

YORK TOWNSHIP

**190 Oak Road, Dallastown, Pennsylvania 17313
Phone (717)741-3861 Fax (717)741-5009**

**York Township Zoning Hearing Board
November 22, 2016
6:00 p.m.**

The November meeting of the York Township Zoning Hearing Board was called to order by John Myers, Vice Chair.

Those in attendance were:

**John Myers, Vice Chair
William Descar, Secretary
David Fishel, Asst. Secretary
Timothy Salvatore, Member
James Barnes, Alternate Member
Jeffrey Rehmeyer, Esquire, Solicitor
Lisa Frye, Zoning Officer**

MINUTES OF AUGUST 23, 2016

The Zoning Hearing Board minutes of the August 23, 2016, meeting were approved.

DECISIONS OF AUGUST 23, 2016

The Zoning Hearing Board decisions of the August 23, 2016, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2016-18, RGS Associates, Inc., applicant for Spartan Asset LLC, requests a Special Exception to establish a multifamily use on property located on the east side of Interstate 83 (I-83) north of the intersection of Springwood Road and Pauline Drive in a Residential High

**York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077**

York Township Zoning Hearing Board
Tuesday, November 22, 2016
Page 2

Density (RH) District.

Present: John Snyder
Nathan Pipitone
Jill Nagy, Esquire

MOTION: On Application 2016-18, RGS Associates, Inc., applicant for Spartan Asset LLC, requests a Special Exception to establish a multifamily use on property located on the east side of Interstate 83 (I-83) north of the intersection of Springwood Road and Pauline Drive in a Residential High Density (RH) District, that the application be approved.

CONDITIONS: Elevation of the existing drive for emergency access design standards, offer of dedication for the main access boulevard, provision for right-of-way to construct through roads to adjoining properties, conservation area easement, and the requirement that a traffic light be installed at the access to Springwood Road from the access boulevard.

MOTION MADE BY: Timothy Salvatore
SECONDED BY: James Barnes
MOTION PASSED UNANIMOUSLY

Application 2016-19, Central PA Equities 19 LLC requests a Variance to exceed the number of permitted signs on property located at 212 Pauline Drive (Home 2 Suites by Hilton) in a Commercial Shopping (CS) District.

Present: Stacey MacNeal
Terry Eifher
David Hogg

MOTION: On Application 2016-19, Central PA Equities 19 LLC requests a Variance to exceed the number of permitted signs on property located at 212 Pauline Drive (Home 2 Suites by Hilton) in a Commercial Shopping (CS) District, that the

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077

York Township Zoning Hearing Board
 Tuesday, November 22, 2016
 Page 3

application be approved.

MOTION MADE BY: David Fishel
 SECONDED BY: James Barnes
 MOTION PASSED UNANIMOUSLY

Application 2016-20 & 2016-21, CHR Corp. requests a Special Exception to expand a fuel dispensing station use and three (3) Variances, 1) to exceed permitted level of illumination for parking lots at the deck, 2) to exceed permitted level of illumination for non-residential or non-farm use that falls outside of boundaries of the property and, 3) to establish a fuel dispensing station canopy constructed of translucent material on property located at 129 Leader Heights Road in a Commercial Shopping (CS) District.

Present: David Martineau
 Neal Metzger
 Dan Thornton
 Tim Rutter

MOTION: On Application 2016-20, CHR Corp. request for a Special Exception to expand a fuel dispensing station use on property located at 129 Leader Heights Road in a Commercial Shopping District, that the application be approved.

CONDITIONS: Approval subject to the receipt of a Variance for establishing a translucent dispensing station canopy and receipt of a highway occupancy permit.

MOTION MADE BY: Timothy Salvatore
 SECONDED BY: James Barnes
 MOTION PASSED UNANIMOUSLY

MOTION: On Application 2016-21, CHR Corp. request for three Variances to 1) exceed permitted level of illumination for parking lots at the deck, 2) to exceed permitted levels of illumination for non-residential or non-farm use that falls outside of boundaries of the property

York Stenographic Services, Inc.
 34 North George St., York, PA 17401 - (717) 854-0077

York Township Zoning Hearing Board
Tuesday, November 22, 2016
Page 4

and 3) to establish a fuel dispensing station canopy constructed of translucent material on property located at 129 Leader Heights Road in a Commercial Shopping District, that the application be approved.

CONDITIONS: Approval subject to the condition for the canopy that applicant agreed to reduce the amount of illumination should the illumination through the translucent material become problematic and conditioned upon the lighting levels not exceeding the current levels for the existing road frontage along the length of the expanded development frontage.

MOTION MADE BY: Timothy Salvatore
SECONDED BY: David Fishel
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2016-18

Hearing Date: November 22, 2016

Applicant: RGS Associates, Inc.

Property Owner: Spartan Asset LLC

Property: 2305 Springwood Road
UPI: #54-000-II-260-00000; II-26A
UPI: #54-000-IJ-263B; IJ-269; IJ-263; IJ-266; IJ-265; IJ-264C

Existing Zoning District: Residential High Density (RH) District

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-403.C.7 thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. John Snyder of RGS Associates, Inc. and Nathan Pipitone, Development Consultant, were present on behalf of the Applicant.
3. The Applicant is seeking a Special Exception for a Multi-Family Dwelling pursuant to Section 265-403.C.7 of the Ordinance (the "Use").
4. Mr. Snyder presented Exhibits to the Zoning Hearing Board, consisting of the following:
 - a. Exhibit A, which were the Special Exception Plans submitted with the Application including pages 1 through 10 (full sized plans were submitted with the Application but 11" x 14" plans were submitted as the Exhibit);
 - b. Exhibit B, which was an 11" x 14" aerial photograph of the site, with the proposed Use delineated thereon.
 - c. Exhibit C, which was a rendering of one of the multi-family buildings of the proposed Use.
5. Mr. Snyder provided additional information about the Use as follows:
 - a. The Property consists of approximately 111 acres, although much of it will remain open space.
 - b. The project, called Beckett Woods, will include a restaurant and retail use near Springwood Road along with 17 apartment buildings, which will provide 306 dwelling units along the Southern portion of the Property near Springwood Road (collectively the "Project").

- c. The apartment buildings are expected to contain a combination of 102 one-bedroom units, 102 two-bedrooms units, and 102 three-bedroom units, (collectively the "Units").
 - d. When designing the Project, there was an effort to avoid the wetlands and other environmentally sensitive areas.
 - e. The Project was designed to handle all stormwater on site.
 - f. The development area will really be 16 of the 111 acres.
 - g. Based upon discussions with neighbors there will be considerable buffering for their benefit.
 - h. There will be sufficient Net Lot Area, lot frontage, lot width and open space.
6. With regard to the Specific requirements for a Multi-Family Dwelling Special Exception set forth in Section 265-649 of the Ordinance, Mr. Snyder offered the following:
- a. There is sufficient minimum Net Lot Area, based upon the expected Units. More specifically, approximately 14 acres is necessary. When considering the size of the Property at large and subtracting therefrom the components to determine Net Lot Area, there is still much more acreage than necessary for the Ordinance. There are 16.9 acres of Steep Slopes and 21.09 acres of riparian buffers.
 - b. All buildings shall be setback a minimum of 50 feet from the Property line or street rights-of-way.
 - c. The Lot Width exceeds 200 feet.
 - d. The entrance to the Project from Springwood Road is proposed to be a boulevard (the "Boulevard") that will be offered for dedication to the Township. The Project will have at least 2 points of access from the Boulevard. Additionally, there will be an emergency access driveway along the Eastern portion of the Property too.
 - e. There will be sufficient landscaped and equipped play area and open space based upon the proposed number and type of units.
 - f. The maximum building height is expected to be 35 feet or less and will not exceed the requirements of the Ordinance.
7. Additional information was offered on the Use as follows:
- a. It will be professionally managed.
 - b. The Applicant spoke with the neighbors who have no current concerns.
8. There were no questions from the floor.
9. There was no testimony for or against the Applicant.
10. Lisa Frye, the Township Zoning Officer did not indicate any concerns for this proceeding, although she noted that land development was still underway.
11. The Zoning Officer also noted that the Township Comprehensive Plan shows a through street between Springwood and Camp Betty Washington Roads, a portion of which could be on this Property.
12. The Applicant provided testimony in support of the General Standards for a Special Exception in Section 265-1009, as follows:
- a. The intended purpose of the proposed Use shall be consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use shall be in the best interest of properties in the general area, as well as the community at large, when viewing the proposed Use in relationship to and its potential effects upon surrounding land uses and existing environmental conditions regarding the pollution of air, land and water, noise, potential of hazards and congestion, illumination and glare, restrictions to natural light and circulation.

- c. The proposed Use is suitable for the Property in question and is designed, constructed and will be operated and maintained suitably for the anticipated activity and population served, numbers of participating population, frequency of use, adequacy of space and generation of traffic.
 - d. There are adequate and available utility services and facilities, such as sanitary and storm sewers, water, fire, police and other public facilities and the ability of the Township to supply such services.
 - e. The proposed Use has adequate ingress, egress, interior circulation of pedestrians and vehicles, off-street parking and accessibility to the existing Township street system.
 - f. The Use shall be in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Township's Subdivision and Land Development Ordinance.
13. Based upon questions from the Board with regard to access, the following five Conditions were developed, and they were indicated to be acceptable from the perspective of the Applicant:
- a. The access Boulevard to the Project shall be constructed to current Township specifications and offered to the Township for dedication.
 - b. There shall be a traffic light installed at the intersection of the Boulevard and Springwood Road.
 - c. The emergency access along the Eastern portion of the Property shall be elevated above the flood plain.
 - d. A future easement of access shall be provided on the Property to facilitate a connection, utilizing adjoining property, between Springwood and Camp Betty Washington Roads, if and when the Township so directs.
 - e. A conservation easement shall be placed upon the open space of the Project as set forth in the Special Exception Plans.
(Collectively the "Conditions")

CONCLUSIONS OF LAW


Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Applicant has met the Specific Requirements for a Special Exception for a Multi-Family Dwelling as set forth in Section 265-403.C.7. of the Ordinance.
2. The Applicant has met the General Requirements for a Special Exception for a Multi-Family Dwelling as set forth in Section 265-1009 of the Ordinance.
3. The imposition of the Conditions is necessary.

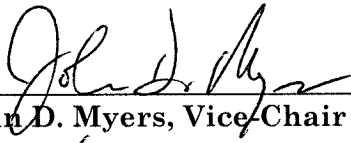
Accordingly, Timothy Salvatore moved, and Jim Barnes seconded, to grant the Special Exception for the Multi-Family Dwelling subject to the Conditions, on the Property located on the East side of Interstate 83 (I-83) North of the intersection of Springwood Road and Pauline Drive in a Residential High Density (RH) District. The motion passed with John D. Myers, Timothy Salvatore, David N. Fishel, William Descar and Jim Barnes voting in favor of the motion. There were no votes against the motion.

WITNESS/ATTEST

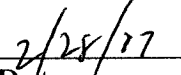
YORK TOWNSHIP
ZONING HEARING BOARD



William Descar, Secretary

By: 

John D. Myers, Vice-Chair



Date

The Special Exception granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Special Exception, pursuant to Section 265-1009. E. of the Ordinance.

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2016-19
Hearing Date: November 22, 2016
Applicant: Central PA Equities 19, LLC
Property Owner: Central PA Equities 19, LLC
Property: 212 Pauline Drive
UPI: 54-000-II-0024-E0-00000
Existing Zoning District: Commercial Shopping (CS) District

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-711.C Table 7.B thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. David Hogg was present on behalf of the Applicant, as was Attorney Stacey MacNeal and Terry Elkner.
3. The Applicant is seeking a Variance pursuant to Section 265-711.C. Table 7.B. to allow for a third business Sign on the Property.
4. Mr. Hogg provided information in support of the Application as follows:
 - a. Referencing the Tax Map attached with the Application, he noted that the Property is pie-shaped.
 - b. He was involved with the development of the hotel on the Property, which hotel is now a Hilton Home 2 Suites (the "Hotel").
 - c. There currently are two Signs serving the Hotel.
 - d. The first sign is on the North side of the Hotel building, so it can be seen by travelers heading South on Interstate 83.
 - e. The second sign is on the Southeastern portion of the building and is an architectural feature called "The Beacon", which includes a lighted area with wording.
 - f. This is the first time for the Applicant working with this Hotel brand.
 - g. A request was asked of Hilton to avoid The Beacon Sign, but Hilton refused.
 - h. There is shared access between this Property and the one to the West, which is Manor Care (the "Access Drive"), as was suggested by prior decision of the Board, No. 2014-16.
 - i. Because of that shared Access Drive, guests are often confused. Specifically, guests see the shared Access Drive and the prominent Manor Care Sign and assume the point of access is only for Manor Care itself.

- j. Thus, guests will drive around the corner seeking another access to the Hotel on the Eastern portion of the Property.
 - k. This Access Drive is confusing for first time guests to the Hotel and there are many of them.
 - l. The Hotel opened on July 1, 2016.
 - m. When utilizing a GPS, guests are often told that they have arrived at the Hotel after passing the Access Drive.
 - n. There are safety issues with regard to Pauline Drive, including its slope and curvature, especially at the location of the Property.
 - o. The Access Drive location and lack of nearby signage affects driving of guests.
 - p. Mr. Hogg presented videos taken by a passenger in a car when approaching the Access Drive to the Hotel, from both directions.
 - q. He noted that it is hard to identify the Access Drive because of the ground slope.
 - r. He noted that the Property has street frontage of approximately 750 to 800 feet.
 - s. He explained that the two existing Signs are less in size than the maximum allowed by the Ordinance.
5. Mr. Hogg explained more about the third Sign as follows:
 - a. It would be a small Monument Sign, located beside the Access Drive.
 - b. The Monument Sign would be the smallest of the options listed on the Global Sign Family (page 4 of 9) Diagram that was submitted with the Application.
 - c. The Monument Sign would be illuminated.
 - d. The Monument Sign would have dimensions of approximately 4' by 7' 4 3/8".
 - e. The Monument Sign would be placed on a pedestal so that it could be seen despite the slope of the ground and the nearby Manor Care Sign.
 6. Terry Elkner testified in support of the Applicant as follows:
 - a. She has managed the Hotel since it opened.
 - b. She has received complaints with regard to the confusing nature of the Access Drive to the Hotel, since day one.
 - c. She will often receive two or three comments or concerns with regard to the Access Drive per day and even more on the weekends.
 - d. She noted that there is confusion because it is thought that the Access Drive only serves Manor Care.
 - e. Visitors have indicated that they have had to slam on the brakes to slow down to maneuver into the Access Drive, take multiple passes up and down Pauline Drive, and turn around in the shopping center or School of Technology parking lots to finally reach Hotel parking.
 7. In response to the criteria for the Variance, the Applicant provided the following:
 - a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, including the pie-shaped nature of the Property, the slope of the Property, the radius of the turn surrounding it and the shared Access Drive and such unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provision of this chapter in the neighborhood or district in which the Property is located.
 - b. 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 Chapter and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, as the Variance is necessary for adequate and safe use.

- c. The unnecessary hardship is not being created by the Applicant, and in part is a result of compliance with prior directive of the Board to use a shared Access Drive with Manor Care.
 - d. 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.
 - e. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.
- 8. There were no questions from the audience.
 - 9. There was no testimony for or against the Applicant.
 - 10. Lisa Frye, Zoning Officer, indicated that she had no objection to the Variance from the Township perspective.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

- 1. The joint Access Drive with Manor Care has created both benefits and burdens that impact the Property.
- 2. The additional Monument Sign will not cause harm and will enhance the safety for guests of the Hotel and motorists on Pauline Drive.
- 3. The Applicant has met the criteria for a Variance.

Accordingly, David N. Fishel moved, and Jim Barnes seconded, to grant the Variance to exceed the number of permitted signs on the Property located at 212 Pauline Drive in a Commercial Shopping (CS) District. The motion passed with John D. Myers, Timothy Salvatore, David N. Fishel, William Descar, and Jim Barnes voting in favor of the motion. There were no votes against the motion.

WITNESS/ATTEST

William Descar
 William Descar, Secretary

YORK TOWNSHIP
 ZONING HEARING BOARD

By: John D. Myers
 John D. Myers, Vice Chair

2/28/17
 Date

The Variance granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Variance, pursuant to Section 265-1009. E. of the Ordinance.

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2016-20
Hearing Date: November 22, 2016
Applicant: CHR Corp. (Contact: Tim Rutter, Treasurer)
Property Owner: Jay K. and Margaret A. Crist (Contact: Tim Rutter)
Property: 129 Leader Heights Road
UPI: #54-000-HI-0150-00-00000
UPI: #54-000-HI-0147-00-00000
Existing Zoning District: Commercial Shopping (CS) District

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-633 thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. David Martineau, counsel for Rutter's, Neil Metzger of LCS Design, Inc., Dan Thornton of Transportation Resource Group, Inc., and Tim Rutter were present on behalf of the Applicant.
3. The adjoining property upon which there is a car wash will be acquired to allow for the enlargement of the existing retail store (the "Store") and restaurant on the site and the reorientation of the existing fuel dispensing facilities.
4. Accordingly, the Applicant is seeking a Special Exception under Section 265-633 of the Ordinance for a Fuel Dispensing Station. (The Fuel Dispensing Station and Store may be referred to collectively as the "Use").
5. The Applicant provided some more detailed information about the Use as follows:
 - a. The Store will be expanded with a proposed addition of 2,565 square feet, making the total size 6,065 square feet.
 - b. The fuel dispensing islands in the front of the Store shall be reoriented so that there will be 6 islands under a canopy that is no longer connected to the Store.
 - c. Access to the fuel pump islands will be perpendicular to the Store.
 - d. Additionally, there will be 4 diesel pump fuel islands to the rear of the Store, with access running parallel to the Store, from East to West.
 - e. The exit from the Property will be readjusted and moved further to the West.
 - f. Additional parking will be added, all of which is delineated under the Zoning Hearing Plans numbered 1, 2 and 3.
6. Counsel utilized representatives of the Applicant and provided information in support of Section 265-633 of the Ordinance as follows:

- g. The fuel pumps and any canopy structure shall be setback more than 25 feet from the street right-of-way and the Property lines.
 - h. Except along access drives, a vertical concrete curb 8 inches in height shall be placed along all lot frontages.
 - i. Canopy lighting shall be directed downward toward the fuel pumps and shielded or recessed in accordance with the SALDO, but Variances are necessary from Section 265-520.B. and 265-633.C.
 - j. Outdoor sales displays and any vending machines shall be located under the fueling canopy and shall be limited to 10 percent of the fuel canopy area.
 - k. Outdoor trash and recycling receptacles shall be provided at each fuel dispensing island.
 - l. Kiosks shall be located under the fueling canopy.
 - m. Each fuel pump shall be provided with a minimum of 60 feet of vehicle stacking.
7. In response to the General Standards for a Special Exception in Section 265-1009, the following was provided:
- a. The intended purpose of the proposed Use shall be consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use shall be in the best interest of properties in the general area, as well as the community at large, when viewing the proposed Use in relationship to and its potential effects upon surrounding land uses and existing environmental conditions regarding the pollution of air, land and water, noise, potential of hazards and congestion, illumination and glare, restrictions to natural light and circulation.
 - c. The proposed Use is suitable for the Property in question and is designed, constructed and will be operated and maintained suitably for the anticipated activity and population served, numbers of participating population, frequency of use, adequacy of space and generation of traffic.
 - d. There are adequate and available utility services and facilities, such as sanitary and storm sewers, water, fire, police and other public facilities and the ability of the Township to supply such services.
 - e. The proposed Use has adequate ingress, egress, interior circulation of pedestrians and vehicles, off-street parking and accessibility to the existing Township street system.
 - f. The Use shall be in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Townships' Subdivision and Land Development Ordinance.
8. The Applicant noted that there are still a number of trucks that maneuver to the rear of the Property now, and the Proposed Use will allow for more space.
9. In response to questions with regard to truck access to the rear of the Property, it was represented that the radius would work to allow trucks to maneuver.
10. It was indicated that the Applicant does not expect a lot of long trucks, but rather more shorter ones.
11. The Zoning Officer for the Township indicated that the Land Development Plans for the Use are under review and are in decent shape. She cited no concerns from the Township perspective with regard to the Special Exception.
12. Two Conditions were developed relative to the Application as follows:
- a. That the Applicant obtain the Highway Occupancy Permit for the Use.
 - b. That the Applicant obtain the Variances as requested by Application 2016-21 (Collectively the "Conditions").

CONCLUSIONS OF LAW


Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Applicant has met the specific standards for a Fuel Dispensing Station as set forth in Section 265-633, but for subsection C, which must be addressed by Variance.
2. The Applicant has met the general requirements for a Special Exception as set forth in Section 265-1009.C.

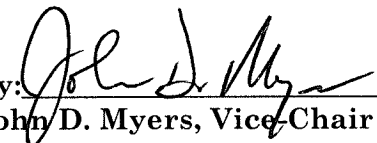
Accordingly, Timothy Salvatore moved, and Jim Barnes seconded, to grant the Special Exception to expand a fuel dispensing station on the Property located at 129 Leader Heights Road in a Commercial Shopping (CS) District subject to the Conditions. The motion passed with Timothy Salvatore, David N. Fishel, William Descar, John D. Myers and Jim Barnes voting in favor of the motion. There were no votes against the motion.

WITNESS/ATTEST

**YORK TOWNSHIP
ZONING HEARING BOARD**



William Descar, Secretary

By: 

John D. Myers, Vice-Chair
2/28/17
Date

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2016-21

Hearing Date: November 22, 2016

Applicant: CHR Corp. (Contact: Tim Rutter, Treasurer)

Property Owner: Jay K. and Margaret A. Crist (Contact: Tim Rutter)

Property: 129 Leader Heights Road
UPI: #54-000-HI-0150-00-00000
UPI: #54-000-HI-0147-00-00000

Existing Zoning District: Commercial Shopping (CS) District

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-520.B, 265-520.D, and 265-633.C. thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. The Application, Exhibits, Findings of Fact and Conclusions of Law for Decision 2016-20 are incorporated by reference herein.
3. The Applicant is seeking the following Variances:
 - a. From Section 265-520.B. for lighting for the Use, specifically to exceed illumination of 5 foot candles at the deck and .5 foot candles at the deck along the right-of-way line, more specifically delineated in the Zoning Hearing Plan -4 Lighting Plan (the "Illumination Variance").
 - b. From Section 265-633.C., to allow for the fuel canopy on the Southern portion of the Property in front of the Store to be constructed of a solid, translucent material (the "Canopy Variance").
4. In support of the Illumination Variance, the Applicant explained as follows:
 - a. There are certain areas of lighting at the Property line, along the Northern portion of the Property, as well as to the South along Leaders Heights Road, that exceed 5 foot candles.
 - b. Additionally, lighting around the Store, particularly on the sidewalks would exceed 5 foot candles.
 - c. There is already lighting on Interstate 83 and Leaders Heights Road.
 - d. Much of the lighting on the Property exceeds the limits of the Ordinance now.
 - e. There are no concerns from any adjoining Property owners with regard to the existing or proposed Lighting.
5. In support of the Canopy Variance, the Applicant stated as follows:
 - a. The Applicant has reduced the lighting per vehicle underneath the canopy.

- b. The translucent canopy is necessary for both safety and branding purposes.
 - c. The translucent canopy should not create any illumination issues or otherwise violate the Ordinance.
6. In response to the criteria for the Variance, the Applicant provided the following:
- a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, which include the narrowing of the Property as a result of changes to Leaders Heights Road done by PennDOT, including the widening of the roadway and the barrier between the lanes of travel and such unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provision of this chapter in the neighborhood or district in which the Property is located.
 - b. 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 Chapter and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, as the Variance is necessary for adequate and safe use.
 - c. The unnecessary hardship is not being created by the Applicant, but is rather a function of PennDOT's work on Leaders Heights Road and evolving conditions around the Property.
 - d. 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, and further, the Applicant is securing an adjacent property to aid in the transition.
 - e. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.
7. On behalf of the Township, the Zoning Hearing Officer indicated no opposition to the Variances.
8. The Applicant has agreed to a Condition related to the Canopy Variance, which is that the canopy lighting behind the translucent material would be dimmed if it is determined to be too bright as implemented (the "Condition").

CONCLUSIONS OF LAW

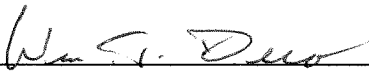
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes

1. The Applicant has met the criteria for both the Illumination and Canopy Variances.

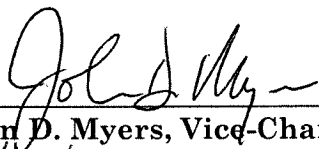
Accordingly, Timothy Salvatore moved, and David N. Fishel seconded, to grant the Variances to exceed permitted level of illumination for parking lots at the deck, to exceed permitted level of illumination for non-residential or non-farm use that falls outside of boundaries of the Property, and to establish a fuel dispensing station canopy constructed of translucent material on the Property located at 129 Leaders Heights Road in a Commercial Shopping (CS) District, subject to the Condition. The motion passed with Timothy Salvatore, David N. Fishel, William Descar, John D. Myers and Jim Barnes voting in favor of the motion. There were no votes against the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD



William Descar, Secretary

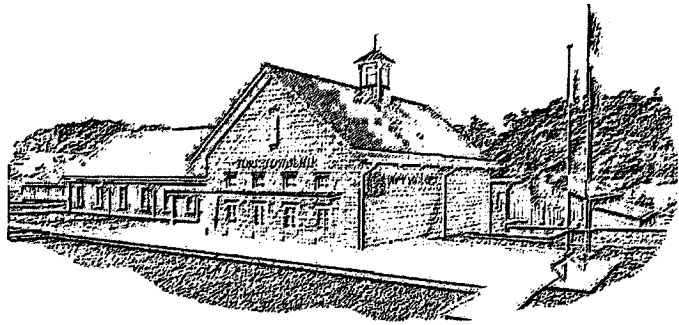
By: 

John D. Myers, Vice-Chair
2/28/17

Date

The Variance granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Variance, pursuant to Section 265-1009. E. of the Ordinance.

YORK TOWNSHIP



190 Oak Road, Dallastown, Pennsylvania 17313 • Phone (717) 741-3861 • Fax (717) 741-5009

YORK TOWNSHIP ZONING HEARING BOARD

ANNUAL REPORT FOR 2016

Officers for the year 2016 were Glenn Myers serving as Chairperson, John Myers serving as Vice Chairman, William Descar serving as Secretary, and David Fishel serving as Assistant Secretary. Additional member was Timothy Salvatore, and James Barnes and Kathleen Cronin served as alternates.

Solicitor for 2016 was Jeffrey L. Rehmeier II, Esq.

There were 21 applications for hearing received in the township office in 2016 and no applications tabled from 2015; of these, 20 were heard by the Zoning Hearing Board and 0 were withdrawn and 0 dismissed. In 2016 there were 9 Special Exception requests (9 approved, 0 denied, 0 withdrawn); there were 11 Variance requests (11 approved, 0 denied, 0 withdrawn); there were no Appeals; and there was 1 Interpretation.

Secretary