

CHARLESTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

DECISION AND ORDER

**Application of Eric Davison
Conditional Use Approval**

June 4, 2018

I. INTRODUCTION

Eric Davison (“Davison” or the “Applicant”) filed an application for conditional use approval pursuant to Sections 27-1608.2 of the Charlestown Township Zoning Ordinance (“Zoning Ordinance”) in order construct an accessory structure and driveway apron in an existing non-conforming building area and in exceeding 50% of the ground floor area of the permitted principal structure and approval pursuant to Section 27-1608.1C(2) of the Zoning Ordinance within a front yard abutting Yellow Springs Road on a property located at 3017 Phoenixville Pike, Malvern, PA 19355 (the “Property”).

A public hearing on the above referenced conditional use application was commenced on May 7, 2018, with public notice properly provided by notice in the Daily Local News on April 16, 2018 and April 23, 2018 as well as by individual notification to property owners within two hundred fifty feet from the property.

II. RELIEF REQUESTED

The Property that is the subject of this application is owned by Highview Farms, LLC with an address at 45 Lady Kirby Lane, Malvern, PA 19355, an entity controlled solely by the Applicant, Eric Davison. The Property is located at 3017 Phoenixville Pike, Malvern, PA 19355, at the intersection of Phoenixville Pike and Yellow Springs Road. The Property consists of approximately 6.4 acres. The Property is currently improved with an historic dwelling in which the Applicant resides. The Applicant proposes to construct an accessory structure in an existing non-conforming building area on the Property where a historic barn was previously located. As part of the improvements the Applicant proposes to construct a stone driveway in the location of existing driveway entering the property from Phoenixville Pike.

The proposed accessory structure and driveway improvements are shown on the Plan identified at the hearing as Exhibit A-1 (the “Plan”).

In order to construct proposed improvements on the Property, the Applicants has requested conditional use approval pursuant to Section 27-1608.2 and approval from the Board of Supervisors, which is required under Section 27-1608.1C(2) of the Charlestown Township Zoning Ordinance.

Section 27-1608.2 of the Zoning Ordinance provides that “(2) In no event shall accessory buildings on a lot exceed 50% of the ground floor area of the permitted principal structure except if at all upon a grant by the Board of Supervisors of a conditional use permit therefore.”

Section 27-1608.1C(2) of the Zoning Ordinance provides that “(2) For side yards which abut a street and for front yards, the determination of whether an accessory use structure or building may be located, erected or maintained shall be made by the Board of Supervisors upon the recommendation of the Planning Commission.”

There are areas of Steep Slope (15%-25%) and Very Steep Slope (>25%) as defined by the Zoning Ordinance on the Property. The Property slopes down from toward the Phoenixville Pike. The proposed accessory structure and driveway are not proposed to be located in areas of steep slope. The existing dwelling is 1,978 square feet in size, which according to Section 27-1608.2 of the Zoning Ordinance would allow for an accessory structure of 989 square feet unless approved by conditional use. The Applicant’s proposes the accessory structure to be 3000 square feet in size. The Applicant is proposing to locate the accessory structure within an existing non-conforming building area in order to maintain minimal site disturbance and grading and to continue with the aesthetic look of the area. The Applicant proposes to utilize an existing stone wall as a buffer and within which the proposed structure will be constructed. The placement of the building in the proposed location will create a lower elevation for the roofline with respect to the elevation of Yellow Springs Road.

The proposed driveway is shown on the Plan outlined in blue and identified as “Proposed Stone Driveway 24’ Wide”. A proposed parking area adjacent to and north of the proposed structure is identified as “Proposed Stone Driveway/Parking”. As part of the Plan the Applicant proposes to remove significant areas of the existing stone along the edges of the exiting driveway and north of the proposed accessory building and parking area. These areas are identified outside of the blue area and within the line delineated as “Edge of Stone”.

There appears to be no alternative location for the accessory structure that would be less visually impactful to the surrounding properties.

The standards for conditional use are set forth in Section 1809 of the Zoning Ordinance. According to evidence presented by the Applicant, specifically Exhibit A-1, it does not appear the size of the proposed accessory structure and driveway will create any issue with the health, safety, morals and general welfare of the Township and appears consistent with the nature of the uses existing on any immediately adjacent lots. The proposed driveway is in the location of the existing driveway and it appears it will provide safe and adequate access to the Property.

In addition, the Applicants has sought approval under Section 27-1608.1C(2) of the Zoning Ordinance, which provides that for side yards which abut a street and for front yards, the determination of whether an accessory use structure or building may be located, erected or maintained shall be made by the Board of Supervisors. In this case, although the Applicant’s proposed accessory structure will be located in a front yard abutting Yellow Spring Road, the Applicant is proposing to be located the accessory structure within an existing non-conforming building area in order to maintain minimal site disturbance and grading and to continue with the

aesthetic look of the area; the Applicant is proposing to utilize an existing stone wall as a buffer and create a lower elevation for the roofline with respect to the elevation of Yellow Springs Road. For all these reasons the location of the structure in its proposed location in a front yard is appropriate.

III. FINDINGS OF FACT

1. The Property that is the subject of this application is owned by Highview Farms, LLC with an address at 45 Lady Kirby Lane, Malvern, PA 19355.

2. Highview Farms, LLC is an entity controlled solely by the Applicant, Eric Davison.

3. The Property consists of approximately 6.4 acres at the intersection of Phoenixville Pike and Yellow Springs Road.

4. The Property is located in the I/O Industrial Office Zoning District.

5. The Property is currently improved with a historic dwelling 1,978 square feet in size

6. The Property slopes down from toward the Phoenixville Pike.

7. As shown on the Plan identified as Exhibit A-1, the Applicant is proposing to construct a 3000 square foot accessory structure in an existing non-conforming building area on the Property where a historic barn was previously located.

8. As part of the improvements the Applicant proposes to construct a stone driveway in the location of existing driveway entering the property from Phoenixville Pike and identified on Exhibit A-1 outlined in blue as “proposed stone line”.

9. The Applicants propose to control stormwater from the improvements with an underground stormwater infiltration bed identified on the Plan as “Proposed Stormwater Management System Approximate Location.”

10. The Plan identifies an “Existing Sanitary Sewer Easement” on the Property in the area where the proposed improvements are to be located.

IV. CONCLUSIONS OF LAW

1. The Applicant has standing.

2. The Applicant has met the standard for approval of the proposed conditional use.

3. The Applicant have satisfied the standards set forth in Section 27-1809 of the Zoning Ordinance for Conditional Use Approval.

V. DECISION AND ORDER

AND NOW, this 4th day of June 2018, upon consideration of the testimony and exhibits presented, it is ORDERED that the Applicant s granted conditional use approval to permit a pursuant to Section 27-1608.2 of the Zoning Ordinance in order construct an accessory structure and driveway apron in an existing non-conforming building area exceeding 50% of the ground floor area of the permitted principal structure on the property and approval pursuant to Section 27-1608.1C(2) of the Zoning Ordinance in order to permit such improvements to be located in the front yard of the Property abutting Yellow Springs Road subject to the following conditions.

1. The proposed improvements are subject to compliance with all terms and provisions of the Zoning Ordinance, the Charlestown Township Subdivision and Land Development 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 representations made by the Applicant made as part of the record at the public hearing.

3. The Applicant shall comply with all exhibits, representations, record evidence, and conditions of approval, which are incorporated herein as part of this approval.

4. The Applicant shall complete all improvements consistent with the Advanced Geoservices review letter dated April 6, 2018 or any other review by the same on such revised plans as may be submitted by the Applicants.

5. The Applicant shall complete all improvements consistent with the Thomas Comitta Associates, Inc. review letter dated March 27, 2018 or any other review by the same on such revised plans as may be submitted by the Applicants.

6. The Applicant agrees 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.

7. The Applicant shall remove all stone areas shown on the Plan, Exhibit A-1 as being removed.

8. The "Existing Sanitary Sewer Easement" on the Property shall be extinguished before the improvements are constructed.

9. The Applicant 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.

10. 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.

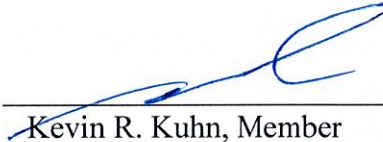
CHARLESTOWN TOWNSHIP



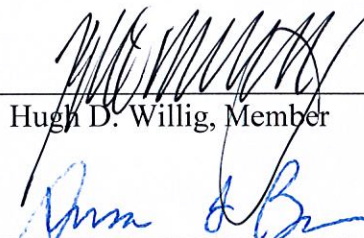
Frank Piliero, Chairman



Charles A. Philips, Vice Chairman



Kevin R. Kuhn, Member



Hugh D. Willig, Member



Susan Bednar, Member



Linda M. Csete, Secretary