

**BEFORE THE ZONING HEARING BOARD OF
MILLERSVILLE BOROUGH, LANCASTER COUNTY, PENNSYLVANIA**

IN RE: :
APPLICATION OF : Case No. 23-01
THOMAS WALTZ on behalf of :
MILLERSVILLE UNIVERSITY :

**DECISION OF THE
MILLERSVILLE BOROUGH ZONING HEARING BOARD**

A. FINDINGS OF FACT

1. Applicant is Thomas Waltz, Associate Vice-President for Facilities, safety, and Sustainability, filing this application on behalf of his employer, Millersville University of Pennsylvania.
2. The address of Millersville University of Pennsylvania, which is the record owner of the property, is P.O. Box 1002, Millersville, Pennsylvania 17551.
3. The property which is the subject of this application is located on the Millersville University campus at 23 East Frederick Street, in the Borough of Millersville, Lancaster County, Pennsylvania, and is also known as the Armstrong House. The lot is 60 feet by 251 feet and comprises approximately 15,000 square feet.
4. On July 18, 2023, Applicant filed this application for a special exception to demolish a historic structure.
5. The application was advertised and the property was posted.

6. No adjoining property owners were notified because all adjoining lots of record are owned by Applicant, Millersville University.

7. A hearing was held August 24, 2023, at which time Mr. Waltz appeared and testified. No other persons offered testimony.

8. The Board consisted of Lynn Miller, acting chair; James Sanchez; Vickie Usciak; W. David Sykes; and Karen Eckert, members. Also present was Rob Moyer, the Borough code enforcement officer.

9. In addition to testifying regarding the posting and advertisement of the property, Mr. Moyer testified that the agenda for the meeting had been posted on the Borough website and on the Borough municipal building at least 24 hours before the time of the meeting; and, further, that copies of the agenda were available for the public.

10. The hearing was stenographically recorded.

11. The Millersville University campus contains a number of older buildings, some used as residences, for university purposes, and some that are vacant.

12. In the last 10 years, a number of the structures have been demolished, no longer being useful to the university.

13. In each case where the demolition of a historic structure has been proposed, a special exception has been requested from the Millersville Borough zoning board.

14. Most recently, on June 27, 2019, Millersville University was granted a special exception to demolish two structures, 19 East Frederick and 21 East Frederick Street.

15. The property which is the subject of this application is between those two properties.

16. At the time the application was filed in 2019 for 19 East Frederick and 21 East Frederick, it was felt that no application was necessary to demolish the present property, 23 East Frederick, because the property was not of sufficient age to trigger historical review under the zoning ordinance. However, Mr. Waltz testified that, when an appraisal was obtained, conflicting information was produced suggesting that the property might indeed be old enough to be covered by the historic ordinance.

17. Mr. Waltz testified that the historic commission has reviewed the property and has determined that the building does not have historic significance.

18. There is no feasible use of the property. Up until 2016 it was used as a Greek Life house but has been vacant since that time.

19. Since 2010, Millersville University has declined in enrollment by approximately 1,800 students, with a consequent lower need for building space.

20. At the present time, partly due to the presence of a number of obsolescent structures on the property, such as the subject building, Millersville University has approximately 200,000 more square feet than required.

21. The university is unable to build modern facilities until the 200,000 square-foot surplus is substantially reduced.

22. Removal of obsolescent structures, such as the present one, is in the public interest in that it will allow the university, at a future time, to construct modern facilities such as science buildings, necessary to fulfill the educational function of the university.

23. At the present time, the university has no plans for the site following removal; the area will simply be left in grass.

24. Any possible construction is at least five to seven years in the future.

25. The only exhibit produced at the hearing was Applicant's Exhibit #1, being four pages of maps and satellite photos so that the Board could be oriented with respect to the location of the subject property.

26. No one testified in opposition.

27. Mr. Royer and Mr. Waltz both testified that the prior zoning officer, Mike Tuscan, had indicated that, in his view, the special exception approvals granted to demolish the properties on either side, 19 East Frederick and 21 East Frederick, did not expire because the permission relates to demolition, rather than construction.

28. Mr. Waltz asked for a similar ruling for this property and Mr. Moyer concurred.

29. Following the close of testimony, the Board voted unanimously to grant the special exception to demolish the structure.

B. CONCLUSIONS OF LAW

1. The property is located in the R-1 A Residential Academic zone.

2. The property appears to be a Class II historic structure in that it may have been built prior to 1943.

3. Demolition of Class II historic structures is regulated by Section 380-30(D), which describes specific performance standards for the demolition of such structures by special exception.

4. All the specific and general criteria authorizing demolition have been met.

5. No contrary testimony was presented.

C. DISCUSSION

The Borough's historic preservation ordinance requires zoning board approval, by special exception, prior to the demolition of any structures older than 50 years at the time the zoning ordinance was enacted, which captures any structures built before 1943.

The Board is satisfied that requiring the structure to continue to exist squarely in the middle of the campus does not benefit the community health, safety, and welfare. Prohibiting demolition would leave this property surrounded by institutional buildings and vacant land. The result would interfere with the university's right to use its property in an efficient manner and, more importantly, would serve no point. The area is not suitable for residential use and the fact that it has been vacant since 2016 indicates the lack of suitability for any institutional use.

In reaching this decision we are supported by the decision of the historic commission, the planning commission and Borough council. We are also mindful that no one appeared at the hearing to contest the application.

The remaining issue is whether Applicant is subject to a deadline to act upon this special exception. A zoning decision must be acted upon within 12 months. Section 380-12.G.1. The zoning officer has determined that this section is not applicable to the demolition permits, since no new construction is required. The Board defers to the administrative interpretation of the zoning officer. Not to do so would create an

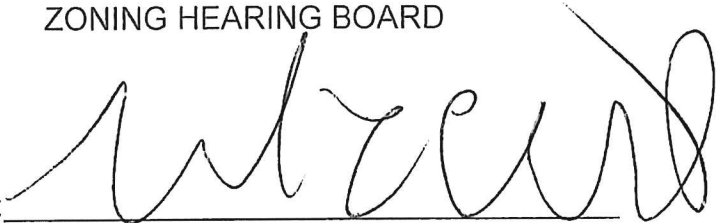
anomalous situation whereby a one-year time deadline would run against one property and not against the two adjoining properties.

D. DECISION

AND NOW, this 24th day of August, 2023, Applicant's request for a special exception to demolish the subject property is granted.

MILLERSVILLE BOROUGH
ZONING HEARING BOARD

Date: September 11, 2023

By: 
Neil L. Albert, Esquire