



BOROUGH OF NORTH WALES

300 School Street, North Wales, PA 19454

Phone: 215-699-4424 • Fax: 215-699-3991

<http://northwalesborough.org>

ZONING HEARING BOARD MEETING

Tuesday, December 5, 2023 – 7:00 P.M.

Andrew Berenson, Chair
Charles Blackledge
Perry Francis
Joel Roberts, Alternate
Gregory Lord

Call to Order, Date and Time

Roll Call

Pledge of Allegiance

Z-23-04 –John P. Welsh– The property is located at 501 E. Montgomery Ave., North Wales, PA in the R-2 Residential District. The parcel ID# of the property is 14-00-01540-00-3. The Applicant is proposing to reconfigure the existing 3 dwelling units on the property by reducing the number of dwelling units in the main structure from 3 to 2 and shifting one of the permitted dwelling units to the detached garage. The Applicant is requesting the following relief: interpretations from Sections 208-99 through 208-103 that the proposed use is permitted by right; from Sections 208-99, 208-100 and 208-102 that the use is in accordance with the law regarding the change or extension of a nonconforming use , and if the proposed use is permitted by right, special exception or variance, an interpretation that no parking relief is necessary; in the alternative, a special exception pursuant to Section 208-100.D(2); in the alternative, variances for the proposed use from Sections 208-12, 208-15 and 208-24 and Article XIX, Nonconforming Uses; and, if necessary, variances from Section 208-60, 208-61 and 208-62 for parking. A copy of the application is available to view on the Borough’s website, <https://northwalesborough.org>.

Adjournment

All interested parties may participate on the date and time noted above and when called upon by the Chair. The public may also submit questions or comments prior to the meeting by e-mail to aguzzardo@northwalesborough.org; these must be received no later than 12 Noon on February 7, 2023. Persons with disabilities who wish to attend the meeting and require auxiliary aid, service, or other accommodation to participate in the meeting should contact North Wales Borough at 215-699-4424 or by e-mail to info@northwalesborough.org.



North Wales Borough
 300 School Street
 North Wales, PA 19454
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www.northwalesborough.org

ZONING HEARING BOARD APPLICATION

CLASSIFICATION OF APPEAL (check all that apply)

- Request for Variance Request for Special Exception Interpretation of Law
- Validity Challenge Appeal from Determination of Zoning Officer / Borough Engineer

PROPERTY INFORMATION

Address: 501 E. Montgomery Avenue (corner of E. Montgomery Avenue & Fifth Street)

Tax Parcel Number: 14-00-01540-00-3 Zoning District: R-C Residential

Block and Unit Number: Block 015, Unit 051 Lot Dimensions: Approx. 3750 SF

APPLICANT INFORMATION

Name: John P. Welsh

Mailing Address: 8 Meade Road, Ambler, PA 19002

Phone Number: 215-620-4874 Email: john@comlystreet.com

OWNER INFORMATION

Name (if different than applicant): N/A

Mailing Address: _____

Phone Number: _____ Email: _____

ATTORNEY INFORMATION

Name (if applicable): Eric C. Frey, Esquire

Mailing Address: Dischell, Bartle & Dooley, P.C., 224 King Street, Pottstown, PA 19464

Phone Number: 215-362-2474 Email: efrey@dbdlaw.com

QUESTIONNAIRE

1. Application relates to (check all that apply):

- Use Height Existing Building Building / Impervious Coverage
 Lot Area Yards Proposed Building Non-Conforming Use / Structure
 Sign Parking Home Occupation Other _____

2. Cite specific sections of North Wales Borough Zoning Code, for which relief is requested. Attach letter of denial from Zoning Officer / Borough Engineer (if applicable):
Please see the attached Zoning Summary.

3. Description of current use of property:
Please see the attached Zoning Summary.

4. Description of proposed use or project:
Please see the attached Zoning Summary.

5. I/We believe the Zoning Hearing Board should approve this request because:
Please see the attached Zoning Summary.

6. Has any previous application or appeal been filed concerning the subject of this appeal?

- No Yes (if yes, specify): Application #Z-21-06. See Decision and Order attached.

REQUIRED SUPPLEMENTAL DOCUMENTS

- 1. Copy of the deed showing current ownership.
- 2. Nine (9) copies of the site plan and elevation plan(s), if applicable, showing the affected real property, indicating the location of the lot and its size, all current and proposed improvements, parking spaces where pertinent, all plot lines, dimensions, and setback boundaries.

NOTE: *The site plan must be certified by a licensed surveyor or engineer unless the Zoning Officer grants a waiver.*

- 3. Building and Impervious Coverage Form if relief requested is for building and/or impervious coverage requirements. The form is available at Borough Hall and on the Borough website.

AUTHORIZATION

I (We) hereby acknowledge the above information is true and correct to the best of my (our) knowledge, information, or belief. Applications which are incomplete, do not include the required supporting documents, or lack sufficient information will be rejected.

Applicant Name: John P. Welsh

Applicant Signature: *John P. Welsh* Date: 10/16/2023

NOTE: *If applicable, the property owner must sign to indicate that applicant has permission to proceed with this application for the subject site.*

Owner Name: _____

Owner Signature: _____ Date: _____

FOR BOROUGH USE ONLY

Application #: _____ Fee Paid: \$ _____

Date Notices Mailed: _____ Dates Advertised: _____

Date Property Posted: _____ Hearing Date: _____

Comments: _____

**501 E. MONTGOMERY AVENUE,
NORTH WALES BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA**

AMENDED ZONING SUMMARY

- Applicant:** John P. Welsh is the owner of the Property and the applicant (“**Applicant**”).
- Property:** 501 E. Montgomery Avenue, North Wales Borough, Montgomery County, Pennsylvania; Parcel No. 14-00-01540-00-3 (“**Property**”). Property is currently improved with a non-conforming triplex (“**Main Structure**”) and a large, two story detached garage (“**Accessory Structure**”).
- District:** R-2 Residential
- Proposal:** Applicant seeks to re-configure the three dwelling units that currently exist on the Property. Currently, there are three permitted, non-conforming dwelling units in the Main Structure. Applicant seeks to reduce the number of dwelling units in the Main Structure to two dwelling units and to shift one of the permitted dwelling units to the Accessory Structure (“**Proposed Use**”).

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Requested Relief: Applicant seeks the following relief from the Board:

1. **Interpretation:** Applicant seeks interpretation that Applicant's Proposed Use is permitted by right pursuant to Sections 208-99 through 208-103 of the North Wales Borough Zoning Ordinance (the "**Ordinance**").
2. **Interpretation:** Applicant seeks interpretation that Applicant's Proposed Use is in accordance with Pennsylvania law regarding the change or extension of a non-conforming use. See Ordinance Sections 208-99, 208-100, and 208-102.
3. **Interpretation:** if the Proposed Use is permitted by right, special exception or variance, that no Parking relief is necessary as the Property currently has 3 nonconforming dwelling units and will continue to have 3 dwelling units.
4. **Special Exception:** In the alternative, Applicant seeks a special exception pursuant to Section 208-100.D(2) of the Ordinance to allow the Proposed Use.
5. **Variance (Use):** In the alternative, Applicant seeks a variance from Sections 208-12, 208-15 and 208-24, and Article XIX, Nonconforming Uses, of the Ordinance to permit the Proposed Use.
6. **Variance (Parking):** If necessary, Applicant seeks a variance from Sections 208-60, 208-61 and 208-62 of the Ordinance to relieve Applicant from creating two off-street parking spaces per dwelling.

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Basis for Relief: Applicant asserts the following as the basis for the requested relief set forth above:

1. **Interpretation:** Sections 208-99 through 208-103 of the Ordinance grants the Board discretion to determine what change of non-conforming use is permissible. In this case, there is no change in “use”, merely a change in configuration of the three non-conforming dwelling units. The Property already contains three dwelling units and there is no basis to assert that the health, safety, or public welfare will be harmed by the reconfiguration of these dwelling units.
2. **Interpretation:** Applicant’s Proposed Use is in accordance with Pennsylvania Law regarding non-conforming use. A municipality cannot prevent the natural expansion of a non-conforming multi-family property when the property owner merely seeks to re-configure existing units without altering the external dimensions of the apartment building. *Silver v. Zoning Bd. of Adjustment*, 255 A.2d 506, 507 (Pa. 1969); and see also *Harrisburg Gardens, Inc. v. Susquehanna Twp. Zoning Hearing Bd.*, 981 A.2d 405 (Pa. Cmwlth. 2009). A municipality can only limit the natural expansion of an apartment building on the basis of health, safety, or public welfare. *Silver v. Zoning Bd. of Adjustment*, 255 A.2d 506, 507 (Pa. 1969). In this case, Applicant merely seeks to re-configure a non-conforming use within existing structures. The Property already contains three dwelling units and there is no basis to assert that the health, safety, or public welfare will be harmed by the reconfiguration of these dwelling units.
3. **Interpretation:** if the Proposed Use is permitted by right, special exception or variance, the Property will continue to have 3 dwelling units with no on-site parking. No change will occur with regard to either the number of units or the number of parking spaces. Accordingly, no change is proposed and, therefore no relief should be required. In the alternative a variance is requested as set forth below.

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4. **Special Exception:** In the alternative, Section 208-100.D(2) of the Ordinance grants the Board discretion to determine what change of non-conforming use is permissible. To the extent that this Section of the Ordinance requires the Board to act via special exception, Applicant asks for a special exception on the basis set forth in Section 208-112 of the Ordinance.

5. **Variance (Use):** In the alternative, Applicant requests a change in use from Sections 208-12, 208-15 and 208-24, and Article XIX, Nonconforming Uses, of the Ordinance to permit the Proposed Use. Currently, the R-2 Residential District does not permit a triplex use. However, there is a unique hardship in that the existing structures and multi-family use of the Property predate the current Ordinance. The Property cannot be reasonably used in compliance with the Ordinance. The hardship was not created by the Applicant and the reconfiguration of existing non-conforming dwellings will have no detrimental impacts on the neighborhood or the district where the Property is located. The Applicant's request will not impair the use or development of any adjacent tract; nor will it be detrimental to the public welfare. The requested variance is the minimum variance necessary to afford a reasonable use of the Property. By way of further response, Applicant does not seek to increase the number of units, merely to re-configure the existing units.

6. **Variance (Parking):** To the extent necessary, Applicant requests a variance from Sections 208-60, 208-61 and 208-62 of the Ordinance, which requires two off-street parking spots per dwelling with regard to a multi-family use. However, there is a unique hardship in that the existing structures and multi-family use of the Property predate the current Ordinance. The Property cannot be reasonably used in compliance with the Ordinance. The hardship was not created by the Applicant and the reconfiguration of existing non-conforming dwellings will have no detrimental impacts on the neighborhood or the district where the Property is located. The Applicant's request will not impair the use or development of any adjacent tract; nor will it be detrimental to the public welfare. The requested variance is

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the minimum variance necessary to afford a reasonable use of the Property. By way of further response, Applicant does not seek to increase the number of units, merely to re-configure the existing units. No additional parking should be necessary because three dwelling units already exist.

Supplement: Applicant reserves the right to supplement this application to the Board and to request additional relief if necessary.