

HANOVER TOWNSHIP ZONING HEARING BOARD

OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Application of	:	PPPC Associates Trading and doing business as David A. Klein Real Estate
Application Dated	:	December 22, 2019
Property	:	3400-3430 Bath Pike

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, January 30, 2020, and rendering its oral decision granting the requested use variances as hereinafter set forth, hereby makes the following findings of fact and conclusions of law in support thereof:

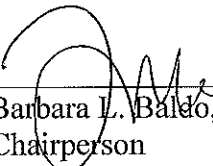
1. The subject property is located at 3400-3430 Bath Pike, in a PHR – Planned Highway Residential District.
2. Appearing on behalf of the Applicant was David A. Klein, a principal of the owner of the premises.
3. This property was the subject of a zoning hearing and the decision of the Zoning Hearing Board dated May 28, 1985. A copy of this decision was marked Exhibit Z-1 as part of the records of this hearing.
4. The decision refers to permitting uses outlined in the then zoning ordinance in Sections 611.1 through and including 611.6. A copy of the zoning ordinance as of that time showing the referenced sections was also made a part of the record and marked Exhibit Z-2.
5. The prior decision was as a result of an application of March Development Company. The layout plan of March Development Company accompanied the present application. That plan's original date was May 24, 1985, with a last revision date of April 23, 1986.
6. The present applicant also submitted as part of the application a document entitled Parking Calculations 12/22/19. This document sets forth the uses that are currently being made and the number of spaces currently being occupied by those uses. Mr. Klein stated that in his opinion the document demonstrates an abundance of additional parking that would easily accommodate the parking for the proposed additional uses. The Zoning Officer did not deny the application for reason that it did not meet the parking standards of the Zoning Ordinance and no request for parking variances were being made.

7. None of the uses that are currently being made on the property would be permitted in the PHR District. They exist only because of the decision of the Zoning Hearing Board in 1985. The Applicant is requesting a use variance because the two additional uses, daycare center and dance studio, were not uses that were explicitly permitted in the 1985 decision.

8. The Zoning Hearing Board after a review of the 1985 decision and it's intent as expressed therein, as well as a comparison of those uses that were permitted in that decision and those uses that were explicitly prohibited in that decision with the uses that are now being proposed believes that the two proposed uses are compatible with the overall developmental scheme and will not be detrimental to the public welfare.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby adopts the above Findings of Fact and Conclusions of Law and grants the requested use variance to permit the daycare center and dance studio.

HANOVER TOWNSHIP
ZONING HEARING BOARD

By: _____
Barbara L. Baldo, Esquire,
Chairperson

Dated: February 11, 2020

HANOVER TOWNSHIP ZONING HEARING BOARD
OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Application of	:	M. Arif Fazil
Application Dated	:	December 19, 2019
Property	:	1940 Rosewood Drive

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, January 30, 2020, and rendering its oral decision granting the variances as hereinafter set forth, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The subject premise is located at 1940 Rosewood Drive, in an R1-S – Single Family Residential Suburban District.
2. The petition was brought by M. Arif Fazil, who recently purchased the property. Mr. Fazil is also a professional engineer and a principal in the D'Huy Engineering, Inc.
3. Attorney James Holzinger appeared on behalf of Mr. Fazil, and also as a witness. Mr. Fazil, Attorney Holzinger and the Zoning Officer were all sworn prior to giving testimony.
4. The Petition of Mr. Fazil in addition to requesting a variance from the Woodland Preservation Provisions of the Ordinance and a modification from the prior decisions of the Zoning Hearing Board also requested an interpretation of the lot coverage provisions of the Ordinance. Some time prior to the application however the applicant through his attorney gave written notice that he was withdrawing the request for interpretation of the Ordinance
5. The lots in this subdivision are subject to the Zoning Hearing Board's decision in the Dewire application dated July 29, 2005, which placed a condition that the 14 lots in this subdivision shall have on an average not less than 35% preservation of woodlands.
6. This lot was also the subject of a decision of the Zoning Hearing Board dated February 24, 2017 on behalf of the Application of Cara Kresge and John Tsihlis, Jr. That decision was made a part of the record and marked Exhibit A-1.
7. The Zoning Hearing Board found that at the time of the original preservation of woodlands restrictions, this particular lot was not heavily wooded and in fact only had two trees. The Applicants, Kresge and Tsihlis, indicated that they would be able to replace those two trees at another location on the lot and so did the present Applicant, M. Arif Fazil.
8. In light of these facts, the Zoning Hearing Board found that rather than apply the reduced maximum lot coverage provisions of 22% as affected by the Woodlands Preservation Provisions that the regular lot coverage provisions of 33% would be satisfactory.

9. The present Applicant however indicates that he is not able to comply with the 33% provisions and submits a plan that would have a maximum lot coverage of 41.8%, approximately 1,592 square feet of additional coverage then what would be permitted under the ordinance.

10. The Applicant indicates however that as part of his coverage, he will be using pervious pavers which will permit the drainage of surface water and that in addition he will be providing stormwater control safeguards to route the stormwater to the rear of the lot.

11. The Zoning Hearing Board has had numerous applications concerning this subdivision and is aware that there are restrictions of record which mandate the size of the structures on the lots, thereby making compliance with the lot coverage provisions difficult.

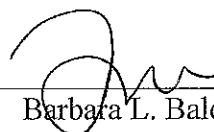
12. The Zoning Hearing Board is satisfied, that with the conditions as set forth hereinafter, the grant of the variance in this case will not be detrimental.

13. As was noted in past decisions, the Zoning Hearing Board will have to deal with the remaining lots in this subdivision that will also be affected by the DeWire decision on a case-by-case basis considering such factors as whether the spirit and intent of the woodland provision of the ordinance is being kept and the extent to which woodlands are being removed without new trees replacing them.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby adopts the above Findings of Fact and Conclusions of Law and grants a variance from the lot building coverage and any other restrictions with respect to preservation of woodlands as might be determined from the Dewire Decision previously issued by the Zoning Hearing Board to allow a lot coverage of 41.8% with the conditions as stated in the prior Kresge and Tsihlis Decision that the applicant replace the two trees currently existing on the lot with other suitable trees and subject to the following additional conditions:

1. That the Township Engineer review the details and observe the construction and installation of the pervious pavers and find the same satisfactory;
2. That stormwater controls, to the satisfaction of the Township Engineer, be provided to route overflow stormwater to the rear of the lot; and
3. That the pervious pavers, as depicted in the areas on the plan that was submitted to the Zoning Hearing Board as Exhibit A-1, be maintained in perpetuity.

HANOVER TOWNSHIP
ZONING HEARING BOARD

By: 
Barbara L. Baldo, Esquire,
Chairperson

Dated: 2-28-2020