

Dover Township
Zoning Hearing Board
December 16, 2020, *conducted virtually*

Using a virtual meeting format, Chairman Jane Ginter called the meeting to order at 7:07 p.m. Members present: Steve Barkdoll, Phillip Brown, Robert Wright, and Richard Pope. Also present: Zoning Officer John McLucas, Solicitor Mike Craley, Stenographer Tammy Rinehart, Recording Secretary, and nine citizens.

I. Minutes

Motion by Pope, second by Wright, to approve the minutes of the meeting of November 18, 2020. All members voted aye; motion carried.

II. Zoning Case

- A. ZHB 20-4, Request for Variance by Charles and Sara Pifer, property at 6810 Detters Mill Road, to permit Riding Academy/Boarding Stables (Section 27-65); dimensional Variance for 10-acre minimum requirement

Charles and Sara Pifer were present on this application and were sworn in. They purchased the property in November 2010 with two personal horses. Checked with Dover Township to make sure the property was not in the floodplain; and to check on any restrictions to have horses in Conservation Zone. Two years later, they acquired four more horses and started the Hidden Stables business. In October 2020, they were cited with violations. Zoning Officer John McLucas conducted a site visit, inspected property, etc. The applicants feel that they were acting in good faith in 2010 when they asked about the possibility of having horses. After violation notice, they started correcting any infractions as they could.

Charles Pifer reviewed the conditions for the Use Variance under Section 27-655. They have barns for housing the animals, stalls are maintained; no training or show facilities; fences are up to but not on the property lines; adequate off-street parking (they can accommodate up to 8 vehicles, plus another four by the house); manure management plan is in place.

First requirement in Conservation district is a minimum of 10 acres, and they have 6.5 acres, so they cannot meet the minimum lot size requirement. Mr. Pifer noted that, at the time of purchase, they were unaware of all these regulations. Then they were notified of the violation and learned of the Crossroads Village Overlay information. Adjoining neighbors are unable or unwilling to sell or lease any additional land to permit the Pifers to meet the 10-acre requirement.

Further, Mr. Pifer noted some inconsistencies in the ordinance for the Conservation District. For Section 27-401, in the Conservation District, this is a permitted use as a riding academy or boarding stables; the Special Exception also has riding academy or boarding stables. It's in both permitted use and special exception sections. In the Overlay information, no riding academy, etc., is there. But there is Commercial School. Under terms defined, "school--commercial" is found. The Commercial School use does not have the same restrictions for minimum acreage. They are on an appropriate road, have adequate parking, and the use is adequately screened. Those are the three requirements.

The Planning Commission also noted these inconsistencies and duplication in the ordinance. Also the Planning Commission members couldn't actually say how the overlay

district affects the underlying district. Hence, the applicants are requesting the dimensional Variance.

Attorney Craley asked are the applicants NOT now pursuing the Use Variance because they are a commercial school where riding is permitted as a special exception? The applicants testified that no, they learned of the commercial school information at the Planning Commission meeting. Had they been aware before, they likely would have proceeded as such. As it is now, they are not changing their pursuit of both Variances.

Attorney Craley informed the applicants that there are different degrees of proof for a Variance and for a Special Exception. The applicants have the option to request that this meeting be continued to change their application if they desire. Understand? Loud and clear. Mr. Pifer confirmed that they are pursuing the dimensional Variance.

From 2010 to 2012, they only used the facility for their personal horses. At their inquiry to the Township right before purchase, they had no intention of opening a riding academy.

Board questions: when was the Crossroads Village Overlay district created? Established in 2011. After they purchased the property. And, if there's a continuance for tonight, do the applicants pay again? No, it's a continuance. But if there's a change in application, yes, re-advertise and re-notice.

Zoning Officer John McLucas was sworn in. Questions from applicant: describe his experience with the applicants. Mr. McLucas relayed that he received an anonymous complaint to the Township about the applicants' business, etc. Went over the violations with the applicants. Inspected the property. Acknowledged that the applicants have taken steps to correct violations and have been cordial throughout the process. How about the discrepancy in the Permitted Use and Special Exception duplication for the commercial school? Unknown why – errors occur. Pifer: because of the ambiguities, how did the Planning Commission members feel about this application? Mr. McLucas noted that the Planning Commission looks at ordinances that don't make sense. The Zoning Hearing Board's role is to literally interpret the ordinances. Planning Commission's recommendation was an attempt to justify the Variance based on the ambiguities in the ordinance.

Ryan and Lacy Geisler were both sworn in. They live across the road from the applicants. Have they ever felt that the acreage that the applicants have has caused any problem in the area? No, they can't see or hear much because of the woods. When they have been onsite, things are neat and tidy and everything is in order.

Jana Zeigler was sworn in and asked the same question. Any issues with appearance, traffic, people onsite? Does the fact that the applicants have less than 10 acres have any impact? No. She spoke in support of the business and noted that her daughter is a client of the business. Scarlet Zeigler appeared and was sworn in. She testified that she appreciates that the business is in the neighborhood, and she likes having the horses nearby.

Mr. Pifer referred to a letter from Mildred Anderson, noting that Mrs. Anderson has no problem with the business as it operates. She is the closest resident to the applicants' property.

Sara Fiore was sworn in and testified that, while she has never actually been on the applicants' property, she can see that they run a good business, a tidy farm, and they use the acreage well for their business.

Chairman Ginter asked for clarification on the minimum acreage required for one part of the ordinance and no minimum for another.

Are they giving riding lessons only? No boarding of other people's horses? Up until their written violation, they were indeed boarding others' horses. After the violation, they relocated their boarders. He noted that this business is Mrs. Pifer's full-time vocation. The Zoning Hearing Board is required to follow the law. Variances have very high standards... essentially saying, we're special and we want to break the law. Must show unnecessary hardship. If asking for Special Exception for a commercial school, the applicants must meet three qualifications. Much lesser degree of burden for the applicants to show. If continuing this hearing, can keep all tonight's testimony to proceed. If Variance is denied, they must start over if they wish to proceed on a different route.

Mr. Pifer noted that they would like to board horses for the income.

It was noted that even a commercial school would not include boarding and would still require a Variance.

Mrs. Robbins (Mr. Pifer's mother) was sworn in and spoke in favor of the business, noting that the clients not only learn to ride and care for horses but also find the atmosphere therapeutic.

Testimony from participants concluded.

Mr. McLucas read into the record two letters from concerned citizens. One was from Tricia and Robert Kraybill, who wrote in opposition to the granting of the Variance due to various circumstances including animal abuse and limited acreage.

The other letter was from Pam and Jay Helsel who also wrote in opposition, citing various items; smell, droppings, barns/riding rings in the front yard, traffic, floodlights.

Applicants' response: Mr. Pifer was surprised by Mr. Helsel's letter, noting that Mr. Helsel's response previously was rather positive.

Mr. Pifer noted that there's no requirement that the barn or riding area be located behind the house.

As to letter from the former vet, the Kraybills, the applicants asserted that never did the Kraybills complain about the number of horses on the property, etc., for the entire 8 years that the Pifers used the Kraybills as their veterinarian. The Pifers changed vets because they "noticed a lack of care of one of their animals by the veterinarian." Mrs. Pifer said that it was only after they changed vets that the vet started to bring up the supposed violations mentioned in the letter.

Mr. Pifer noted that if the equine vet sees animal abuse, etc., the SPCA is called to the property, and that has never happened.

How many personal horses do the applicants have? (Six). They had five or six boarded horses as well, but only one remains. Had 13 total horses at the time of the violation. How old are their horses? Most are rescues, so age determination is difficult – one mini-horse, six/7 years; pony, 10 years; quarter horse, 11/12 years; pony in the 20s; and two older horses mid-20s. All but the mini-horse are used for lessons. Any boarded horses are used for lessons by their owners. No current boarded horses. Mr. Brown clarified – six personal horses, and there's one boarder who is waiting to hear the ZHB's decision to decide if she needs to move her horse or not.

How many stalls are there? Four in main barn, two in a non-permanent structure.

Mr. Pifer mentioned the AEU, animal equivalent units, and noted that they are under the maximum required, because most of the horses are small.

Which is more important? Riding lessons or boarding? Right now, riding lessons. Ideally, Mrs. Pifer would like to help people own and properly maintain their own animals.

Planning Commission minutes were reviewed. The Planning Commission unanimously recommended approval of the Variance requests for Charles and Sara Pifer. It was noted that the Planning Commission mentioned fixing the ambiguities in the ordinance. Mr. McLucas noted that the Planning Commission recommended approval based on the ambiguity in the ordinance.

Attorney Craley clarified again that the applicants are applying for a Use Variance for riding stable and academy and a Dimensional Variance for the 10-acre requirement. Not amending or changing application? Mrs. Pifer reiterated that they had no knowledge of the commercial school option until the Planning Commission meeting, and by that point the applicants thought maybe it was too late? Mr. Pifer asserted that no, they are not asking for a continuance to amend their application. The applicants want to board horses, so they are applying for two Variances. Hearing closed.

Attorney Craley notified all participants that his daughter Samantha (newly minted attorney) will join the Board in the executive session (as a bystander) as will Mr. McLucas to administrate the executive session via the virtual platform. Mr. McLucas reported that he will stop the recording; the Board will meet privately; he will start the recording again when the Board reconvenes. The participants were placed in the waiting room at 8:32 p.m.

At 9:10, the meeting was reconvened, with Mr. McLucas permitting participants to rejoin the meeting. He started the recording again.

Ruling:

Motion by Pope, second by Brown, to approve the requests by Charles and Sara Pifer for Variance for riding academy/boarding stables and dimensional Variance for 10-acre minimum requirement as requested for property at 6810 Detters Mill Road. All members voted aye; motion carried.

Attorney Craley noted that written Findings of Facts and Conclusions of Law will be sent within 45 days as required; Dover Township has the legal right to appeal, so anything done within the 30-day appeal period from the date of the decision is done at the applicants' own risk. Understood.

III. Other Business

Mr. McLucas needs to confirm the directory information of the Zoning Hearing Board members and will do so after the meeting adjourns.

Motion by Wright, second by Brown, to adjourn. All members voted aye; motion carried. The meeting adjourned at 9:14 p.m.

Respectfully submitted,

Julie B. Maher,
Recording Secretary