



MUNICIPALITY OF PENN HILLS

ZONING HEARING BOARD

AGENDA

The Penn Hills Zoning Hearing Board will convene its regularly scheduled monthly meeting on April 26th, 2023 at 7:00 P.M. in the Penn Hills Government Center, Council Chambers, at 102 Duff Road Pittsburgh PA 15235 to consider the following

Case #8 of 2023: Brett Douthett, Property owner of Lot and Block # 229-R-334 (former address, 7896 Lincoln Road), is requesting a variance to permit the construction of a two-family residence in the R-2 Single Family Residential Zoning District. Whereas only single-family residences, and conversions of a single-family to a two-family residence are permitted.

Case #9 of 2023: Mike Abel, Agent for JLA Properties LP, Owner of Property located at 10205 Clair Avenue, Lot and Block # 295-H-290, is requesting a variance to permit the conversion of a two-family residence to a three-family residence in the R-2 Single Family Residential Zoning District. Whereas only Single-family residences, and two-family residences are permitted.

Case #10 of 2023: Megan & Joseph David Devivo III of 1160 Hunter Road, Lot and Block # 534-N-301 are requesting a special exception for the possession and keeping of four (4) chickens for egg production and as pets.

Case #11 of 2023: Walter T Koziell JR of 156 Indian Creek Road, Lot and Block # 365-D-208 is requesting a Home Occupation in order to permit the operation of the home business, "Walter Koziell Remodeling".
Code Violation Notice #23-0001413

Case #12 of 2023: Khadijah Malikah Waalee of 446 Wilson Drive, Lot and Block # 368-B-372 is requesting a Home Occupation in order to permit the operation of the home group daycare business, "Endless Potential LLC".

Case #13 of 2023: Qusai Amer of 357 Princeton Drive, lot and Block # 541-G-337, is appealing the denial of a building permit, and appealing the determination of the Code Enforcement Officer and Zoning Officer. In relationship to the filing of a building permit for the property located at 357 Princeton Drive. The proposed building permit was to construct an addition in the front yard of the property in violation of section 10.5.E.(2)a. of Zoning Ordinance 2420.
Code Violation Notice #23-0001489

Information on the above case(s) is available in the office of the Penn Hills Department of Planning and Economic Development. All interested parties are invited to attend the hearing. Persons with disabilities who wish to attend the meeting and require an auxiliary aid, service, or other accommodations to participate in the proceedings, are requested to call 412-342-1172 at least 48 hours before the meeting to discuss how we may meet your needs. Hearing impaired may contact the Municipality through the State Relay Office at 1-800-654-5984.



MUNICIPALITY OF PENN HILLS
MEMORANDUM

To: The Zoning Hearing Board
From: The Planning Department
Date: April 26, 2023
Subject: **Case #8 of 2023**
Applicant: Brett Douthett
Owner: Brett Douthett
Location: Former address 7896 Lincoln Road Verona PA 15147
Lot and Block: 229-R-334
Zoning: R-2 Single Family
Description: Vacant Land

Request: The applicant is requesting a variance to permit the construction of a two-family residence in the R-2 single family residential zoning district. Whereas only single-family residences, and conversions of a single-family to a two-family residence are permitted.

Ordinance: Sections 3.2, 5.3, & 15 of Ordinance 2420.

Recommendation: **APPROVAL**

Conditions:

- 1. All building and occupancy permits shall be obtained prior to the construction of the residence.**

Brett Douthett, owner of vacant land located at former address 7896 Lincoln Road Verona PA 15147. Has requested a Variance to permit the construction of a two-family residence in the R-2 single family residential zoning district, whereas only single-family residences, and conversions of a single family to a two-family residence are permitted at 7896 Lincoln Road Verona PA 15147, Lot and Block # 229-R-334. The proposed duplex would be located on what is currently a vacant piece of land located at the intersection of Lincoln Road and Tyler Road. The property of Lot and Block # 229-R-334, is 43,560 SQFT and currently contains no structure of any kind and according to Allegheny County Real Estate Department, and municipal records is vacant land. A residential structure used to be on the structure however was demolished by the previous owner sometime prior to the current owner by Brett Douthett. Currently the lot borders Tyler and Lincoln Road, roads owned and maintained by Allegheny County. Access to the lot is easily obtained via Lincoln Road, via a relief in the guardrail in the hillside in the east bound lane of Lincoln Road. The lot is not part of a plan of homes however is assigned to the Nadine/Longue Vue Country Club estates neighborhood.

The property contains a slight degree of topographical change in the rear westward and southern yards facing a Allegheny County Stormwater catch basin and discharge outfall, for the mentioned Tyler and Lincoln Road. The Planning Department and Code Enforcement Department has no records or information on file indicating the degree of change or the nature of the catch basin/ stormwater system in place by Allegheny County, other than its intended function and location.

It should be noted that the Planning Department wholly supports and encourages this application and similar ventures, the building of new housing stock is a top priority of the Municipality of Penn Hills. While the R-2 Single Family Zoning District does not permit the construction of new two-family residences by right, conversions of single-family homes to two families are permitted, (provided conditions are met).

As stated previously, the property of Lot and Block # 229-R-334 is located in the R-2 Single Family Zoning District. The proposed use of construction of two-family residence is not permitted. As such a use variance is necessary.

The R-2 Single Family Residential Zoning District is composed of certain quiet, low-density residential areas of the Municipality, and vacant lands where single-family residential development is encouraged. The regulations for these districts are designed to stabilize and protect the essential characteristics of these districts; to protect the amenities of certain areas where a single family residential pattern has already been established; to promote a suitable environment conducive to family life; and to prohibit those commercial activities not explicitly approved. To these ends, development is limited to those uses expressly permitted and certain bulk and area regulations are established.

It should be noted that the Nadine neighborhood of Penn Hills or “Lincoln Road” is comprised of multiple minor and major arterial roadways of county and state owned and maintained roadways, all connecting residential, commercial, and industrial concerns to residential plan of homes. In addition, several public transit routes exist in the neighborhood. There exists primarily

single family homes with a small collection of two-family residences on several streets throughout the neighborhood.

Under the Commonwealth of Pennsylvania's Municipalities Planning Code (PA ACT 247) and the Zoning Ordinance of the municipality of Penn Hills, Variances must meet a certain criteria to be considered eligible for Approval and in failing to meet these criteria they are deemed eligible for Denial. The criteria are:

- 1.) That there are unique physical circumstances or conditions, including irregularity, 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 this 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 response to this criteria test it is the opinion of the Planning Department of the Municipality of Penn Hills that the applicants Variance Request is eligible for the proposed use of Two-Family Residence, therefore the Planning Department is recommending approval.

In response to Criteria one, The Planning Departments understanding of the property is that the property does contain unique physical challenges and that conformity with the zoning ordinance is difficult. There is significant difficulty given the topography and conformity with the Zoning Ordinance may not be possible giving merit to criteria one for the applicant regarding the variance request.

In response to Criteria two, the properties physical nature and topography and never being fully developed to its current marketable state has created the lack of uses present on the property. The property did contain a single family residence prior to 2020, however it was a legal non-conforming structure that did not meet the current zoning ordinance setbacks and if built again in the former footprint it would not comply, giving merit to criteria two.

In response to Criteria three, regarding the variance request, The Planning Department thoroughly and sincerely believes that this hardship was not created by the appellant and that they are not responsible for the hardships that would be generated on the property needing a variance.

In response to Criteria four, The Planning Department believes that approval of this variance request would not alter the essential character of the neighborhood and Zoning District in which the property is located within. Several existing two-family residences exist in the Nadine neighborhood and along Lincoln Road, In addition in the R-2 Single Family Zoning District, two-family residences may exist via special exception through conversion.

In response to Criteria five, The Planning Department asserts that this variance request is providing the least difficult route possible for the proposed utilization of the property.

The Planning Department recommends approval to permit the construction of a two-family residence in the R-2 single family residential zoning district. Whereas only single-family residences, and conversions of a single-family to a two-family residence are permitted.

Conditions:

- 1. All building and occupancy permits shall be obtained prior to the construction of the residence.**

DBB/dbbcc: Brett Douthett



MUNICIPALITY OF PENN HILLS
MEMORANDUM

To: The Zoning Hearing Board

From: The Planning Department

Date: April 26, 2023

Subject: **Case #9 of 2023**

Applicant: Mike Abel Agent for JLA Properties LP

Owner: JLA Properties LP

Location: 10205 Clair Avenue

Lot and Block: 295-H-290

Zoning: R-2 Single Family

Description: Multi-Family residence

Request: The applicant is requesting a variance to permit the conversion of a two-family residence to a three-family residence in the R-2 single family residential zoning district. Whereas only single-family residences, and two-family residences are permitted.

Ordinance: Sections 3.2,5.3, & 15 of Ordinance 2420.

Recommendation: **APPROVAL**

Conditions:

- 1. All building and occupancy permits shall be obtained prior to the conversion of the residence.**
- 2. All waste bins, recycling bins and other waste receptacles shall be screened from view of the right-of-way and placed in a safe and secure storage area, when not at the curb for collection.**

3. Off Street Parking shall be provided for the tenants in the front yard of the property. 50% of the front yard shall remain as lawn and/or other landscaped area.

JLA Properties LP, owner of property located at 10205 Clair Avenue Pittsburgh PA 15235. Has requested a Variance to permit the conversion of a two-family residence in the R-2 single family residential zoning district to a three-family residence, whereas only single-family residences, and conversions of a single family to a two-family residence are permitted at 10205 Clair Avenue Pittsburgh PA 15235, Lot and Block # 295-H-290. The proposed triplex conversion would convert an existing two-family residence to a three-family residence on the lot. According to Allegheny County Real Estate Department information and Municipal Records. The lot size of 10205 Clair Avenue is 6,962 SQFT with a building size of 1,536 SQFT. The existing residence was constructed in 1940. Access to the lot is easily obtained via Clair Avenue, a municipal owned and maintained road. The lot is part of a plan of homes and assigned neighborhood. It was constructed as an addition to the McCutcheon Addition to the Bon Air Plan of Homes and is within the Laketon Heights neighborhood. The home was constructed the same year as the adoption of the first Penn Hills Zoning Ordinance in 1940, and as a result several legal non-conformities exist on the property. The construction of such a home within the confines of the modern amended Penn Hills Zoning Ordinance would not be permitted.

The property contains a significant degree of topographical change in the rear northern yard facing adjacent woodlands and agricultural properties. The Planning Department and Code Enforcement Department has no records or information on file indicating the degree of change or the nature of the private properties abutting the property of 10205 Clair Avenue, other than there being a steep hillside in the rear of the property and a steep slope in the southern front side of Clair Avenue across the right of way, where other residences can be found.

It should be noted that the Planning Department wholly supports and encourages this application and similar ventures, the building of new housing stock is a top priority of the Municipality of Penn Hills. While the R-2 Single Family Zoning District does not permit the construction of new three-family residences by right. Adaptions of existing Legal Non-conforming residential structures, in conformity with modern building and zoning codes is strongly encouraged. In addition The applicant JLA Properties LP, has provided a large amount of supplemental information indicating how the properties conversion would be done in compliance to building codes and satisfy municipal officials.

As stated previously, the property of 10205 Clair Avenue, Lot and Block # 295-H-290 is located in the R-2 Single Family Zoning District. The proposed use of three-family residence is not permitted. As such a use variance is necessary.

The R-2 Single Family Residential Zoning District is composed of certain quiet, low-density residential areas of the Municipality, and vacant lands where single-family residential development is encouraged. The regulations for these districts are designed to stabilize and protect the essential characteristics of these districts; to protect the amenities of certain areas where a single family residential pattern has already been established; to promote a suitable environment conducive to family life; and to prohibit those commercial activities not explicitly approved. To these ends, development is limited to those uses expressly permitted and certain bulk and area regulations are established.

It should be noted that the Laketon Heights neighborhood of Penn Hills or “McCutcheon Lane Plan of Homes” is comprised of small, single vehicular roadways connecting single family residences and numerous multi-family residences to other residential properties. Numerous Legal Non-conforming properties can be found within the neighborhood, including multi-family residences, two-family residences, single family residences, legal non-conforming commercial enterprises, etc. Many of these properties, structures, and residences were created, built, and formed prior to the adoption of the zoning ordinance and its subsequent amendments in 1940, and afterwards. All residential roadways within the neighborhood lead out to commercial arterial roadways within the Frankstown West and Laketon Heights Commercial Corridors.

Under the Commonwealth of Pennsylvania’s Municipalities Planning Code (PA ACT 247) and the Zoning Ordinance of the municipality of Penn Hills, Variances must meet a certain criteria to be considered eligible for Approval and in failing to meet these criteria they are deemed eligible for Denial. The criteria are:

- 1.) That there are unique physical circumstances or conditions, including irregularity, 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 this 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 response to this criteria test it is the opinion of the Planning Department of the Municipality of Penn Hills that the applicants Variance Request is eligible for the proposed use of Three-Family Residence, therefore the Planning Department is recommending approval.

In response to Criteria one, The Planning Departments understanding of the property is that the property does contain unique physical challenges and that conformity with the zoning ordinance is difficult. There is significant difficulty given the topography and conformity with the Zoning Ordinance may not be possible giving merit to criteria one for the applicant regarding the variance request.

In response to Criteria two, the properties physical nature and topography and unique development to its current marketable state has created the lack of uses present on the property. The property contains a two-family residence which is allowed via special exception, however it several legal non-conformities existing including but not limited to lot square footage, off street parking and interior square footage. A residence built in the style of this structure in the same footprint would not be permitted under the modern zoning and building code, giving merit to criteria two.

In response to Criteria three, regarding the variance request, The Planning Department thoroughly and sincerely believes that this hardship was not created by the appellant and that they are not responsible for the hardships that would be generated on the property needing a variance.

In response to Criteria four, The Planning Department believes that approval of this variance request would not alter the essential character of the neighborhood and Zoning District in which the property is located within. Several existing three-family residences exist in the Laketon Heights neighborhood and Clair, and surrounding streets.

In response to Criteria five, The Planning Department asserts that this variance request is providing the least difficult route possible for the proposed utilization of the property.

The Planning Department recommends approval to permit the conversion of a two-family residence to a three-family residence in the R-2 single family residential zoning district. Whereas only single-family residences, and two-family residences are permitted.

Conditions:

- 1. All building and occupancy permits shall be obtained prior to the conversion of the residence.**
- 2. All waste bins, recycling bins and other waste receptacles shall be screened from view of the right-of-way and placed in a safe and secure storage area, when not at the curb for collection.**

3. Off Street Parking shall be provided for the tenants in the front yard of the property. 50% of the front yard shall remain as lawn and/or other landscaped area.

DBB/dbbcc: JLA Properties LP, Mike Abel.



MUNICIPALITY OF PENN HILLS
MEMORANDUM



To: The Zoning Hearing Board
From: The Planning Department
Date: April 26, 2023
Subject: **Case #10 of 2023**
Applicant: Megan & Joseph Dave Devivo III
Owner: Megan & Joseph Dave Devivo III
Location: 1160 Hunter Road
Lot and Block: 534-N-301
Zoning: R-1 Single Family
Description: Single Family Residence

Request: The applicant is requesting a Special Exception to permit the keeping and possession of four (4) chickens for egg production and as pets.

Ordinance: 2490 of 2016

Recommendation: **APPROVAL**

Conditions:

- 1. A building permit shall be obtained for any coop construction on the property.**

Megan & Joseph Dave Devivo III of 1160 Hunter Road Verona PA 15147 has requested a Special Exception to permit the keeping and possession of four chickens (hens) for the egg production and as pets. The property of 1160 Hunter Road is located in the Jade Plan of homes in the Hunter Heights neighborhood and according to municipal records was built in 1950. It currently contains a double vehicular wide driveway and a double vehicular garage. The house contains no

noted irregularities and completely conforms to the residential lot being built in accordance to the zoning ordinance of the Municipality of Penn Hills. The proposed use as chickens via special exception approval would be in compliance with prior zoning uses in similar lots.

There are no violation notices present or past on the property. no open/expired permits or outstanding issues stated from the Department of Code Enforcement. No zoning violations or other outstanding warrants facilitating any caution for the issuing of the special exception.

Possession of chickens within the Municipality of Penn Hills is regulated by Ordinance 2490 of 2016 which states the following:

Accessory Use or Structure (Residential)

h. Chicken Coops

Farm Animal - Any animal normally raised for its meat, milk, skins, or other products, or for its ability to perform work. Horses, cows, pigs, sheep, goats, chickens, ducks, rabbits, pigeons, doves and other similar animals are examples of farm animals and not household pets. Farm animals shall be restricted to farms and parcels of land in excess of five (5) acres. Any resident may be permitted one (1) rabbit [and/or], one (1) duck, [and] or one (1) pot-belly pig, ferret [and] or other animals that from time to time become popular which will be considered to be a household pet and not a farm animal. Bees are not considered to be farm animals, but are regulated by PA Act 58 of April 6, 1921, P.L. 95. For other regulations regarding animals, see Chapter 612, Codified Ordinances.

SECTION 2. Section 5.21 of Ordinance 2420 of the Penn Hills Zoning Ordinance is amended as follows to insert the underlined text.

5.21.A. The following uses are special exceptions in an R-1 District:

- (1) Home occupations
- (2) The keeping of chickens

SECTION 3. Section 12.5 of Ordinance 2420 of the Penn Hills Zoning Ordinance is amended as follows to insert the following new section of text.

12.5.B The Keeping of Chickens

A. Chickens Permitted; Roosters Prohibited.

- 1. No residence shall contain at any one time more than four (4) hens.

- a.* In the case of two-family dwellings or conversion dwellings without individually owned back yards, the maximum number of hens allowed is four (4) per property.
- 2.** No person shall keep or harbor any rooster within the Municipality, (Exception: Roosters shall be permitted on a farm as defined in Section 3.2 of Penn Hills Zoning Ordinance 2420).

B. Definitions.

- 1.** Chicken Run: An enclosed area in which chickens are allowed to walk and run about.
- 2.** Coop: A small building for housing poultry.

C. Permits.

- 1.** All residents that desire to keep chickens must register with the Department of Code Enforcement.
- 2.** No person shall erect, alter, relocate, or expand a coop without first obtaining a building permit from the Department of Code Enforcement regardless of the cost of construction. The issuance of a permit shall not obviate the necessity for compliance with all other Municipal Ordinances, County, State and Federal requirements. Non-property owners that wish to keep chickens on property that the non-property owner is renting must include written permission from the property owner or landlord that explicitly indicates that the non-property owner has permission to own chickens on the subject property.

D. Coops. All chickens must be kept in a coop, chicken run or fenced area at all times. During daylight hours, chickens may have access to outdoors via a chicken run. Chickens may also be allowed in a securely fenced yard if supervised so they cannot stray beyond the premises on which they are secured. The chickens will be secured within the coop during non-daylight hours.

- 1.** Coops and chicken runs shall be located at least twenty five (25) feet from any occupied dwelling other than that of the owner.
- 2.** Coops shall meet the bulk and area requirements of the zoning district they are located in.
- 3.** The minimum coop shall be solid, vermin and predator proof and shall provide at least three (3) square feet of area per chicken.
- 4.** The chicken run shall be adequately fenced to contain the chickens on the property and to prevent predators from gaining access to the chicken run.

5. Coops shall be enclosed on all sides and have a roof and doors. Access doors must be able to shut and shall be locked at night. Openings, windows and vents must be covered with vermin predator and bird-proof wire of one-half (1/2) inch hardware cloth.
 - a. Materials used for making a coop shall be uniform for each element of the enclosure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, or similar material is prohibited.
 - b. The coop shall be painted or stained; the color shall be uniform around the coop and shall be in harmony
 6. Coops and chicken runs shall be designed to provide safe and healthy living conditions for the chickens and shall provide shade in warm weather, suitable protection from inclement weather, and adequate ventilation.
 7. Coops and chicken runs shall be kept in good repair and must be capable of being maintained in a clean and sanitary condition, free of vermin and obnoxious odors.
 8. Coops and chicken runs must prevent the chickens from running at large. Chickens will be considered running at large within the meaning of this section when off the owner's premises.
- E. Feed and Water.** All feed, water, and other such items associated with the keeping of chickens shall be properly stored in a clean and sanitary manner so as to prevent the infestation of rats, mice, or other rodents and vectors.
- F. Nuisance.** No person shall keep or harbor chickens in the Municipality in a manner that creates an offensive odor, excessive noise, or unsanitary conditions which disturb neighboring residences or threatens public health. Chickens running at large shall be considered a public nuisance.
- G. Slaughtering.** No person shall slaughter or butcher any chickens within the Municipality.
- H. Waste Storing and Removal.** All chicken droppings shall be disposed of pursuant to 612.04 of the Codified Ordinances of Penn Hills. Disposal of animal feces.
- I. Composting.** It shall be unlawful for any person to spread or cause to be spread or deposited upon the ground or premises within the Municipality any chicken manure. However, chicken manure may be composted on the property where chickens are housed and the composted material then applied to gardens and yards.
- J. Sale of Chicken Parts or Eggs.** Any sale of chicken parts or eggs must comply with local, state and federal laws and regulations.

The R-1 Single-Family Zoning District is the Residential Zoning District where 1160 Hunter road is located in. The district is composed of certain quiet, low density residential areas of the Municipality, and vacant lands where single-family residential development is encouraged. The regulation for this district is designed to stabilize and protect the essential characteristics of these districts; to protect the amenities of certain areas where a single-family residential pattern has already been established; to promote a suitable environment conducive to family life and to prohibit those commercial activities not explicitly approved. To these ends, development is limited to those uses expressly permitted and certain bulk and area regulations are established.

The proposed use possession and keeping of chickens at 1160 Hunter Road should conform with the neighborhood and plans of the zoning district provided all conditions are met, and municipal regulations are followed in pursuant with the Zoning Ordinance.

*The Planning Department recommends: **APPROVAL***

1. A building permit shall be obtained for any coop construction on the property.

DBB/dbbcc: Megan & Joseph Dave Devivo III, Planning



MUNICIPALITY OF PENN HILLS
MEMORANDUM



To: The Zoning Hearing Board

From: The Planning Department

Date: April 26, 2023

Subject: **Case #11 of 2023**

Applicant: Walter T Koziell JR

Owner: Walter T Koziell JR & Margaret A Hammill

Location: 156 Indian Creek Road

Lot and Block: 365-D-208

Zoning: R-1 Single Family

Description: Single Family Residence

Request: The applicant is requesting a Special Exception to permit the operation of the home occupation "Walter Koziell Remodeling".

Ordinance: Sections 3.2, 5 & 12 of Ordinance 2420.

Recommendation: **APPROVAL**

Conditions:

- 1. The Home occupation shall comply with the regulations of noise ordinance 2654 of 2019 for all machinery activities and hours of operation.**
- 2. All storage and equipment and work shall be done indoors.**

Walter T. Koziell of 156 Indian Creek Road has requested a Special Exception "Home Occupation" to permit the operation of a home remodeling/ home renovation business "Walter Koziell Remodeling". The property of 704 Hamil Road is located in the Quincy addition Plan of Homes in a unspecified neighborhood and according to municipal records was built in 1946. It currently contains a two vehicular driveway(s) and a single vehicular

garage. The house is a single family residential structure and contains no irregularities to lot size and location. It conforms to the residential lot and is legal and conforming to the regulations being built within adoption of the zoning ordinance of the Municipality of Penn Hills. The proposed home business would utilize the home / residential lot located at 156 Indian Creek Road.

There is one (1) violation and open/expired permit on the property. The property is not in current compliance with municipal ordinances and the applicant has not applied to correct any municipal violations or notices. The applicant has been in consistent communication with the various applications and filing necessary to obtain a home occupation in accordance with PA Act 43 of 2002..

The violations are noted on violation notice case number 1413:

1. ES-301.1_OF_1939: All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish or garage.
CORRECTIVE ACTION: remove all rubbish, debris garbage, on front, rear and side yards of property – including but not limited to garbage in front yard, side yard and driveway, tarps, bagster, containers,. Failure to comply within 5 days of this notice will result in a non-traffic citation being filed with local district justice.

Compliance date deadline February 26, 2023 – verified by Code Enforcement Officer Jason Griffiths.

2. ES-300.4_OF_1939: 1. It shall be unlawful to use, occupy or permit the use or occupancy of any building, land or premises, altered in its structure, or enlarged in its use, until a certificate of use, occupancy and compliance shall have been issued therefore by the Code Enforcement Officer, stating that the proposed use of the land, building, or premises conforms the requirements of this ordinance, the Penn Hills Zoning Ordinance, the Subdivision and Land Development Ordinance, and Building and Fire Codes, and other applicable Local Ordinances.
CORRECTIVE ACTION: Evidence of a contracting business linked to property address: DBA walter Koziell remodeling. Such business Does not have zoning approval for a home occupation or home business. Cease and Desist running such business entity and associated activity at property or apply for a approval for a home occupation per Penn Hills Zoning Requirements. Contact Damian Buccilli in Planning at 412-342-1172 to discuss the application process. Failure to comply within 7 (seven) of this notice days will result in a non-traffic citation being filed with the local district justice.

Compliance date deadline February 26, 2023 – Verified by Code Enforcement Officer Jason Griffiths.

: *“Sectoin 12.5.A of Zoning Ordinance 2420 and PA Act 43 of 2002:* An occupation conducted in a dwelling unit. Home occupations shall be special exceptions, subject to the approval of the Zoning Hearing Board. In reviewing applications for home occupations, the Board may impose appropriate and reasonable conditions necessary to protect the surrounding properties. The following conditions shall apply to all home occupations unless expressly waived by the Board after a demonstration of good cause:

- A. No Person other than members of the family residing on the premises shall be engaged in such

occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental to, and subordinate to, its use for residential purposes by its occupants, and not more than 25 percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign, non-illuminated, and non-animated not exceeding one square foot in area.

D. No home occupation shall be conducted in any accessory building.

E. There shall be no stocking of goods or keeping of an inventory or finished goods in connection with such home occupation. Retail goods must be made to order or selected from catalogues and/or samples, and delivered to customers. There shall be no “over-the-counter” sales of retail or wholesale goods.

F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and in other than a required front yard.

G. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

H. No home occupation shall involve the use of toxic materials or any materials, which present a deleterious effect on adjacent properties.

I. Professional and service-oriented businesses, such as doctors, lawyers, barbers, etc., shall be conducted by appointment only to prevent overlapping of customers.

J. For Day Care Homes, Item A, above, shall not apply and 100% of a home and surrounding property may be used for such purpose. Day Care Homes must, however, meet the following additional conditions:

1. Operators are responsible for compliance with PA Department of Human Services licensing requirements and any other county, state, or federal regulations.

2. The Zoning Hearing Board may require buffering along all property boundaries with landscaping, fencing, or other methods suitable to protect the children and the immediate neighborhood.

3. A minimum of 100 square feet of usable outdoor play space, and 40 square feet of usable indoor space, must be provided for each child present at the facility, including resident children.

4. Care shall not be provided to more than twelve children who are not residents of the property.

5. A minimum of two caregivers shall be available at the facility whenever there are more than six children at the facility, including resident children.

6. Operators must supply to the municipality (and keep current) the names of persons responsible for responding quickly to a complaint filed by the Municipality.

K. There shall no home occupation for the wholesale and/or retail sale of firearms or ammunition. Neither shall there be a home occupation for the service or repair of firearms or the loading of bullets or preparation of ammunition.

It should be noted that 156 Indian Creek Road is a legal non conforming residential structure, the construction of a home in the same footprint, being constructed with modern building and zoning codes would not be permitted, given that it faces two streets and does not have a conventional backyard, rather two frontages facing two improved right-of-ways. The home occupation should not impact or have any deleterious effects on the neighborhood or adjacent properties should the applicant adhere to all conditions and regulations set forth.

*The Planning Department Recommendation: **APPROVAL***

Conditions:

- 1. The Home occupation shall comply with the regulations of noise ordinance 2654 of 2019 for all machinery activities and hours of operation.**
- 2. All storage and equipment and work shall be done indoors.**



MUNICIPALITY OF PENN HILLS
MEMORANDUM



To: The Zoning Hearing Board

From: The Planning Department

Date: April 26, 2023

Subject: **Case #12 of 2023**

Applicant: Khadijah Malika Waalee

Owner: Khadijah Malika Waalee

Location: 446 Wilson Drive

Lot and Block: 368-B-372

Zoning: R-2 Single Family

Description: Single Family Residence

Request: The applicant is requesting a Special Exception to permit the operation of a group day care home "Endless Potential LLC".

Ordinance: Sections 3.2, 5 & 12 of Ordinance 2420.

Recommendation: **APPROVAL**

Conditions: 1. All Local, State & Federal regulations shall be followed for the operation of a daycare at the home.

Khadijah Waale of 446 Wilson Drive has requested a Special Exception "Home Occupation" to permit the operation of a group day care home "Endless Potential LLC". The property of 446 Wilson Drive is located in the Wilson Plan of homes / neighborhood and according to municipal records was built in 1962. It currently contains a singular vehicular wide driveway and single vehicular garage. The house contains some irregularities but overall conforms to the residential lot being built well after the adoption of the zoning ordinance in Penn Hills. The proposed group day care home would utilize the entire residence and property located at 446 Wilson Drive.

There are no code violation presents on the property or property owner, the applicant approached the Municipality of Penn Hills in regard to starting a group day care home at the property and was instructed by Planner Damian Butler-Buccilli on the various steps and procedures required to comply with local, state and federal regulations. On the date of March 21st 2023, an inspection was performed on the property with Code enforcement officer/ Building Inspector Chevy Nave, Planner Damian Butler-Buccilli and the applicant. Discussions were had regarding the residence, operations of the daycare, the property, conversions of the various rooms to accommodate a daycare and the conditions needed to inspect the property under the R-3 state daycare codes, and other miscellaneous information. Planner Damian Butler-Buccilli explained the following information from the Zoning Ordinance regarding special exceptions and group daycare homes to the applicant: “*Section 12.5.A of Zoning Ordinance 2420 and PA Act 43 of 2002*: An occupation conducted in a dwelling unit. Home occupations shall be special exceptions, subject to the approval of the Zoning Hearing Board. In reviewing applications for home occupations, the Board may impose appropriate and reasonable conditions necessary to protect the surrounding properties. The following conditions shall apply to all home occupations unless expressly waived by the Board after a demonstration of good cause:

A. No Person other than members of the family residing on the premises shall be engaged in such occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental to, and subordinate to, its use for residential purposes by its occupants, and not more than 25 percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign, non-illuminated, and non-animated not exceeding one square foot in area.

D. No home occupation shall be conducted in any accessory building.

E. There shall be no stocking of goods or keeping of an inventory or finished goods in connection with such home occupation. Retail goods must be made to order or selected from catalogues and/or samples, and delivered to customers. There shall be no “over-the-counter” sales of retail or wholesale goods.

F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and in other than a required front yard.

G. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

H. No home occupation shall involve the use of toxic materials or any materials, which present a deleterious effect on adjacent properties.

I. Professional and service-oriented businesses, such as doctors, lawyers, barbers, etc., shall be conducted by appointment only to prevent overlapping of customers.

J. For Day Care Homes, Item A, above, shall not apply and 100% of a home and surrounding property may be used for such purpose. Day Care Homes must, however, meet the following additional conditions:

1. Operators are responsible for compliance with PA Department of Human Services licensing requirements and any other county, state, or federal regulations.
2. The Zoning Hearing Board may require buffering along all property boundaries with landscaping, fencing, or other methods suitable to protect the children and the immediate neighborhood.
3. A minimum of 100 square feet of usable outdoor play space, and 40 square feet of usable indoor space, must be provided for each child present at the facility, including resident children.
4. Care shall not be provided to more than twelve children who are not residents of the property.
5. A minimum of two caregivers shall be available at the facility whenever there are more than six children at the facility, including resident children.
6. Operators must supply to the municipality (and keep current) the names of persons responsible for responding quickly to a complaint filed by the Municipality.

The applicant has been in communication with the Planning Department and the Planning Department has reviewed the applicant's application in great detail, the property can contain the operations of a group day care home easily and can still retain the characteristics of a single family home in pursuant with provisions of the zoning ordinance. Code Enforcement officer and building inspector Chevy Nave has expressed concern regarding the finalization of the occupancy permit in regards to a re-inspection of the property, however the applicant has been in communication with inspector Nave and a re-inspection under the guidelines of a R-3 Inspection is mandatory per group daycare requirements for the opening of any operation.

The R-2 Single-Family Zoning District is the Residential Zoning District where 446 Wilson Drive is located in. The district is composed of certain quiet, low density residential areas of the Municipality, and vacant lands where single-family residential development is encouraged. The regulation for this district is designed to stabilize and protect the essential characteristics of these districts; to protect the amenities of certain areas where a single-family residential pattern has already been established; to promote a suitable environment conducive to family life and to prohibit those commercial activities not explicitly approved. To these ends, development is limited to those uses expressly permitted and certain bulk and area regulations are established.

The proposed use of Group Day care Home at 446 Wilson Drive should conform with the neighborhood and plans of the zoning district provided all conditions are met, and municipal regulations are followed in pursuant with the Zoning Ordinance.

*The Planning Department recommends: **APPROVAL***

Conditions: 1. All Local, State & Federal regulations shall be followed for the operation of a daycare at the home.

DBB/dbbcc: Kadijah Waale, Planning



MUNICIPALITY OF PENN HILLS
MEMORANDUM

To: Zoning Hearing Board

Date: April 26, 2023

From: Planning Department

Subject: **Case #13 of 2023**

Applicant: Qusai Amer

Owner: Qusai Amer

Location: 357 Princeton Drive

Lot and Block: 541-G-337

Zoning: R-2

Description: Single Family Residence

Request: The applicant is appealing the denial of a building permit and appealing the determination of the Code Enforcement Officer and Zoning Officer. In relationship to the filing of a building permit for the property located at 357 Princeton Drive. The proposed building permit was to construct an addition in the front yard of the property in violation of section 10.5.E.(2)a of ordinance 2420.

Ordinance: Sections 3.2,5 &10.5.E.2(2)a of Ordinance 2420

Recommendation: The Denial of the Building Permit should be upheld. The applicant shall cease and desist all construction activities at the property at once. A survey shall be obtained to determine the location of the addition, in relationship to property boundaries and municipal bulk and area regulations.

***Please refer to the enclosed materials in regards to previous Code Enforcement Violation notices, and supplemental submissions that have been made regarding Mr. Qusai Amer and the property located at 357 Princeton Drive:**

- Violation Notice issued to 357 Princeton Drive, Qusai Amer, Case Number 1489. Issued by Code Enforcement Officer Chevy Nave.
- Submission of Application For Building Permit submitted by applicant Qusai Amer, dated March 29, 2023.
- Official denial of building permit letter and statement, produced by Chief Code Enforcement Officer, Jason Griffiths. CEO 20323, Dated March 30, 2023
- Submission of application for appeal of denial of building permit, submitted by applicant Qusai Amer, dated March 30, 2023.

The Applicant Mr. Qusai Amer, is appealing the denial of a building permit, filed for a proposed addition at the property located at 357 Princeton Drive. In addition the applicant is filing an appeal of the determination of the Code Enforcement Officer and Zoning Officer in regards to the proposed building permit. The building permit was going to be filed in order to necessitate compliance with a proposed addition in the front yard of the property. The code Enforcement Officer denied the permit as it would be in violation of Section 10.5.E(2)a of Zoning Ordinance 2420.

A timeline of events are as follows:

On the date of March 27th, 2023, acting under a complaint for an “illegal addition” in the front yard. Code Enforcement Chevy Nave responded to Princeton drive, where Officer Nave encountered at 357 Princeton Drive an unauthorized addition being built in the front yard. Code Enforcement Chevy Nave issued Code Enforcement Violation Notice #1489 of 2023 which states the following:

- *2015_IRC: 2015 IRC (International residential Code) Section R114.1 STOP WORK ORDER.
CORRECTIVE ACTION: 2015 irc (international Residential Code) Section R114.1 Stop Work Order. Work Being Carried out without a building permit. CEASE AND DESIST ALL WORK. Make application for a building permit submitted with detailed plans/ drawing. Permit application can be obtained at the Penn Hills Municipality office. Failure to comply will result in a non-traffic citation being filed with the local justice.*
- ***OP-30:** Building Permit is required for \$2,000 or more of fair market value with proper drawings submitted.
CORRECTIVE ACTION: Application for Building Permit can be acquired from the Penn Hills Municipality. Failure to comply will result in a non-traffic citation being with the local justice.*
- ***ES-300.4_OF_1939:** It shall be unlawful to use, occupy or permit the use or occupancy of any building, land or premises, altered in its structure, or enlarged in its use. Until a certificate of use, occupancy and compliance shall have been issued therefore by the Code Enforcement Officer, stating that the proposed use of the land, building, or premises conforms to the requirements of this ordinance, the Penn Hills Zoning Ordinance, the subdivision, and Land Development Ordinance, and Building and Fire codes, and other applicable local ordinances. 2. It shall be unlawful to change ownership, tenants, or*

*occupants of a building, land, or premises unless a certificate of use, occupancy and compliance shall have been issued the Code Enforcement Officer prior to said change, stating that the building, land or premises conform to the requirements of this ordinance, the Penn Hills development ordinance, the building and fire codes and other applicable local ordinances. In the case of multiple tenants of either commercial, industrial or residential properties, a certificate of use occupancy and compliance shall be required for each tenant. **CORRECTIVE ACTION:** Apply for and schedule an occupancy inspection immediately upon receipt of this letter. Failure to comply will result in a non-traffic citation being filed with the local justice.*

COMPLIANCE DATE DEADLINE: IMMEDIATELY

After receiving the violation notice, the applicant stated that they wished to keep the addition as is, and stated to the Code Enforcement Department that there were no drawings or plans. In addition the applicant stated that the “addition” was placed on an existing 10’x 19’ concrete pad that is located in the front yard. During this time, the Chief Code Enforcement Officer and Building Inspector, Jason Griffiths reviewed the violation notice issued by Code Enforcement Chevy Nave, and instructed the applicant to submit a building permit with more detailed drawings, as the addition may have been built on a former front porch concrete pad. The applicant stated that was the case, and concern was raised between the Code Enforcement Department and applicant. Code Enforcement Officer Jason Griffiths took the violation notice and supplemental information to Planner Damian Butler-Buccilli on March 29th 2023. Who reviewed the information and consulted with the Zoning Officer and Planning Director Chris Blackwell.

Chris Blackwell stated that “in accordance with Section 10.5.E(2)a. of Ordinance 2420. In required front yards – walls, fences, or hedges not exceeding four feet (4’) in height, shrubs and trees providing there is a substantially unobstructed view between four feet (4’) and ten feet (10’) above ground level, open porches not more than one (1) story or fourteen feet (14’) in height, exceed eight feet (8’) or less into the yard, provided no porch shall be constructed closer to the side lot than the required width of the side yard, enclosed vestibules not exceeding twenty-five square feet (25 sq. ft.) and not projecting more than five feet (5’) into the yard, and signs as permitted by other provisions of this ordinance.

The previous open porch located at 357 Princeton Drive was in violation of this section of the ordinance, by placement of 10’ out into the front yard of the property. No municipal records indicate that this was either a variance or legal non-conforming. Upon examination of this section and the location of the addition and placement on top of the existing 10’ porch concrete pad. Planner Damian Butler-Buccilli questioned the setbacks of the property and stated that additional work would need to be done to give approval for any building permit. Under the direction of the Zoning Officer, and Planning Department. Jason Griffiths Denied the Building Permit that was submitted by applicant Mr. Quasi Amer on March 30th 2023.

After receiving a denied building permit application, the applicant, Mr. Quasi Amer spoke with Planner Damian Butler-Buccilli about options for wishing to continue construction on the addition.

Mr. Damian Butler-Buccilli stated, that the applicant can file an appeal as outlined in the Municipalities Planning Code, and the Penn Hills Zoning Ordinance, asking the Penn Hills Zoning Hearing Board to overturn the denial of the building permit and determination of the Zoning Officer, Chris Blackwell. Thus approving the submitted Building Permit and allowing work to continue on the addition in accordance with existing structure residential building code. Mr. Damian Butler-Buccilli instructed the applicant, Mr. Quasi Amer that should the denial be upheld, and the building permit continue to be denied. The remaining option would be to file another, appeal with the Court of Common Pleas, Allegheny County, or subsequently continue working on addition to the principal residence of 357 Princeton Drive and face subsequent fines and additional violation notices issued to the Local Justice.

According to the Department of Real Estate, Allegheny County, and municipal records. The property of 357 Princeton Drive was built in 1950, in accordance with the modern Penn Hills Zoning Ordinance. It is apart of the Eastmont Plan of Homes and Neighborhood.

There are no irregularities or topographical challenges present on the property. The property features a single vehicular driveway and single vehicular garage. Access is obtained to the property via Princeton Drive, a municipal owned and maintained roadway.

The R-2 Single-Family Zoning District is the Residential Zoning District where 357 Princeton Drive is located in. The district is composed of certain quiet, low density residential areas of the Municipality, and vacant lands where single-family residential development is encouraged. The regulation for this district is designed to stabilize and protect the essential characteristics of these districts; to protect the amenities of certain areas where a single-family residential pattern has already been established; to promote a suitable environment conducive to family life and to prohibit those commercial activities not explicitly approved. To these ends, development is limited to those uses expressly permitted and certain bulk and area regulations are established.

The determination of the Zoning Officer and Planning Director, is that the proposed addition was built with no permits, surveys, or any other supplemental information that may assist municipal officials in assisting the property owner in guiding them through the municipal approval process.

It is the recommendation of the Code Enforcement Officer, Zoning Officer and the Planning Department Staff that Mr. Qusai Amer either, completely remove the addition, or submit a survey to the Code Enforcement and Planning Department indicating the location of the addition in relationship to the property lines and setbacks. The denial of the building permit should be upheld.

DBB/dbb

cc: Mr. Qusai Amer