

LUZERNE COUNTY ZONING HEARING BOARD MINUTES

March 6, 2018

ATTENDANCE

Present were Leon Schuster, Chairman, Bill Harris and Dave Williams, members, Michael Butera, Solicitor, Angela Sallemi, Standing Commissioner, Kathy Wood, Recording Secretary and Interested Parties.

MINUTES.

A motion was made by Mr. Williams, seconded by Mr. Schuster, and carried to approve the minutes of February 6, 2018.

Mr. Harris asked if the cases were properly advertised and posted, and if the contiguous property owners had been notified. Mrs. Wood answered that they were.

Chairman Harris reversed the cases and Case #2 will be heard first.

Case #2

Thomas Sedeski, 315 W. Derby Ave., Sterling, VA, requests the following variances:

House: Percentage of Lot Coverage – required 45%, requested 51%, Rear Yard – required 30 ft., requested 7 ft., Right Side Yard – required 8 ft., requested 1 ft. 9 inches, Garage: Rear Yard – required 10 ft., requested 7 ft., Left Side Yard – required 5 ft., requested 4 ft., Height – required 15 ft., requested 20 ft., to add a right side rear addition and a detached residential garage at 530 Charles St., Luzerne Borough, located in a Two-Family Residence District.

Thomas Sedeski was present. Mr. Sedeski stated he bought the property nine years ago with the intentions of making the house his retirement home. He stated he grew up in

Edwardsville and has lived away since the early eighties and wants to return to the area to be near friends and family. He stated he would like to construct a 1,200 sq. ft. one story addition with a detached residential garage.

Mr. Shuster asked Mr. Sedeski why he wants to build a garage that will be twenty feet in height.

Mr. Sedeski stated that the house is small and has no attic and wants to use the basement for living space so he would like some extra space in the garage for storage.

Mr. Williams asked about the garage being 7 ft. off the alley.

Mr. Sedeski stated that most of the garages along the alleyway are 2 ft. off the alley and he would not be using the alleyway to gain access to the garage, he would be coming off Charles Street.

Alissa Lukasavage, 536 Charles St., adjoining property owner, has concerns about water runoff.

Mr. Sedeski stated that Ms. Lukasavage's property is about one foot higher than his and his plan is to do stone and drains along the property line. He stated all the rain gutters will release the water onto his property.

A motion was made by Mr. Williams, seconded by Mr. Schuster, and unanimously carried, to approve variances: House: Percentage of Lot Coverage 51%, Rear Yard 7 ft., Right Side

Yard 1 ft. 9 inches, Garage: Rear Yard 7 ft., Left Side Yard 4 ft., Height 20 ft., to add a right side rear addition and a detached residential garage at 530 Charles St., in a Two-Family Residence District in Luzerne Borough.

Case #1

Christopher Grymko, 15 E. Turner St., Forty-Fort, PA, is appealing the definition of a Family as described in Article 11 of the Luzerne County Zoning Ordinance to have six (6) unrelated persons to be considered a family occupying a dwelling at 411 Bennett St., Luzerne Borough, located in a Two-Family District.

Christopher Grymko was present. He stated he's also representing his tenants who are disabled due to alcohol and drug addictions who wish to provide for themselves a sober living environment. He stated at the present time he has three (3) women living in the house and he would like to be able to have six (6) unrelated women living at 411 Bennett.

Mr. Grymko presented to the Board a comprehensive written presentation.

Board member Williams asked Mr. Grymko what he means by a reasonable accommodation request.

Mr. Grymko read aloud about the Fair Housing Act of 1988 that was amended to protect persons with disabilities and he believes that the Fair Housing Act would override the Luzerne County Zoning Ordinance.

Mr. Grymko stated there is not treatment, counseling or therapy offered to the residents.

The group behaves like any family and makes group decisions based on input from all

members. He also stated there is a house manager who collects the rents and makes sure the house is being kept clean and that all garbage is disposed appropriately. She does not reside at the property. He also stated the women live there by choice and may stay for as long as they desire. Mr. Grymko also stated that residents lean on each other and count on each other for emotional, social and spiritual support as members of a single household like a traditional family. He stated some of the residents cannot maintain stability living alone, so living in a larger household provides structure, stability and accountability. Also, for therapeutic and financial reasons, it is advantageous for any sober living home to serve as a residence for the maximum of residents that can fit into the house comfortably. Usually there are two persons to a bedroom and the rest of the house is shared by all.

Chairman Harris stated that the zoning board does not have the authority to change the definition of a word (family) in the zoning ordinance. He stated that County Council has that authority.

Board member Williams asked why a Use Variance was not requested to change the use of the property to a commercial use to accommodate more than three (3) residents in a structure.

Shannon Luton, house manager, stated that would require licensing and she stated that this is strictly residential.

Chairman Harris stated again that only County Council has the authority to amend or change the ordinance (definition of a family) to allow more than three people to live in a house as a family. He stated that the current ordinance does not discriminate because it

presently allows three college students, three mentally handicapped persons and three persons recovering from drug and alcohol to live as a family. He stated the board can't change a definition in the ordinance.

Shannon Luton presented to the board many studies that have been done, stating that the ideal number for people living together in recovery is six (6). She also stated they interview potential residents who are coming from places such as Clear Brook, Choices and local half-way houses.

Chairman Harris stated to Mr. Grymko and Ms. Luton that the Luzerne County Planning Commission is currently in the process of reviewing and revising the Luzerne County Zoning Ordinance which they will then present to County Council for review and adoption of the recommended changes presented by the Planning Commission.

Chairman Harris suggested that Mr. Grymko and Ms. Luton attend the Planning Commission meetings and present their ideas and input to establish sober and drug free housing in residential zones.

Parking was also addressed. Ms. Luton stated there are three to four parking spots in the rear yard that can be utilized.

Zoning Hearing Board Solicitor, Michael Butera stated the case law Mr. Grymko is citing as evidence is for municipalities that are attempting to prevent or restrict persons with disabilities living in a single family home. He stated there are many sober homes being operated all over the county, many in Wilkes-Barre City. He stated to Mr. Grymko that for

him to state that Luzerne County is discriminating against people with disabilities is not a valued argument.

Mr. Harris asked, what is the cost to live in the house and does each tenant have a lease?

Ms. Luton stated that it is \$110 per week person, they share a bedroom and have access to the rest of the house. She stated there are no leases but a resident agreement that they must obey house rules. If they are doing well into their recovery, they may leave at any time and a new person would move into the residence. Ms. Luton stated that she acts as peer support.

Board member Schuster asked what are some the criteria to reside at the property.

Ms. Luton stated that some of the only restrictions are no one on state parole; Megan's Law individuals or someone with pedophilia in their background; no violent offenders; no high risk behavior. She also stated that they work with Luzerne County Treatment Court for placements.

Ms. Luton presented many resource documents to the Board to justify her testimony.

Mr. Shuster made a motion to accept all documentation and enter into the record. Mr. Harris and Mr. Williams voted yes to the motion.

Cory Klinefelter, Luzerne Borough Councilman, presented to the Board a petition signed by 204 residents not to change the definition of a family and keep it at three (3). He stated since the Board cannot change a definition of a family, a new hearing should be scheduled.

Board member Schuster stated that the hearing will continue to allow the residents to express their concerns while all parties are in attendance.

Mr. Klinefelter asked Mr. Grymko who pays for the residents to live in the house.

Mr. Grymko stated that the residents have jobs and pay their own way.

Mr. Klinefelter asked since they are have jobs and are supervised in the house why can't they just get a regular residence.

Ms. Luton stated that in early recovery having a peer support group increases the probably of them staying in recovery.

Mr. Klinefelter stated to Ms. Luton that they should have come to a Luzerne Borough Council meeting to explain the use of the residence so the residents of Luzerne Borough had a better understanding of their request that is in front of the zoning board.

Ms. Luton stated that they will be at the next Luzerne Borough council meeting to explain how they would like to use the property at 411 Bennett Street.

Natalie Goodman asked if the residents required to work and what if they can't pay their rent. Also are background checks done?

Ms. Luton stated that yes they should get jobs but if they are having trouble finding employment they need to volunteer their services. She also stated that if a resident is having trouble managing their finances she sets them on a payment plans to pay their rent. She also stated there are no background checks done.

Ms. Goodman asked how long do residents reside at the property.

Ms. Luton stated there is a minimum of 90 days and most stay for over a year. Ms. Luton also stated that if anyone get arrested or doesn't comply with the house rules they must leave within 24 hours. She also stated that if a person relapses they help the person get into a new location or a facility to help with their relapse.

Ms. Goodman asked can the residents have boyfriends.

Ms. Luton stated yes but they cannot stay over.

Jeanne Grymko stated her many credentials showing she is well educated in the field of recovery for drugs and alcohol.

Ms. Grymko stated that she has in the past dealt with Luzerne Borough because of a problematic bar in the town. She stated she wants a sober community. She stated that she wished someone would have intervened with some of her family members to promote recovery for them. She also stated if she could be a part or any of us be a part of this dire situation with people dying, crimes be committed and possibly living next door to meth houses, people drinking and smoking marijuana and allowing this in your community but not willing to promote people living in recovery in a sober house in your community.

Mayor James Keller, Luzerne Borough asked if the residents are monitored for weapons.

Ms. Luton stated she does do room searches making sure no alcohol or drugs are being taken into the house. Mayor Keller stated that Luzerne Borough does not want to see these people out in the streets and stated that Ms. Luton and Mr. & Mrs. Grymko should have come to a Luzerne Borough Council meeting to explain what they wanted to do with the property. He stated it would have saved a lot of problems and invited them to their council meeting.

Kenneth Malys, 417 Bennett Street, adjoining property owner, stated he is concerned because there is a school bus stop on the corner and people do relapse and is worried about the safety of the children. He also is concerned about his property value.

Kurt Santayana, 390 Bennett Street has concerns about parking. He stated there could be boyfriends, family and friends visiting the property and create a parking problem. He feels the board should deny the application.

A motion was made by Mr. Williams to continue the request without prejudice.

The Board entered into Executive Session at 9:15 P.M. and resumed the meeting at 9:27 P.M.

Mr. Williams motion that was on the table was withdrawn.

A motions was made by Mr. Williams, seconded by Mr. Schuster, and carried to Deny the request in appealing the definition of a Family as described in Article 11 of the Luzerne County Zoning Ordinance to have six (6) unrelated persons to be considered a family without prejudice and waived the time limitations prohibiting the applicant from re-applying within a year on property at 411 Bennett St., in a two-Family Residence District in Luzerne Borough.

ADJOURNMENT.

A motion was made by Mr. Harris, seconded by Mr. Schuster and carried to adjourn the meeting.

RESEPECTULLY SUBMITTED,

A handwritten signature in cursive script that reads "Kathy Wood".

KATHY WOOD, RECORDING SECRETARY

LUZERNE COUNTY ZONING HEARING BOARD