

BEFORE THE CONDITIONAL USE HEARING OFFICER  
TOWNSHIP OF LOWER MERION  
MONTGOMERY COUNTY PENNSYLVANIA

CU Application #3832C

**RECOMMENDATIONS FOR FINDINGS OF FACT,  
CONCLUSIONS OF LAW, DISCUSSION AND ORDER**

This conditional use application filed by Frederick L. Bissinger, Jr. seeks to transfer approximately four acres of land from 1509 Lafayette Road to 801 Stony Lane. Conditional use approval is required to reduce the required 200 foot lot width at the street line in the RAA zoning district. The proposed lot width of 1509 Lafayette Road is 156.52 feet. A Conditional Use Hearing was held on June 18, 2019 before the Conditional Use Hearing Officer pursuant to Code §155-141.2.A.5.

I. FINDINGS OF FACT

1. The Applicant is Frederick L. Bissinger, Jr., authorized agent for the Estate of Mary G. H. Davis (“Davis Estate”) and the Henry Foundation for Botanical Research (“Henry Foundation”).
2. The Applicant is represented by Jamie Jun, Esq., an attorney at Fromhold, Jaffe & Adams.
3. The Davis Estate is the owner of property known as 1509 Lafayette Road, a single tract of ground approximately 7.25 acres located in Gladwyne. (“Davis Property”). It is located in Ward 2 of Lower Merion Township and is subject to the RAA District Code 155-11 *et seq.* The Davis Property also contains Class II historic resources.
4. The Henry Foundation is the owner of property known as 801 Stony Lane, a single tract of ground approximately 42.53 acres located in Gladwyne. (“Henry Foundation

Property”). It is located in Ward 2 of Lower Merion Township and is subject to the RAA District Code 155-11 *et seq.* The Henry Foundation Property also contains Class II historic resources.

5. The Applicant proposes to transfer 173,802 square feet (approximately four acres) from the Davis Property to the Henry Foundation Property.

6. The Applicant submitted a conditional use application dated March 26, 2019 stating conditional use relief is sought from zoning code §155-128 regarding rear lot development. (“CU Application”).

7. On May 6, 2019, the Montgomery County Planning Commission reviewed the proposed subdivision plan and recommended approval subject to the Applicant obtaining conditional use approval for creation of a narrow lot. (Ex. T-2(c)).

8. On May 27, 2019, the Lower Merion Township Engineer reviewed the proposed lot line change plan and recommended approval. (Ex. T-2(b)).

9. The Lower Merion Planning Commission reviewed the proposed lot line change plan and conditional use application on June 10, 2019 and recommended approval subject to conditions.

10. A conditional use hearing was held on June 18, 2019.

11. Andrea Campisi, Senior Planner in the Department of Building and Planning stated the Applicant has proposed a preliminary lot line change plan and seeks conditional use approval for rear lot development. Campisi offered the following exhibits into evidence:

T-1 Notice of publication of Conditional Use hearing in the Times Herald;

T-2(a) Campisi Memo to Lower Merion Planning Commission dated 6/7/19;

(b) Lower Merion Township Engineer’s review letter dated 5/27/19 regarding preliminary lot line change plan;

(c) Montgomery County Planning Commission's review letter regarding preliminary lot line change plan;

T-3 Planning Commission's recommended conditions of approval.

12. Attorney Jun stated the Applicant seeks to create a rear lot as part of proposed lot line change plan. 1509 Lafayette Road is conveying approximately four acres to 801 Stony Lane. The purpose of the lot line change is to maximize the amount of land the Davis Estate may donate to the Henry Foundation. Conditional Use approval is sought for rear lot development pursuant to §155-128 because 1509 Lafayette Road will have 156.52-feet at the street line, if the transfer is approved, and 200-feet is required in the RAA district.

13. The Applicant offered the following exhibit into the record at the hearing:

A-1 Proposed Lot Line Change Plan dated 5-11-17 last revised 5-8-19 prepared by CMC Engineering.

14. The Applicant, Frederick L. Bissinger, Jr., resides at 1502 Old Gulph Road in Villanova and is familiar with both properties. Bissinger is an architect licensed in the Commonwealth of Pennsylvania who holds an undergraduate degree from Yale and attended University of Pennsylvania's graduate school of architecture. He is assisting the Davis Estate and the Henry Foundation involved in the proposed transfer of four acres to 801 Stony Lane. He was involved in the subdivision plan approved in 1998 (which was never formally recorded or finalized). The lot line change plan proposed in 2019 is substantially similar to the plan approved in 1998.

15. Bissinger testified the Proposed Lot Line Change Plan and Conditional Use Application complies with requirements found in §155-128. The minimum lot width at the building line is the minimum lot width required at the street line for lots in the RAA district. The minimum lot with extends the full depth of the existing house plus an additional 25 feet. No new

lots are being proposed. 1509 Lafayette Road will have at least 20 continuous feet along the street line, and such connection to the street shall extend at no less than that width to the point at which the narrow lot reaches the lot width required in the RAA district in which the lot is located. The 50-foot front yard setback for 1509 Lafayette Road is parallel to Lafayette Road starting at the point where the width is 200-feet. The proposed land transfer and subdivision is in accordance with the land use goals and requirements contained in Chapters 135 and 155. It will promote safety, health and morals by increasing open space in Lower Merion Township. The Applicant will accept a condition of approval that 1509 Lafayette Road will be connected to sanitary sewer at such time as one is installed along its frontage along Lafayette Road.

## II. APPLICABLE ORDINANCES

16. “Rear Lot” is defined by Code §155-4 as follows:

A narrow lot which shall have less than the required width at the street line and at the building line, but which meets the minimum lot width at the point of the proposed building closest to the street and extending the full depth of the building plus 25 feet.

17. Code § 155-128 Rear Lot Development

In any residential subdivision made under the provisions of Chapter 135 of the Code of the Township of Lower Merion or with respect to any presently existing residentially zoned lot, the Board of Commissioners may authorize the creation of narrow lots as a conditional use subject to the following regulations:

- A. The minimum lot width of the lot at the building line shall be the minimum lot width required at the street line for lots in the zoning district in which the lot is located. Minimum lot width shall be measured parallel to the street at the point of the proposed building closest to the street and shall extend the full depth of the building, plus an additional 25 feet.
- B. An applicant shall not be permitted to increase the number of conforming lots permitted in a subdivision through the use of narrow lots.

- C. Every narrow lot shall include at least 20 continuous feet along the street line, and such connection to the street shall extend at no less than that width to the point at which the narrow lot reaches the lot width required by the zoning district in which the lot is located. The area between the street line and the point at which the narrow line reaches the required lot width shall be capable of providing driveway and utility access to the lot (i.e., shall not be blocked by natural barriers, such as lakes, or slopes in excess of 25%) and shall not be excessively irregular in shape.
- D. In calculating the lot area of a rear lot, the area between the street line and a line drawn radial thereto at the point where the lot attains the minimum lot width required in its zoning district shall not be included in applying the requirements of this chapter, except those requirements relating to impervious surfaces.
- E. The Board of Commissioners shall designate which of the required yards shall be the front yard for rear lots.
- F. The Board of Commissioners shall find that the creation of a narrow lot or narrow lots shall be in accordance with the land use goals and requirements contained in this chapter and in Chapter 135 of the Code of the Township of Lower Merion.
- G. Any rear lot approved by conditional use shall connect to the adjacent sanitary sewer, when and if it is installed, even though the building may be more than 200 feet away.

18. Zoning is regulated by Chapter 155 of the Township Code. Its purpose and community development objectives are found in Code §155-1:

- A. This chapter is enacted for the following purposes:
  - (1) To protect and promote safety, health and morals.
  - (2) To accomplish a coordinated development of this Township and adjacent municipalities.
  - (3) To provide for the general welfare by guiding and protecting amenity, convenience and future governmental, economic, practical, social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions.
  - (4) To guide uses of land and structures and the type and location of streets, public grounds and other facilities.
  - (5) To permit this Township and adjacent municipalities to minimize such problems as may presently exist or as may be foreseen.
- B. Further, this chapter is designed and intended:
  - (1) To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, the provisions of

adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements; as well as

- (2) To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, and loss of health, life or property from fire, flood, panic or other dangers.
- (3) This chapter and all amendments thereto have been made in accordance with an overall program and with consideration for the character of the Township and its various parts and the suitability of the various parts for particular uses and structures.

68. Subdivision and Land Development is regulated by Chapter 135 of Code. Its purposes are defined by Code §135-1:

- A. To promote and protect the public health, safety, morals and welfare.
- B. To promote orderly, efficient, integrated and harmonious development in the Township.
- C. To require sites suitable for building purposes and human habitation in keeping with the standards of quality existing in the Township and to alleviate peril from fire, flood, erosion, excessive noise, smoke or other menace.
- D. To coordinate proposed streets with existing or proposed streets, parks or other features of the Comprehensive Plan and to provide for drainage, water supply, sewage disposal and other appropriate utility services.
- E. To encourage preservation of adequate open spaces for recreation, light and air and maintenance of the natural amenities characteristic of the Township and its residential, commercial and public areas.
- F. To ensure conformance of subdivision and land development plans with the Comprehensive Plan and public improvement plans and to ensure coordination of intergovernmental public improvement plans and programs.
- G. To secure equitable treatment of all subdivision and land development plans by providing uniform procedures and standards.
- H. To ensure that developments are environmentally sound by requiring preservation of the natural features of the areas to be developed to the greatest extent practicable, to maintain the economic well-being of the Township and to prevent unnecessary or undesirable blight, runoff and pollution.

69. The Applicant must also comply with general standards for conditional use approval found in Code §155-141.2.

### III. CONCLUSIONS OF LAW/DISCUSSION

69. The Applicant has requested conditional use approval to create a rear lot in compliance with Code §155-128, in conjunction with its proposed lot line change plan.

70. The Applicant has met the specific requirements for conditional use approval of a rear lot through his testimony as an architect involved with this project since 1998 (*supra* at para. 14-15); the lot line change plan by CMC Engineering (Ex. A-1) and Code analysis provided in the Campisi Memo dated 6/7/19 (Ex. T-2(a)).

71. The general goals and objectives of Chapters 155 and 135 have been met because approximately four-acres of open space will be transferred to the Henry Foundation, thereby promoting the public safety, health and morals.

72. The Applicant had complied with general requirements for conditional use approval, pursuant to Code § 155-141.2, through the testimony of Frederick L. Bissinger, Jr. (*supra* at para. 14-15) and the lot line change plan by CMC Engineering (Ex. A-1). Some requirements are not applicable because only a lot line change with land transfer is proposed and not land development.

73. The Estate of Mary G.L. Davis's generous gift of four acres of land benefits both the Henry Foundation for Botanical Research and residents of Lower Merion Township. The donated land will enlarge the Henry Foundation's existing campus to 46.52-acres. It will also further the Henry Foundation's philanthropic goals and mission to enhance the understanding of the natural world through the study of botanical arts and sciences to inspire responsible stewardship of the environment. Residents of Lower Merion Township will benefit from an additional four-acres added to the open space inventory.

74. The newly created rear lot at 1509 Lafayette Road will not be discernible as such because the donated land will be maintained as open space. No new lot is being created, only reduction in lot size of 1509 Lafayette Road creating a rear lot and enlargement of adjacent property 801 Stony Lane. Reducing the lot size of 1509 Lafayette Road to 2.27-acres and its width at the roadway to 156-feet will have a negligible impact outweighed by the benefits of additional open space in Lower Merion Township.

75. As a result of the foregoing, the Applicant's request for conditional use approval to create a rear lot at 1509 Lafayette Road is recommended to the Board of Commissioners.

#### IV. Order

AND NOW on this the \_\_\_\_ day of July 2019, the application of Frederick L. Bissinger, Jr. for conditional use approval to create a rear lot pursuant to Code §155-128 of the Zoning Code of the Township of Lower Merion is granted subject to the following conditions:

1. The Applicant shall record a deed covenant against 801 Stony Lane requiring any preservation area to be set aside with any future subdivision of 801 Stony Lane ("subdivision" for this purpose no to include an adjustment of boundaries between or among adjacent properties not resulting in any additional lot or lots) to be 53.3% of the lot area of 801 Stony Lane.
2. At such time as public sanitary sewers are extended to Lafayette Road along the frontage of the property at 1509 Lafayette Road, the property shall connect to that sanitary sewer system.

This grant of conditional use approval is based on the documents and plans submitted in support of the application, together with testimony at the Conditional Use Hearing, all of which are specifically incorporated herein by reference thereto.



By: \_\_\_\_\_

Pamela M. Loughman, Esq.  
Conditional Use Hearing Officer  
Township of Lower Merion