

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
May 13, 2015 – Regular Meeting**

MEMBERS PRESENT: Mr. Hackney, Mr. Whited,
Mr. Lenz, Mr. Riddell, Mr. Cavens

MEMBERS ABSENT: Mr. Moeller

STAFF PRESENT: Cathy Walton, Code Enforcement Officer
Vicki Sparks, Administrative Assistant

CALL TO ORDER: 6:30 PM

ADJOURNMENT 8:30 PM

Mr. Hackney called the meeting of the West Chester Board of Zoning Appeals to order.

Ms. Walton called the roll.

BZA 15-11 Northstar Care Services, LLC

Ms. Walton was sworn in by Mr. Hackney.

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments, outside agency comments, and case history. Ms. Walton stated that the applicant is requesting a conditional use for the property at 7505 West Chester Road to allow a senior adult day program in an R-1A, which is Suburban Residence district. Ms. Walton reviewed the standards for a conditional use with the board members.

Mr. Whited questioned what the 12-15 people would be added to. Ms. Walton stated that they would be bringing in another 12-15 seniors to what is the normal daily clientele at the pay lake.

Mr. Riddell questioned how the seniors would be transported. Ms. Walton stated that those coming from the Charleston Club would be transported by a senior bus and that there would be additional seniors that receive in-home care who would come individually.

Mr. Hackney swore the applicant in.

**Applicant: Hugh Clark
7786 Service Center Drive
West Chester OH 45069**

Mr. Clark stated that he has a desire to develop an oasis for seniors. He stated that he gets many calls from people, looking for something like this. He stated that the vision would be to create a lodge type of an environment. Mr. Clark stated that Lake Butler Lodge is something that they envision; something that is cedar-sided, with decks overlooking the lake. Mr. Clark stated that they would also like to erect temporary teepees to expand the availability to include boys and girls clubs.

Mr. Hackney questioned if the intent is to take down or remodel the existing building. Mr. Clark stated that they would remodel and expand it. He stated that they wanted it to be less institutional and more home-like. Mr. Clark stated that many seniors are oftentimes uncomfortable having a caretaker come into their home. He stated that this gives them another option. Mr. Clark stated that this facility would be heavily supervised and have a professional staff, including nurses.

Mr. Hackney questioned if the Charleston Club is strictly an adult day care center. Mr. Clark stated that it is. He stated that they accept clients from the age of 22 and up. Mr. Clark stated that the average population is around 45-50 years old.

Mr. Hackney questioned what the hours of operation are. Mr. Clark stated that it would be normal hours.

Mr. Whited stated that he thinks that this is a wonderful idea. Mr. Whited questioned what the limitation of the number of clients would be. Mr. Clark stated that he had the same concerns because he receives calls daily needing this type of service. He stated that it would be determined by what is best for the community. They would prefer to have a smaller community with more personalized care.

Mr. Whited questioned if they are licensed and how is the club governed. He questioned how many clients were allowed. Mr. Clark stated that that would be governed by the Department of Aging.

Mr. Riddell questioned whether there is an agency for adult care such as there is for child care, like the Department of Jobs and Family Services. Mr. Clark stated that there is and that there are state guidelines and that they are inspected every three years.

Mr. Lenz questioned regarding transportation from the Charleston Club to the proposed facility and questioned whether 1000 square feet would be adequate for the number of people expected. Mr. Clark stated that it would.

Mr. Riddell questioned whether the clients are outside part of the time. Mr. Clark stated that they would be and that there are many activities for them.

Mr. Cavens questioned if this is similar to a day camp. Mr. Clark stated that some people would choose to stay at the facility for the day, while others would be able to be involved in other activities. Mr. Cavens questioned if they knew what the current number of patrons would be.

Mr. Clark stated that the number of patrons to the pay lake has diminished, so it's hard to determine exactly how many people would be involved.

Mr. Cavens questioned how many parking spaces there are. Mr. Clark stated that he thought there were probably about twenty but that there is room for additional parking.

Mr. Lenz questioned regarding setting up teepees for boys and girls clubs if this facility is meant for adults. Mr. Clark stated that they would just like to give the community opportunities to enjoy the lake.

Mr. Hackney questioned if they are currently required to be licensed. Mr. Clark stated that they are certified by the Ohio Department of Developmental Disabilities for the purposes of operating the Charleston Club. He stated that through the state of Ohio there are broad guidelines and no licensure for adult day care. He stated that they would follow the guidelines that they adhere to at the Charleston Club.

Mr. Hackney questioned what the operating hours would be. Mr. Clark stated that they operate the Charleston Club from about 7:00 am to about 5:30 in the evening. He stated that this allows working people the time to drop off and pick up before and after work. Mr. Clark stated that the pay lake would remain open later for the rest of the community.

Mr. Riddell stated that he would encourage them to keep the pay lake open. Mr. Riddell questioned security issues for those clients who might possibly try to leave the property. Mr. Clark stated that they have not experienced that. He stated that the clients are highly supervised without being smothering.

Mr. Whited questioned if there are any limits to the number of clients. Mr. Clark stated that it is strictly company policy.

Mr. Cavens questioned if Mr. Clark would be ok with the board putting a stipulation as to the number of clients they could have. Mr. Clark stated that they would be absolutely fine with it.

Proponent: None

Mr. Miller was sworn in by Mr. Hackney.

Opponent: Gary Miller
7394 West Chester Road
West Chester OH 45069

Mr. Miller stated that he is opposed due to safety concerns of traffic entering and exiting the property. He stated that he is in favor of the idea but he is opposed to the location.

Neutral: Danielle Richardson
7482 Fence Row
West Chester OH 45069

Ms. Richardson stated that she loves this property. She stated that she thinks the proposed use is a great idea. Ms. Richardson questioned whether this property will still have a single family residence. Ms. Richardson also questioned the school bus issue.

Applicant: Hugh Clark
7786 Service Center Drive
West Chester OH 45069

Mr. Clark stated that the clients are transported in vehicles that are smaller than school buses, many times in minivans. Mr. Clark stated that the 1200 square foot residence will remain in the basement.

Board Deliberation

Mr. Whited questioned if the existing residence on the property was an issue or whether it was grandfathered in. Ms. Walton stated that it is ok.

Mr. Hackney questioned whether the second parcel belongs to the same owner. Ms. Walton stated that it does.

Mr. Lenz stated that he likes the concept but that he has real concerns with the mixed use; adult day care, fishing lake, teepees for boys and girls clubs. Mr. Lenz stated that he thinks that we should put a limit on the number of day care clients and on the hours that they could be brought onto the site.

Mr. Cavens stated that in many ways he agrees with Mr. Lenz and stated that he believes this concept is a great idea. However, he stated that he does not have a concern with the pay lake. Mr. Cavens stated that he likes the idea of these patients being able to be together with younger families and others in the community. Mr. Cavens stated that he does believe that there should be a limit on the number of clients.

Mr. Riddell stated that he likes the idea but agrees that there should be a limit on the number of clients.

Mr. Whited questioned staff if this is a legal non-conforming use. Ms. Walton stated that it is. Mr. Whited stated that as it sits now, they can have as many people as they want on the property. He questioned whether the restrictions on the conditional use would change with future ownership. Ms. Walton stated that it would remain the same.

Mr. Riddell questioned whether Mr. Clark could have brought as many seniors there as he wanted, even if he was not purchasing the property from the current owner. Ms. Walton stated that there would be no limit.

Mr. Hackney stated that he felt there was a difference since Mr. Clark plans on taking care of these people. Mr. Hackney stated that he is not against this, but feels that limitations should be set as to the number of people. He stated that he would be comfortable with 20-25 people.

Mr. Cavens agreed with Mr. Hackney and suggested that they go by the number of parking spaces and allow 20 people.

Mr. Whited questioned regarding past cases of legal non-conforming use. Ms. Walton stated that this is not an expansion of the non-conformance. She stated that it is a use that is permitted as a conditional use.

Mr. Hackney questioned if the applicant would still need a conditional use if the existing pay lake and restaurant were taken away. Ms. Walton stated that they would still need a conditional use.

Mr. Riddell stated that he feels that we should set a number for how many clients are allowed.

Mr. Hackney questioned Ms. Walton regarding capacity signs that you see in restaurants, meeting rooms, etc. Ms. Walton stated that the capacity is determined by the Fire Department.

Mr. Lenz stated that he imagined there would be additional supervisory staff, depending on the number of clients.

Mr. Cavens questioned whether the applicant could come back to ask for a variance if he wanted to have more clients than what we limit him to. Ms. Walton stated he could come back if he wanted a variance to expand to allow for more clients.

Mr. Riddell stated that he is ok with this proposal.

Mr. Cavens made a motion to approve BZA 15-11 as submitted, contingent on maintaining a limit of 21 supervised seniors at any given time.

Mr. Whited seconded.

Mr. Lenz questioned if the board was putting limits on the hours of operation. Mr. Hackney stated that he would like to see limitations. Mr. Riddell stated that he agreed with Mr. Cavens that there was no need for limitations, as he felt that Mr. Clark would use good judgment.

Aye: Mr. Whited, Mr. Riddell, Mr. Cavens

Nay: Mr. Hackney, Mr. Lenz

BZA 15-12 Don Warmbier

Ms. Walton was sworn in by Mr. Hackney.

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments, outside agency comments, and case history. Ms. Walton stated that the applicant is requesting a variance for the property

at 9142 Revere Run to allow poultry husbandry on a lot with less than three acres. The property is zoned R-1A, which is Suburban Residence District. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Whited questioned why someone needs a variance to allow pets. He questioned why chickens are not considered pets. Mr. Hackney stated that these are not pets. Ms. Walton stated that, by definition this is poultry husbandry, which requires a variance if the property is less than three acres. Mr. Whited questioned why there are no restrictions on hamsters and rabbits, etc. Mr. Lenz stated that it's because they are not farm animals.

Mr. Cavens questioned whether this was an HOA community. Ms. Walton stated that she did not know the answer to that.

Mr. Lenz questioned regarding the two accessory structures. Ms. Walton stated that the applicant is removing one structure in order to build the coop.

Mr. Whited questioned whether our restrictions would trump HOA guidelines. Ms. Walton confirmed that the HOA may have additional restrictions that are outside our code but they cannot have regulations that violate the zoning code.

Mr. Warmbier was sworn in by Mr. Hackney.

**Applicant: Don Warmbier
9142 Revere Run
West Chester OH 45069**

Mr. Warmbier stated that there is no HOA. Mr. Warmbier stated that they have gone to all the neighbors within 200' of their property asking them to sign a petition if they were in favor of this proposal. Mr. Warmbier stated that they had no objections from any of them.

Proponent: None

Ms. Vilkosky was sworn in by Mr. Hackney.

**Opponent: Jane Vilkosky
9204 Revere Run
West Chester OH 45069**

Ms. Vilkosky questioned if there was a limit of four chickens and if roosters would be allowed. Mr. Hackney stated that that was the recommendation of staff but that the board would decide for sure. Ms. Vilkosky also questioned the size and appearance of the coop and would the variance stay with the property if ownership changed. Mr. Lenz stated that the variance would go with the property. Mr. Hackney stated that there weren't any restrictions on the size of the coop, other than what the board might stipulate.

Neutral: None

Board Deliberation

Mr. Lenz stated that he felt this was a pretty gross change from the intended three acres to less than one acre.

Mr. Whited stated he felt that we should enforce the current code.

Mr. Cavens stated that he feels that the code is outdated and that it should be allowed as long as the neighbors are ok with it.

Mr. Riddell stated regarding the code, the Board of Trustees agreed that the variance process was adequate to handle this issue versus changing the code.

Mr. Hackney stated that he is not necessarily opposed but that he would like to see some stipulations that there be a timeline of perhaps two years to allow neighbors to have input for or against. Mr. Cavens stated that he thought this was a great idea. Mr. Whited agreed, stating that the board doesn't normally base their decision on what the current neighbors think.

Mr. Hackney questioned staff whether the board could make such stipulations. Ms. Walton referenced a couple of other cases where the board had put a time limit and made the applicant come back at a future date to reapply. Mr. Whited stated that he believed that those were given when a development was in process. He stated that he doesn't believe it's been done in a situation like this.

Mr. Hackney and Mr. Cavens agreed that there could be a time limit put in place.

Mr. Lenz stated that he felt he could only approve this if the property was close to three acres in size.

Mr. Hackney stated that he doesn't remember seeing a fence in this yard and he wondered how the chickens might be confined to the yard.

**Applicant: Don Warmbier
9142 Revere Run
West Chester OH 45069**

Mr. Warmbier stated that they have been in this house for over 22 years. He stated that they take care of their property and are good neighbors. Mr. Warmbier stated that they can self-govern and that if there were any problems, they would take care of it. Mr. Warmbier stated that they do not have a problem with having a time limit put on and requiring them to come back and reapply in eighteen months.

Mr. Cavens questioned whether the applicant already has chickens. Mr. Warmbier stated that they do and that they were given to him before he realized that it was against township regulations.

Mr. Riddell questioned how loud the chickens are. Mr. Warmbier stated that they are not.

Mr. Whited questioned staff as to what happens if another owner buys this property and does not take care of it as well as this applicant. Mr. Whited stated that he is concerned about the size of the lot as it is well under the required three acres.

Mr. Cavens stated that he agrees with Mr. Hackney that this proposal is ok, as long as the board puts some stipulations on it, such as requiring the applicant to come back in eighteen months.

Mr. Hackney made a motion to approve BZA 15-12 with the stipulation that there be no more than four chickens, no roosters, require the coop to have a pen that would enclose the chickens and that it be no closer than twenty feet from the property line, and that all feed be kept in a rodent and predator free container, and also that the approval would expire in an eighteen period, at which time the owner would need to apply for another approval.

Mr. Cavens seconded.

Aye: Mr. Hackney, Mr. Riddell, Mr. Cavens

Nay: Mr. Whited, Mr. Lenz

BZA 15-13 Main Event Entertainment

Ms. Walton was sworn in by Mr. Hackney.

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments, outside agency comments, and case history. Ms. Walton stated that the applicant is requesting a variance to allow 90% lot coverage where 75% is permitted for the property at Oxford Way at Civic Centre Boulevard, which is currently zoned CBD Central Business District. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Butz was sworn in by Mr. Hackney.

**Applicant: Bill Butz
600 East 96th Street, Suite 460
Indianapolis IN 46240**

Mr. Butz reviewed the company history and expressed their excitement at the prospect of coming to West Chester. Mr. Butz reviewed the site plan and what they would like to do to maximize parking and still maintain green space where it's important. Mr. Butz also stated that they do absolutely intend to meet the drainage requirement.

Mr. Lenz questioned regarding how many parking spots would be needed for this new facility. Mr. Butz stated that the resolution requires 220. Mr. Lenz questioned whether this

would also include common parking for the other establishments at the Streets of West Chester. Mr. Butz stated that it would.

Mr. Cavens stated that it looks like the applicant is trying to alleviate parking concerns. Mr. Butz stated that that is what they're trying to do.

Mr. Riddell stated that his understanding was that the applicant had asked for additional parking in order to benefit everyone. Mr. Butz confirmed that that was correct.

Mr. Hackney questioned if the proposed facility is the same size as their other locations. Mr. Butz stated that it is pretty much the same size but with some improvements in the layout.

Mr. Whited questioned how they would handle the water detention to account for the shortage if Top Golf does not come in. Mr. Butz stated that it would be an underground detention system. Mr. Butz stated that they do not want open water due to the fact that their establishment attracts lots of kids and families. He stated that, if necessary, they would oversize storm sewer piping and add more if needed.

Mr. Riddell questioned how many facilities they have. Mr. Butz believes that this one would be 24.

Ms. Wunnenberg was sworn in by Mr. Hackney.

**Proponent: Chris Wunnenberg
6355 Centre Park Drive
West Chester OH 45069**

Ms. Wunnenberg stated that he hopes the board appreciates how special this facility is and how it completes the Streets of West Chester product. Mr. Wunnenberg reviewed parcels in the area and pointed out the green space. Mr. Wunnenberg pointed out that this would be a great opportunity for family entertainment and he expressed that Schumacher Dugan is in support of this project.

Opponent: None

Neutral: None

Board Deliberation

Mr. Cavens stated that he thinks it's a no-brainer and that he is in favor.

Mr. Lenz stated he is in favor.

Mr. Whited questioned Mr. Lenz (being a civil engineer) regarding the fact that the Butler County Engineer's office said that they would like for them to keep 85% impervious surface.

Mr. Lenz stated that it sounded like the issues had been addressed, according to what Mr. Butz had explained regarding the drainage. Mr. Riddell stated that it was his understanding that because of the uniqueness of the property, they would have adequate green space. Mr. Whited deferred to Mr. Lenz on concerns for storm water run-off. Mr. Lenz stated that from his understanding, there would not be a problem. Mr. Butz clarified the difference between drainage and green space.

Mr. Whited made a motion to approve BZA 15-13 as submitted.

Mr. Lenz seconded.

Aye: Mr. Whited, Mr. Lenz, Mr. Riddell, Mr. Cavens, Mr. Hackney

Nay: None

ADMINISTRATIVE MATTERS

Mr. Hackney made a motion to approve the minutes from the April 8, 2015 meeting.

Mr. Riddell seconded.

Ms. Walton stated that there are two cases for next month's meeting.

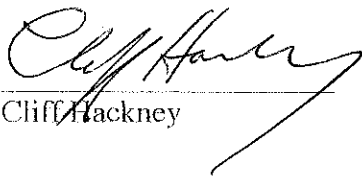
The next meeting will be Wednesday June 10, 2015, at 6:30 pm

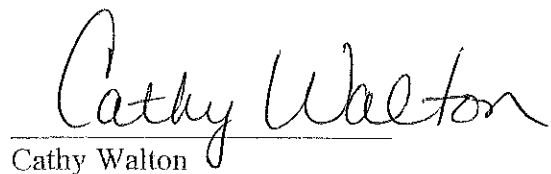
The board adjourned the May 13, 2015 meeting at 8:31 pm

These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must be prepaid.

BZA Chairman:

BZA Secretary:


Cliff Hackney


Cathy Walton

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 15-13**

WHEREAS, Main Event Entertainment, on April 15, 2015 filed Application No. 15-13 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow 90% lot coverage where 75% is permitted as applied to the property at Oxford Way and Civic Centre Boulevard, West Chester Ohio 45069 and containing Parcel # M5620-449-000-012 in Section 27, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on May 13, 2015 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

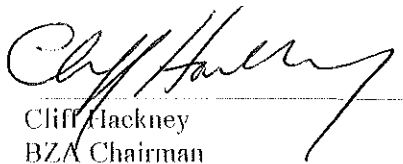
WHEREAS, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and are consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

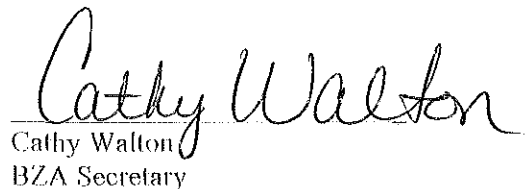
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to 90% lot coverage where 75% is permitted with the following conditions:

1. The coverage on the adjoining lot is submitted at 75% for permitting, or
2. Should the adjoining lot be above 75% lot coverage at submission for permitting, the applicant shall submit a plan for the additional storm water detention.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 13th day of May, 2015 and journalized on the 10th day of June, 2015.


Cliff Hackney
BZA Chairman


Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 15-11**

WHEREAS, Vinh Ngoc Nguyen, on April 10, 2015 filed Application No. 15-11 with the Board of Zoning Appeals under Article 8 of the Zoning Resolution, seeking a variance from Article 14.036 regarding a conditional use as applied to the property at 7505 West Chester Road., containing parcel # M5610-017-000-016 in Section 15 Town 3, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on May 13, 2015 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

WHEREAS, Article 8.023 of the Zoning Resolution empowers the Board to have the power to authorize upon application, conditional use or special exception zoning certificates for those uses which are specified as such by this Resolution.

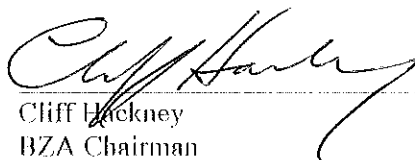
WHEREAS, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested conditional use or special exception will not be contrary to the public interest and are consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.023

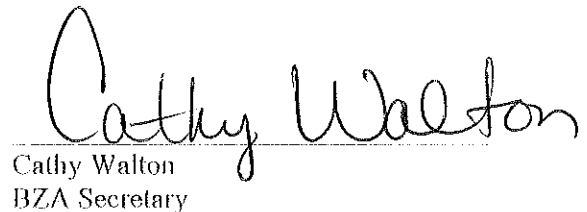
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow a Senior Adult Day Program with the following conditions:

1. A maximum of twenty-one (21) senior day care clients per day allowed.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 13th day of May, 2015 and journalized on the 10th day of June 2015.


Cliff Hickney
BZA Chairman


Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 15-2**

WHEREAS, Don Warmbier, on April 13, 2015 filed Application No. 15-12 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow poultry husbandry on a lot with less than three acres as applied to the property at 9142 Revere Run, West Chester Ohio 45069 and containing Parcel # M5620-083-000-012 in Section 15, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on May 13, 2015 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

WHEREAS, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and are consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow poultry husbandry on a lot with less than three acres with the following conditions:

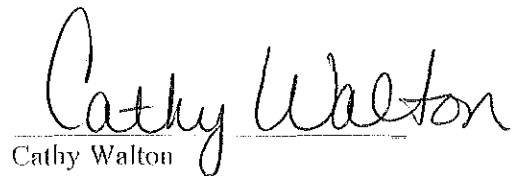
1. No roosters
2. A maximum of 4 chickens
3. The coop and pen must be no closer than 20' from any property line
4. All feed must be kept in a rodent, predator proof container.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 13th day of May, 2015 and journalized on the 10th day of June, 2015.



Cliff Hackney
BZA Chairman



Cathy Walton
BZA Secretary