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CITY OF GREENSBURG  
ZONING HEARING BOARD

IN RE: APPEAL NO. 8-2023 )  
 )  
APPLICANT: Adam Schaum and )  
Valerie Ventura )  
 )  
ADDRESS: 118 CLOPPER STREET, )  
GREENSBURG, PA 15601 )

NATURE OF APPLICATION: Applicant requesting ZHB to  
consider an appeal of zoning officer determination at  
118 Clopper Street.

\* \* \*

BEFORE: Greensburg Zoning Hearing  
Board

DATE: Wednesday, July 19, 2023  
TIME: 4:00 P.M.  
TAKEN: Council Chambers, City Hall

\* \* \*

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1 BOARD MEMBERS:

2 Barry Gaetano, Chairman

3 William Biedinger

4 Victoria Baur

5 Kyli Stoner

6 Pete Cherellia, ZHB Solicitor

7 Jeffrey Raykes, Planning Director

8 Jessica Mosko, Administrative Assistant

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\* \* \*

1 PROCEEDINGS CONVENED - 4:05 P.M.

2 \* \* \*

3 MR. GAETANO: I'm going to call the  
4 meeting to order. It's five after four. I'm Barry  
5 Gaetano. I'm Chairman of the Zoning Board for  
6 Greensburg. So if we can take roll call, please.

7 \* \* \*

8 (Whereupon, Roll Call was taken.)

9 \* \* \*

10 MR. GAETANO: Thank you very much.  
11 We have a couple items that we need to take care of  
12 today, but anybody that's going to be speaking today,  
13 I would ask you to stand and be sworn in, please.

14 \* \* \*

15 ALL WITNESSES SWORN

16 \* \* \*

17 MR. GAETANO: Thank you very much.

18 So our first item today, we had our  
19 appointed solicitor resign last month and we need to  
20 vote in a new solicitor and the action that I would  
21 like to make would be that we move to appoint Pete  
22 Cherellia. Pete has been our acting solicitor during  
23 the last several months.

24 Did everybody receive a copy of the  
25 letter that Pete had submitted?

1 MS. MOSKO: It was in the e-mail. I  
2 just printed one out for here.

3 MR. GAETANO: Okay. Do I need to go  
4 through the particulars?

5 MR. RAYKES: I would at least hit on  
6 some of the main items there.

7 MR. GAETANO: Okay.

8 MR. RAYKES: If I could, one more  
9 thing, Mr. Chairman, just a point of clarification.  
10 We didn't ask Lou to resign. Lou had to resign for  
11 health reasons.

12 MR. GAETANO: Yes. So Lou, due to  
13 some health conditions, needed to resign from the  
14 Zoning Board. So, Mr. Cherellia, do you have a CV to  
15 give to us?

16 MR. CHERELLIA: I didn't bring it.

17 MR. GAETANO: Mr. Cherellia, has been  
18 an attorney with Greensburg and has worked through  
19 Attorney DeRose who was our zoning -- our  
20 representation. He's very familiar with the zoning  
21 ordinances in Greensburg. He served as Chair and  
22 local Sewickley Zoning Hearing Board for over  
23 20 years. Do I need to go through the -- okay.

24 So the motion would be to appoint  
25 Mr. Cherellia as the current Zoning Solicitor for

1 Greensburg effective today.

2 MR. CHERELLIA: Probably effective  
3 as -- because Lou resigned as of July the 1st, so we  
4 have coverage from July the 1st.

5 MR. GAETANO: Okay. So effective as  
6 of July the 1st of 2023. So I have a motion there.  
7 Second?

8 MS. BAUR: I would like to second the  
9 motion.

10 MR. GAETANO: Okay. Can we take a  
11 vote, please?

12 \* \* \*

13 (VOTE WAS TAKEN - ALL IN FAVOR)

14 \* \* \*

15 MR. GAETANO: Congratulations! You  
16 are now our solicitor.

17 MR. CHERELLIA: Thank you.

18 MR. GAETANO: Jeff, do you want to  
19 start with -- just give us a background or do you  
20 want to --

21 MR. CHERELLIA: Let me lay it out  
22 first.

23 MR. GAETANO: Okay.

24 MR. CHERELLIA: The first matter of  
25 new business we have today is Appeal No. 8-2023,

1       which the applicants are Adam Schaum and Valerie  
2       Ventura. The appeal is an appeal from the decision  
3       of the zoning officer which was made regarding  
4       property located at 118 Clopper Street, Greensburg,  
5       Pennsylvania. I would note for the record that the  
6       appeal was made in a timely manner from the decision  
7       of the zoning hearing officer, so they have standing  
8       of this matter. I would introduce first the  
9       application from the client. I would note that the  
10      clients have received or the applicants have received  
11      notice of today's hearing and the property was posted  
12      and the property was properly advertised. The notice  
13      of the hearing was advertised on July the 5th and  
14      July the 12th as required by the municipality's  
15      planning code.

16                   Mr. Raykes, do you want to explain a  
17      little bit of the background?

18                   MR. RAYKES: Sure. And thank you,  
19      Pete. So what I'll do is just give you an overview  
20      of the case and some of the moving parts. I'm going  
21      to give you a 50,000 feet flyover because I think  
22      that Adam and Valerie will get into a little more  
23      detail. I don't want to do that twice.

24                   So the appeal is from the  
25      determination of the zoning officer. As you know,

1 the ZHB has the authority to make a determination  
2 about ruling of the zoning officer. A wonderful  
3 check and balance in terms of public process that  
4 allows people within 30 days to appeal a decision of  
5 the zoning officer.

6 In this case, it is about the  
7 issuance of the zoning permit. You'll hear us refer  
8 to the zoning and building permit. Really the issue  
9 here is the zoning permit. Both are necessary before  
10 construction can begin, however, the thing at issue  
11 here is really the zoning permit which is -- you  
12 know, it is something that they can appeal.

13 So 128 is the applicant here is  
14 coming -- we're referring to the applicant. This is  
15 128, and this is Adam and Valerie, and they live in  
16 the house in this photo to the right. And the  
17 neighboring property is Walsh, last name Walsh, and  
18 it's Ryan and Percilla --

19 MS. VENTURA: Felicia.

20 MR. RAYKES: Felicia, thank you.

21 They live in the property immediately to the left.  
22 And we're going to look in a little more detail here.

23 Our objective here is that you  
24 understand the basic mechanics of this particular  
25 case. So where's the property is the first question.

1 So let me see if I can pull this in. The city is not  
2 that big; right? So I'm sure you have a general idea  
3 of where the property is, but let me just share here.

4 So this is 118 Clopper. So just a  
5 couple things that are kind of worth looking at here.  
6 So this is the Seton Hill campus. This is, you know,  
7 college, and then this neighborhood which is  
8 immediately across the street I guess you'd say from  
9 Seton Hill. And as you get a little closer here, you  
10 can see that there is Clopper, really comes off the  
11 main -- what is that, 130, guys? 130, thank you.  
12 Clopper comes this direction. And so at the  
13 intersection, I think this is Brushton -- yeah, this  
14 is Brushton and this is Clopper, is really where  
15 these two homes are.

16 MR. GAETANO: So your house is the  
17 corner property?

18 MR. SCHAUM: Yes.

19 MR. GAETANO: 118 is the next house  
20 down?

21 MR. SCHAUM: Yes.

22 MR. GAETANO: Okay.

23 MR. RAYKES: So the parcel's here,  
24 128, and you can see the parcel numbers there. The  
25 applicant who has explained is at 228. Zoning here

1 is one family residential district. It has no  
2 bearing in terms of the decision other than the  
3 setback requirements in the R-1 you'll hear as  
4 referenced because you can see that essentially the  
5 parties at 118 wanted to put in a pool, communicated  
6 with us, said what permits do we need to do this.  
7 This is very common to secure the permits. And what  
8 was relevant for them because obviously there's a  
9 requirement, you have to put the pool in the  
10 backyard. So they're putting it in the backyard, but  
11 it's really kind of a little bit of a side yard too.  
12 So they wanted to know where it was okay for them to  
13 put the pool.

14 We related actually incorrect  
15 information. What we told them I think was 15 foot  
16 rear, ten foot on the side. It was incorrect. And  
17 so when they drew up the permit, we issued the permit  
18 and we ultimately had to go back and tell them that  
19 it was actually a 30-foot setback in the rear of the  
20 property. So in order to put in a pool from that  
21 rear property line, they needed the pool to be  
22 30 feet towards their home. Okay. The side yard  
23 setback is ten feet. Okay. We had that right. But  
24 the rear yard setback was incorrect. It was either  
25 15 or ten, I can't remember. So we caught that,

1 retracted the permit and then reissued. The bearing  
2 in terms of this application, the determination is  
3 really the granting of the permit is what's in  
4 question. The mechanics of the retraction and  
5 re-issuance are not really in question. Okay. It  
6 was the fact that it happened, but it's not something  
7 they're disputing or is the crux of their appeal.

8           So it's an above-ground swimming  
9 pool, adjacent property. So really when they  
10 submitted this, the applicants, the Walshs here, did  
11 something that they didn't really need to do, but it  
12 was good especially in light of where we are today.  
13 We require a site plan for a zoning permit. A site  
14 plan does not have to be drafted by a professional.  
15 It can be drafted by someone who lives there. So as  
16 long as it hits the scale, and I'm pretty lenient on  
17 that, but as long as it's pretty much to scale and it  
18 has roads, it has buildings and I've got the property  
19 boundaries on the site plan, I trust that the  
20 applicant is telling the truth; right? So I don't  
21 have -- you know, I don't have a way to prove that,  
22 but it's incumbent upon them. I'm making decisions  
23 based on what they're telling me.

24           In this case, they went the  
25 additional step because they had recently got a

1 survey. They submitted the survey, and this is the  
2 Walshs I'm referring to at 118. They submitted a  
3 survey. So once they did that, a combination of that  
4 survey and their site plan having agreed with each  
5 other and having demonstrated that the setbacks were  
6 met, which was 30 in the rear, ten on the side, I was  
7 comfortable issuing the permit. So we issued the  
8 permit, the dates are less important. They first  
9 started that process in April. I think we ultimately  
10 issued the permit, I think it was on May the 25th,  
11 and I have those dates if you're interested, but on  
12 May the 25th. Once they started -- and here's where  
13 I think Adam and Valerie will tell you a little bit  
14 more. What was immediately recognized by the  
15 adjacent property owners was that the property  
16 boundary, something was -- you know, we didn't agree  
17 on where the property boundary was, and that the pool  
18 seemed really close to their house, and I'm referring  
19 to them. Again, they'll get into these details.

20 The difficulty was there was no --  
21 even though they got a survey, they did all the stuff  
22 that was necessary, we gave them -- you know, once  
23 they started that process, I told the Walshs  
24 that there were -- am I going to fast? Sorry. I'm  
25 so sorry (directed to Court Reporter).

1                   So once we knew that -- because Adam  
2 and Valerie had contacted me. My mobile number is  
3 all over the place, so lots of people call me and  
4 text me. So they contacted me and said we think this  
5 boundary is incorrect. Essentially to paraphrase,  
6 can you prove it? They said, well, we're going to  
7 get a survey. So bottom line is we had two dually  
8 surveys. They did a nice job. They went out and  
9 they got a survey. The difficulty is we didn't know  
10 which one was right, so I couldn't retract the permit  
11 based on that. So the pool was built. I explained  
12 they did have an option through appealing the  
13 decision, they could do that. Because the violation  
14 of the setback -- and let me show you. So here's the  
15 two properties -- I should have showed you this  
16 before. There's Brushton and Clopper. You see on  
17 the corner is 128, Adam and Valerie. 118 would be  
18 the Walshs. And the pool is -- this is what it looks  
19 like if you may have driven by doing some research,  
20 but you can see the one on the left is taken from the  
21 front of the house and then the photo on the right is  
22 taken from the rear of the house. Okay. So the  
23 property boundaries that are -- you know, the one  
24 that's marked there, and you'll see it in their  
25 exhibits too, is marked with the stake. Obviously

1 the Walshs' survey was closer to the Schaum's house  
2 or 118 was much closer. In fact, there is --

3 MR. GAETANO: Whose stakes are those?

4 MR. RAYKES: Those are -- this would  
5 be the Schaums --

6 MR. SCHAUM: The pink stakes are  
7 ours.

8 MR. GAETANO: Do they have stakes?

9 MR. SCHAUM: They're very hard to see  
10 from ground level.

11 MR. GAETANO: Okay.

12 MR. RAYKES: So just to finish up.  
13 So I went over there. I think at one point we did a  
14 site visit. I looked at it. I did one before we  
15 ever -- you know, this was in question, I wanted to  
16 see it, and ultimately they built the pool. So they  
17 appealed the decision and that's where we are now.  
18 Anything to add?

19 MR. GAETANO: Just out of curiosity,  
20 do you have a picture of the pool in relationship to  
21 what it looks like right now?

22 MR. SCHAUM: I think it was in the  
23 neighbor's response letter.

24 MR. GAETANO: Who would like to  
25 speak? If you could just state your name and your

1 address, please.

2 MR. SCHAUM: My name is Adam Schaum  
3 from 128 Clopper Street in Greensburg.

4 MS. VENTURA: I'm Valerie Ventura,  
5 also at 128 Clopper Street in Greensburg.

6 MR. GAETANO: Excuse me one second,  
7 please.

8 \* \* \*

9 (Whereupon, Mr. Cherellia conferred  
10 with Chairman.)

11 \* \* \*

12 MR. CHERELLIA: What I would like to  
13 put on the record is that in reviewing the  
14 application, I just wanted to confirm with you, Adam,  
15 that the basis -- I think there is a boundary dispute  
16 where the boundary is located between your property  
17 and the Walshs' property; is that correct? They say  
18 it's in one location. You say it's somewhere else.

19 MR. SCHAUM: Yes. We have the proof  
20 to show that we know where it is, but they're  
21 disputing it. So I guess essentially you're right,  
22 there's a dispute.

23 MR. CHERELLIA: So under the case law  
24 of the Commonwealth of Pennsylvania, a Zoning Hearing  
25 Board does not have the authority or jurisdiction to

1 determine boundary disputes, and that's what it  
2 amounts to here. So therefore, I believe that we  
3 cannot at this time, you know, render a decision  
4 regarding where the property line is. You would have  
5 to -- either you or the Walshs would have to initiate  
6 an action in the Court of Common Pleas to have the  
7 boundary lines determined. And then once that  
8 boundary line is determined by the Court of Common  
9 Pleas, then you can come back to us and say this is  
10 where the line is and, you know, where it is and do  
11 we still have -- if you come in and say that they're  
12 too close to the boundary line, then the board would  
13 have to sustain your appeal. Or if they put down  
14 where they said the line was, then we would have to  
15 dismiss the appeal. But I think at the present time,  
16 it's moot because we can't make that determination  
17 for you sadly. And I also don't want to have your  
18 appeal dismissed right now because then you would  
19 have to come back and start all over again even if  
20 you could.

21 I will note for the record that I  
22 have reviewed it and there was a timely appeal of the  
23 zoning officer's decision made. So they have  
24 standing to be here today. Okay. What I would  
25 recommend to the board and to the applicant is if we

1 just continue this case generally, which means that  
2 we're going to hold it at bay. Okay. Once a  
3 determination is made by the Court, then you would  
4 have a right to come back in and the board could then  
5 make a decision. Is that agreeable with you?

6 MR. SCHAUM: Yes, we agree. We  
7 appreciate you all being here in this short period of  
8 time and we will take your advice and we will defer  
9 this until a decision is made in the Courts.

10 MR. GAETANO: So we need then to have  
11 a motion to continue.

12 MR. CHERELLIA: Can I make a  
13 recommended motion?

14 MR. GAETANO: Yeah, please do so.

15 MR. CHERELLIA: I think I would make  
16 a motion. It appearing to the board that the  
17 applicant has filed a timely appeal of the decision  
18 of the zoning officer to grant a building and zoning  
19 permit for No. 8-2023, and it further appearing that  
20 a property boundary dispute is the basis of the  
21 appeal and that the Zoning Hearing Board has no  
22 authority to determine property boundaries.

23 With the consent of the applicant,  
24 the hearing on the appeal is continued generally  
25 until there is a legal determination of the property

1 boundary of the applicant. After the determination,  
2 the applicant can request in writing that the hearing  
3 be rescheduled.

4 Does anybody want to make that motion  
5 to continue the case?

6 MR. BIEDINGER: Yes, I'll make the  
7 motion.

8 MR. GAETANO: Okay. Thank you. Do  
9 we have a second?

10 MS. BAUR: I'll second it.

11 MR. GAETANO: Okay. We have a  
12 second.

13 MR. BIEDINGER: I recommend the  
14 motion that was read by the solicitor.

15 MR. GAETANO: Do we have a second?

16 MS. BAUR: Yes, I would like to  
17 second the motion made by the solicitor.

18 MR. GAETANO: And can you take a roll  
19 call?

20 \* \* \*

21 (VOTE WAS TAKEN - ALL IN FAVOR)

22 \* \* \*

23 MR. GAETANO: Okay. So at this point  
24 in time then, the hearing is continued until we would  
25 hear back from you.

1 MR. SCHAUM: Thank you.

2 MR. RAYKES: Just a point of  
3 clarification, Mr. Chairman. The prime mover here  
4 for opening this hearing or revisiting this case  
5 would be from the applicant at 128?

6 MR. GAETANO: Correct.

7 MR. RAYKES: Or the resident at  
8 118 --

9 MR. CHERELLIA: The interested  
10 parties.

11 MR. RAYKES: -- who also has  
12 standing. And the reason I'm making that  
13 clarification is that it's important to know what  
14 would bring the board back to the case.

15 MR. CHERELLIA: Maybe we want to  
16 amend the motion to say that at the end of that  
17 motion either the applicant or the adjacent land  
18 owner, Ryan and Felicia Walsh, can request in writing  
19 a hearing be scheduled on the matter.

20 MR. RAYKES: What's it currently say,  
21 Pete?

22 MR. CHERELLIA: I added that at the  
23 end of the --

24 MR. RAYKES: What's it currently say  
25 before we did that?

1 MR. CHERELLIA: We said the applicant  
2 could request a hearing.

3 MR. RAYKES: Okay. Applicant for?

4 MR. CHERELLIA: Now, if we approve  
5 this, either the applicant can come back or the  
6 Walshs, the interested party can come back and  
7 request a hearing.

8 MR. GAETANO: Point of clarification  
9 though. So the hearing was scheduled because of  
10 their action.

11 MR. CHERELLIA: Right.

12 MR. GAETANO: So if adjacent property  
13 request the hearing to be reopened, we can't act  
14 still until the land dispute is decided. So really  
15 theirs was the appeal which triggered the hearing.  
16 I'm not sure how the other landowner can trigger the  
17 reopening of that. They would have to file; correct?

18 MR. RAYKES: And I would defer to  
19 Pete, but --

20 MR. CHERELLIA: They're both  
21 interested parties. Okay. Either party could want  
22 to make sure that -- either Schaum and Ventura --  
23 Adam and Valerie could come in once a determination  
24 is made by the Court. It's going to be very clear  
25 for them and to this board that they're going to have

1 to rule one way or the other. Okay. And depending  
2 on whatever came out of the Court or if there was  
3 some kind of an agreement between the parties, then  
4 either one I believe has -- so we can actually close  
5 out this matter, okay, so we have to really close it  
6 out. And the only way we can close it out is if one  
7 of the parties come back to us. So that's why I  
8 think we're saying either the applicant or adjacent  
9 landowner could come back to us to have a hearing  
10 scheduled, present the Order of Court, whatever they  
11 would get from the Court of Common Pleas, and then I  
12 think it would almost become a very easy decision for  
13 the board.

14 MR. GAETANO: So just to reiterate.  
15 Our original motion did say that we can't reopen by  
16 request of either party until there's a land ruling  
17 by the Court; is that correct?

18 MR. CHERELLIA: Yes.

19 MR. RAYKES: Correct. I guess what  
20 I'm thinking is you could request that the hearing be  
21 reopened without the ruling, but you would be forced  
22 as a board to deny the application. Do you see, like  
23 it would be up to them to -- the continuance.

24 MR. GAETANO: So that's where my  
25 question then is, if the other party requested it to

1 be opened for discussion before the Court's ruling,  
2 but that's why I'm saying I think our motion needs to  
3 say either party can ask to have it reopened once  
4 a --

5 MR. CHERELLIA: Right.

6 MR. GAETANO: Once the Court ruling  
7 has been made.

8 MR. CHERELLIA: And that's what I  
9 said. The case is continued generally until there is  
10 a legal determination of the property boundary.

11 MR. GAETANO: Okay. Okay. So then  
12 we would just need to have a friendly amendment if we  
13 could.

14 Do you agree to the friendly  
15 amendment that says either party can request the  
16 opening of the appeal -- the reopening of the appeal  
17 upon the determination by the Commonwealth Court?

18 MR. BIEDINGER: I agree.

19 MR. GAETANO: Okay. Perfect. So do  
20 we need to vote on that again?

21 MR. CHERELLIA: Yes.

22 \* \* \*

23 (VOTE WAS TAKEN - ALL IN FAVOR)

24 \* \* \*

25 MR. CHERELLIA: Motion carries.

1 MR. GAETANO: Motion carries. So  
2 please let us know. So we need a motion to adjourn  
3 the meeting.

4 MS. STONER: I'll motion to adjourn.

5 MR. GAETANO: Thank you very much.

6 MS. BAUR: Second.

7 MR. GAETANO: We are adjourned.

8 Thank you.

9

10 \* \* \*

11 PROCEEDINGS CONCLUDED - 4:32 P.M.

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