

**ZONING HEARING BOARD: 04/09/2013**  
**DAVID BROWN AND JOHN BROWN**

The Providence Township Zoning Hearing Board meeting was held on Tuesday evening, April 9, 2013, in the Township Municipal office. Members present were Bradford Duvall, James Hess and Anna Hipple. Also present were Thomas Goodman, counsel for the Board, Connie Peiffer, Zoning Officer & Secretary, William Schall, Township Supervisor, Melissa Anderson, court reporter and twelve (12) observers.

The meeting was brought to order by Mr. Duvall at 7:00 p.m. Mr. Duvall introduced the Board members. Mr. Duvall announced that the first hearing tonight is for David Brown and John Brown, 273 Mt. Airy Road. Mr. Duvall turned the proceedings over to Mr. Goodman. Constance Peiffer, the Zoning Officer, was sworn in by the court reporter. An Entry of Appearance form had been completed and submitted by Matthew Crème, solicitor for the Browns. The property had been properly posted. Mrs. Peiffer testified that the hearing had been legally advertised in the Lancaster Newspapers on January 28, 2013 and February 4, 2013, with proof of publication being on display and marked as ZHB Exhibit No. 1. The hearing was also re-advertised, to reflect the amended request, on March 25, 2013 and April 1, 2013, with proof of publication being on display and marked as ZHB Exhibit No. 2. Mr. Goodman entered into the record ZHB Exhibit No. 3, a GIS map of the property and ZHB Exhibit No. 4, a copy of the current deed to the property. Mrs. Peiffer stated the property is located at 273 Mt. Airy Road and is zoned Rural. Mrs. Peiffer presented Township Exhibit No. 1, a copy of the original permit application for the dwelling when built in 1999. The applicant for that permit was Daniel H. Siegrist. Township Exhibit No. 2 was a copy of a zoning permit application issued in 2004 to James Nimon for a "shed dormer" addition to the second level of the existing dwelling. Mrs. Peiffer noted that both of these permits were issued prior to Providence Township enacting a building code, so there are no structural plans accompanying the applications. Mrs. Peiffer then read a statement from the Board of Supervisors, authorized by the Supervisors at their April meeting. The statement stated the Supervisors were not opposed to the granting of the requests of David Brown and John Brown, 273 Mt. Airy Road, to allow a two-family detached dwelling to remain on that property, with the following conditions: Only immediate family members may live together within the dwelling structure and the owners shall comply with all other applicable federal, state and local requirements and regulations, including, but not limited to, sewage facility requirements. This statement was entered into the record as Township exhibit no. 3. Mrs. Peiffer testified her decision that the structure is considered to be a two-family detached dwelling is based on the definition, as presented in the current Zoning Ordinance, last revision date being October 1, 2007 and also on the description of the use and set-up of the interior of the dwelling given to her by David Brown. Mrs. Peiffer testified that Mr. Brown stated one brother and his family lived on the first floor and David Brown lived on the lower floor. Matthew Crème, legal counsel from the Browns, had several questions he asked Mrs. Peiffer. Mr. Crème presented a copy of an enforcement notice sent to the Browns from Mrs. Peiffer. This notice was marked as Applicant's exhibit no. 1. The notice pertained to the structure being used as a two-family detached dwelling. Mr. Crème presented a copy of page seven (7) from the Township Zoning Ordinance, defining "Dwelling, Two-Family Detached". That copy was marked as Applicant's exhibit no. 3. There was some discussion of the description of the use of the dwelling structure and the terms "echo housing" and "granny flat". Mr. Crème entered into the record Applicant's exhibit no. 4, several pages of the Zoning Ordinance of West Hempfield Township and Applicant's exhibit no. 5, several pages of the Zoning Ordinance of Elizabeth Township.

David Brown, 273 Mt. Airy Road, was sworn in by the court reporter. Mr. Crème had numerous questions for David Brown. Mr. Brown described the interior of the dwelling in detail. Mr. Brown gave testimony on the use of the dwelling structure. Applicant's exhibit no. 2 was a two page real estate flier from Kingsway Realty. David Brown stated he had no objection to the conditions of approval recommended by the Township Board of Supervisors.

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The Zoning Hearing Board members had several questions for Mr. Brown. Mr. Brown described their arrangement for off street parking. Mr. Brown stated there are six (6) people living in the house now. Mr. Brown stated there is one well and one electric meter. Mr. Crème suggested three (3) ways the Zoning Hearing Board could rule on the matter. Mr. Goodman discussed those suggestions with Mr. Crème.

No one in attendance had any questions or comments. The Zoning Hearing Board went off the record at 8:44 p.m. to consult and discuss issues with their legal counsel, Mr. Goodman. After that consultation, the Board went back on the record at 8:50 p.m. The testimony was closed.

James Hess then made a motion to grant the special exception request to David Brown and John Brown pursuant to Sections 502.3.10 and 405 of the Township Zoning Ordinance, with the following conditions: 1. The Applicants must comply with their plans and promises as presented to the Zoning Hearing Board, 2. The dwelling may only be occupied by family members and portions thereof may not be rented to persons who are not family members, 3. The Applicants shall comply with all applicable laws, rules, regulations and ordinances including any applicable sewage facilities regulations, 4. There shall be no parking on Mount Airy Road, 5. A violation of any of the conditions of the decision shall constitute a violation of the Ordinance and 6. The decision shall bind the Applicants, their heirs, successors, grantees, and assigns. Ms. Hipple seconded the motion and it was carried unanimously. The hearing was adjourned at 7:51 p.m.

PROVIDENCE TOWNSHIP ZONING HEARING BOARD

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Bradford D. Duvall, Chairman

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James D. Hess, Member

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Anna Hipple, Alternate Member

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Constance Peiffer, Secretary

The Board reconvened at 7:55 p.m. to hear the variance request for Gerald L. Landis. Mr. Landis was sworn in by the court reporter. Mrs. Peiffer stated the hearing had been legally advertised in the Lancaster Newspapers on March 25, 2013 and April 1, 2013, with proof of publication being on display. The property had been properly posted. An Entry of Appearance form had been completed by Mr. Landis, indicating he was appearing on his own behalf.

Mrs. Peiffer stated the property is located at 396 Clearfield Road and is zoned Agricultural. The front yard setback is 66 ½ feet from the center of the road for the location of any structure in the Agricultural District. Mr. Landis is requesting a variance to allow a carport to be located within that front yard setback area.

Mr. Landis stated the carport would be located on the driveway. Mr. Landis explained the area where access needs to be left open to maintain his septic system in the rear of the house. Mr. Landis is proposing to locate the open carport within 60'9" to the center of the road at one corner and 60'9 ½" to the center of the road at the other front corner. The carport will be fastened to the existing pavement of the driveway.

There were no questions or comments from anyone in attendance at the hearing. Mr. Duvall then made a motion to grant the variance request to Gerald Landis, 396 Clearfield Road, to allow a carport to be located within the front yard setback area, with the following conditions: a. The open carport shall be located as shown on the accompanying plot plan. The front north corner of the carport may be as close as, but no closer than, 60'9 ½" from the center of Clearfield Road. The front south corner of the carport may be as close as, but no closer than, 60'9" from the center of the road, b. The applicant shall at all times comply with and adhere to the evidence presented to the Board including, but not limited to, the plans, materials and testimony submitted at the hearing, c. The applicant must obtain all other permits, licenses, and approvals pursuant to any and all applicable federal, state and local laws, rules and regulations and d. Any violation of the conditions contained in this decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Zoning Ordinance and the Municipalities Planning Code. The motion was seconded by Mr. Hess and carried unanimously. The hearing was adjourned at 8:03 p.m.

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Bradford D. Duvall, Chairman

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James D. Hess, Member

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Anna Hipple, Alternate Member

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Constance Peiffer, Secretary

The Board reconvened at 8:06 p.m. to hear the special exception request for Bonnie Overly to allow the creation of a driveway within the Flood Plain District. James Sanchez and Steven Overly were sworn in by the court reporter. Mrs. Peiffer stated that both Mr. Sanchez and Mr. Overly had submitted Entry of Appearance forms. The property had been properly posted. Mrs. Peiffer stated the hearing had been legally advertised in the Lancaster Newspapers on March 25, 2013 and April 1, 2013, with the proof of publication being on display.

Mrs. Peiffer stated the property is located at 191 Herrville Road. The property is zoned Agricultural and Flood Plain. The property is part of an ongoing subdivision plan, proposing to subdivide off one lot from the property at 191 Herrville Road. The subdivision plan, being reviewed currently, shows the entrance of the driveway off of Herrville Road for the new proposed lot to be within the Flood Plain. Section 508.4.C of the Township Zoning Ordinance states that a driveway may be created within the Flood Plain District only upon the granting of a special exception request by the Zoning Hearing Board. Mrs. Peiffer stated the Township also does have a separate Flood Plain Ordinance, which would need to be complied with during the planning process.

Mr. Sanchez explained the plan provided to the Board members. Detail "C" on the subdivision plan was reviewed. Mr. Sanchez stated there would be no fill added at the site of the driveway. Steven Overly, son of the property owner, is planning on building a dwelling on the new lot. Steven Overly testified that the location of the proposed driveway does not flood. The driveway is proposed to be paved the first ten (10) feet in and then gravel (stoned). Testimony by Mr. Sanchez stated emergency vehicles could always get in through the existing driveway. Steven Overly stated that if there is flooding, it is in Pequea Township. Liability in the case of an emergency was discussed.

There were no questions or comments from anyone in attendance. Mr. Hess then made a motion to grant the special exception request to allow the creation of a driveway within the Flood Plain District, Section 508.4.C of the Township Zoning Ordinance, for property owned by Bonnie Overly and located at 191 Herrville Road, with the following conditions: a. Providence Township shall under no circumstances be responsible for any danger or risk associated with the location of the driveway in the Flood Plain. Providence Township assumes no liability or responsibility in the case of emergency access to the referenced location. Providence Township shall be held harmless from any and all claims of any nature whatsoever arising out of the location and construction of the referenced driveway, b. The applicant shall at all times comply with and adhere to the evidence presented to the Board including, but not limited to, the plans, materials and testimony submitted at the hearing, c. The applicant must obtain all other permits, licenses, and approvals pursuant to any and all applicable federal, state and local laws, rules and regulations and d. Any violation of the conditions contained in this decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Zoning Ordinance and the Municipalities Planning Code. Ms. Hipple seconded the motion and it was carried unanimously. The hearing was adjourned at 8:20 p.m.

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Bradford D. Duvall, Chairman

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James D. Hess, Member

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Anna Hipple, Alternate Member

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Constance Peiffer, Secretary