



## **Berkshire Township Board of Zoning Appeals Meeting Minutes January 18, 2023**

**Call to Order:** Bruce Denton called the meeting to order at 7:00 p.m.

**Determination of a Quorum/Roll Call:** Members Dorothy Kerr, Kim Zianno Hartman, Bruce Denton, James Spurrier and Ellen Ebe were present. Also present were Scott Lillie, new BZA member; David Weade, Zoning Inspector; Carmen Maley, Court Reporter; and Chris Sharlike, Meeting Secretary.

**Swearing in of new Board of Zoning Appeals member:** Scott Lillie was sworn in as a member of the Board of Zoning Appeals. Mr. Lillie chose to observe the meeting and designated alternate Ellen Ebe as a voting member in his place.

### **Election of Board Chair and Vice Chair for 2023:**

- Bruce Denton will officially remain Chair until January 31, 2023.
- Dorothy Kerr asked for nominations for Board Chair. Bruce Denton made a motion to nominate Kim Zianno Hartman and Dorothy seconded the motion. The motion was approved 4-0, with Kim Zianno Hartman abstaining.
- Dorothy Kerr asked for nominations for Vice Chair. Ellen Ebe made a motion to nominate James Spurrier. Kim Zianno Hartman seconded the motion, and the motion was approved 4-0 with James Spurrier abstaining.

**Motion to approve the minutes:** A motion to approve the meeting minutes from December 21, 2022 was made by James Spurrier and seconded by Dorothy Kerr. The motion carried 5-0.

### **New Business:**

- **Application #22-221, Applicant Rick Turner/Property Owner True North Energy LLC are requesting a conditional use under Article 24**

Court reporter Carmen Maley swore in those who wished to speak at the meeting as well as Zoning Inspector Weade.

Zoning Inspector David Weade gave the background on the application, explaining that the request is in reference to the new development plan of the Shell property that was approved by the Zoning Commission. The original property was developed and signs erected prior to the establishment of the current code. New development must conform to the current code, and the existing sign does not conform. The applicant is seeking a conditional use to allow them to keep their current sign.

Rick Turner of Diamond Z Engineering spoke on behalf of the applicant, True North Energy LLC. Mr. Turner stated that their current sign matches that of the sign for the BP station across

the road as far as size and square footage. He argued that a smaller sign would be easy to miss for those driving westbound on the highway.

Kim pointed out that at least two other companies in that area have done rebuilds and have changed their signs to comply with code. Inspector Weade confirmed that if BP were to rebuild, they would also be required to conform to current code and would have the option to come before the Board to apply for conditional use just as this applicant has.

The Board requested clarification on the type of sign. The applicant confirmed that there would be no structural changes, and that it would probably be repainted.

In response to a question from a Board member, Inspector Weade explained that the changes in the sign code years ago were intended to allow for consistency of signage in the area and to prohibit sign competition and improve the look of the area. He further explained that while he can give background and history, the decision to approve or deny the request is the decision of the Board.

The applicant also confirmed the current sign height is about 30 feet. One Board member pointed out that it is quite a difference from the current code maximum of 15 feet.

Dorothy pointed out that the Shell station is advertised on the motorist info sign driving south on 71, but was not certain if the advertisement is also listed on the sign driving north.

**Public Participation:** none

The Board discussed the intent of the resolutions and whether making an exception in this case could lead to other exceptions. Kim voiced concern that making exceptions could lead to the same issues that the resolution was created to address. Jim Spurrier expressed that each decision the Board makes is independent, and one decision does not set precedent. Being a conditional use, if approved it will not automatically pass to subsequent owners.

James Spurrier made a motion to approve application #22-221 and Ellen Ebe seconded. Vote: Dorothy Kerr – no, Kim Zianno Hartman – no, Bruce Denton – yes, James Spurrier – yes, Ellen Ebe – yes. Motion passed 3-2.

- **Application #22-222, Applicant Kevin Philibin is requesting a variance**

Court reporter Carmen Maley swore in those who wished to speak at the meeting.

Inspector Weade stated that the applicant is requesting a variance on a rear yard setback in Cheshire Woods, which has a 30-foot set back requirement.

Applicant Kevin Philibin stated that he is requesting a 3-foot variance in order to build a 20 x 14 deck.

A Board member asked if the applicant if there was an option to build the deck in a different direction. Mr. Philibin explained that doing so would either block a window or cause the deck to stick out past the end of the house.

In response to questions from the Board, the applicant explained that there are no houses immediately behind him and that there is a lot of green space. He has no plans to build a fence or obstruct the view in any way.

Applicant has not spoken to neighbors about the request, but all neighbors were notified of the application as per code.

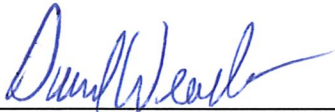
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**Public Participation:** none

Kim Zianno Hartman made a motion to approve application #22-222 and the motion was seconded by Dorothy Kerr. The motion was approved 5-0. Inspector Weade informed the applicant that he was free to begin his project immediately.

**Other Business:** Zoning Inspector Weade said that currently there is one possible application for the next meeting. While there has been a lot of conversation about development, zoning applications have been slow this winter. Inspector Weade expects things to be busier in the spring.

**Adjournment:** Ellen Ebe motioned to adjourn the meeting. Dorothy seconded; all were in favor and the meeting was adjourned.



Zoning Inspector



Meeting Secretary

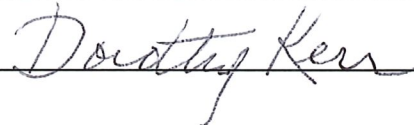
4/19/23

Date



Kim Zianno Hartman

Ellen Ebe



Board Members