

HANOVER TOWNSHIP ZONING HEARING BOARD

OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Re: Application of : TOA PA VIII, L.P.
Application Dated : December 18, 2013
Property : 1025 Bridle Path Road

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, January 23, 2014, and rendering its oral decision granting the requested variances, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The subject property is located at 1025 Bridle Path Road in an R1-R – Single Family Residential Rural District.
2. The applicant is TOA PA VIII, L.P. the owner of the property.
3. The applicant previously made application on the subject property for a proposed active adult community. The Hanover Township Zoning Hearing Board conducted a hearing on that application on August 23, 2007, and rendered its written decision dated September 5, 2007.
4. Testifying on behalf of the applicant at the present hearing was David Biddison and Tim McCarthy, who introduced themselves as principals of TOA PA VII, L.P.
5. Also testifying on behalf of the application was Lewis Rauch of Lehigh Engineering Associates, Inc., engineers for the applicant.
6. According to the testimony, the applicant has received land development and conditional use approval for the construction of 204 homes on the subject property.
7. The present application is not to increase the number of homes on the subject property. Instead the applicant desires to have variances from the maximum lot coverage provisions of the zoning ordinance because it indicates that it has received a demand for larger homes rather than smaller homes which require more area.
8. Specifically, the applicant requests that structures such as the permeable pavers, the surface of the pool, and the tennis courts, be calculated at 25% for purposes of determining lot coverage. Further, the applicant requests a variance from the maximum lot coverage provision of 35% to a maximum of 37%.

9. At the hearing the applicant indicated that it needed to amend its request to 37-1/2% if the Board did not believe that the tennis courts and pool surface should be calculated at 25%

10. The applicant also requested relief to reduce the width of parking spaces from 10 feet to 9 feet.

11. Active adult communities are permitted in an R1-R district as a conditional use, pursuant to Sect. 185-26.D.(3).

12. The Board, as it has found in the past, believes that an active adult community has some unique features which need to be taken into consideration as one considers the strict application of the zoning ordinance.

13. In this case, the definition of lot coverage is set forth in Sect. 185-12 of the ordinance. It indicates that lot coverage shall include "any surfaced area other than plant life or water surface provided, however, that lot coverage shall include the entire water surface of completed swimming pools."

14. The applicant indicated that the storm water calculations which it had submitted for this land development were as though all of the pavers were impervious, so that permitting a variance for lot coverage would not negatively impact the storm water runoff.

15. While this may be so, it is noted that the zoning regulations with respect to lot coverage are not limited to assuring that there will not be storm water runoff problems but also provide another means of insuring that the development will have adequate green space.

16. In that regard, it is noted however that such things as landscaping rocks, pebbles, wood chips, and the like have not been considered by the Zoning Officer for purposes of calculating lot coverage.

17. Moreover, the 35% rule in Sect. 185-54E.(16)(k)[5], refers only to the impervious cover allowed within an active adult tract. Thus, while the definition of lot coverage does not make a distinction between pervious and impervious surfaces, the specific regulation in this case for active adult communities does make a reference to the maximum impervious cover. This in the opinion of the Board further justifies the relief being sought by the applicant.

18. Based on the above and on the specific testimony that was provided with respect to the pervious nature of the pavers that are being employed in the present situation, the Board is agreeable to granting a variance from the normal interpretation of lot coverage to permit the service area of the pavers to be calculated at 25% rather than 100%.

19. Moreover, the Board believes that in general the unique nature of an adult community justifies in the present case the granting of an overall variance from the maximum lot coverage requirements to the 37-1/2% maximum as requested by the applicant at the hearing.

20. The Board does not believe that the above logic is applicable to pools and tennis courts. In fact, it is noted that the surface area of pools are specifically included in the

lot coverage definition. Therefore, the Board is unwilling to grant variances from the normal calculation with regards to those structures.

21. Finally, the Board believes that reducing the width of the parking stalls would be detrimental and, therefore, denies the variance for the same.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby grants a variance to only use 25% of the service area of the pavers for purposes of determining the maximum lot coverage, and grants a variance to increase the maximum lot coverage on the subject property to 37-1/2%. The Board denies the requested variance to calculate pools and tennis courts at 25%, and denies the requested variance to reduce the width of parking stalls from 10 feet to 9 feet.

HANOVER TOWNSHIP ZONING HEARING BOARD

By: 
Paul A. Balla, Chairman

Dated: March 3, 2014

THEODORE R. LEWIS
THOMAS L. WALTERS

LAW OFFICES
LEWIS AND WALTERS

46 SOUTH FOURTH STREET
EASTON, PENNSYLVANIA 18042-4532

GEORGE F. COFFIN
1896-1937

GEORGE F. COFFIN, JR.
1928-1986

MAILING ADDRESS:
P. O. BOX A
EASTON, PA 18044-2099

(610) 253-6148
FAX (610) 253-5885

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BY APPOINTMENT ONLY
LIBERTY AND CENTER STREETS
NAZARETH, PA. 18064

March 3, 2014

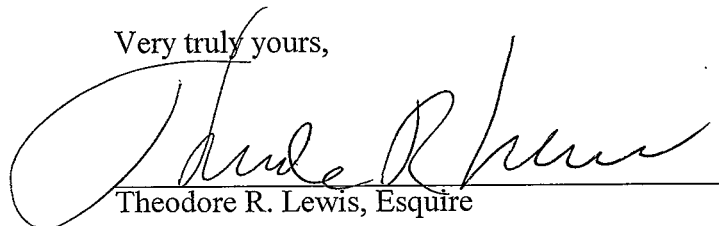
TOA PA VIII, L.P.
Attn: David Biddison, Esquire
201 King of Prussia Road, Suite 370
Radnor, PA 19087

**Re: Hanover Township Zoning Hearing Board –
Applicant, TOA PA VIII, L.P.**

Dear Mr. Biddison:

Enclosed herewith please find a true and correct copy of the Findings of Fact and Conclusions of Law of the Hanover Township Zoning Hearing Board that I am sending to you as authorized party of the applicant in the above matter.

Very truly yours,



Theodore R. Lewis, Esquire

TRL/bn
Enclosure

cc: Yvonne D. Kutz, Zoning Officer

THEODORE R. LEWIS
THOMAS L. WALTERS

LAW OFFICES
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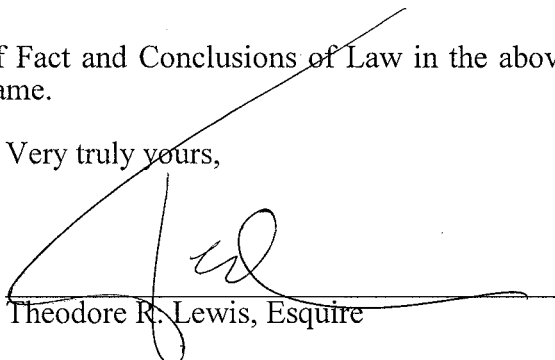
Yvonne D. Kutz, Zoning Officer
Hanover Township Municipal Bldg.
3630 Jacksonville Road
Bethlehem, PA 18017

**Re: Hanover Township Zoning Hearing Board –
Applicant, TOA PA VIII, L.P.**

Dear Yvonne:

Enclosed herewith find copy of Findings of Fact and Conclusions of Law in the above matter, along with a copy of the cover letter enclosing the same.

Very truly yours,



Theodore R. Lewis, Esquire

TRL/bn
Enclosures