is his property; he would like to develop his property

and put up a garage. Mr. Polacek said that if Mr. Bridge ever develops the property, Mr. Polacek's garage is coming out of there and putting two (2) new homes on the property.

Mr. Bridge stated that Mr. Polacek only put two (2) ditches in because "he wants to kiss my butt" so Mr. Bridge would agree to this building.

Mr. Tresco reminded the two parties to ask questions at this point.

Ms. Grant asked if Mr. Polacek had any other neighbors. Mr. Polacek stated he did have other neighbors, but they were pretty far away, but Mr. Bridge and he share a common driveway since he bought the house.

Mr. Tresco asked for any other questions. There were no further questions and called for closing statements.

Mr. Polacek stated he had no closing statements; he had already spoken his word.

Mr. Bridge stated basically he had purchased a fifty (50) foot right of way, but only has a seven (7) to eight (8) foot right of way because of all the junk parked along there; if not Mr. Polacek's guys, the people coming for his wife's dog grooming; it is narrow and messes up Mr. Bridge's business; and water is a big issue.

Mr. Vento requested an executive session. Mr. Tresco called for an executive session at 7:31 pm.

Mr. Tresco reconvened the meeting at 7:43 pm.

Ms. Chapkis made a motion to deny the request to issue a variance on Mr. Polacek's property; seconded by Ms. Grant; request denied.

Mr. Mariani informed Mr. Polacek his request for a variance was denied and he had thirty (30) days from the date of the decision to appeal to the Court of Common Pleas of Allegheny County, if he disagrees with this decision. Mr. Straley would issue the decision and Mr. Mariani would issue an opinion stating the reasons why the variance was denied.

ZHB0201309 – Jason & Amy Marzina – 513 Vale Avenue – Request for a variance to construct an addition into the minimum allowable side yard setback. The request does not comply with Ordinance #731-04. The property is zoned "R-2" Neighborhood Residential.

Mr. Tresco announced the next agenda item, a request from Jason & Amy Marzina of 513 Vale Avenue for a variance to construct an addition into the minimum allowable side yard setback.

Mr. and Mrs. Marzina were sworn in by Mr. Wawrzyniak. Mr. Marzina stated they would like to put an addition on the back of the house, but because of an easement there is little room to work with in the back. Mr. Marzina stated they would like to enclose an existing side porch and go back from there. Mrs. Marzina explained the easement along the back of the house only allows them to go about three quarters of the way across the back of the house.

Mr. Vento asked the following questions: an explanation of drawing(s); if there was a basement under the parts described and if they were planning on constructing a basement under the addition; was there a reason why they had not chosen another location to which Mr. Vento pointed out on the drawing; if they currently lived at this location. Mr. and Mrs. Marzina pointed out the easement, a deck, a cement slab, and a side porch on the drawings(s); stated there was no basement under the parts described and there would be no basement under the addition; they did not chose another location because the of the location of the vent pipe for their sanitary sewer; Mr. and Mrs. Marzina do currently reside at this location.

Ms. Chapkis asked for clarification of the section marked with an X. Mr. Marzina stated that section was the deck, and the part which juts out is the former sunroom.

Ms. Chapkis indicated an area on the drawings and asked if it is an existing structure. Mr. Marzina stated that was a side porch which was not enclosed and Mrs. Marzina described it as a cement slab with an awning; Mr. Marzina stated they would enclose the part marked X on the drawing on the side of the house, go back a little and catch up with the sunroom.

Mr. Vento asked what the distances were from the property lines to the house on either side.

Mr. Cory Del Signore, 102 Ardennes Court, Trafford, PA 15085 the contractor for Mr. and Mrs. Marzina was sworn in and replied the side yard setback was 7.5 feet; the current sunroom is just a slab with no foundation; the goal is to enclose the side porch, take it back and meet up with the existing sun deck, add 1-1/2 to 2 feet on to the current sunroom to put in a footer, then cut over; there is a sanitary easement that only allows about four (4) feet at that point which prevents going back any further; the clean out and the vent to the side go about seven (7) to eight (8) feet down, which adds a great deal to the cost of the project;

Mr. Tresco asked Mr. Vento if he had any more questions. Mr. Vento repeated his unanswered question what was the distance from the property lines to the house on either side. Mr. Del Signore replied where the covered porch ends it measures thirty-four (34) inches; from the house there is ten (10) feet. Mr. Vento asked for the required setback, to which Mr. Straley replied the required setback is 7.5 feet.

Ms. Chapkis asked Mr. Straley with the existing porch being outside the allowable limit, is there a difference for a porch versus the structure itself; is a porch looked at as a different type of structure or is that currently not compliant with zoning. Mr. Straley replied no, it was an existing porch, prior to the zoning ordinance; a concrete slab is allowable and no building permit is required; an aluminum awning is allowed; if there was a wood structure or a foundation under the side porch, it would become a building permit issue.

Mr. Vento asked if this was a one or two story addition. Mr. Marzina replied it is a one story addition; Mrs. Marzina stated it was a split entry. Mr. Vento asked if the upper level of the split entry was the level at which the addition would be built; if the lot went from the street rising up to the back yard, to which Mr. and Mrs. Marzina replied yes to both questions.

Mrs. Grant asked if either of Mr. and Mrs. Marzina's neighbors had any objection to this addition. Mr. Marzina stated he spoke to Mr. Stockman and he had no objections, because it is on the unusable side of Mr. Stockman's yard.

Mr. Vento asked Mr. Marzina why his neighbor's yard was unusable. Mr. Marzina replied just because of the setup of the yard. Mrs. Marzina added because of the fence on the Marzina property, it cannot be seen from the road either.

There were no questions from the audience.

Mr. Vento made a motion to approve the variance as stated; Ms. Chapkis seconded; motion approved.

Mr. Mariaini informed Mr. Mariani his motion has been granted; Mr. Straley will issue the building permits in accordance with the variance request; if anyone objects to the granting of this variance, they will have a right to appeal with the Court of Common Pleas; anything done within the thirty (30) day appeal period would be at Mr. and Mrs. Marzina's own risk.

There was no old business.

There was no new business.

Ms. Grant made a motion to adjourn: seconded by Ms. Chapkis; meeting was adjourned at 7:56 pm.

Respectfully submitted,

Linda A. Stremple, Recording Secretary
Zoning Hearing Board