

CHARLESTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

DECISION AND ORDER

**Application of Carl Lillmars, Jr.
and Donna M. Lillmars for
Conditional Use Approval**

September 5, 2017

I. INTRODUCTION

Carl Lillmars, Jr. and Donna M. Lillmars (the “Lillmars” or “Applicants”) filed an application for conditional use approval pursuant to Sections 27-1203.2.B(1) and 27-1203.2.B(3) of the Charlestown Township Zoning Ordinance in order construct a single family detached dwelling and associated on-lot sewage disposal system within steep slopes on the property located at 1123 Bodine Road, Chester Springs, PA 19425 (the “Property”).

At the time of the hearing, the Applicants submitted an amended Plan last revised July 21, 2017, reconfiguring the driveway to minimize its impact on steep slopes and re-positioning the proposed on-lot septic system outside the steep slopes. The Application was deemed amended to request conditional use approval pursuant to Sections 27-1203.2.B(1) and 27-1203.2.B(6) of the Charlestown Township Zoning Ordinance to permit a single family detached dwelling and driveway in the steep slopes.

A public hearing on the above referenced conditional use application was commenced on August 7, 2017, with public notice properly provided. The Applicants were represented by Rob Sebia, Esquire of the firm of *Hamburg, Rubin, Mullin, Maxwell & Lupin, P.C.* *The Applicants’ case was presented by Bradford R. Grauel of OTM-Over The Mountain, LLC with a business address at 297 Suedberg Road, Suite 7, Pine Grove, PA 17963.*

II. RELIEF REQUESTED

The Property that is the subject of this application is owned by Carl Lillmars, Jr. and Donna M. Lillmars and is located at 2212 Bodine Road, Chester Springs, PA 19425. The Property consists of approximately six (6) acres and is generally bisected by the Pigeon Creek. The Applicants propose to construct a single-family dwelling on the west side of the Pigeon Creek accessed by a driveway onto Bodine Road. The proposed dwelling and improvements are shown on the Plan identified at the hearing as Exhibit 1, Tab 1 (the “Plan”).

In order to construct a single family dwelling on the Property, Applicants have requested conditional use approval to permit a single family detached dwelling and driveway within areas of slope between 15% and 25% (“Steep Slopes”) pursuant to Sections 27-1203.2.B(1) and 27-1203.2.B(6) of the Charlestown Township Zoning Ordinance.

There are areas of Steep Slope (15%-25%) as defined by the Zoning Ordinance on the Property. The Property slopes down from Bodine Road toward the Pigeon Run. The driveway will traverse isolated areas of Steep Slopes directly in the vicinity of Bodine Road and also the proposed dwelling. The proposed dwelling is also located in an area of Steep Slope. The proposed driveway was moved from its original configuration in order to minimize disturbance to the Steep Slopes and to mitigate any car headlights that could shine onto the adjacent property. As shown on the Plan it appears that there is no possible alternative to crossing areas of Steep Slopes in order to access the proposed dwelling. There is also no alternative location for the dwelling that would be completely removed from the Steep Slopes.

In addition to the standards for conditional use set forth in Section 1808 of the Zoning Ordinance, the Applicant's uses may be located in areas of Steep Slope pursuant to Sections 1203.2B(6) if the Board of Supervisors determines that no viable alternative alignment or location is feasible. According to evidence presented by the Applicant's Engineer, specifically Exhibit A-1, it does not appear feasible to construct the proposed driveways without encroaching in areas of Steep Slope. Furthermore, the encroachments within areas of Steep Slopes shown on the Plan will not have any appreciable affect on adjacent properties and uses.

III. FINDINGS OF FACT

1. The Applicants, Carl Lillmars, Jr. and Donna M. Lillmars, hold title to the Property.
2. The Property has an address of 2212 Bodine Road, Chester Springs, PA 19425.
3. The Property consists of approximately six (6) acres and is generally bisected by the Pigeon Creek.
4. The Property is located in the FR Zoning District.
5. There are areas of Steep Slope (15%-25%) as defined by the Zoning Ordinance on the Property.
6. The Property slopes down from Bodine Road toward the Pigeon Run.
7. As shown on the Plan identified as Exhibit 1, Tab 1, the driveway will traverse isolated areas of Steep Slopes directly in the vicinity of Bodine Road.
8. The Applicants revised the original location of the proposed on-lot septic system to eliminate impact to Steep Slopes on the Property.
9. The Applicants propose to control stormwater from the improvements with an underground stormwater infiltration bed identified on the Plan as "Stormwater System".

IV. CONCLUSIONS OF LAW

1. The Applicants have standing.
2. The Applicants have met the standard for approval of the proposed conditional uses.
3. The Applicants have satisfied the standards set forth in Sections 27-1203 and 27-1809 of the Zoning Ordinance for Conditional Use Approval.


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V. DECISION AND ORDER

AND NOW, this 5th day of August 2017, upon consideration of the testimony and exhibits presented, it is ORDERED that the Applicants are granted conditional use approval to permit a single family detached dwelling and driveway on the Property within areas of Steep Slopes pursuant to Sections 27-1203.2.B(1) and 27-1203.2.B(6) of the Charlestown Township Zoning Ordinance subject to the following conditions.

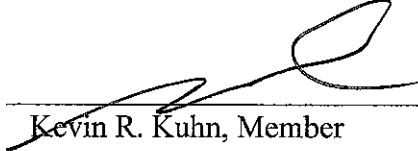
1. The proposed uses are subject to compliance with all terms and provisions of the Zoning Ordinance, and all other Township Ordinances and regulations, and in addition to the regulations of all other government agencies having jurisdiction over the use.
2. The scope of this approval is limited to the requested uses and representations made by the Applicants made as part of the record at the public hearing.
3. The Applicants shall comply with all exhibits, representations, record evidence, and conditions of approval, which are incorporated herein as part of this approval.
4. The Applicants shall complete all improvements not inconsistent with this Decision and Order listed in the Advanced Geoservices review letter dated July 31, 2017 or any other review by the same on such revised plans as may be submitted by the Applicants.
5. The Applicants agree to submit to the Township Engineer for review and approval all stormwater management information and calculations documenting the extent of disturbance for the construction of the improvements associated with the dwelling and proposed driveway.
6. The Applicants shall minimize and mitigate disturbance to steep slopes, including but not limited to minimization of disturbed areas, mitigative plantings, slope stabilization, and Best Management Practices such as stormwater infiltration in order to mitigate runoff that may enter any specially protected watershed.
7. The Applicants shall plant buffer plantings in the direct vicinity of the existing dwelling on the adjacent property to the south of the proposed driveway in order to mitigate any impacts of the driveway on the dwelling to the satisfaction of the Township.
8. The Applicants shall express to the Board in writing within fourteen (14) days of the date of this Decision and Order, its agreement to the above conditions or the Application is denied; the Board expressly finding and concluding that the Application in the absence of compliance with the said conditions is inconsistent with the objective criteria set forth in the applicable provisions of the Zoning Ordinance.
9. The Applicant shall execute and provide to the Township a recordable, notarized copy of a memorandum containing a metes and bounds description of the property in question and stipulating the terms and conditions of this approval and shall consent to the recording by the Township in the office of the Recorder of Deeds of Chester County.

CHARLESTOWN TOWNSHIP

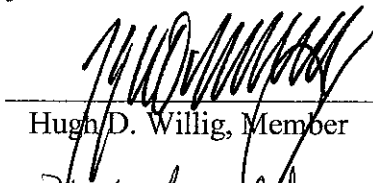


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Michael R. Rodgers, Member


Linda M. Csete, Secretary