

East Bradford Township Zoning Hearing Board Meeting Minutes March 20, 2023

The March 20, 2023 Zoning Hearing Board meeting was held in the McCardle Meeting Room in the Township Building, 676 Copeland School Road, West Chester. The meeting agenda was posted to the Township website and at the Township Building on March 16, 2023. Copies of the agenda were also available for attendees.

Zoning Hearing Board members present:

Kamil-Ali Jackson, Chair
Andy Schaum, Vice Chair
Dan Bush

Staff/Professionals present:

Tom Oeste, Esquire, Zoning Hearing Board Solicitor
Andrea Campisi, Director of Planning and Zoning/Zoning Officer

Others in attendance:

Jim Finlan, Court reporter
Karl Lange
Tom and Patti Williams

CALL TO ORDER: The meeting was called to order at 7:00 p.m. by Zoning Hearing Board Solicitor Tom Oeste. Mr. Oeste introduced the members of the Zoning Hearing Board and informed the attendees that the board is a quasi-judicial body.

PUBLIC COMMENT: None

MEETING MINUTES:

January 23, 2023 minutes:

Mr. Schaum made a motion to approve the minutes. Mr. Bush seconded the motion. All members were in favor. The motion carried.

OLD BUSINESS:

1. None

NEW BUSINESS:

1. **991 Fox Chase Drive, Parcel #51-4C-27**

Mr. Oeste explained that the applicant seeks the following variance from the Zoning Ordinance and any and all relief necessary to allow the existing 9' by 48', open-air wood shed, which was recently constructed without a permit, to remain 12" off the side property line where a setback of 30' is required and remain 16' off the rear property line where a setback of 48' is required. Relief is sought from the following sections of the R-1 zoning district of the Zoning Ordinance:

1. Section 115-11C.8. This section states:

Side yards: 30 feet minimum, with not less than 70 feet total for both yards.

2. Section 115-11F2. This section states:

Residential accessory structures may be erected by right as follows:

Side and rear yards. Accessory structures shall be set no closer to a side or rear lot line in any yard area than the greatest dimension (length, width or height) of the structure itself unless the accessory structure complies with the appropriate area and bulk regulations of the underlying district.

The applicant, Karl Lange, was present. Mr. Lange said he will be presenting the application himself. Mr. Lange was sworn in by Mr. Finlan. Mr. Oeste entered four exhibits into the record on behalf of the Board, entitled B-1 through B-7. Mr. Oeste announced the ability for adjacent property owners to be parties to the application. He explained that the primary reason to become a party is to present evidence and be placed under oath so statements are sworn. He said if anyone that requests party status is unhappy with the decision of the Zoning Hearing Board then they can appeal it. No one requested party status.

Mr. Oeste asked Mr. Lange to submit evidence that he mailed notices to the neighbors and posted the site as required by the Zoning Ordinance. Mr. Lange said he did not receive any green cards back, but he submitted certified mail receipts documenting that the notices were sent. The receipts were marked Exhibit B-7. Ms. Ali asked if the green card receipts are required. Mr. Oeste said no.

Mr. Lange said he misunderstood that an open-air wood shed constituted a structure. He was informed by several acquaintances that a permit was not required when they built their wood sheds. Mr. Lange explained that the structure does not have four walls and it was his misunderstanding that caused what is happening tonight. Mr. Lange said he learned after the fact that the shed will require permits or variances, or both. He apologized for the misunderstanding. Mr. Lange submitted various exhibits into the record. Mr. Lange stated that he placed the shed on the property in an effort to not restrict the use of the rest of the property. He noted that the property is triangularly shaped and that restricts him to placing sheds and other structures so that they are not visible or obtrusive to the neighbors. He noted that the location of the shed is sitting on the high side of the property which is about 12-14 feet higher than the road. Mr. Lange noted that the location of the shed makes it invisible from the street and the neighbors. Mr. Lange said he hopes to erect an additional 16 by 32 foot shed in the left corner of the property so he can eliminate the remaining sheds and trailers on the property. He said the new shed will meet the setback requirements but moving the woodshed would impose on being able to do that. He said the wood shed was constructed minimally to house wood. Mr. Lange showed the Zoning Hearing Board members where he would like to build the new shed.

Mr. Schaum asked when the wood shed was constructed. Mr. Lange said in January. Mr. Schaum asked if Mr. Lange checked with the Township as to whether a permit was required. Mr. Lange said no and indicated that a neighbor came around the fence and looked at the wood shed. Mr. Schaum asked if the owner of 993 Fox Chase Drive complained about the shed as we have read their letter and understand that they could not attend tonight's hearing due to health reasons. Mr. Lange said that it was Debbie Athens who complained to him.

Ms. Ali-Jackson asked when the privacy fence was constructed. Mr. Lange said it was constructed in October after multiple trespassing occurrences on his property. Ms. Ali asked Mr. Lange to clarify if the fence was constructed prior to the wood shed being constructed. Mr. Lange said yes. Mr. Lange said wood is stored in five of the six bays of the shed. Mr. Oeste asked if the shed has a foundation.

Mr. Lange said no it is resting on concrete pads that are sitting on the ground. Mr. Oeste asked if he obtained a building permit for the structure, to which Mr. Lange responded no. Mr. Lange said each post sits on its own concrete pad.

Ms. Campisi clarified for the record that the person that visited the property was the Code Enforcement Officer not the Building Inspector. She stated that although the Code Enforcement Officer has a background in building inspections, that is not the role he is employed in with the Township. She said should the variance be approved then a building permit would be required, and the building inspector would have to inspect the shed. Ms. Campisi also noted that the Board of Supervisors voted to oppose the application.

Mr. Lange submitted photographs into the record showing a stake placed at the corner of the property by Howell Kline surveyors. The photo also showed a rope extending from the stake showing that there is six inches from the rope to the back of the fence. He submitted another photo showing the post of the fence and the fence itself which provides another 6-inch setback for a total of 12 inches. The shed at its closest point to the rear property line is 10 feet.

Patricia Williams, 982 Fox Chase Drive, spoke to the requirement to follow the rules. She said if the variance is granted then it sets a precedent for people to not follow the proper protocol. Tom Williams, Patty's husband, agreed with his wife's comments and added that it is easier to ask for forgiveness than permission. Mr. Williams said he lives on the opposite side of Mr. Lange's property. Mrs. Williams said there are other locations on the property where the wood shed could be moved to meet the requirements.

Mr. Lange understood the Williams' concerns. He hoped that it wouldn't sway the Board that he misunderstood the rules. He said the use of the property is restricted due to its shape and he did his best to place the shed where it won't draw any complaints from anyone else. He said he could move the shed to the lower end of the property in full view of the William's house but then it would impede their view of the field behind my house. Mr. Lange said if he moves the shed closer to the street it will be fully visible. Mr. Lange said the Athens cannot see the shed since the fence obscures their view.

Mr. Schaum asked if there was anything that prevented Mr. Lange from calling the Township to inquire about a permit being required. Mr. Lange said three of his friends constructed wood sheds on their properties and did not get permits. He said if I do not obtain the variance then the fire wood will remain there and will be covered with tarps. He said he will build something to keep the wood from falling down and stabilize it and added that a lightweight metal roof is covering the wood now.

Mr. Oeste asked about the other items visible on the property. Mr. Lange said there is dredging equipment covered with a tarp, an old utility trailer that is full of material, (which he noted he would like to place in a new shed), an existing 10' by 12' shed that houses garden equipment that would also go into the larger shed. He said next to the existing shed is the dredging equipment trailer that is used when the dredge equipment is in use. Mr. Lange said there is also a small travel trailer and a canoe and a boat trailer that is being refurbished. Ms. Ali asked if the new shed would house the wood to which Mr. Lange said no.

The Board deliberated. After deliberating the Board unanimously voted to deny the variance because the applicant did not prove that there was a hardship.

NEXT MEETING: The next Zoning Hearing Board meeting will be held on April 13, 2023.

ADJOURNMENT / CONTINUANCE: The meeting adjourned at 8:00 p.m.

Meeting minutes recorded by: Andrea Campisi, Zoning Officer