

The North Strabane Township Zoning Hearing Board met in regular session on Wednesday, March 3, 2010 at 7:00 P.M. at the Municipal Building, located at 1929 Route 519, Canonsburg, PA 15317.

Attending this session

W. Patric Boyer, Chairperson  
Richard Murphy, Vice Chairperson  
Robert Shader, Secretary  
Steve Bilko, Member  
Walter LeMunyon, Alternate Member

Absent from this session

Peter Elish, Member

Also attending this session

Candie Yerkey, Court Reporter  
Margaret Householder, Stenographer

APPROVAL OF  
MINUTES OF  
FEBRUARY 3,  
2010  
ADMINISTER  
OATH

Motion by Bilko, seconded by Boyer to approve the minutes of the meeting of February 3, 2010. Motion carried, all members present voting yes, and the minutes were approved as presented.

At this time the oath is administered to all those who wish to give testimony this evening.

APPLICATION OF  
MARGARET  
GEORGE, FOR  
CONTINUATION  
OF NON-  
CONFORMING  
USE

This is an application of Margaret George, 884 Linden Road, Eighty Four, PA, requesting an interpretation to permit continuation of existing use. Location is 884 Linden Road, Eighty Four. Lot size is 7.159 acres. Present use is dwelling and parking equipment. Zone district is A-2. Present improvements upon land – home. Proposed use – continuing existing use.

We believe that the Board should approve this request because: (see attached history of property).

No previous application has been filed.

Applicant is the owner. Approximate cost of work involved - \$-0-.

Following are the names and addresses of owners of property within 300 feet:

Viewcrest Church                      833 Linden Road, Eighty Four

Amy Tonti and Maureen Kusturiss	c/o CJ Passalacqua, 1420 980 Rd., Cbg.
Richard and Celia Walther	931 Linden Road, Eighty Four
Thomas and Theadora Beck	918 Linden Road, Eighty Four
Will and Kathy Hasley	879 Linden Road, Eighty Four
Richard and Mary Lee Neill	1194 Thomas Eighty Four Rd., 84
Ledwina Fircak	1180 Thomas Eighty Four Rd., 84
George Molnar	1183 Thomas Eighty Four Rd., 84
Cindy Fircak	360 E. Randolph, Apt. 3503, Chicago
Charles and Margaret Bails	83 Long Drive, Eighty Four
Jon R. Taylor and Joyce Bucy	76 Long Drive, Eighty Four
William Kuzma	1241 Tanglewood Trace, Ofallon, IL
Linnea Freidel	107 Long Drive, Eighty Four
Richard and Kari Katrees	91 Long Drive, Eighty Four

The fee was paid and the hearing was advertised on February 17<sup>th</sup> and 24<sup>th</sup>, 2010.

(What follows is not a verbatim transcript, but rather a summary of the proceedings)

Boyer Is Mrs. George her tonight?

Margaret George Yes, I am here. My son lives with me and will speak on my behalf, with my permission.

Boyer State what you need from us, Mr. George.

Dan George I am here to reassure the Zoning Hearing Board that we are a non-conforming use which is grandfathered. We have had continuous use of the property from 1967, parking of tractors and equipment.

In 1967, we bought farm equipment, which continued until 1995. That included farm equipment with front end loaders.

Boyer I would consider a front end loader construction equipment.

D. George It can be used as farm equipment. We also had construction equipment on the property, since 1987, including 10 ton dump truck, trailer, backhoe. I use that for installing waterlines and for residents who needed to have work done. I derived income from the work. The equipment has been stored on site since 1987.

Boyer What did you do to the land?

D. George Nothing really. There was a gas line road from Thomas Eighty Four



- Boyer                               The issue as I see it is whether this is a legal non-conforming use, and I think that was addressed at the informational meeting we had last month. When I took a look at the situation, that's how I saw it, and to be a legal non-conforming use, it must be a use that was in existence at the time the Ordinance came into effect. If it was not a use that came into effect when the Ordinance was adopted, then it is not a non-conforming use, and it is an illegal use.
- D. George                        Do you characterize farm tractors with construction equipment?
- Boyer                               No, I don't.
- D. George                        By law, they're the same.
- Boyer                               My concern is, isn't farm equipment, because this is an agricultural zone. You could have as much farm equipment as you want, and you could build a building to store it. The problem comes in with your using the property for commercial purposes, for business purposes.
- D. George                        That's just a parking area. There's no business transactions or anything going on there.
- Boyer                               Storage area for commercial business, for your equipment. That's the issue of the case, and whether that's a legal non-conforming use.
- D. George                        I'm not registered as a commercial business.
- Boyer                               But you derive income from the commercial business that you store on the property.
- D. George                        Just like everybody else.
- Murphy                            I was out there today, and I saw where your tractors are parked, and it looked like about 3 doors down, there's a lot of equipment parked. What is that?
- Residents                        That's another one.
- Boyer                               What's that about?
- D. George                        That's not my property. There's equipment there. I don't know that gentleman too well.
- Boyer                               He's storing equipment, similar to yours?
- D. George                        It's not quite like ours.

- Murphy                    There's a lot more equipment down there, about 8 houses down, on the corner of Thomas Eighty Four and Long Drive, there's another business going on, and it's a swimming pool. There's a track hoe, a dump truck and a trailer, and another commercial truck that was parked down there.
- Boyer                     Do we know anything about this, Margie?
- Stenographer            It's Paradise Pools, if I'm not mistaken, and they bought the property, and he did a major remodeling/expansion at the home, including a pool, but that's all that I know. He sells swimming pools.
- Bilko                     He sells from Bethel Park. I know that gentleman.
- Stenographer            It looks like Long Drive is in the A-2 district as well.
- Murphy                   There's also a tractor trailer parked across Thomas Eighty Four Road from these properties.
- D. George                You can't pick on one person without picking on everybody in the Township.
- Boyer                     This is the first I'm hearing about it. Has there been any other complaints about these other properties?
- Stenographer            We investigated the Molnar property when we searched the minutes for the George property, at the request of Mrs. Fircak. We have not received any complaints about the pool property, to my knowledge.
- D. George                Your ordinance states for contractor's yard that farm equipment and construction equipment is the same thing.
- Boyer                     What are your future plans for the property?
- D. George                I'd like to put a pole building up, and a house. Also a nice waterfalls. There's a lot of upkeep with our land, and we need equipment for that. No employees, just me, a one-person operation. No sign. I don't really have an office in the house. All we're doing is parking equipment in a spot that has continuous use since 1967.
- Boyer                     Mr. Tershel?
- Tershel                   I represent Mrs. Fircak. I have some questions for Mr. George. Do you have photos from 1967?
- D. George                No. I do have testimony. I'm going to object to this, on the basis of future litigation.



her describe them. Mrs. Fircak testified that the business related equipment has appeared within the last year or so, as well as the fill; nor was there any farm equipment parked on the George property until the last year or so.

Boyer We have received a series of letters from nearby residents, which basically all state that the construction equipment has been on the George property for a number of years. The letters were brought in to the Township Office today, and copies provided to the Zoning Hearing Board. Boyer asked Mrs. Fircak is she was acquainted with the property owners. She knew the Becks, but did not recognize the name of the pastor of the Viewcrest Church.

Bilko Mrs. Fircak, do you remember a produce stand that used to be on the George property?

Mrs. Fircak She did remember the produce stand, and stated they had a farm off Green Valley Road where they grew produce and brought it to this property to sell.

Margaret George Mrs. George stated she and her husband grew and sold produce on the property in question for many years. The produce was not grown on the farm, but on this property.

Tershel Tershel presented a petition signed by nearby property owners. He also presented photos of an example of a pole building which D. George would like to build on the property. Finally, there are numerous residents present who will testify that there was not a business at the George property until recently.

Boyer Boyer asked who has lived in the neighborhood the longest.

Mr. Ed Phillips I've lived there since 1957. 1147 Thomas Eighty Four Road. (Mr. Phillip's home is about 6 houses down from the George property)

Boyer Boyer asked Mr. Phillips to give some testimony as to the condition of the property.

Phillips Phillips stated Mr. George always had a tractor parked to the right of the house to the back. He stated he can see the property from the end of his driveway. There used to be a gully at the end of the property, along Thomas Eighty Four Road. He had a tractor with a bush hog at the end of it. The tractor never used to be parked where the equipment is parked now. Recently he remembers seeing a dump truck parked on the property.

- Boyer Boyer asked if the testimony provided by D. George that he had parked construction equipment on the property since 1987 is accurate.
- Phillips He answered it is not.
- Bilko Bilko asked Phillips about the entryway or staging area.
- Phillips Phillips answered he assumed D. George was filling the area and that he remembers big rocks being there. It has been there for 2 or 3 years, at a guess. He did not remember gas roads being on the property.
- Jack Davis Mr. Davis lives at 1165 Thomas Eighty Four Road and he recalls a tractor being parked on the site. He couldn't say how long the construction equipment has been on the property, but perhaps 2 years. He continued Mr. Molnar's equipment has been on his property for 8 years, and he has an asphalt company. The pool property has had equipment parked for 2 years. We want them both out of there.
- Tershel He has other neighbors present who will testify to the same thing.
- D. George D. George noted these properties are a pretty long distance away from his property, not within 300 feet, for the most part.
- Boyer We'll mark the letters introduced on behalf of Mr. George as Exhibit C, Mr. Tershel's current photographs of the site, we'll mark those as Exhibit D, and Exhibit E will be the petition. The photo of a pole barn will be Exhibit F.
- D. George D. George noted he wishes he had known Mr. Tershel was going to be present, and he could have had counsel present as well.
- Boyer The hearing is closed. The fact that there are some comparable businesses up there is an issue, and Boyer would like to get a report from the Township as to the status of their properties. He continued that he likes to treat everybody fairly.
- Tershel Tershel asked that a decision be made this evening on this matter, and then we'll deal with the other property owners.
- Boyer Let's hear what our code enforcement officer has to offer at the next meeting, and then we'll make a decision. I'll make that a motion, that we close the hearing, utilize our 45 days to make a decision on this matter, and request that the Township code enforcement officer
- Tershel Tershel asked that a decision be made this evening, when the

presumption is that they are in violation of the Ordinance.

Boyer I'll continue with my motion, that we utilize the full 45 days that the Act gives us to make a decision on this, and that we ask the Township to do a site investigation with regards to the other properties to see what the status of those other properties is, and take some photographs, if possible, and reserve making a decision on this matter until the April meeting – we'll make a decision at our next meeting, that will be April 7<sup>th</sup>, after we review the investigation conducted by the Township.

Murphy I second that motion.

Motion carried, all members present voting yes.

Boyer I'll make a motion to adjourn.

Shader I'll second.

Motion carried, all members present voting yes, and the meeting was adjourned at 8:27 P.M.

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W. Patric Boyer, Chairperson

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Robert Shader, Secretary