



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR

Yaniv Aronson

BOROUGH COUNCIL

Tina Sokolowski, President
Kathleen Kingsley Vice-President
Anita Barton, Senior Member
Alan Chmielewski, Member
Stacy Ellam, Member
Ralph Frey, Member
Adrian Serna, Member

Stephanie Cecco
Borough Manager

January 22, 2024, ZONING HEARING BOARD MEETING PACKET

5 Colwell Lane (Z-2023-03)
5 Colwell Lane (Z-2023-15)
116 West 2nd Avenue

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Page 18
Page 55



BOROUGH OF CONSHOHOCKEN

Zoning Administration

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Anita Barton, Member
Stacy Ellam, Member
Kathleen Kingsley, Member
Adrian Serna, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

ZONING NOTICE APRIL 17, 2023, ZONING HEARING BOARD MEETING

ZONING HEARING Z-2023-03

NOTICE IS HEREBY GIVEN that the Conshohocken Zoning Hearing Board will conduct a public hearing on April 17, 2023, at 7:00 p.m. prevailing time. The meeting will be held at Borough Hall, located at 400 Fayette Street, Conshohocken, PA 19428.

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following petition:

PETITIONER: TS 16, LLC
15 St. Asaphs Road, Bala Cynwyd, PA 19004

PREMISES INVOLVED: 5 Colwell Lane
Conshohocken, PA 19428
LI - Limited Industrial District/Research
FP - Floodplain Conservation District

OWNER OF RECORD: TS 16, LLC
15 St. Asaphs Road, Bala Cynwyd, PA 19004

The petitioner is appealing a zoning enforcement notice and seeking a variance from Sections 27-817.H.(2), 27-817.H.(3), 27-1404.9, 27-1714 and 27-1726.1F of the Conshohocken Zoning Ordinance related to outdoor storage of materials and materials that may be transferred off the lot by natural causes or forces within the floodplain conservation overlay district. The petitioner is proposing continuation of an existing nonconforming use under Section 27-701.

Interested parties are invited to participate in the hearing. Anyone requiring special accommodations to attend should contact the Conshohocken Borough Administration Office at 610-828-1092 or zoning@conshohockenpa.gov as soon as possible for arrangements.

If you have questions regarding the above prior to the meeting, please contact the Borough at zoning@conshohockenpa.gov.

Thank you,
Zoning Hearing Board



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: 2-2023-03
Date Submitted: 2/10/23
Date Received: 2/10/23

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other Continuation of Non-Conforming Use

2. Section of the Zoning Ordinance from which relief is requested:

27-817H(2), 27-817H(3), 27-1404.9, 27-1714 and 1726.1.F

3. Address of the property, which is the subject of the application:

5 Colwell Lane, Conshohocken, PA

4. Applicant's Name: TS 16 LLC

Address: 15 St. Asaphs Road

Phone Number (daytime): 610 888 3035

E-mail Address: soldonmike@gmail.com

5. Applicant is (check one): Legal Owner Equitable Owner ; Tenant

6. Property Owner: TS 16, LLC

Address: 15 St. Asaphs Road, Bala Cynwyd, PA 19004

Phone Number: 610 888 3035

E-mail Address: soldonmike@gmail.com

7. Lot Dimensions: irregular Zoning District: LI-Limited Industrial

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

None by current owner. Prior zoning history is not known.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

The property is an irregularly shaped lot, 1.103 acres in size improved with a 1 story masonry garage building of approx 1650 Square feet in area. The property is used as a contractor's office with storage and parking and as contractor's yards for two other businesses. See Deed, Exhibit "A", Survey, Exhibit "B."

10. Please describe the proposed use of the property.

Same as above.

11. Please describe proposal and improvements to the property in detail.

None proposed.

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

Applicant appeals the determination of the Zoning Officer dated January 12, 2023, attached as Exhibit C. See paragraph 14, below. Additionally, the current use should be permitted as a continuation of the pre-existing non conforming use, applicant seeks a variance from the provisions of the ordinance per Section 2, above and applicant is awaiting copies of flood maps from FEMA to ascertain the accuracy of the conclusions of the Zoning Officer. Applicant reserves all rights and remedies at law and in equity including those afforded by the Pennsylvania and United States Constitutions.

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: Most of the property is located within the flood plain district based upon the maps relied upon by the Borough staff.

b. How the Zoning Ordinance unreasonably restricts development of the property:

The property has historically been used as an office and storage yard and that use should be permitted to continue. The use of the property pre-dates the provisions of the zoning code relating to floodplains. The property cannot be reasonably adapted to another use, without complete redevelopment. The property's current use is entirely consistent with the neighboring properties and the actions of the enforcement officer concerning this property are inconsistent with the actions of the zoning officer concerning other similar properties.

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

The current use is entirely consistent with the LI zoning district and with neighboring uses as well as the uses in other flood plain areas in the borough.

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

Applicant seeks approval to use the property in manner consistent with historical uses of the property and neighboring properties.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

By way of example and not limitation Code sections 27-817 h(2), 27-817 h (3), 27-1409.9, 27-1714 and 27-1726.1 F. See letter of January 12, 2023, Exhibit "C". The zoning officer also references Chapter 13 concerning "Licenses, Permits and General Business Regulations all of which are disputed.

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

By way of example and not limitation, the zoning officer's determinations are in error as follows: 27-817 H(2)- the property is not used for outdoor storage of "fuel, raw materials and products." Rather is used as a contractors office and storage as permitted in the LI district consistent with many other neighboring properties. 27-817 h (3) There are no materials which may be transferred off the lot by "natural forces". 27-1404.9- The use of the property complies with applicable law and regulation. 27-1714 It is unclear which of the 11 provisions of this section the zoning officer contends applicant has violated. 27-1726.1 F Applicant is not aware of any "buoyant, flammable or explosive" material stored on the property. Chapter 13- This is not the zoning code and the zoning officer's reference thereto in a notice of zoning violation is improper. By way of

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

Appeal from zoning officer's determination 27-307, 27-605 and for variance, in the alternative and for continuation of non-conforming use 27-701 et seq.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

All sections referenced by the zoning officer in Exhibit "C"

c. Please describe in detail the reasons why the requested relief should be granted.

See all prior responses

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Daniel S. Coval, Jr., Esquire

b. Address: 15 St. Asaphs Road, Bala Cynwyd, PA 19004

c. Phone Number: 610 617 1776

d. E-mail Address: dcoval@amillerlaw.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

TS 16, LLC

Applicant

Michael Reed

Legal Owner

10 February, 2023

Date

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF MONTGOMERY

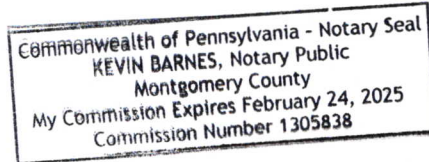
As subscribed and sworn to before me this 10th day of February

February, 2023

[Signature]

Notary Public

(Seal)





BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

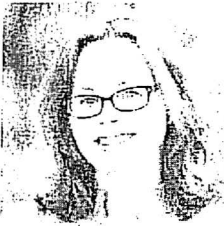
BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

Exhibit “A”

Deed



DEED BK 6032 PG 00240 to 00242.1
 INSTRUMENT # : 2017007630
 RECORDED DATE: 01/27/2017 10:45:13 AM



3434607-0006Q

RECORDER OF DEEDS
 MONTGOMERY COUNTY
Jeanne Sorg

One Montgomery Plaza
 Swede and Airy Streets ~ Suite 303
 P.O. Box 311 ~ Norristown, PA 19404
 Office: (610) 278-3289 ~ Fax: (610) 278-3869

MONTGOMERY COUNTY ROD

OFFICIAL RECORDING COVER PAGE

Page 1 of 4


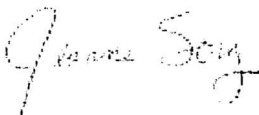
Document Type: Deed	Transaction #: 3510441 - 1 Doc (s)
Document Date: 01/17/2017	Document Page Count: 2
Reference Info:	Operator Id: msanabia

RETURN TO: (Wait) MONTGOMERY COUNTY TAX CLAIM BUREAU ONE MONTGOMERY PLAZA SUITE 610 NORRISTOWN, PA 19401	PAID BY: MONTGOMERY COUNTY TAX CLAIM BUREAU
--	---

PROPERTY DATA:

Parcel ID #: 05-00-00108-00-4
 Address: 5 COLWELL LN
 PA
 Municipality: Conshohocken Borough (100%)
 School District: Colonial

ASSOCIATED DOCUMENT(S):

CONSIDERATION/SECURED AMT: \$300,000.00	DEED BK 6032 PG 00240 to 00242.1
TAXABLE AMOUNT: \$290,941.00	Recorded Date: 01/27/2017 10:45:13 AM
FEES / TAXES:	I hereby CERTIFY that this document is recorded in the Recorder of Deeds Office in Montgomery County, Pennsylvania.
Recording Fee: Deed \$95.00	 
Affidavit Fee \$1.50	
State RTT \$2,909.41	
Conshohocken Borough RTT \$1,454.70	
Colonial School District RTT \$1,454.71	
Total: \$5,915.32	

Jeanne Sorg
 Recorder of Deeds

PLEASE DO NOT DETACH

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover sheet, document data always supersedes.
 *COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL

Case# 2017-03193-0 Docketed at Montgomery County Recorder of Deeds on 01/29/2017 11:11 AM

Prepared by: Montgomery County Tax Claim Bureau
Returned To: Montgomery County Tax Claim Bureau
Parcel No. 05-00-00108-00-4

RECORDER OF DEEDS
MONTGOMERY COUNTY

2017 JAN 27 A 9 22

**TAX CLAIM BUREAU DEED
UPSET SALE**

This Deed Made this 17th day of January, 2017
Between the TAX CLAIM BUREAU, of the County of Montgomery, Pennsylvania, as Trustee,
Grantor, and

**TS 16, LLC
15 ST. ASAPHS ROAD
BALA CYNWYD, PENNSYLVANIA 19004**

GRANTEE, his, her or their heirs, assigns, and successors.

Witnesseth, that in consideration of \$300,000.00 in hand paid, receipt whereof is hereby
acknowledged, the said Grantor does hereby grant and convey unto the said Grantee, his, her,
their heirs, assigns and successors, in accordance with the Real Estate Tax Sale Law of July 7,
1947, P.L. 1368, as amended, (72 P.S. 5860.101 et seq.)

ALL THAT CERTAIN PROPERTY SITUATE AND BEING KNOWN AS

**BLOCK 006 UNIT 030
5 COLWELL LN
Conshohocken
County of Montgomery
Commonwealth of Pennsylvania
Parcel No. 05-00-00108-00-4**

"Being the property formerly owned or reputed to be owned by WRUBEL BERENICE, the
same having been sold at Upset Sale held on September 22, 2016 under the provisions of the
Real Estate Tax Sale Law.

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
05-00-00108-00-4 CONSHOHOCKEN
5 COLWELL LN

WRUBEL BERENICE
B 006 U 030 L 4280 DATE: 01/27/2017

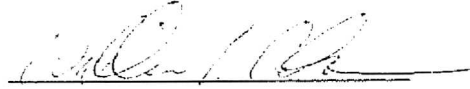
\$15.00
TG

{00488826;v1}

Case# 2017-03193-0 Docketed at Montgomery County Prothonotary on 02/16/2017 9:36 AM, Fee = \$270.00

In Witness Whereof, said Grantor has hereunto caused this Deed to be executed by its Director the day and year first above written.

Tax Claim Bureau of Montgomery County, Trustee



First Deputy Director of Tax Claim

COMMONWEALTH OF PENNSYLVANIA }ss:
COUNTY OF MONTGOMERY

On this, the 19th day of January, 2016, before me, the undersigned officer, personally appeared William Caldwell, First Deputy Director of the Tax Claim Bureau of the County of Montgomery, Commonwealth of Pennsylvania, known to me to be the person described in the foregoing instrument and acknowledged that he executed the same in the capacity therein stated and for the purpose therein contained

In Witness Whereof, I have hereunto set my hand and official seal.

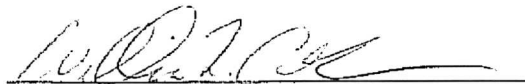


PROTHONOTARY

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the Grantee herein is:

**TS 16, LLC
15 ST. ASAPHS ROAD
BALA CYNWYD, PENNSYLVANIA 19004**



For the Grantee

Exhibit “B”
Survey

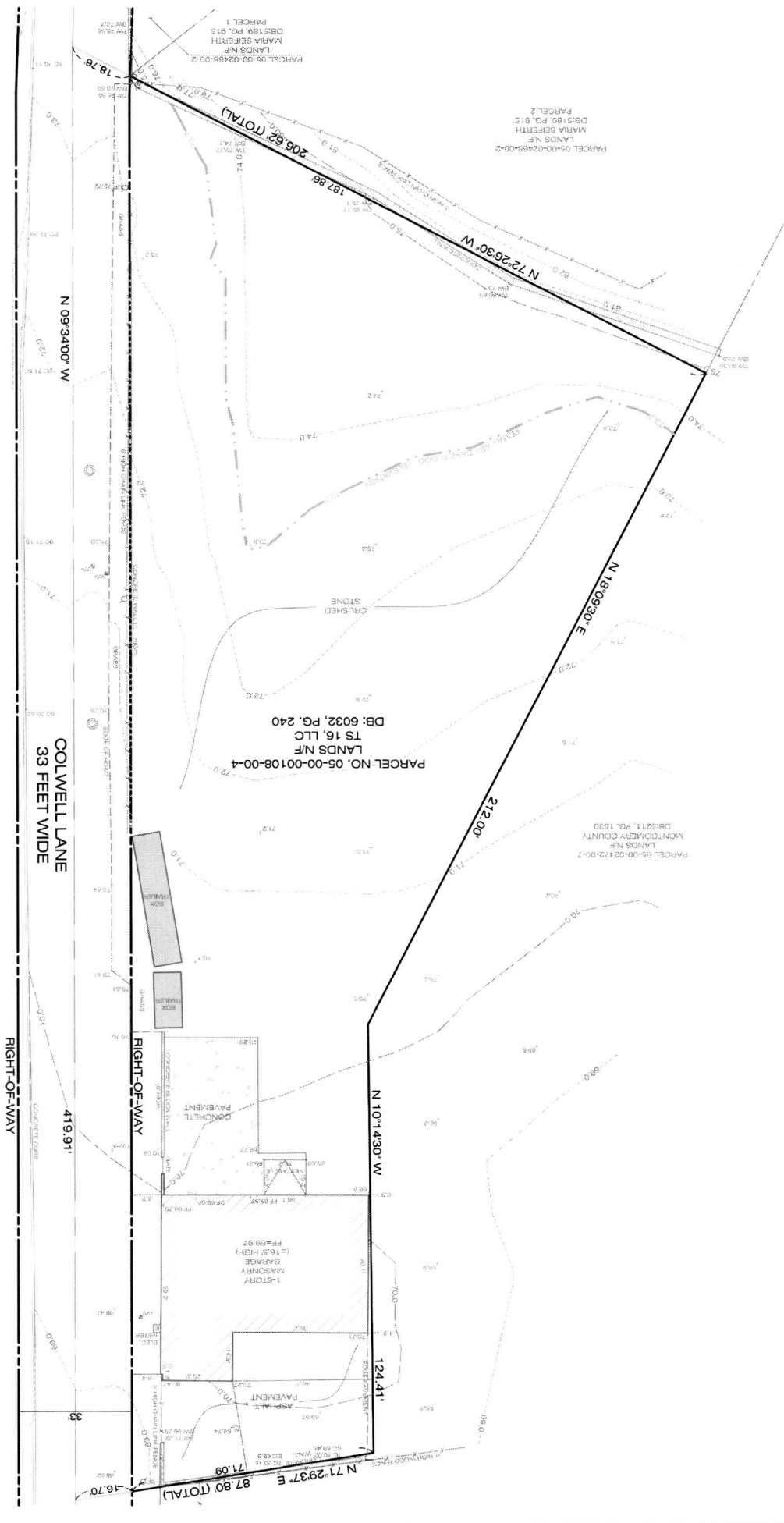


Exhibit “C”
Zoning Officer’s Letter



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR

Yaniv Aronson

BOROUGH COUNCIL

Colleen Leonard, President
Tina Sokolowski, Vice-President
Anita Barton, Member
Stacy Ellam, Member
Kathleen Kingsley, Member
Adrian Serma, Member
Karen Tutino, Member

Stephanie Cocco
Borough Manager

SENT VIA CERTIFIED MAIL AND U.S. MAIL

January 12, 2023

TS 16, LLC
15 St. Asaphs Road
Bala Cynwyd, PA 19004

**Re: 5 Colwell Lane
ZONING ENFORCEMENT NOTICE**

Please be advised, the subject property is in violation of the terms of the Borough Zoning Code. Specifically, all objects located on a property within the Floodplain Conservation District pose a potential risk to human, animal, and plant life by impounding floodwater and raising flood elevations. Additionally, any object that is not permanently affixed to the ground can be washed away by floodwaters, creating a safety hazard by obstructing and/or contaminating waterways. Therefore, all objects that are in violation of the outlined ordinances shall be removed from the property.

Based on visual observations from our Building Codes Inspector, there are materials currently stored on-site; including but not limited to, box trailers, large cable/wire spools, port-o-potties, and trash dumpster. Along with these unsecured materials, with the exception of the trash dumpster, there are contractor company vehicles that are parked on-site and which are not accessory to the current landscaping business; and therefore, is in violation of *Chapter 13 – Licenses, Permits, and General Business Regulations* of Conshohocken Borough's Code of Ordinances since there are no record of licensing nor permits of the additional use for the lot in the Borough records.

In addition, an unscreened outdoor trash dumpster has been placed adjacent the entrance to the existing building for the current landscaping business. The trash dumpster must be placed inside the building.

All unsecured materials observed on-site are located within the Floodplain Conservation District. Therefore, the property remains in violation of Zoning Code Sections 27-817.H(2) and (3), -1404.9, -1714, and -1726.1.F.

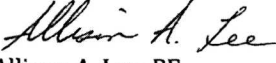
By **February 13, 2023**, you must come into compliance with the Borough ordinance by removing all existing box trailers and unsecured materials from within the Floodplain Conservation District.

YOU HAVE THE RIGHT TO APPEAL TO THE ZONING HEARING BOARD WITHIN 30 DAYS OF RECEIPT OF THIS NOTICE.

YOUR FAILURE TO COMPLY WITH THIS NOTICE WITHIN THE TIME SPECIFIED UNLESS EXTENDED BY APPEAL TO THE ZONING HEARING BOARD CONSTITUTES A VIOLATION OF THE ZONING ORDINANCE WHICH MAY RESULT IN A JUDGEMENT AGAINST YOU OF \$500.00 PLUS ALL COURT COSTS AND REASONABLE ATTORNEY RESULT IN A JUDGEMENT AGAINST YOU OF \$500.00 PLUS ALL COURT COSTS AND REASONABLE ATTORNEY FEES INCURRED BY THE BOROUGH. EACH DAY THAT THE VIOLATION CONTINUES MAY CONSTITUTE A SEPARATE VIOLATION.

If you have any questions or concerns, please feel free to contact the undersigned at 484-243-6073 or zoning@conshohockenpa.gov.

Sincerely,


Allison A. Lee, PE
Zoning Officer
PENNONI ASSOCIATES INC.

cc: Ray Sokolowski
Stephanie Cecco
Chris Small



BOROUGH OF CONSHOHOCKEN

Zoning Administration

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Anita Barton, Member
Stacy Ellam, Member
Kathleen Kingsley, Member
Adrian Serna, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

ZONING NOTICE AUGUST 21, 2023, ZONING HEARING BOARD MEETING

ZONING HEARING Z-2023-15

NOTICE IS HEREBY GIVEN that the Conshohocken Zoning Hearing Board will conduct a public hearing on August 21, 2023, at 7:00 p.m. prevailing time. The meeting will be held at Borough Hall, located at 400 Fayette Street, Conshohocken, PA 19428.

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following petition:

PETITIONER: TS 16, LLC
15 St. Asaph's Road, Bala Cynwyd, PA 19004

PREMISES INVOLVED: 5 Colwell Lane
Conshohocken, PA 19428
LI - Limited Industrial District/Research
FP - Floodplain Conservation District

OWNER OF RECORD: TS 16, LLC
15 St. Asaph's Road, Bala Cynwyd, PA 19004

The petitioner is appealing the three (3) zoning Use & Occupancy permit application denials for the site and is seeking a Special Exception pursuant to Sections 27-703.B & E and a Variance from Sections 27-1713, 27-1703, 27-817.H.(3), 27-1402, 27-1714.1.A & H, 27-1713, 27-1717, 27-1718, 27-1718.2, and 27-1718.3 of the Conshohocken Zoning Ordinance related to multiple uses permitted on the site; outdoor storage of materials and materials that may be transferred off the lot by natural causes or forces; and variance conditions within the floodplain conservation overlay district. The petitioner is proposing continuation of an existing nonconforming status of the site under Part 7 of the Zoning Ordinance.

Interested parties are invited to participate in the hearing. Anyone requiring special accommodations to attend should contact the Conshohocken Borough Administration Office at 610-828-1092 or zoning@conshohockenpa.gov as soon as possible for arrangements.

If you have questions regarding the above prior to the meeting, please contact the Borough at zoning@conshohockenpa.gov.

Thank you,
Zoning Hearing Board



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: Z-2023-15
Date Submitted: 7/20/23
Date Received: 7/20/23

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other Continuation of a non-conforming use

2. Section of the Zoning Ordinance from which relief is requested:

See attached.

3. Address of the property, which is the subject of the application:

5 Colwell Lane, Conshohocken, PA

4. Applicant's Name: TS 16, LLC

Address: 15 St. Asaph's Road, Bala Cynwyd, PA 19004

Phone Number (daytime): (610) 888-3035

E-mail Address: soldonmike@gmail.com

5. Applicant is (check one): Legal Owner Equitable Owner ; Tenant

6. Property Owner: TS 16, LLC

Address: 15 St. Asaph's Road, Bala Cynwyd, PA 19004

Phone Number: (610) 888-3035

E-mail Address: soldonmike@gmail.com

7. Lot Dimensions: Irregular Zoning District: L1 - Limited Industrial

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

There is a pending Zoning Application filed February 10, 2023, appealing a January 12, 2023 determination of the Zoning Officer and requesting other relief.

That appeal is designated 7-2023-03. This Application should be made part of that application or, in the alternative, consolidated with it.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

See attached Supplement to Application.

10. Please describe the proposed use of the property.

See attached Supplement to Application.

11. Please describe proposal and improvements to the property in detail.

See attached Supplement to Application.

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

See attached Supplement to Application.

13. If a Variance is being requested, please describe the following:

See attached Supplement to Application.

a. The unique characteristics of the property: _____

b. How the Zoning Ordinance unreasonably restricts development of the property:

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer. See attached Supplement to Application.
- a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

15. If the Applicant is requesting any other type of relief, please complete the following section. See attached Supplement to Application.

a. Type of relief that is being requested by the applicant.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

c. Please describe in detail the reasons why the requested relief should be granted.

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Daniel S. Coval, Jr., Esquire

b. Address: 15 St. Asaph's Road, Bala Cynwyd, PA 19004

c. Phone Number: (610) 617-1776

d. E-mail Address: dcoval@amillerlaw.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

TS 16, LLC

Applicant

Nicole Bauer 7-19-23

Legal Owner

Date

COMMONWEALTH OF PENNSYLVANIA

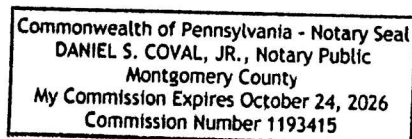
COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 19th day of

July 2023

[Signature]
Notary Public

(Seal)





BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

SUPPLEMENT TO ZONING APPEAL
APPEAL OF TS 16, LLC
Property at 5 Colwell Lane, Conshohocken, PA

The following Supplement includes the information requested in the Zoning Application. The numbered paragraphs of this Supplement conform with the printed form Zoning Application.

9. Please describe the present use of the property, including any existing improvements, and the dimensions of any structures on the property.

The property is an irregularly shaped lot, 1.103 acres in size, improved with a one-story masonry garage building with a footprint of approximately 3,300 square feet. The building has a vestibule and there are paved areas adjacent to the building. There is also a small trailer and porta potties on the site. The building is used for storage and office by a landscaping contractor, with adjacent parking, and has been used for similar uses for many years. Other areas of the property are used by two contractor tenants for parking and dispatch of vehicles. The property is divided into three areas by owner, designated A, B and C, as shown on the attached Plan, which are leased to the tenants.

10. Please describe the proposed use of the property.

No change of the present use is proposed. Rather, Applicant seeks approval of the present use(s).

11. Please describe proposal and improvements to the property in detail.

No improvements are proposed. Applicant appeals the determinations of the Zoning Officer, who denied applications for use and occupancy permits for each of the the three uses. Applicant asserts that the current use(s) of the property should be permitted for the reasons set forth at length in this Application. A copy of the Deed of January 17, 2017, vesting title to the property in Applicant, is attached as Exhibit “A”. A copy of a site plan of the property is attached as Exhibit “B”.

12. Please describe the reasons Applicant believes that the requested relief should be granted.

Applicant appeals three determinations of the Zoning Officer dated June 22, 2023, which are attached as Exhibits C-1, C-2 and C-3. The Zoning Officer’s decisions denied applications by the Applicant for use and occupancy permits for the property. In the alternative to appealing the zoning officer’s determination, the Applicant seeks variances to allow the uses, if required, and also asserts that the uses are non-conforming uses which are entitled to remain and seeks a special exception, if necessary, to expand the non-conforming use. The determinations made in each of the Zoning Officer’s letters are addressed separately as follows:

C-1 – Novvex Green, LLC d/b/a Patkin Landscaping – Permit Application # 23-00427

The Applicant agrees with the Zoning Officer’s determination that the current use of the Property by Novvex Green, LLC, d/b/a Patkin Landscaping (“Patkin”) is a pre-

existing, non-conforming use which may continue. To the extent that the Zoning Officer's determination is that the use of the property by Patkin is other than a lawful use, Applicant appeals that determination. To the extent that the Zoning Officer's determination is interpreted to hold that any portion or aspect of the use of the property by Patkin is unlawful because it violates the Code or is outside of the scope of the pre-existing non-conformity, Applicant challenges that determination and, in the alternative, requests variance(s) to allow the current use to remain.

Applicant challenges the Zoning Officer's determination that the non-conforming use does not extend to the entire tract, if that is her determination. In the alternative, Applicant requests a variance from Section 27-1713 of the Borough Zoning Ordinance (the "Code"), and any other applicable provisions, to permit the existing use in the Floodplain Conservation District ("FCD").

Applicant appeals the Zoning Officer's determination that the existing trash dumpster located outside the building may be transferred off the property by natural causes or force and therefore is in violation of Section 27-817.H(3) of the Code. In the alternative, if it is determined that the dumpster violates the Code, Applicant seeks a variance from Section 27-817.H(3) of the Code to allow the dumpster to remain.

Applicant also appeals the Zoning Officer's determination that, since the Borough of Conshohocken "does not have record of the portion of the property identified in the permit application as Section "A" and no outdoor storage of materials or waste may be transferred off the lot by natural causes or forces is permitted, the permit application is denied at this time". Applicant appeals the denial of the permit for the use. In the

alternative, Applicant avers that the current use by Patkin is permitted as the continuation of a pre-existing, non-conforming use. In the alternative, and if necessary, Applicant requests a variance from the Code Section 27-1713 and any other provisions of the Code cited in the letter to allow the described use.

C-2 – Safe Zone Line Services, LLC – Permit Application # 23-00428

Applicant appeals the Zoning Officer’s determinations in her letter of June 22, 2023, attached hereto as C-2, relating to the use and occupancy permit application for Safe Zone Line Services, LLC (“Safe Zone”). Applicant appeals the Zoning Officer’s determinations as follows.

Applicant appeals any implied determination by the Zoning Officer that portions of this commercial zoned property cannot be leased to or used by more than one entity. Applicant has leased portions of this property to three separate tenants, each of whom occupies a designated area. Nothing in the Zoning Code prohibits the occupancy of a commercial property by more than one tenant or requires subdivision of a property to permit multiple uses. To the extent that the Zoning Code prohibits use of a single property by multiple tenants, Applicant seeks a variance from any applicable provisions of the Code, which Code sections are not cited by the Zoning Officer, to permit the use.

Applicant appeals the Zoning Officer’s characterization of the extent of the FEMA floodplain on the property and will show the actual extent of the floodplain through evidence presented at hearing. Therefore, Applicant appeals the Zoning Officer’s determination that, in accordance with Sections 27-1702.1 and 27-1709.1.B, the entirety of the property is subject to the FP – Floodplain Conservation Overlay District.

Applicant agrees with the Zoning Officer's determination that the use of the property by Safe Zone, for parking of vehicles, and as an area for staging and dispatching of its vehicles, is a "warehouse, storage or distribution center". See Code 27-1402.F and I (use of the "same general character" permitted). Applicant also asserts that prior owners of the property had used the entire property for parking and dispatch of commercial vehicles, and this use is a pre-existing, non-conforming use, or a use of the same general character as the pre-existing, non-conforming use and is entitled to continue pursuant to Part 7 of the Zoning Code, 27-701 – 27-704. To the extent it is determined that the pre-existing, non-conforming use did not extend throughout the portion of the Property occupied by Safe Zone, then Applicant seeks a special exception for other required relief pursuant to Code Section 27-703(A), (B), (D) and (E), and applicable law, extension or expansion of that use. To the extent the Zoning Officer has determined that the current use is different than the pre-existing, non-conforming use, then Applicant appeals that determination and, in the alternative, seeks a special exception pursuant to Code § 27-703(B) to change to a non-conforming use which is equally appropriate or more appropriate to the LI District and is no more detrimental. In the alternative, Applicant seeks a variance from Sections 27-1402, 27-1713 and 27-1703, and any other Code section set forth in the Zoning Officer's letter, as appropriate, to allow the use of the property by Safe Zone as currently conducted.

Applicant appeals the determination of the Zoning Officer that the existing trailers, equipment (which term is not further defined), porta-potty, and loose materials on the site are in violation of Section 27-817.H(3) of the Code and must be removed. In the

alternative, Applicant seeks a variance from Code Section 27-817.H(3) to allow those items to remain on the property.

Applicant appeals the Zoning Officer's determination that, pursuant to Section 27-1714.1(A) and (H) of the Code, the use by the Applicant is a parking lot or otherwise prohibited within the Floodplain Conservation District ("FCD"). In the alternative, the Applicant seeks a variance from Code Section 27-817.H(3) and 27-1714.1.A and H, and pursuant to 27-1717, 27-1718, including 27-1718(3), and any other applicable Code provisions, to permit outdoor storage of materials, permanent structures, and to utilize the site for parking and dispatch of contractor vehicles and equipment within the floodplain.

Applicant appeals the Zoning Officer's determination denying a permit for the Safe Zone use. See Exhibit C-2.

C-3, letter of June 22, 2023 regarding Asplundh Tree Expert, LLC – 5 Colwell Lane (Section C) – Permit Application # 23-00429

Applicant appeals the Zoning Officer's determinations in its letter of June 22, 2023, attached hereto as C-3, relating to the use and occupancy permit application for Asplundh Tree Expert, LLC ("Asplundh"). Applicant appeals the Zoning Officer's determinations as follows.

Applicant appeals any implied determination by the Zoning Officer that portions of this commercial zoned property cannot be leased to or used by more than one entity. Applicant has leased portions of this property to three separate tenants, each of whom occupies a designated area. Nothing in the Zoning Code prohibits the occupancy of a commercial property by more than one tenant or requires subdivision of a property to

permit multiple uses. To the extent that the Zoning Code prohibits use of a single property by multiple tenants, Applicant seeks a variance from any applicable provisions of the Code.

Applicant appeals the Zoning Officer's characterization of the extent of the FEMA floodplain on the property and will show the actual extent of the floodplain through evidence presented at hearing. Therefore, Applicant appeals the Zoning Officer's determination in accordance with Sections 27-1702.1 and 27-1709.1.B that the entirety of the property is subject to the FP – Floodplain Conservation Overlay District.

Applicant agrees with the Zoning Officer's determination that the use of the property by Asplundh, for parking of vehicles, and as an area for staging and dispatching of its vehicles, is "a warehouse, storage or distribution center", permitted within the LI – Limited Industrial District. See Code 27-1402.F and I (use of "the same general character" permitted). Applicant also asserts that prior owners of the property had used the entire property for parking and dispatch of commercial vehicles, and this use is a pre-existing, non-conforming use, and is entitled to continue pursuant to Part 7 of the Zoning Code, 27-701 – 27-704. To the extent it is determined that the pre-existing, non-conforming use did not extend throughout the portion of the Property occupied by Asplundh, then Applicant seeks a special exception or other required relief pursuant to Code Section 27-703(A), (B), (D) and (E), and applicable law, to permit an extension or expansion of the pre-existing, non-conforming use. In the alternative, Applicant seeks a variance from Sections 27-1402, 27-1713 and 27-1703, and any other Code section set

forth in the Zoning Officer's letter, as appropriate, to allow the use of the property by Asplundh as currently conducted.

Applicant appeals the determination of the Zoning Officer that the existing portapotty is in violation of Section 27-817.H(3) of the Code and must be removed. In the alternative, Applicant seeks a variance from Code Section 27-817.H(3) to allow the portapotty to remain.

Applicant appeals the Zoning Officer's determination that, pursuant to Section 27-1714.1(A) and (H) of the Code, the use by the Applicant is a parking lot or otherwise prohibited within the Floodplain Conservation District. In the alternative, the Applicant seeks a variance from Code Section 27-817.H(3) and 27-1714.1.A and H, and pursuant to 27-1717, 27-1718, including 27-1718(3), and any other applicable Code provisions, to permit outdoor storage of materials, and to utilize the site for parking, permanent structures, and dispatch of contractor vehicles and equipment within the floodplain.

Applicant appeals the Zoning Officer's determination denying a permit for the Asplundh use. See Exhibit C-3.

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property:

A substantial portion of the property is located within the Floodplain Conservation District based upon the maps relied upon by the Borough staff. However, Applicant believes that most, if not all, of the property is located within the floodplain fringe, or outside the floodplain, and is not subject to flooding. The location of the property within

the FCD is a unique characteristic of the property which unduly impacts its use and development.

b. How the Zoning Ordinance unreasonably restricts development of the property:

The property has historically been used as an office, warehouse and storage yard and that use should be permitted to continue. The use of the property predates the enactment of the provisions of the Zoning Code establishing the FCD. The property cannot reasonably be adapted to another use, without complete redevelopment. No use permitted within the floodplain is viable for the property and therefore the property will suffer a hardship if relief is not granted. The current use of the property is entirely consistent with the use of neighboring properties. The actions of the enforcement officer concerning this property are inconsistent with the actions of the zoning officer concerning other similar properties in this area and in the Borough.

c. How the proposal is consistent with the character of the surrounding neighborhood:

The current use is entirely consistent with the LI Zoning District and with neighboring uses as well as uses within the FCD areas in the Borough. The use is less intensive than others permitted in the FCD. The property, and the neighborhood, consists of similar, if not more intensive, commercial uses. The current use of the property is permitted in the LI District or is "of the same general character" as permitted uses and is not a prohibited use. See Code § 27-1402(I). The use of the property as proposed will not adversely affect public health, safety of the general welfare. There are no residential uses which are proximate to this property. There is substantial and unimpeded access to

and from the property. The proposed use of the property will not overburden municipal services, increase the Base Flood Elevation beyond the level permitted by the Code, or cause any impact off of the property.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

- a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence to the determination).**

Please see the attached letters, Exhibits C-1, C-2 and C-3. Applicant incorporates its prior statements in this Application, particularly those contained in response to Section 12 above. The applicable provisions of the Zoning Ordinance which are subject to challenge are set forth in the Zoning Officer's letter and set forth previously in this application, and are also set forth in response to Sections 15a and b.

- b. Please explain in detail the reasons why you disagree with the zoning officer's determination.**

Applicant incorporates the prior sections of this Application, particularly those set forth in Section 12. In further answer, and by way of example and not limitation, the Zoning Officer's determination that the uses of the property by Safe Zone and Asplundh are not permitted, non-conforming uses or reasonable continuations or extensions of the pre-existing uses is in error. The Zoning Officer's implied determination that no more than one tenant or entity may be permitted to occupy this property is an error. There is no provision in the Zoning Code which prohibits multiple tenants at the same commercial property. The Zoning Officer's determination relating to the flood zone of the property is

incorrect and the dimensions and nature of the floodplain will be shown by engineering testimony. The Zoning Officer's determination that the trailer, equipment, porta-potty and other materials are subject to being transferred off the lot by natural causes or forces is not correct. See 27-817.H(3). Further, the Applicant will demonstrate that the existing uses of the property, and these same proposed uses, do not result in an increase in the Base Flood Elevation of more than one foot at any point as required by Sections 27-1718(3), and if located in a floodway, will cause no increase in the BFE, and therefore, if required, a variance should be granted to permit the use of the property as currently exists 27-1718(2).

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

The Applicant is appealing the Zoning Officer's determinations, as indicated, and asserts that the uses of the property should be permitted as a continuation of the non-conforming use. If necessary, a special exception should be granted to permit a change of non-conforming use and expansion of the pre-existing, non-conforming use, pursuant to 27-701, 27-703. In the alternative, Applicant requests variances as previously set forth.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

All sections referenced by the Zoning Officer in Exhibits C-1, C-2 and C-3, and previously in this Application, including the following:

- Appeal from the determinations of the Zoning Officer's letters dated June 22, 2023 attached as Exhibits C-1, C-2 and C-3.

- Variance from Section 27-1713 of the Code to permit existing uses in the Floodplain Conservation District.
- Variance, if necessary, from Code Section 27-817.H(3) to allow dumpster, trailer and porta-potty and other equipment to remain on property, for each of the tenants.
- Variance from Section 27-1402, if necessary, to permit use of property by existing tenants.
- Determination that the current uses of the property are a continuation of the previously existing, non-conforming uses.
- In the alternative, a special exception from Code Section 27-703.B and E, if required, to allow non-conforming use, which is equally appropriate or more appropriate in the LI District and is no more detrimental.
- A special exception pursuant to Code Section 27-703.B and E, and other applicable code sections, to permit expansion of existing, non-conforming use.
- Variance, if necessary, from Code Sections 27-817.H(3) and 27-1714.1(A) and (H) and any other applicable provisions to permit outdoor storage of materials and to utilize the site for parking of contractor vehicles and equipment within the floodplain.
- A variance pursuant to Code Sections 27-1713, 27-1717 and 27-1718, including 27-1718(3), to allow the existing/proposed use of the property within the floodplain.
- A variance from Section 27-1718(2) to allow for use within a floodway, if required.
- A request for relief from any other provisions of the Code referred to previously in this Application.

c. Please describe in detail the reasons why the requested relief should be granted.

The property is improved as a commercial property and has long been used for commercial purposes, as a contractor's office and for parking and storage associated with

that use. The Applicant is entitled to continue the non-conforming use of the property. The use of the property at present, by Safe Zone and Asplundh, is nothing more than a continuation of the prior, pre-existing contractor storage use. The use is reasonable and is consistent with the uses permitted in the underlying LI District.

The property, though located in a floodplain, is not subject to flooding. The proposed use will not increase the base flood elevation by more than one foot. Further, the use of the property for storage or parking of vehicles is consistent with both the LI District and the floodplain district.

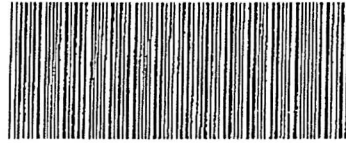
The grant of relief will not adversely affect the public health, safety or general welfare, and will cause no adverse effect. Without the grant of a variance from the floodplain regulations, this property will suffer a hardship as none of the uses permitted in the floodplain district are economically feasible for this property.

In further response, Applicant incorporates its prior statements in this Application.

EXHIBIT A



DEED BK 6032 PG 00240 to 00242.1
 INSTRUMENT # : 2017007630
 RECORDED DATE: 01/27/2017 10:45:13 AM



3434607-0006Q

RECORDER OF DEEDS
 MONTGOMERY COUNTY
 Jeanne Sorg

One Montgomery Plaza
 Swede and Airy Streets ~ Suite 303
 P.O. Box 311 ~ Norristown, PA 19404
 Office: (610) 278-3289 ~ Fax: (610) 278-3869

MONTGOMERY COUNTY ROD

OFFICIAL RECORDING COVER PAGE

Page 1 of 4

Document Type: Deed	Transaction #: 3510441 - 1 Doc (s)
Document Date: 01/17/2017	Document Page Count: 2
Reference Info:	Operator Id: msanabia

RETURN TO: (Wait)
 MONTGOMERY COUNTY TAX CLAIM BUREAU
 ONE MONTGOMERY PLAZA SUITE 610
 NORRISTOWN, PA 19401

PAID BY:
 MONTGOMERY COUNTY TAX CLAIM BUREAU

PROPERTY DATA:
 Parcel ID #: 05-00-00108-00-4
 Address: 5 COLWELL LN
 Municipality: PA
 Conshohocken Borough
 (100%)
 School District: Colonial

ASSOCIATED DOCUMENT(S):

CONSIDERATION/SECURED AMT:
300,000.00
 TAXABLE AMOUNT:
290,941.00
 FEES / TAXES:

Recording Fee: Deed	\$95.00
Affidavit Fee	\$1.50
State RTT	\$2,909.41
Conshohocken Borough RTT	\$1,454.70
Colonial School District RTT	\$1,454.71
Total:	\$5,915.32

DEED BK 6032 PG 00240 to 00242.1
 Recorded Date: 01/27/2017 10:45:13 AM
 I hereby CERTIFY that this document is recorded in the Recorder of Deeds Office in Montgomery County, Pennsylvania.



Jeanne Sorg

Jeanne Sorg
 Recorder of Deeds

Case# 2017-03193-0 Docketed via 2016-01-29

PLEASE DO NOT DETACH

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover sheet, document data always supersedes.
 *COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL

Prepared by: Montgomery County Tax Claim Bureau
Returned To: Montgomery County Tax Claim Bureau
Parcel No. 05-00-00108-00-4

RECORDER OF DEEDS
MONTGOMERY COUNTY
2017 JAN 27 A 9 22

**TAX CLAIM BUREAU DEED
UPSET SALE**

This Deed Made this 17th day of January, 2017
Between the TAX CLAIM BUREAU, of the County of Montgomery, Pennsylvania, as Trustee,
Grantor, and

**TS 16, LLC
15 ST. ASAPHS ROAD
BALA CYNWYD, PENNSYLVANIA 19004**

GRANTEE, his, her or their heirs, assigns, and successors.

Witnesseth, that in consideration of \$300,000.00 in hand paid, receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey unto the said Grantee, his, her, their heirs, assigns and successors, in accordance with the Real Estate Tax Sale Law of July 7, 1947, P.L. 1368, as amended, (72 P.S. 5860.101 et seq.)

ALL THAT CERTAIN PROPERTY SITUATE AND BEING KNOWN AS

**BLOCK 006 UNIT 030
5 COLWELL LN
Conshohocken
County of Montgomery
Commonwealth of Pennsylvania
Parcel No. 05-00-00108-00-4**

"Being the property formerly owned or reputed to be owned by WRUBEL BERENICE, the same having been sold at Upset Sale held on September 22, 2016 under the provisions of the Real Estate Tax Sale Law.

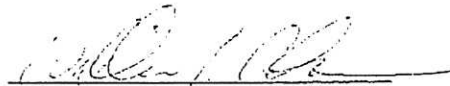
MONTGOMERY COUNTY COMMISSIONERS REGISTRY
05-00-00108-00-4 CONSHOHOCKEN
5 COLWELL LN
WRUBEL BERENICE \$15.00
B 006 U 030 L 4280 DATE: 01/27/2017 TG

{00488826;v1}

Case# 2017-03193-0 Docketed at Montgomery County Prothonotary on 02/16/2017 9:36 AM, Fee = \$270.00

In Witness Whereof, said Grantor has hereunto caused this Deed to be executed by its Director the day and year first above written.

Tax Claim Bureau of Montgomery County, Trustee




First Deputy Director of Tax Claim

COMMONWEALTH OF PENNSYLVANIA }ss:
COUNTY OF MONTGOMERY

On this, the 19th day of January, 2017, before me, the undersigned officer, personally appeared William Caldwell, First Deputy Director of the Tax Claim Bureau of the County of Montgomery, Commonwealth of Pennsylvania, known to me to be the person described in the foregoing instrument and acknowledged that he executed the same in the capacity therein stated and for the purpose therein contained

In Witness Whereof, I have hereunto set my hand and official seal.



PROTHONOTARY

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the Grantee herein is:

**TS 16, LLC
15 ST. ASAPHS ROAD
BALA CYNWYD, PENNSYLVANIA 19004**



For the Grantee

EXHIBIT B

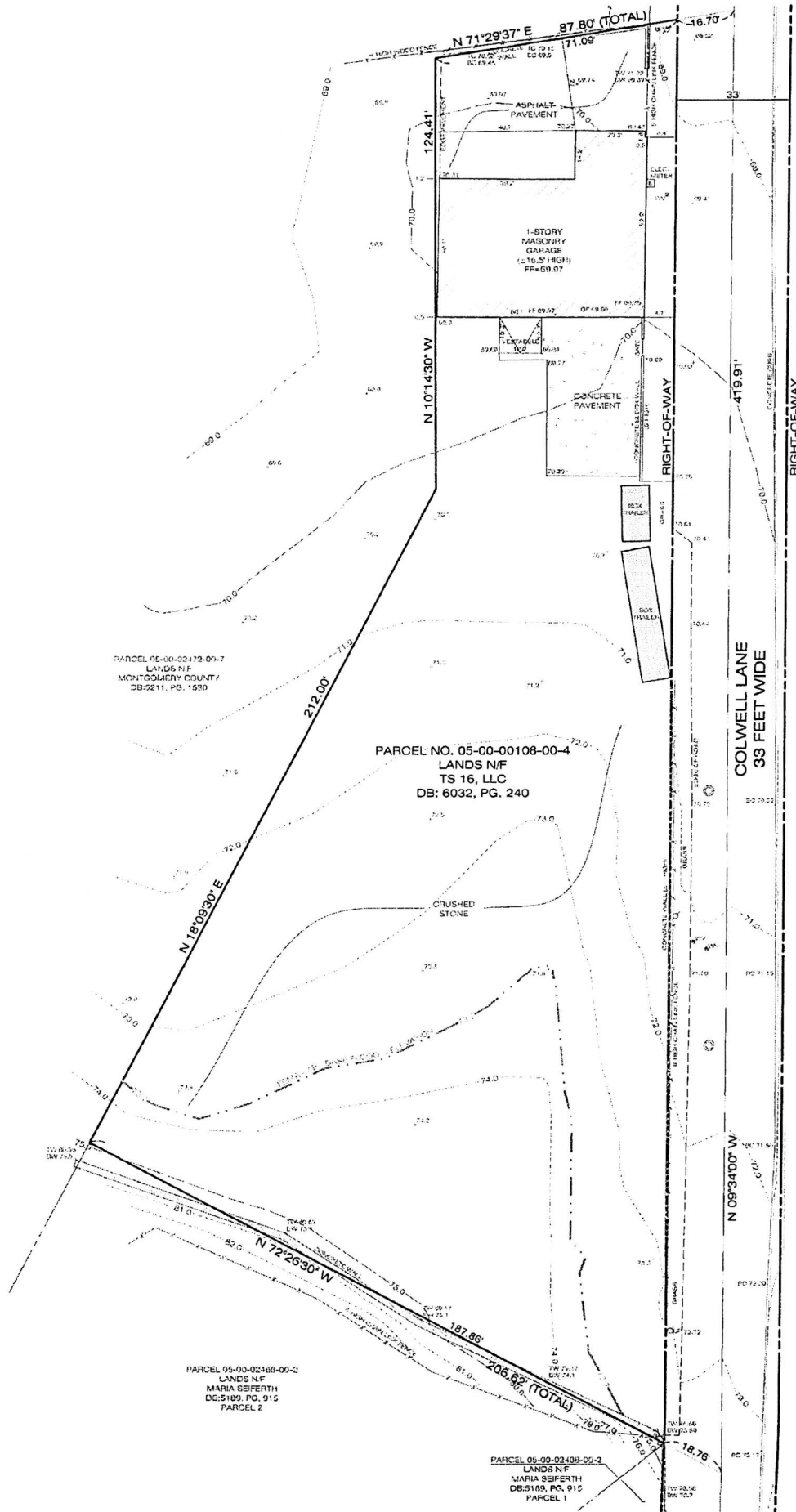


EXHIBIT C-1



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR

Yaniv Aronson

BOROUGH COUNCIL

Colleen Leonard, President
Tina Sokolowski, Vice-President
Anita Barton, Member
Stacy Ellam, Member
Kathleen Kingsley, Member
Adrian Serna, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

June 22, 2023

Applicant:

Novvex Green, LLC, d/b/a Patkin Landscaping
Michael Sherick, Managing Member
613 Woodcrest Avenue
Ardmore, PA 19003

Property Owner:

TS 16, LLC
15 St. Asaphs Road
Bala Cynwyd, PA 19004

**Re: 5 Colwell Lane (Section "A")
Use and Occupancy (U&O) Permit Application #23-00427**

Conshohocken Borough is in receipt of your Use and Occupancy (U&O) Permit Application #23-00427 for Section "A" of the above referenced property. Upon review of this permit application, there is currently an active U&O permit for a landscaping business, and more specifically for a "warehouse" use to store landscaping equipment, which is utilizing the existing nonconforming building on the site. The current application states a change in tenant to "Novvex Green, LLC" (the prior application only identified the owner, TS 16, LLC). No change in use is stated. The Borough only has record of the above referenced property as one entire tract and does not have record of the portion of the above referenced property identified as Section "A" in the permit application. A site plan shall be provided documenting Section "A" of the above referenced property to accompany the U&O permit application.

The property is identified to be located within the LI - Limited Industrial District/Research. Based on the FEMA Flood Insurance Rate Map (FIRM), panel no. 42091C0358G, effective March 2, 2016, the majority of the property is located within Zone AE, which is determined by FEMA to be Special Flood Hazard areas with base flood elevations or depths defined. The remaining small sliver of the subject property along the southern property line is located within Zone X, which is determined by FEMA to be Other Areas of Flood Hazard of 0.2% annual chance flood hazard, areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile. In accordance with Sections §27-1702.1 and §27-1709.1.B of the Borough Zoning Ordinance, the property is subject to the FP - Floodplain Conservation Overlay District.

Per § 27-1402.F of the Borough Zoning Ordinance, the "warehouse, storage, or distribution center" use is a permitted use within the LI-Limited Industrial District/Research. However, per §27-1713 of the Borough Zoning Ordinance, a warehouse, storage, or distribution center use is not permitted by right within the Floodplain Conservation District. Since the above referenced property is also subject to the FP - Floodplain Conservation Overlay District the more restrictive provisions of the Zoning Ordinance shall apply in accordance with §27-1703 of the Borough Zoning Ordinance.

However, since the existing building and current use are considered nonconforming, the nonconforming status shall continue, and a property may continue to be used as nonconforming until it complies with the requirements of the Zoning Ordinance in accordance with §27-703 and §27-1715 of the Borough Zoning Ordinance. To the extent any change in use (rather than just a change in tenant) is proposed, the Borough reserves the right to review such change in use.

Based on visual observations of the site, and in accordance with §27-1404.6 and pursuant to §27-817.H.(3) of the Zoning Ordinance, no outdoor storage of materials or wastes shall be deposited upon a lot in such form or manner that may be transferred off the lot by natural causes or forces. The existing trash dumpster located outside and adjacent the existing building is in violation of §27-817.H.(3). The existing outdoor trash dumpster will need to be relocated inside the existing nonconforming building; be removed off-site; or otherwise, a variance from Zoning Ordinance Section §27-817.H.(3) for approval by the Conshohocken Borough Zoning Hearing Board is required to permit the outdoor storage of materials within the floodplain.

Should any variances be granted, compliance to the technical provisions of Part 17 of the Floodplain Conservation Overlay District, Article G shall be required.

Since the Borough of Conshohocken does not have record of the portion of the property identified in the permit application as Section "A"; and no outdoor storage of materials or waste that may be transferred off the lot by natural causes or forces is permitted, this U&O permit application is **denied** at this time.

If you have any questions or concerns, please feel free to contact the undersigned at 484-243-6073 or zoning@conshohockenpa.gov.

Sincerely,



Allison A. Lee, PE

Zoning Officer

PENNONI ASSOCIATES INC.

cc: Ray Sokolowski
Stephanie Cecco
Chris Small

EXHIBIT C-2



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR

Yaniv Aronson

BOROUGH COUNCIL

Colleen Leonard, President
Tina Sokolowski, Vice-President
Anita Barton, Member
Stacy Ellam, Member
Kathleen Kingsley, Member
Adrian Serna, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

June 22, 2023

Applicant:

Safe Zone Line Services, LLC
Victoria Legra, Supervisor
234 Dogwood Drive
Crawfordville, FL 32327

Property Owner:

TS 16, LLC
15 St. Asaphs Road
Bala Cynwyd, PA 19004

**Re: 5 Colwell Lane (Section "B")
Use and Occupancy (U&O) Permit Application #23-00428**

Conshohocken Borough is in receipt of your Use and Occupancy (U&O) Permit Application #23-00428 for Section "B" of the above referenced property. Upon review of this permit application, the Borough only has record of the above referenced property as one entire tract and does not have record of the portion of the above referenced property identified as Section "B" in the permit application. A site plan shall be provided documenting Section "B" of the above referenced property to accompany the U & O permit application.

The property is identified to be located within the LI - Limited Industrial District/Research. Based on the FEMA Flood Insurance Rate Map (FIRM), panel no. 42091C0358G, effective March 2, 2016, the majority of the property is located within Zone AE, which is determined by FEMA to be Special Flood Hazard areas with base flood elevations or depths defined. The remaining small sliver of the subject property along the southern property line is located within Zone X, which is determined by FEMA to be Other Areas of Flood Hazard of 0.2% annual chance flood hazard, areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile. In accordance with Sections §27-1702.1 and §27-1709.1.B of the Borough Zoning Code, the property is subject to the FP - Floodplain Conservation Overlay District.

Per § 27-1402.F of the Borough Zoning Ordinance, the "warehouse, storage, or distribution center" use is a permitted use within the LI-Limited Industrial District/Research. However, per §27-1713 of the Borough Zoning Ordinance, a warehouse, storage, or distribution center use is not permitted by right within the Floodplain Conservation District. Since the above referenced property is also subject to the FP - Floodplain Conservation Overlay District the more restrictive provisions of the Zoning Ordinance shall apply in accordance with §27-1703 of the Borough Zoning Ordinance. A variance from §27-1713 of the Borough Zoning Code for approval from the Conshohocken Borough Zoning Hearing Board is required to permit the proposed new use to be located within the FP - Floodplain Conservation Overlay District.

Based on visual observations of the site, and in accordance with §27-1404.6 and pursuant to §27-817.H.(3) of the Zoning Ordinance, no outdoor storage of materials or wastes shall be deposited upon a lot in such form or manner that may be transferred off the lot by natural causes or forces. The existing trailers, equipment, port-a-potty, and loose materials currently stored onsite is in violation of §27-817.H.(3). The existing loose materials will be required to be removed off-site. In addition, pursuant to §27-1714.1.A and H of the Zoning Ordinance, no new construction, alteration, or improvement of any buildings and any other type of permanent structure, including fences, shall be permitted in the floodway or the one-hundred-year floodplain and parking lots are prohibited uses within the Floodplain Conservation Overlay District. A variance from Zoning Ordinance Sections §27-817.H.(3) and §27-1714.1.A and H for approval by the Conshohocken Borough Zoning Hearing Board is required to permit the outdoor storage of materials, permanent structures, and utilizing the site as a parking lot for contractor vehicles and equipment within the floodplain.

Should any variances be granted, compliance to the technical provisions of Part 17 of the Floodplain Conservation Overlay District, Article G shall be required.

Since the Borough of Conshohocken does not have record of the portion of the property identified in the permit application as Section "B"; the proposed new use is not a permitted use by right within the more restrictive FP – Floodplain Conservation Overlay District; and no permanent structures nor outdoor storage of materials or waste that may be transferred off the lot by natural causes or forces is permitted, this U&O permit application is **denied** at this time.

If you have any questions or concerns, please feel free to contact the undersigned at 484-243-6073 or zoning@conshohockenpa.gov.

Sincerely,



Allison A. Lee, PE
Zoning Officer

PENNONI ASSOCIATES INC.

cc: Ray Sokolowski
Stephanie Cecco
Chris Small

EXHIBIT C-3



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR

Yaniv Aronson

BOROUGH COUNCIL

Colleen Leonard, President
Tina Sokolowski, Vice-President
Anita Barton, Member
Stacy Ellam, Member
Kathleen Kingsley, Member
Adrian Serna, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

June 22, 2023

Applicant:

Asplundh Tree Expert, LLC
Elizabeth Bolger, Director Region 021
575 A Virginia Drive
Fort Washington, PA 19034

Property Owner:

TS 16, LLC
15 St. Asaphs Road
Bala Cynwyd, PA 19004

**Re: 5 Colwell Lane (Section "C")
Use and Occupancy (U&O) Permit Application #23-00429**

Conshohocken Borough is in receipt of your Use and Occupancy (U&O) Permit Application #23-00429 for Section "C" of the above referenced property. Upon review of this permit application, the Borough only has record of the above referenced property as one entire tract and does not have record of the portion of the above referenced property identified as Section "C" in the permit application. A site plan shall be provided documenting Section "C" of the above referenced property to accompany the U & O permit application.

The property is identified to be located within the LI - Limited Industrial District/Research. Based on the FEMA Flood Insurance Rate Map (FIRM), panel no. 42091C0358G, effective March 2, 2016, the majority of the property is located within Zone AE, which is determined by FEMA to be Special Flood Hazard areas with base flood elevations or depths defined. The remaining small sliver of the subject property along the southern property line is located within Zone X, which is determined by FEMA to be Other Areas of Flood Hazard of 0.2% annual chance flood hazard, areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile. In accordance with Sections §27-1702.1 and §27-1709.1.B of the Borough Zoning Code, the property is subject to the FP - Floodplain Conservation Overlay District.

Per § 27-1402.F of the Borough Zoning Ordinance, the "warehouse, storage, or distribution center" use is a permitted use within the LI-Limited Industrial District/Research. However, per §27-1713 of the Borough Zoning Ordinance, a warehouse, storage, or distribution center use is not permitted by right within the Floodplain Conservation District. Since the above referenced property is also subject to the FP - Floodplain Conservation Overlay District the more restrictive provisions of the Zoning Ordinance shall apply in accordance with §27-1703 of the Borough Zoning Ordinance. A variance from §27-1713 of the Borough Zoning Code for approval from the Conshohocken Borough Zoning Hearing Board is required to permit the proposed new use to be located within the FP - Floodplain Conservation Overlay District.

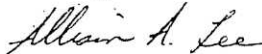
Based on visual observations of the site, and in accordance with §27-1404.6 and pursuant to §27-817.H.(3) of the Zoning Ordinance, no outdoor storage of materials or wastes shall be deposited upon a lot in such form or manner that may be transferred off the lot by natural causes or forces. The existing port-a-potty currently stored onsite is in violation of §27-817.H.(3). The existing port-a-potty will be required to be removed off-site. In addition, pursuant to Section §27-1714.1.H of the Zoning Ordinance, parking lots is a prohibited use within the Floodplain Conservation Overlay District. A variance from Zoning Code Sections §27-817.H.(3) and §27-1714.1.H for approval by the Conshohocken Borough Zoning Hearing Board is required to permit the outdoor storage of the port-a-potty and utilizing the site as a parking lot for contractor vehicles within the floodplain.

Should any variances be granted, compliance to the technical provisions of Part 17 of the Floodplain Conservation Overlay District, Article G shall be required.

Since the Borough of Conshohocken does not have record of the portion of the property identified in the permit application as Section "C"; the proposed new use is not a permitted use by right within the more restrictive FP – Floodplain Conservation Overlay District; and no outdoor storage of materials or waste that may be transferred off the lot by natural causes or forces is permitted, this U&O permit application is **denied** at this time.

If you have any questions or concerns, please feel free to contact the undersigned at 484-243-6073 or zoning@conshohockenpa.gov.

Sincerely,

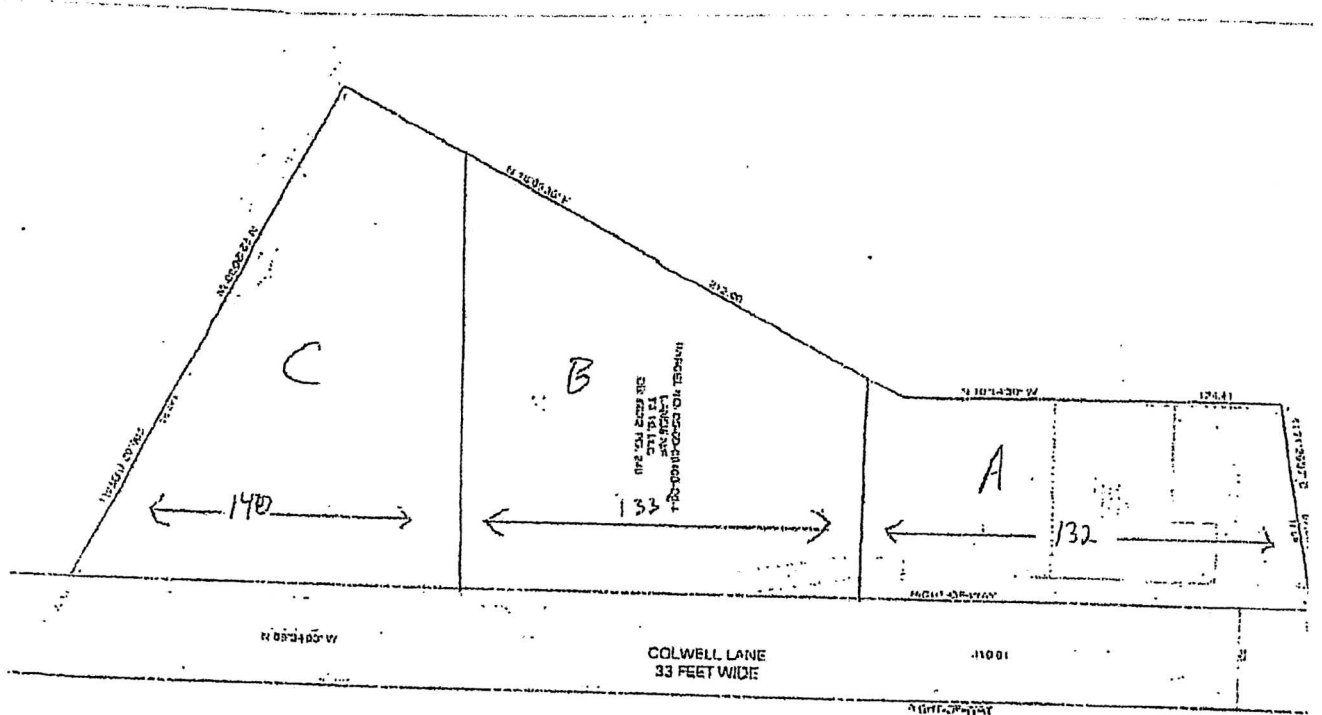


Allison A. Lee, PE
Zoning Officer

PENNONI ASSOCIATES INC.

cc: Ray Sokolowski
Stephanie Cecco
Chris Small

EXHIBIT D



Not to Scale
 All measurements are approximate

Exhibit "A"

MJS

100



BOROUGH OF CONSHOHOCKEN

Zoning Administration

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
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Karen Tutino, Member

Stephanie Cecco
Borough Manager

ZONING NOTICE OCTOBER 16, 2023, ZONING HEARING BOARD MEETING

ZONING HEARING Z-2023-16

NOTICE IS HEREBY GIVEN that the Conshohocken Zoning Hearing Board will conduct a public hearing on October 16, 2023, at 7:00 p.m. prevailing time. The meeting will be held at Borough Hall, located at 400 Fayette Street, Conshohocken, PA 19428.

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following petition:

PETITIONER: David P. and Lisa P. McLafferty
116 West 2nd Ave
Conshohocken, PA 19428

PREMISES INVOLVED: 116 West 2nd Ave
Conshohocken, PA 19428
BR-1 – Borough Residential District 1

OWNER OF RECORD: David P. and Lisa P. McLafferty
116 West 2nd Ave
Conshohocken, PA 19428

The petitioner is appealing a zoning enforcement notice and is seeking a variance from Sections §27-830 and §27-805.B of the Conshohocken Borough Zoning Ordinance to permit the construction of new deck and stairs attached to the second floor of an accessory two-story garage building which is not a dwelling and to permit the new deck to project completely into the side yard setback area from the second floor of the accessory two-story garage building; whereas, decks are required to be attached to a dwelling and may not extend above the level of the first floor of the building, and decks may not extend into the required side yard setback by more than 50% of the required 5 feet depth or width of the side yard within the BR-1 zoning district.

Interested parties are invited to participate in the hearing. Anyone requiring special accommodations to attend should contact the Conshohocken Borough Administration Office at 610-828-1092 or zoning@conshohockenpa.gov as soon as possible for arrangements.

If you have questions regarding the above prior to the meeting, please contact the Borough at zoning@conshohockenpa.gov.

Thank you,
Zoning Hearing Board



**KLEHR HARRISON
HARVEY BRANZBURG LLP**

Leonard B. Altieri III
Direct Dial: (215) 569-4364
Email: laltieri@klehr.com

September 11, 2023

Borough of Conshohocken
400 Fayette Street, Suite 200
Conshohocken, PA 19428

**Re: David P. and Lisa P. McLafferty
116 West Second Avenue, Conshohocken, PA
Zoning Application**

Dear Sir/Madam:

Please be advised that this firm represents the above-named applicant, David P. and Lisa P. McLafferty ("Applicant"). On behalf of Applicant please find the following enclosed:

- Two (2) copies of the Zoning Hearing Board Application, along with two (2) copies of the Addendum.
- Two (2) copies of the Borough of Conshohocken Zoning Enforcement Notice dated August 10, 2023.
- Two (2) copies of the Zoning Hearing Board of Conshohocken Decision dated May 5, 2022.
- Two (2) copies of a photograph of the deck in question.
- Two (2) copies of the Deed dated April 4, 2009 between David P. McLafferty and David P. McLafferty and Lisa P. McLafferty.
- One (1) check in the amount of \$250.00 made payable to the Borough of Conshohocken for the Application fee.
- One (1) check in the amount of \$750.00 made payable to the Borough of Conshohocken for the required Escrow.

Please:

- Confirm receipt of the completed application and advise of the date that this application will be scheduled for a public hearing before the Borough of Conshohocken Zoning Hearing Board; and
- Provide me with advance notice of any meeting of any board, commission, agency, or committee which intends to discuss or consider this Application.



Should you have any questions, or need any additional information, please do not hesitate to contact the office. Thank you.

Very Truly Yours,

Klehr Harrison Harvey Branzburg

Leonard B. Altieri, III

Leonard B. Altieri, III

LBA:mb
Enclosures



Conshohocken Borough ZHB Appeal.pdf

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E-Signature Summary

E-Signature 1: Leonard B. Altieri, III (LBA)
 September 11, 2023 10:52:31 -5:00 [DB03BE68A110] [71.225.97.226]
 laltieri@klehr.com (Principal) (Personally Known)

E-Signature Notary: Celeste A. Stellabott (CS)
 September 11, 2023 10:52:31 -5:00 [6994A5ACC426] [71.162.198.4]
 cstellabott@klehr.com
 I, Celeste A. Stellabott, did witness the participants named above electronically sign this document.





BOROUGH OF CONSHOHOCKEN
 400 Fayette Street, Suite 200, Conshohocken, PA 19428
 Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: _____
Date Submitted: _____
Date Received: _____

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other Appeal of Enforcement Notice

2. Section of the Zoning Ordinance from which relief is requested:

See Attached Addendum

3. Address of the property, which is the subject of the application:

116 West Second Ave, Conshohocken, PA 19428

4. Applicant's Name: David P. and Lisa P. McLafferty

Address: 116 West Second Avenue, Conshohocken, PA 19428

Phone Number (daytime): 610-952-4332

E-mail Address: dpmclafferty@yahoo.com

5. Applicant is (check one): Legal Owner ; Equitable Owner ; Tenant .

6. Property Owner: Same as Applicant

Address: _____

Phone Number: _____

E-mail Address: _____

7. Lot Dimensions: 40 x 160ft (6,400 SF) Zoning District: BR-1

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8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

Applicant previously received a variance from Section 27-811.C of the Borough of Conshohocken Zoning Ordinance to permit the construction of an accessory structure with a height of 24ft measured to the midpoint of the slope of the roof and 28 ft when measured to the roof peak.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

See attached Addendum.

10. Please describe the proposed use of the property.

See attached Addendum.

11. Please describe proposal and improvements to the property in detail.

See attached Addendum.



12. Please describe the reasons the Applicant believes that the requested relief should be granted.

See attached Addendum

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: See attached Addendum.

b. How the Zoning Ordinance unreasonably restricts development of the property:
See attached Addendum.

c. How the proposal is consistent with the character of the surrounding neighborhood. _____
See attached Addendum.

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.
See attached Addendum.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

See attached Addendum.



b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

See attached Addendum.

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

See attached Addendum.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

See attached Addendum.

c. Please describe in detail the reasons why the requested relief should be granted.

See attached Addendum.

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Matthew J. McHugh, Esq. & Leonard B. Altieri, III, Esq.

b. Address: 1835 Market Street, Suite 1400, Philadelphia, PA 19103

c. Phone Number: 215-569-1662

d. E-mail Address: MMcHugh@klehr.com / LAltieri@klehr.com



I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

Leonard B. Altieri, III
Signed on 2023/09/11 10:52:31 -5:00

Applicant
(Applicant's Attorney)

Legal Owner


September 11, 2023

Date

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF PHILADELPHIA

As subscribed and sworn to before me this 11th day of
September, 2023.


Signed on 2023/09/11 10:52:31 -5:00

Notary Public

(Seal)

Commonwealth of Pennsylvania - Notary Seal
Celeste A Stellabott, Notary Public
Philadelphia County
My Commission Expires Feb 24, 2025
Commission Number 1160045
Notary Stamp 2023/09/11 07:52:31 PST 6994ASACC428

This notarial act involved the use of communication technology.

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BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

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BOROUGH OF CONSHOHOCKEN ZONING HEARING BOARD

ADDENDUM TO ZONING HEARING BOARD APPLICATION

Applicants: David & Lisa McLafferty
116 West Second Avenue
Conshohocken, PA 19428

Owner: Same as Applicant

Subject Property: 116 West Second Avenue
Conshohocken, PA
Parcel ID No.: 05-00-07572-00-1

Attorney: Matthew J. McHugh, Esquire
Leonard B. Altieri, III, Esquire
KLEHR HARRISON HARVEY BRANZBURG LLP
1835 Market Street, Suite 1400
Philadelphia, PA 19103
MMcHugh@klehr.com / (215) 569-1662
LAltieri@klehr.com / (215) 569-4364

Relief Requested:

1. An appeal of the Zoning Enforcement Notice dated August 10, 2023 (the “Enforcement Notice”) issued by the Borough of Conshohocken Zoning Officer (the “Zoning Officer”) alleging that the accessory structure as constructed on the Subject Property is in violation of the Borough of Conshohocken Zoning Ordinance (the “Zoning Ordinance”);
2. In the alternative, a variance from Section 27-830 of the Zoning Ordinance to permit a deck to be constructed in the rear of a residential accessory structure;
3. In the alternative, a variance from Section 27-805.B of the Zoning Ordinance the deck constructed on the second floor of the residential accessory structure to encroach within the required side yard setback.

Summary of Application:

The Applicants are the owners of the Subject Property which is a single-family residence located in the BR-1 Zoning District. The Subject Property is improved with a dwelling, walkways, and backyard area with pool and a two-story detached garage.

In 2022, the Applicants proposed to demolish the existing detached garage and construct a new two-story detached garage on the Subject Property. In connection therewith, the Applicants sought and were granted a variance by the Borough of Conshohocken Zoning Hearing Board from Section 27-811.C of the Zoning Ordinance to allow for the proposed detached two-story garage to

have a maximum height of 24 feet to the midpoint of the sloped roof and 28 feet to the roof peak. Thereafter, Applicants constructed the detached two-story garage on the Subject Property. The constructed detached two-story garage included a second-floor deck on the rear of the structure facing towards the residential dwelling along with a set of stairs to access the backyard area.

Upon inspection of the constructed two-story detached garage, the Zoning Office issued the Enforcement Notice on the basis that (i) the deck is not permitted on an accessory structure such as the detached two-story garage; and (ii) that the second floor deck encroaches within the required side yard setback.

Applicants hereby timely appeals the Enforcement Notice in order to preserve any and all rights, remedies and defenses they may have in connection with the Enforcement Notice. In the alternative, the Applicant seeks the necessary variances to permit the deck and stairs to remain as constructed.

Legal Standard:

In considering an application for a variance, the Zoning Hearing Board is required to apply the provisions of Section 10910.2 of the Pennsylvania Municipalities Planning Code. Section 10910.2 provides that the Zoning Hearing Board has the authority to grant a variance if it finds that the Applicant has met its burden with respect to the following five elements:

- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the appellant.
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In determining whether the Applicant has established the existence of an unnecessary hardship, the Pennsylvania Supreme Court has stated that the Zoning Hearing Board may consider multiple factors including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. Hertzberg v. Zoning Board of Adjustment of Pittsburgh, 721 A.2d 43, 50 (Pa. 1998).

Conclusion:

At the time of public hearing on this matter, the Applicant will present sufficient credible evidence and testimony to demonstrate that is entitled to the requested variances in accordance with the provision of the Pennsylvania Municipalities Planning Code and applicable caselaw.



Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Anita Barton, Member
Stacy Ellam, Member
Kathleen Kingsley, Member
Adrian Serna, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

SENT VIA CERTIFIED MAIL AND U.S. MAIL

August 10, 2023

David P. and Lisa P. McLafferty
116 West 2nd Avenue
Conshohocken, PA 19428

Re: **116 W. 2ND AVENUE**
PARCEL ID NO.: 05-00-07572-00-1
ZONING ENFORCEMENT NOTICE

Please be advised, that the subject property located within the Borough of Conshohocken is in violation of the terms of the Borough Zoning Code and the granted variances obtained from the Zoning Hearing Board Decision dated May 5, 2022. Specifically, in accordance with the terms of the Zoning Hearing Board decision under zoning application no. Z-2022-02 and hearing dated March 21, 2022, you were granted a variance for relief from Section §27-811.C(1) of the Conshohocken Borough Code of Ordinances to permit the construction of an accessory structure with a height of 24 feet measured to the midpoint of the slope roof and 28 feet when measured to the roof peak. Approval of the variances are granted subject to compliance with all local, state, and federal laws and regulations, in addition to any representations made during the hearing.

Based on the accessory structure as built on the subject property, you are in violation of the terms, conditions, and testimonies in which the variances were granted by the Zoning Hearing Board Decision dated May 5, 2022 and violation of the Zoning Code Sections as follows:

- **Per Section §27-830 – Decks** - *Decks as herein defined shall be permitted to be constructed at or to the rear of a dwelling. Any deck proposed to be attached to the side of a dwelling or rear deck proposed to extend or “wrap around” the side of a dwelling, shall require the review and approval of the Zoning Hearing Board. Decks constructed at the front of a dwelling are expressly prohibited. Decks may be constructed only at ground level or first floor of a dwelling.*
- **Per Section §27-805.B – Projections into Required Yards** - *No building and no part of a building shall be erected within or shall project into any required yard in any district, except that: A terrace, platform, deck, or landing place, not covered by a roof, canopy or trellis, which does not extend above the level of the first floor of the building, may be erected to extend into a required side or rear yard a distance of not more than 12 feet provided that it shall not extend into such yard more than 50% of the required depth or width of the yard. Terraces, platforms, and decks are expressly prohibited in the front yard of a dwelling.*

The 8' wide x 36' long deck and stairs as constructed without Borough of Conshohocken permits, and which is attached to the second floor of the constructed accessory two-story garage building is not permitted since decks are only permitted to be attached to the rear of a dwelling. The accessory two-story garage building is not considered a dwelling by definition. In addition, the deck can only be constructed and project into a required yard at ground level or at the first floor of a dwelling. The deck as constructed is projecting into the side yard from the second floor of the accessory two-story garage building which is not a dwelling.

Since the May 5, 2022 Zoning Board decision did not grant the additional variances from Sections §27-830 and §27-805.B of the Conshohocken Borough Code of Ordinances, you are required to remove the 8' wide x 36' long deck and stairs attached to the accessory two-story garage building; or obtain a variance from Code Sections §27-830 and §27-805.B in order to permit the deck and stairs attached to the second floor of the accessory two-story garage building which is not a dwelling, as well as, to permit the deck and stairs to project into the side yard from the second floor of the accessory two-story garage building.

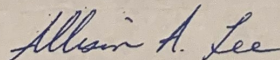
By **September 11, 2023**, you must come into compliance with the Borough ordinance by removing the deck and stairs that were constructed without Borough permits.

YOU HAVE THE RIGHT TO APPEAL TO THE ZONING HEARING BOARD WITHIN 30 DAYS OF RECEIPT OF THIS NOTICE.

YOUR FAILURE TO COMPLY WITH THIS NOTICE WITHIN THE TIME SPECIFIED UNLESS EXTENDED BY APPEAL TO THE ZONING HEARING BOARD CONSTITUTES A VIOLATION OF THE ZONING ORDINANCE WHICH MAY RESULT IN A JUDGEMENT AGAINST YOU OF \$500.00 PLUS ALL COURT COSTS AND REASONABLE ATTORNEY RESULT IN A JUDGEMENT AGAINST YOU OF \$500.00 PLUS ALL COURT COSTS AND REASONABLE ATTORNEY FEES INCURRED BY THE BOROUGH. EACH DAY THAT THE VIOLATION CONTINUES MAY CONSTITUTE A SEPARATE VIOLATION.

If you have any questions or concerns, please feel free to contact the undersigned at 484-243-6073 or zoning@conshohockenpa.gov.

Sincerely,



Allison A. Lee, PE

Zoning Officer

PENNONI ASSOCIATES INC.

AAL/

cc: Ray Sokolowski
Stephanie Cecco
Chris Small

BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN

IN RE: APPLICATION OF DAVID AND LISA MCLAFFERTY

REGARDING

116 W. 2nd AVENUE

APPLICATION NO. Z-2022-02

DECISION OF THE BOARD

I. HISTORY

On or about January 21, 2022, David and Lisa McLafferty (the “Applicants”), filed a Zoning Hearing Board application before the Conshohocken Zoning Hearing Board (the “ZHB”) seeking a variance from the terms of Section 27-811.C(1) of the Borough of Conshohocken Ordinance (the “Ordinance”) for the property located at 116 W. 2nd Avenue Conshohocken, PA 19428 (the “Subject Property”) to permit the construction of an accessory structure with a height of 24 feet measured to the midpoint of the sloped roof and 28 feet when measured to the roof peak (the “Application”).

After notice was duly given and advertised, a hearing was held on March 21, 2022. At the hearing, the following Exhibits were introduced and admitted:

Conshohocken Zoning Hearing Board Exhibits

- P-1 Zoning Application
- P-2 Deed
- P-3 Sketch Plan
- P-4 Six (6) Site Photographs
- P-5 Garage Drawing
- P-6 Photograph of Prior Garage

P-7 Zoning Determination dated 3/14/22

P-8 Zoning Notice

Applicant's Exhibits

A-1 Deed

A-2 Aerial Photographs

A-3 Photograph

A-4 Sketch plan

A-5 Photographs of Proposed Garage

A-6 Rendering of Proposed Garage

A-7 Photographs of Other Garages

A-8 Photograph depicting the proximity of Applicant's property to several of the tallest buildings in the Borough

A-9 Petition of Support for Relief

A-10 Letter from Mr. and Mrs. Collins

Applicants were represented by Andrew Freimuth, Esq. of Wisler Pearlstine, LLP.

I. FINDINGS OF FACT

1. The Subject Property is located at 116 W. 2nd Ave. Conshohocken, PA 19428.
2. The Applicants are the legal owners of the Subject Property.
3. The Subject Property is located in the BR-1-Borough Residential 1 Zoning District.
4. The lot dimensions are 40 feet by 160 feet.
5. The Subject Property is improved with a single family dwelling, deck, walkways, and an outdoor area extending back to the alley in the rear of the property.

6. An existing two (2) car garage adjacent to the rear alley was recently demolished because it was in poor condition.
7. The height of the old garage was 22 feet to the peak of the roof and had a building footprint of 36 feet long by 20 feet long.
8. The proposed garage will have the same footprint as the prior garage, and will provide for two cars and a reasonably sized second floor for storage.
9. The proposed garage will have a height of 24 feet measured to the midpoint of the roof.
10. The additional six (6) feet in height would help with providing functional and easily accessible storage space for the Applicants.
11. The storage space in the old garage was difficult to get in and out of and did not provide enough space to allow the Applicants to store equipment, bikes, skis, kayaks, canoes and other items.
12. The footprint of the proposed garage will be shifted to the property line.
13. Mr. and Mrs. Collins, owners of the adjoining property, have granted permission for the proposed garage to be shifted to the property line.
14. Applicant David McLafferty was present and offered the following testimony at the hearing:
 - a. Some of the adjoining properties have garages that are taller than the garage that is being proposed.
 - b. The grade on the upper end of the driveway is seven (7) feet higher than the lower end of the driveway.

15. Joseph Collins, 200 Forrest Street, offered the following testimony in support of the Applicant at the hearing:

- a. The proposal is an improvement in comparison to what was there previously.

II. DISCUSSION

Section 27-811.C(1) of the Ordinance states:

Any freestanding building used for an accessory use shall not exceed 350 square feet in area or 15 feet in height if the structure has a peak roof or 10 feet in height if it has a flat roof.

In a request for a variance, the Board is guided by Section 910.2 of the Pennsylvania Municipalities Planning Code (hereinafter called "MPC"). An applicant for a variance has the burden of establishing that a literal enforcement of the provisions of the Ordinance will result in an unnecessary hardship as that term is defined by law, including court decisions, and that the allowance of the variance will not be contrary to the public interest. Section 910.2 of the MPC permits the Board to grant a variance where it is alleged that the provisions of the Ordinance inflict unnecessary hardship upon the applicant and when the Board can make certain prescribed findings where relevant in a given case.

III. CONCLUSIONS OF LAW

From the facts presented, it is the judgment of the Board that Applicant shall be granted the requested variance. Accordingly, the Board is able to make the following relevant findings under Section 910.2 of the MPC:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the property, and that the unnecessary hardship is due to such condition, and not the circumstances or conditions

generally created by the provisions of the Ordinance in the neighborhood or district in which the property is located.

2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Ordinance and that the authorization for a variance is therefore necessary to enable the reasonable use of the Subject Property.
3. That the variance will not alter the essential character of the neighborhood or district in which the Subject Property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property, or be detrimental to the public welfare.
4. That the unnecessary hardship has not been created by the Applicant; and
5. That the variance represents the minimum that will afford relief and represent the least modification possible.

ORDER

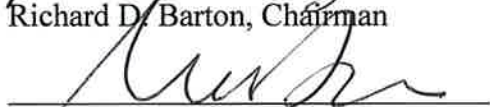
AND NOW, this 5th day of May 2022, the Application of David and Lisa McLafferty, seeking a variance from the Conshohocken Borough Zoning Ordinance of 2001, is **GRANTED** to permit the construction of an accessory structure with a height of 24 feet measured to the midpoint of the sloped roof and 28 feet when measured to the roof peak

The Applicant is directed to apply to the Borough Zoning Officer to obtain any appropriate permits.

CONSHOHOCKEN ZONING HEARING BOARD

Date Personally Delivered:


Richard D. Barton, Chairman


Mark S. Danek, Vice Chairman

Or Date Emailed:

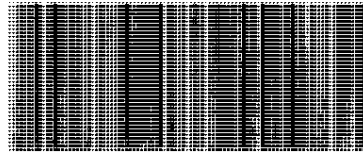

Marlowe Doman

May 5, 2022


Alan Chmielewski



DEED BK 5760 PG 01138 to 01142
 INSTRUMENT # : 2010018330
 RECORDED DATE: 03/05/2010 01:31:44 PM



1294299-0005Y

RECORDER OF DEEDS
 MONTGOMERY COUNTY
Nancy J. Becker


One Montgomery Plaza
 Swede and Airy Streets ~ Suite 303
 P.O. Box 311 ~ Norristown, PA 19404
 Office: (610) 278-3289 ~ Fax: (610) 278-3869

MONTGOMERY COUNTY ROD

OFFICIAL RECORDING COVER PAGE

Page 1 of 5

Document Type: Deed	Transaction #: 1195395 - 1 Doc(s)
Document Date: 04/04/2009	Document Page Count: 4
Reference Info:	Operator Id: egreene
RETURN TO: (Mail) RICHARD W KEIFER	SUBMITTED BY: RICHARD W KEIFER
923 fayette st conshohocken, PA 19428	923 fayette st conshohocken, PA 19428
* PROPERTY DATA:	
Parcel ID #: 05-00-07572-00-1	
Address: 116 W SECOND AVE	
	PA
	19428
Municipality: Conshohocken Borough (100%)	
School District: Colonial	

* ASSOCIATED DOCUMENT(S):	
CONSIDERATION/SECURED AMT: \$1.00	DEED BK 5760 PG 01138 to 01142
TAXABLE AMOUNT: \$0.00	Recorded Date: 03/05/2010 01:31:44 PM
FEES / TAXES:	
Recording Fee:Deed \$65.00	
Total: \$65.00	
	I hereby CERTIFY that this document is recorded in the Recorder of Deeds Office in Montgomery County, Pennsylvania.
	
	<i>Nancy J. Becker</i> Nancy J. Becker Recorder of Deeds

PLEASE DO NOT DETACH

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover sheet, document data always supersedes.

*COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION.



Prepared by:
Richard W. Keifer, Esquire
923 Fayette St.
Conshohocken, PA
19428

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
05-00-07572-00-1 CONSHOHOCKEN
116 W SECOND AVE
MCLAFFERTY DAVID
B 004 U 006 L 1101 DATE: 03/05/2010

\$10.00
JG

Return to:
David P. McLafferty, Esq.
923 Fayette St.
Conshohocken, PA 19428

Parcel No: 05-00-07572-00-I

RECORDED DEEDS
MONTGOMERY COUNTY

2010 MAR -5 PM 1:33



RECORDER OF DEEDS
MONTGOMERY COUNTY

2010 MAR -5 PM 1:33

File No. SA-03-0052

This Indenture, made the 4th day of April, 2009

Between

DAVID P. MCLAFFERTY

(Hereinafter called the grantor), of the one part, and

DAVID P. MCLAFFERTY AND LISA P. MCLAFFERTY, as husband and wife,

(Hereinafter called the grantees), of the other part,

Witnesseth, that the said Grantor for and in consideration of the sum of One Dollar (\$1.00) lawful money of the United States of America, unto them well and truly paid by the said Grantees, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained and sold, released and confirmed, and by these presents do grant, bargain and sell, release and confirm unto the said Grantees

ALL THOSE CERTAIN lots, parcels or tracts of land situate in the Borough of Conshohocken, County of Montgomery, Pennsylvania, being Lot #70 and lot #31 on a plan of Lots laid out by Horace C. Jones bounded and described according to a survey thereby made by John H. Dager, Civil Engineers is April 1890 as follows:

BEGINNING at a stake on the northeasterly side of Second Avenue (previously erroneously identified as revenue) at the distance of 132.2 feet northwesterly from the North corner of said Second Avenue said Forrest Street being a corner of this and Lot 72 on said plan; thence by and along said Lot 72 northeasterly at right angles said Second Avenue 160 feet to an alley 15 feet wide; thence by and along the southwesterly side of said alley northeasterly 40 feet to a stake, a corner of this and Lot 69 on said plan; thence by and along said Lot 69 and parallel with the first line 160 feet to Second Avenue aforesaid and along the same southeasterly 40 feet to the place of beginning.

Parcel no. 05-00-07572-00-1

BEING the same premises which Robert J. Hufford, single man, and Marisa D. Boccella and Luigi Boccella, wife and husband, by Indenture dated 6/12/02 and recorded 7/12/02 in the Office of the Recorder of Deeds in and for the County of Montgomery in Deed Book 5416 page 164 granted and conveyed unto Marisa D. Boccella and Luigi Boccella, husband and wife.

BEING the same premises which Marisa D. Boccella and Luigi Boccella, wife and husband, by indenture dated 5/14/2003 and recorded 5/23/2003 in the Office of the Recorder of Deeds in and for the County of Montgomery in Deed Book 5473 page 0306 and conveyed unto David P. McLafferty.



Together with all and singular the buildings and improvements, ways, streets, alleys, driveways, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of them, the said grantors, as well at law as in equity, of, in and to the same.

To have and to hold the said lot or piece of ground described above, with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantees, their heirs and assigns, to and for the only proper use and behoof of the said Grantees, their heirs and assigns, forever.

And the said Grantor, for himself and his heirs, executors and administrators, do, by these presents, covenant, grant and agree, to and with the said Grantees, their heirs and assigns, that they, the said Grantor, and his heirs, all and singular the hereditaments and premises herein described and granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, his heirs and assigns, against them, the said Grantor, and his heirs, and against all and every other person and persons whosoever lawfully claiming or to claim the same or any part thereof, by, from or under him, her, it, or any of them, shall and will

This transfer is between husband and wife and therefore is tax exempt.

Warrant and Forever Defend.

In Witness Whereof, the parties of the first part have hereunto set their hands and seals. Dated the day and year first above written.

Sealed and Delivered
IN THE PRESENCE OF US:

David P. McLafferty (SEAL)
David P. McLafferty



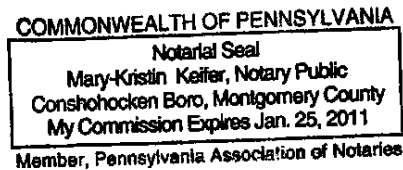
Commonwealth of Pennsylvania
County of Montgomery

On this, the 4th day of April, 2009, before me, a
Notary Public for the Commonwealth of Pennsylvania, residing in the county of
CONSHOHOCKEN, the undersigned Officer, personally appeared David P.
McLafferty, known to me (or satisfactorily proven) to be the person whose name
is subscribed to the within instrument, and acknowledged that they executed the
same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Mary-Kristin Keifer
Notary Public

The address of the above-named Grantee is:



On behalf of the Grantee

File No. SA-03-0052

Record and return to:
David P. McLafferty, Esquire
923 Fayette Street
Conshohocken, PA 19428



REAR ALLEY

14'6"

EXISTING GARAGE

EXISTING DECK

8 FT

BACK YARD AREA

CONCRETE WALK

CONCRETE WALK

STONE 4'x4'
DECK 4'x14'
STONE BELOW

CONCRETE PATIO

STONE AREA 4'x14'

STONE AREA 5'x24'

CONCRETE WALK

EXISTING DWELLING

26'

CONCRETE WALK/PATIO

PORCH 22'

LANDSCAPE AREA 3'x9'
LANDSCAPE AREA 3'x9'
CONCRETE WALK
LANDSCAPE AREA 3'x9'
LANDSCAPE AREA 3'x9'
CONCRETE WALK

CONCRETE PATIO

GRASS AREA 12'x15'

CONCRETE WALK

GRASS AREA 14'x15'

DEWEYAN

CONCRETE SIDEWALK (COMMON)

CURB LINE

3'x12W

2ND AVE.

46