

LAMB | MCERLANE PC

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November 9, 2022

Francis Reed Wills
2220 Bodine Road
Malvern, PA 19355

**Re: Charlestown Township
Conditional Use Application of Francis Reed Wills
Property at 2220 Bodine Road**

Dear Mr. Wills:

Enclosed please find the Decision and Order regarding the above referenced Application which was approved by the Board of Supervisors of Charlestown Township at their meeting on November 7, 2022.

Very truly yours,

LAMB MCERLANE PC

By: 
Mark P. Thompson

Enclosure

cc: Chris Heleniak, Charlestown Township

CHARLESTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

DECISION AND ORDER

**Application of Francis Reed Wills
Conditional Use Approval**

November 7, 2022

I. INTRODUCTION

Francis Reed Wills (the “Applicant”) filed an application for conditional use approval pursuant to Section 27-1203.2.B of the Charlestown Township Zoning Ordinance (“Zoning Ordinance”) in order to construct a 1200 square foot patio accessory to an existing residential dwelling located in areas of steep slope area on the property located at 2220 Bodine Road, Malvern, PA 19355 (the “Property”).

A public hearing on the above referenced conditional use application was commenced on October 3, 2022, with public notice properly provided. Individuals, Sharon Richardson, 24 Hedgerow Lane, and Paul Stevens, 2168 Bodine Road were granted party status to the Application.

II. RELIEF REQUESTED

The Property that is the subject of this application is owned by the Applicant with an address at 2220 Bodine Road, Malvern. The Property consists of approximately 2.337 acres located in the FR-Farm Residential Zoning District and is also identified at tax parcel 35-03-12.1G. The Property is currently improved with a dwelling in which the Applicant resides. In order to construct a proposed patio and stormwater management improvements on the Property, the Applicant has requested conditional use approval pursuant to Section 27-1203.2.B(2) and Section 27-1203.2.B(2) of the Zoning Ordinance to construct a stormwater management facility in a Steep Slope area and Section 27-1203.2.B(6) of the Zoning Ordinance to construct a patio and retaining wall structure accessory to a residential dwelling in a Steep Slope area.

The proposed accessory patio, and stormwater facilities, and associated improvements are shown on the Plan identified at the hearing as Exhibit A-5 (the “Plan”).

Section 27-1203.2.B of the Zoning Ordinance provides:

2. Areas of Steep Slope (15 to 25%). A building or other structure may be erected, altered or used, and a lot may be used and/or occupied subject to Parts 11 and 12, for the following:

B. Conditional Uses. Any conditional uses identified in Subsection 1B herein, and the following:

- (1) Single-family detached dwellings.
- (2) *Stormwater management facilities.*
- (3) Public sanitary sewer systems.
- (4) Only those elements of on-lot sewage disposal systems not prohibited under Subsection 1C provided such non-prohibited elements are approved by the County.
- (5) Buildings and other structures permitted in the Limited Industrial and Neighborhood Commercial Districts.
- (6) *Accessory uses and structures customarily incidental to any of the foregoing and streets and driveways only if the Board of Supervisors determines no viable alternative alignment or location is feasible.*

There are areas of Steep Slope (15%-25%) as defined by the Zoning Ordinance on the Property. The Property slopes down from the front to the rear away from Bodine Road and existing dwelling, which is directly adjacent to the Steep Slopes. The Applicants proposed improvements are located to the rear of the dwelling in Steep Slope area of the Property and comply with all area and bulk requirements.

The standards for conditional use are set forth in Section 1809 of the Zoning Ordinance. According to evidence presented by the Applicants, specifically Exhibit A-1, it does not appear the size of the proposed accessory patio or stormwater facilities will create any issue with the health, safety, morals and general welfare of the Township and appears consistent with the nature of the uses in the neighborhood. In addition, there appears to be no alternative location for the accessory patio and stormwater facilities that would be less impactful to the surrounding properties.

III. FINDINGS OF FACT

1. The Property that is the subject of this application is owned by the Applicant Francis Reed Wills and Heather Wills and is located 2220 Bodine Road, Malvern, PA 19355.
2. The Property consists of approximately 2.3-acres and is improved with a dwelling in which the Applicants reside.
3. The Property is located in the FR-Farm Residential Zoning District.
4. The Property slopes down to the rear from Bodine Road.
5. The proposed accessory patio and associated improvements are shown on the Plan identified at the hearing as Exhibit A-1 (the "Plan").

6. The Applicants propose to control stormwater from the improvements with an underground stormwater infiltration bed identified on the Plan.

7. The proposed improvements shown on the Plan are in compliance with all area and bulk requirements.

8. There is no viable alternative alignment or location for the proposed improvements to be located outside of areas of Steep Slope.

IV. CONCLUSIONS OF LAW

1. The Applicant has standing.

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

V. DECISION AND ORDER

AND NOW, this 7th day of November, 2022, upon consideration of the testimony and exhibits presented, it is ORDERED that the Applicant, Francis Reed Wills are granted conditional use approval pursuant to Sections 27-1203.2.B(2) and 27-1203.2.B(6) of the Charlestown Township Zoning Ordinance to permit an accessory patio and associated stormwater management in an area of Steep Slope on the property located at 2220 Bodine Road, Malvern also identified at tax parcel 35-03-12.1G, subject to the following conditions.

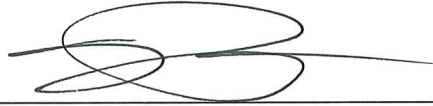
1. The proposed uses are subject to compliance with all terms and provisions of the Zoning Ordinance, and all other Township Ordinances and regulations, and in addition to the regulations of all other government agencies having jurisdiction over the use.

2. The scope of this approval is limited to the requested uses as shown on the Applicant's Conditional Use Plan (Exhibit A-1) and representations made by the Applicant as part of the record at the public hearing.

3. The Applicant shall comply with all exhibits, representations, and record evidence, including all review letters from Thomas Comitta Associates and Montrose Environmental which are incorporated herein as part of this approval.

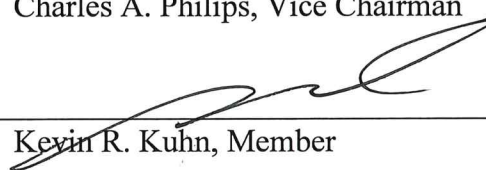
4. The Applicant shall express to the Board in writing within fourteen (14) days of the date of this Decision and Order, their agreement to the above conditions or the Application is denied; the Board expressly finding and concluding that the Application in the absence of compliance with the said conditions is inconsistent with the objective criteria set forth in the applicable provisions of the Zoning Ordinance.

CHARLESTOWN TOWNSHIP



Frank Piliero, Chairman

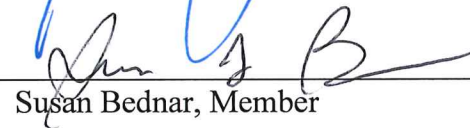
Charles A. Philips, Vice Chairman




Kevin R. Kuhn, Member



Hugh D. Willig, Member



Susan Bednar, Member



Chris Heleniak, Secretary