

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
610-863-7288**

ZONING HEARING BOARD

IN ATTENDANCE: Members: Andrew Biondo III, Anthony Curcio, Mark Sharp
Professionals: John Molnar, Solicitor
John E. Blick, Zoning Officer
Millie Del Negro, Secretary

The Zoning Hearing Board meeting of September 3, 2003, was called to order at 7:30 p.m.

**Mr. Michael Detzi
Case No. 5-2003**

All witnesses are sworn in.

John E. Blick presents the Zoning Hearing Board exhibit one: Legal notice for the hearing, application, a copy of the application, a copy of the site plan, three pages of Northampton county tax records, residents within 200 feet and the Wind Gap Zoning code marked exhibit "B". Mr. Detzi has a deck on the corner lot and on one side he does not have the front yard requirements. Roger Bet 20 Fairview Avenue, Wind Gap asked if the variance is in excess of 20 feet off the road? Mr. Blick said the basis of the variance, the deck is too close to the road and it does not meet the front yard setbacks. The code requires this. Mr. Molnar said Mr. Blick is powerless to change what is in the ordinance; only Borough Council can change the ordinance. Mr. Molnar asked Mr. Michael Detzi 4 Fairview Avenue, Wind Gap, if he has an 80-foot frontage on Fariview Ave and asked Mr. Detzi to tell the board why he believes he is entitled to a hardship and for the board to grant a variance. Mr. Detzi said because the house is there for a long time and he went 20 feet wide and it is in line with the house.

Mr. Sharp asked if the deck is already built, reply is yes. If Mr. Detzi moves his deck back, he cannot use his door to go on the deck. Sarah Branham 203 East Center Street, Wind Gap, thought he needed a variance before he is issued a permit, and does not understand why he got a permit first. Mr. Molnar said that some people do build things that are not necessarily uniformly with the zoning ordinance. A permit was not issued from this office. He did not get a permit and has no vested rights. Mr. Blick said is was not until he saw the site plan when he determined he needed a variance. Mr. Molnar asked if Mr. Bet lives near Mr. Detzi and Roger has no objections to the deck. Sherri Acevedo, 3 North Lehigh Avenue, Wind Gap, and she is in support of the deck, it looks nice. Mr. Sharp asked if Mr. Detzi built the deck himself

and he said no, Mr. Ed Chinzy from Bangor did the work. He has no license to work in the Borough. He received an application for the contractor's license. Mr. Molnar closed this portion of the hearings. A decision will be in the mail within 45 days.

Jie Ying & Craig Nottle
Case No. 6-2003

All witnesses are sworn in.

Mr. Blick presenting Zoning Officers exhibit one is a copy of the legal notice, application for the variance that states they want to change 523 South Broadway from a residence to a group family day care, a floor plan showing no bedrooms, three pages of Northampton tax maps and a list of residents within 200 feet and a copy of the cancelled check. Day Care is a permitted use in a commercial district there is an off street parking requirement and is 1 per 12 students, there application indicated twelve students, and one parking space for each employee and they have two employees, they only have two, and they need three. Mr. Carl Muth, 525 South Broadway, Wind Gap, and he lives in the other half of the double and was wondering with the children being attached to another residence. Mr. Blick spoke with Mr. Sharp before the meeting and discussed a section of the code, section 313.32f speaking about the special requirements for a day care, it reads this use shall not be conducted in a dwelling that is physically attached to another dwelling, I do not think this is attached to another dwelling, it is attached to a business. Mr. Nottle wants to convert this into a business. Unless someone lives there, it is not considered a dwelling. Mr. Molnar stated to Mr. Blick, this use shall not be conducted in a dwelling that is physically attached to another dwelling, it is a double house. Mr. Blick said you could have a business next to a dwelling in a commercial district. If you look at the definition of a dwelling, "residents" the application does not show any bedrooms, then no one plans to live there, and if no one lives there it is not a dwelling. You can have an office next to a dwelling. Mr. Molnar asked if this use was conducted in a dwelling, Mr. Blick said if someone lived there it would not be a permitted use in that district because of the requirement. That cannot be conducted in a dwelling unit. Mr. Molnar said, this use shall not be conducted in a dwelling that is physically attached to another dwelling. Mr. Blick said if no one lives there and it is a business.

Mr. Craig Nottle 145 Jefferson Street, Wind Gap, wants to convert this into a day care center and it says we need two parking for the employees and one for the children, the employees are the only ones that will park, the parents will not be parking on the street and are not there full time. And it is only certain times of the day and not on the weekends. No one will be living there. Mr. Curcio asked Mr. Nottle if his plan is going to be only two employees and will they be licensed. Reply was yes. Mr. Molnar asked if it is physically possible to have a third parking space on the lot? Mr. Nottle said you can stack two cars, the inside fence between the two house there is a 36' long spot and we can cut it 4' shorter, we will have two 20' parking spots. Mr. Blick said the requirements for off street parking do not allow stacked parking the dimensional requirement is 10'x20. The width is just about 20' and it is impossible to have three twenty feet parking spaces.

Mr. Curcio asked if it was a dwelling as far as a half of double? Reply was that he rented it out and his

wife will be running it. Mr. Biondo asked if he owns just the half. Reply was yes.

Mr. Blick asked Mr. Nottle if he knows the limitation of this lot, the size of the lot and does he know where it is located, and the topography is fairly flat? Reply was yes to all questions. Also if there are, any other day care centers or business around? Reply was yes the parts place next door. Terry Wagner 517 South Broadway, Wind Gap, is there anything in the zoning regarding enclosure? Mr. Blick answered there are some fencing in section 317, and he does believe the state has requirements, fire code requirements.

The Board will have to make a decision if this is a dwelling it is a commercial business. Mr. Muth is in his attached dwelling 24 hours and 7 days a week.

Mr. Nottle said if they are worried about the noise, we will be open 6:30 to 6:30 Monday thru Friday. Mr. Muth works swing shift and sometimes he sleeps in during the day and will have to deal with all the noise.

The Board went into executive session to discuss any legal issues presented.

The Zoning Board came back to the table with the following determinations:

Case 5-2003--Michael L. Detzi--Mr. Sharp made a motion to accept the variance on the grounds of the uniqueness of the lot and it is not changing the existing characteristics of the neighborhood. Mr. Curcio seconded the motion. All in favor.

Case 6-2003—Jie Ying & Craig Nottle—a variance for off street parking and for a use being permitted under the sections about day care 313.C-32 f. Mr. Sharp makes a motion to deny the variance and that we take the interpretation that it is presently a dwelling and therefore cannot be converted into a day care center to the attached dwelling at this time. Mr. Curcio seconded the motion. All in favor.

Mr. Sharp motioned to deny the variance to the parking. Mr. Curcio seconded the motion. All in favor.

Mr. Curcio makes a motion to adjourn and Mr. Sharp seconded the motion. All in-favor.

Meeting was adjourned at 8:10 p.m.

Millie Del Negro
Zoning Secretary

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