

Thursday, July 28, 2016

- 7:00 PM – request for continuance – Riverbend Hanover Properties I, LLC and Riverbend Hanover Properties II, LLC 5210 and 5220 Jandl Blvd was granted another continuance until the September, 2016 meeting. (Continued from May 26, 2016)

- Application of Mark P. and Rachel M. Van Buskirk, 6735 Gwenmawr Rd.; application was withdrawn. Based on the Boards interpretation of the Ordinance for an accessory structure, the applicant is able to relocate shed to meet the setback provision of an accessory structure.

Clerical Error: HEAR DATE AND APPLICATION DATE INCORRECT
HEARING WAS HELD THURSDAY JULY 28, 2016

HANOVER TOWNSHIP ZONING HEARING BOARD
OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Appeal of : Kovaleski, Bruce M. & Michele A.
: from the Enforcement Notice
: July 28, 2016
Property : 790 Wedgewood Road

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, August 25, 2016, and rendering its oral decision finding that the appellants' accessory structure is in compliance with the ordinance, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The appellants, Bruce M. and Michele A. Kovaleski, are the owners of property known as 790 Wedgewood Road in an R1-S – Single Family Residential Suburban Zoning District.
2. On June 24, 2016, the Zoning Officer of Hanover Township issued an Enforcement Notice to the appellants indicating that the structure on the premises which the Zoning Officer determined to be a storage shed was in violation of the size requirements as set forth in Sect. 185.25 C. (3).
3. The appellants appealed this interpretation of the ordinance and in the alternative requested that the Zoning Board grant a variance from the size limitations.
4. At the hearing the appellants testified as to their particular use of the accessory structure. They indicated that since they were not storing the typical lawn equipment and other similar items in the structure, it should not be considered a "storage shed". However the Board, based on the interpretation of the ordinance set forth below, did not need to address the issue as to whether the proposed structure was a "storage shed" or some other kind of accessory structure.
5. Sect. 185.12 defines an accessory use. Subsection (4) of that definition indicates that an accessory use is "one of, but not limited to the following uses": Subsection (4) (C) thereof lists as an accessory use, "Domestic or agricultural storage customarily found in a barn, shed, tool room, or similar structure".
6. Sect. 185.25 C. (1) & (2) make it clear that in general an accessory building is subject to the same setbacks as the principal building, so that an accessory structure whether it be a shed or some other form of accessory structure, in general cannot be located any closer to the property line than a principal structure.

7. It is in this context that the Board believes that Sect. 185.25 C. (3) must be interpreted. That section permits an accessory structure known as "a detached outdoor storage shed" to be located within a required side yard or a required rear yard, provided certain requirements are met.

8. Thus Subsection (3) allows a detached outdoor storage shed to be closer to the boundary line than what would otherwise be permitted for an accessory structure, provided however that the storage shed does not exceed the use and size requirements as set forth in Subsections (a) thru (d).

9. In the present case it is not disputed that the accessory structure exceeds these size requirements, and does not appear to meet the use requirements as that use was described by the appellants at the hearing.

10. However, the accessory structure is not located within the required setbacks for a principal and/or accessory use within the district. Therefore, the Board believes that the additional dimensional requirements and limitation on use requirements are not applicable.

WHEREFORE, the Hanover Township Zoning Hearing Board finds that the applicants' accessory structure is not in violation of the ordinance.

HANOVER TOWNSHIP
ZONING HEARING BOARD

By: 

Barbara L. Baldo, Esquire,
Chairperson

Dated: 09/09/16

THEODORE R. LEWIS
THOMAS L. WALTERS

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

LAW OFFICES

LEWIS AND WALTERS

46 SOUTH FOURTH STREET
EASTON, PENNSYLVANIA 18042-4532

(610) 253-6148
FAX (610) 253-5885
Email: lewiswalters@verizon.net

GEORGE F. COFFIN
1896-1937

GEORGE F. COFFIN, JR.
1928-1986

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

September 9, 2016

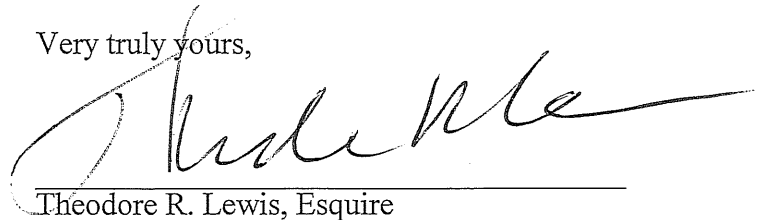
Bruce M. Kovaleski
Michele A. Kovaleski
790 Wedgewood Road
Bethlehem, PA 18017

Re: **Hanover Township Zoning Hearing Board – Accessory Structure**

Dear Mr. & Mrs. Kovaleski:

Enclosed please find a copy of the Findings of Fact and Conclusions of Law of the Zoning Hearing Board concerning your application.

Very truly yours,



Theodore R. Lewis, Esquire

TRL/pcc
Enclosures
cc: Yvonne Kutz