



Community Development Department
ZONING HEARING BOARD AGENDA

**Thursday, August 29, 2019
7: 00 P.M.**

1. Call to Order
2. Pledge of Allegiance

3. APPEAL #3045

The appellant, DJB Properties, 131-133 Garrett Avenue, appealing the Zoning Officer's Enforcement Notice dated June 6, 2019 regarding a structure that exceeds the maximum allowable building height. Appellant requests a variance from Code Ch. 280, Sec. 49.5 and Ch. 280, 49.6.A(2)(a)[1] relating to the manner of measure as well as the maximum height limitation of 30'. Appellant proposes to construct a twin-dwelling which has a maximum height of 36'-9" when measured pursuant to the aforementioned Code Sections.

In the alternative, Appellant requests that the Zoning Hearing Board make a determination that Appellant (i) has acquired a vested right in the permits that were issued by the Township; (ii) has acquired the requested zoning relief through variance by estoppel; (iii) has acquired the requested zoning relief through equitable estoppel; and (iv) has acquired the requested zoning relief through any other legal or equitable principles that are developed during the hearing on this matter.

The next meeting of the ZHB is scheduled for September 19, 2019.

ZONING HEARING BOARD APPLICATION
TOWNSHIP OF RADNOR
301 IVEN AVENUE
WAYNE, PA 19087
610-688-5600
FAX: 610-971-0450
www.radnor.com
www.radnor.com

TOWNSHIP USE ONLY
APPEAL # <u>3045</u> FEE: _____ DATE RECEIVED: <u>7-2-19</u>

GENERAL INFORMATION: Applicants are strongly encouraged to review the "Requirements and Information for Appeals to the Zoning Hearing Board" that are attached to the application. Ten (10) copies of this application and required attachments along with an electronic submittal in pdf format (CD or thumb drive) must be filed with the Community Development Department not less than thirty (30) calendar days prior to the hearing. *Incomplete applications will not be accepted for processing.*

REQUIRED FEE DUE AT FILING: Please refer to the Consolidated Fee Schedule, as amended on our website at www.radnor.com for a copy of our current fees.

TYPE OR PRINT

Property Address: 131-133 Garrett Avenue

Name and address of Applicant: DJB Properties
PO BOX 988, Conshohocken, PA 19428

Telephone Number: 484-344-5429 Email: msd@daneklawfirm.com

Property Owner (if different than above): n/a

Owner address: n/a

Telephone number: n/a Email: n/a

Attorney's name: Mark S. Danek, Esq.

Address: 1255 Drummers Lane, Suite 105, Wayne, PA 19087

Telephone number: 484-344-5429 Email: msd@daneklawfirm.com

Relief requested and/or basis for appearing before the Zoning Hearing Board including *specific citation to any and all sections of the Zoning Code relevant to the appeal. (attach additional pages if necessary)*

Appeal from Enforcement Notice dated June 6, 2019.

Appellant requests a variance from Code Ch. 280, Sec. 49.5 and Ch. 280, 49.6.A(2)(a)[1] relating to the manner of measure as well as the maximum height limitation of 30'. Appellant proposes to construct a twin-dwelling which has a maximum height of 36'-9" when measured pursuant to the aforementioned Code Sections.

The proposed structure is substantially completed. Construction began on the project pursuant to the Township's issuance of building (and other related) permits authorizing the construction of the structure based upon a review of a construction set of drawings filed by the Appellant on or about September 11, 2018.

The drawings as-submitted provide several elevations of the proposed structure. Each drawing consistently shows a height of at least 36'-9".

In the alternative, Appellant requests that the Zoning Hearing Board make a determination that Appellant (i) has acquired a vested right in the permits that were issued by the Township; (ii) has acquired the requested zoning relief through variance by estoppel; (iii) has acquired the requested zoning relief through equitable estoppel; and (iv) has acquired the requested zoning relief through any other legal or equitable principles that are developed during the hearing on this matter.

Description of previous decisions by the Zoning Hearing Board pertinent to the property, or attach copies of decisions: (*attach additional pages if necessary*)
not known

Brief narrative of improvements: (attach additional pages if necessary)
Appellant proposes to construct a twin dwelling on the site.

ATTACHMENTS: Ten (10) copies of each and one (1) electronic copy in pdf format (CD or thumb drive) of the following must be provided:

1. **Engineered plan or survey of the property drawn to scale, prepared by a registered architect, engineer or surveyor licensed in Pennsylvania, containing the following information:**
 - a) lot lines and lot dimensions described in metes and bounds (in feet);
 - b) total lot area;
 - c) location of easements and rights of way, including ultimate rights of way;
 - d) location of all setback lines for existing and proposed structures;
 - e) location of steep slopes, floodplains, riparian buffers, wetlands, and other pertinent features;
 - f) location of existing and proposed improvements;
 - g) table of zoning data including zoning district, required setbacks, existing and proposed building coverage, impervious coverage, height, and other pertinent zoning restrictions, and any degree of compliance or noncompliance; and
 - h) all other features or matters pertinent to the application.

PLANS SHALL NOT EXCEED 24" X 36", AND MUST BE NEATLY FOLDED TO NO GREATER DIMENSION THAN 8 ½" X 11" AT FILING

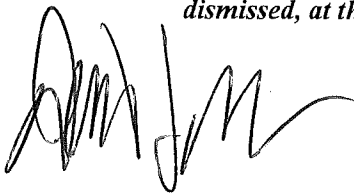
2. List of witnesses and summary of their testimony attached.
3. Photographs of the property at issue and all adjoining properties.
4. Copies of any written professional reports, including traffic studies, land planning studies,

appraisals, floodplain analyses, economic forecasts or other written reports, which the applicant wishes to present at the hearing (*note: the author of the study or a qualified representative of the entity who prepared the study must appear at the meeting and be available for cross-examination*).

5. Copy of deed, lease, agreement of sale, or other authorization to file the appeal. (*note: leases or agreements of sale either must expressly permit the tenant or buyer to file an appeal, or must be accompanied by a letter from the owner clearly authorizing tenant or buyer to file the appeal*).

ADDITIONAL REQUIREMENTS

1. Will this application involve the subdivision of land? Applications that involve the subdivision of land are referred to the Planning Commission for review and recommendation. *Applicants will be notified of the date and time of the Planning Commission meeting*
2. Will briefs or memoranda of law be filed in accordance with requirements of the Zoning Hearing Board? (*note – 10 copies of any brief or memorandum of law to be submitted by the applicant must be received by the Community Development Department no later than 14 days before the hearing*).
3. Will the applicant (or duly authorized officer of the applicant, if applicant is not a natural person) be present at the hearing. If not, then power of attorney, notarized and in recordable form, authorizing the person who will testify on behalf of the applicant, and to bind the applicant in any proceedings of the Board must be presented at or before commencement of the hearing. Attorneys, agents, or other representatives of the applicant may not appear and testify on behalf of the applicant without power of attorney. Forms of power of attorney are available in the Community Development Department. (*note: failure to provide power of attorney will result either in the appeal being continued, or being dismissed, at the discretion of the Board*)




SIGNATURE OF APPLICANT

AN ADDITIONAL FEE OF \$200 SHALL BE CHARGED FOR ANY CONTINUANCE REQUESTED BY THE APPLICANT. THIS FEE SHALL BE PAID PRIOR TO THE RESCHEDULING OF THE HEARING.