

YORK TOWNSHIP

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

York Township Zoning Hearing Board
May 23, 2017
6:00 p.m.

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

Those in attendance were:

John Myers, Chair
Glenn Myers, Vice Chair
William Descar, Secretary
James Barnes, Asst. Secretary
Kathleen Cronin, Member
Anthony Pantano, Alternate Member
Jeffrey Rehmeyer, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF APRIL 25, 2017

The Zoning Hearing Board minutes of the April 25, 2017, meeting were approved.

DECISIONS OF APRIL 25, 2017

The Zoning Hearing Board decisions of the April 25, 2017, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2017-06: Members 1st Federal Credit Union and York Value Center LP request a Variance to construct retaining walls located distances less than their heights from the nearest property line on property located at 2124

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

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South Queen Street, York, PA in a Commercial Shopping (CS) District.

Present: James Strong, Esquire
 John Murphy
 Dale Gingrich
 Ray Kyle

MOTION: On Application 2017-06, Members 1st Federal Credit Union and York Value Center LP request a Variance to construct retaining walls located distances less than their heights from the nearest property line on property located at 2124 South Queen Street, York, PA in a Commercial Shopping (CS) District, that the application be approved.

MOTION MADE BY: Glenn Myers
 SECONDED BY: William Descar
 MOTION PASSED 4-1, James Barnes voted negatively

Application 2017-07: Timothy E. Kane, Esquire, requests a Special Exception to establish a home occupation (law office) on property located at 371 Hillcrest Road in a Residential Low Density (RL) District.

Present: Timothy E. Kane, Esquire

MOTION: On Application 2017-07, Timothy E. Kane, Esquire, requests a Special Exception to establish a home occupation (law office) on property located at 371 Hillcrest Road in a Residential Low Density (RL) District, that the application be approved.

CONDITIONS: That the pre-existing parking area to the side of the driveway be considered the second space but to the extent parking issues arise and reported to the Township that the Applicant will need to discontinue the home occupation or improve that parking area further to

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specifications designated by the Township.

MOTION MADE BY: Kathleen Cronin
SECONDED BY: William Descar
MOTION PASSED UNANIMOUSLY

Application 2017-08: Heritage Hills Associates LP requests a Special Exception to amend a Special Exception granted under prior Application 2011-06 granting approval to establish a commercial recreational establishment, outdoor (ice skating rink) on property located at 2700 Mt. Rose Avenue and property located to the east along East Prospect Road in a Commercial Shopping (CS) District.

Present: Matt DeRose

MOTION: On Application 2017-08: Heritage Hills Associates LP requests a Special Exception to amend a Special Exception granted under prior Application 2011-06 granting approval to establish a commercial recreational establishment, outdoor (ice skating rink) on property located at 2700 Mt. Rose Avenue and property located to the east along East Prospect Road in a Commercial Shopping (CS) District, that the application be approved.

MOTION MADE BY: Kathleen Cronin
SECONDED BY: James Barnes
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2017-06

Hearing Date: May 23, 2017

Applicant: Members First Federal Credit Union
York Value Center Limited Partnership

Property Owner: Karen Braun Lanpher

Property: 2124 South Queen Street
UPI: 54-000-04-0045-B0-00000 (Bank Property)
UPI: 54-000-04-0045-00-00000 (Shopping Center Property)

Existing Zoning District: Commercial Shopping (CS)

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-513(c)(3) 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. James Strong, Esquire, of McNees Wallace & Nurick; John Murphy, of Alpha Consulting Engineers, Inc.; and Dale Gingerich of Members First Federal Credit Union were present on behalf of the Applicant.
3. The Exhibits attached to the Application are incorporated by reference herein.
4. The Applicant is seeking a Variance of Section 265-513(c)(3) to install Retaining Walls to be located at distances less than their heights from the nearest property lines (the "Variance").
5. Attorney Strong provided introductory information as follows:
 - a. There are two properties at issue, one is the Bank Property and the other is the Shopping Center Property.
 - b. He identified Applicant's Exhibit 1, which was an aerial photograph, providing information on both Properties.
 - c. The Bank Property has been vacant for years and is to be redeveloped to be a Members First Federal Credit Union Branch (the "Credit Union Branch").
 - d. As part of the redevelopment, the access points to the Bank Property from South Queen Street would be eliminated.
 - e. Continued access to the Bank Property would be via a shared drive that provides access to South Queen Street via the Shopping Center Property.
 - f. There are many positive benefits to the redevelopment.
 - g. They would need to address the grade between the Properties.

- h. There is a 10 foot elevation change between the Bank Property and the Shopping Center Property.
 - i. There would need to be two Retaining Walls to level out the Bank Property.
 - j. There would be the Southern on the Bank Property and the Western Wall on the Shopping Center Property.
 - k. The Southern Wall, which would be on the Property line, would have a height ranging from 1 foot to 11 feet and be set back -0- feet from the Property line (the "Southern Wall").
 - l. The Western Wall would range in height from 2¼ feet to 11 feet, and its closest point would be setback only 3 feet (the "Western Wall").
 - m. The Walls would be protected with aluminum fences.
 - n. There would be returns on the fences so people could not climb out around them.
 - o. The Walls would be similar to the retaining walls to the North, which are on the shopping center on South Queen Street, including Panera Bread and Noodles, that borders the Shopping Center Property.
 - p. The Walls would be segmented.
6. Attorney Strong provided Exhibits that would be used for further testimony.
7. Attorney Strong called Dale Gingerich who testified as follows:
- a. He identified himself as the Vice President for Facilities for Members First Federal Credit Union.
 - b. When looking at Exhibit A-1, Existing Conditions, the Bank Property was noted to have an abandoned bank building on it.
 - c. There are 2 access points to the Bank Property from South Queen Street, as well as an access drive to the Bank Property also serving the Shopping Center Property.
 - d. There are steep embankments between the Bank Property and the Shopping Center Property to the South and West.
 - e. When referencing Exhibit A-2, there were various photographs of the Existing Conditions of the Property, showing embankments, guardrails, and stormwater washout.
 - f. He referenced Exhibit A-5, which was an aerial photograph the Proposed Walls could be seen.
 - g. The Walls would be segmented.
 - h. There would be ornamental protective fences on the Walls.
 - i. Stormwater would be handled on the Bank Property.
 - j. Exhibit A-3 was a Concept Plan approved by Members First Federal Credit Union for a 2700 square foot branch building, which is the smallest standard size.
 - k. The Credit Union Branch would have drive-through lanes, including one for an ATM, lanes for tellers, and a pass-through lane to circulate around the Property.
 - l. It was explained that Exhibit A-6 is an Easement Agreement dated March 27, 2017 between the Applicants for the Bank Property and the Shopping Center Property, which Easement has been signed and recorded.
8. Attorney Strong called John Murphy of Alpha Consulting Engineers, Inc. who testified as follows:
- a. Mr. Murphy explained that he had a Bachelor's Degree in Civil Engineering from Pennsylvania State University.
 - b. He was a licensed professional engineer since 1992.
 - c. He prepared the plans involved.

- d. Using Exhibit A-1, Mr. Murphy highlighted the Existing Conditions, noting that the Property was 0.6 of an acre in size.
 - e. Referencing Exhibit A-3, Mr. Murphy testified that he believes the change in topography between the Bank and Shopping Center Properties constitutes a hardship.
 - f. He provided his opinion that installation of the Retaining Walls, as opposed to the grading, would be an improvement on numerous fronts, including better aesthetics and functionality.
 - g. He noted unique features between the Properties, including the grade differential.
 - h. Mr. Murphy referenced photographs of the Wall to the North of the Bank and Shopping Center Properties, as well as the return on its fence.
 - i. Focusing on Exhibit A-4, Mr. Murphy talked about the Proposed Retaining Walls, including the design. He referenced that the Southern Wall would be on the Property line between the Bank and Shopping Center Properties.
 - j. The Western Wall would be setback 3 feet.
 - k. With regard to stormwater management, it would be controlled on the interior of the Bank Property.
 - l. The Bank Property would have curbing along its outer edge.
 - m. The redevelopment of the Bank Property into the Credit Union Branch would reduce the impervious coverage slightly.
 - n. The Walls would comply with the Uniform Construction Code and York Township Ordinances.
 - o. The Walls would have drainage features.
 - p. The Walls would be designed by an engineer and utilize a geogrid.
9. Attorney Strong moved to enter Exhibits A-1 through A-6 into the record, and they were accepted.
10. In response to questions, the following answers were provided by the Applicant:
- a. The separation between the Retaining Walls and parking in the Shopping Center would be maintained by bumper blocks, which would prevent car impacts.
 - b. Grading could not be used between the Properties to the South because the grassy area might be needed by the Shopping Center.
 - c. In lieu of grading, the Walls would create consistency.
11. There were no questions from the audience.
12. There was no testimony from the audience in favor of or against the Variance.
13. 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 topography, existing surroundings to include Interstate 83 and South Queen Street and the fact that the Bank Property has been vacant for some time, 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 Bank Property, and is necessary for adequate and safe use.
 - c. The unnecessary hardship is not being created by the Applicant.

- 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. In fact, the 2 Property owners that will be affected by the Walls are joint Applicants.
 - 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.
14. From the Township perspective, the Zoning Officer indicated that the Township Engineer reviewed the plans and has no issues with the plans or the Easement.
 15. The Wall design and geotechnical engineering shall be provided to the Township.
 16. Mr. Ray Kyle, of the York Value Center, Limited Partnership (owner of the Shopping Center Property), was called as a witness, and he testified that grading in lieu of the Southern Wall would not be acceptable because the area in the vicinity might need to be changed based upon future development of the Shopping Center.

CONCLUSIONS OF LAW

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

1. The Property is unique in terms of its topography, location, current vacancy following prior use, and redevelopment needs.
2. The utilization of the two Retaining Walls would create consistency between the Properties, maximize their development potential and not creating adverse consequences for other properties.
3. The Applicants met the criteria for a Variance.

Accordingly, Glenn Myers moved, and William Descar seconded, to grant a Variance to construct Retaining Walls located at distances less than their heights from the nearest property line on the Property located at 2124 South Queen Street in a Commercial Shopping (CS) District. The motion passed with 4 votes in favor from John D. Myers, Glenn Myers, William Descar, and Kathleen A. Cronin, and 1 vote against, by James Barnes.

WITNESS/ATTEST

**YORK TOWNSHIP
ZONING HEARING BOARD**

William Descar
William Descar, Secretary

By: John D. Myers
John D. Myers, Chair
6/27/17
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: 2017-07
Hearing Date: May 23, 2017
Applicant: Timothy E. and Deborah D. Kane
Property Owner: Timothy E. and Deborah D. Kane
Property: 371 Hillcrest Road
UPI: 54-000-07-0011-00-00000
Existing Zoning District: Residential Low Density (RL)

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-640 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 materials submitted with the Application are incorporated by reference herein.
3. The Applicant, Attorney Timothy E. Kane, presented the case.
4. The Applicants are seeking a Special Exception for a Home Occupation, namely that of a law office (the "Home Occupation" or "Use").
5. Attorney Kane testified as follows:
 - a. Applicant's Exhibit 1 was presented to provide information in support of the Special Exception.
 - b. Attorney Kane is largely retired from the practice of law, but would like to keep his options open.
 - c. If necessary for meeting space, facilities at The York County Bar Association could be used.
 - d. For real estate settlements to occur, they will be done at the office of the Title Company.
 - e. He would not be seeking additional clients but would be serving existing clients.
6. In response to the Specific Criteria for a Home Occupation in Section 265-640, the following was offered:
 - a. Attorney Kane would be the person primarily responsible for the Home Occupation and is a full-time resident of the premises. There would be no more than 1 non-resident employee.
 - b. The first floor plus the breezeway is 1,415 square feet. The breezeway is 120 square feet. Accordingly, the office would occupy 8.5 percent of the floor space, which is less than 25% maximum.

- c. There would be no displays or changes to the building façade that would indicate that the exterior of the dwelling would be used for purposes other than a dwelling.
 - d. There would be no external evidence of the Home Occupation except for 1 sign, not exceeding 1 square foot in size, likely to have the word "Office" and be attached to the breezeway door.
 - e. There would be no storage of materials, products or machinery that would not be inside the home.
 - f. The Home Occupation would be conducted entirely inside the dwelling.
 - g. Deliveries would not affect traffic circulation, being only those by UPS or Federal Express, if necessary.
 - h. The traffic generated by the Home Occupation would not exceed volumes that would normally be expected in a residential neighborhood.
 - i. The Home Occupation would not produce dust, obnoxious odors, vibrations, lighting glare, fumes or smoke. Sounds generated within the building will not be perceived at the lot line.
 - j. The Home Occupation would not utilize any unusual materials, fluids or gases, and if it would, they would be disposed in a manner that complies with all the regulations of the York Township Water and Sewer Authority and other applicable governmental codes.
 - k. There are not expected to be any sales of goods on the premises, but if they would occur they will be incidental to services performed.
 - l. The Home Occupation will not utilize explosive, highly flammable or hazardous materials.
 - m. The hours of operation are expected to be Monday and Tuesday from 10:00 am to 2:00 pm and other hours by appointment.
 - n. The Applicants shall request the permit for the Home Occupation required by the Ordinance, including all necessary information.
 - o. The Applicants understand the limitations of a Home Occupation permit.
 - p. The Applicants understand that the permit shall expire annually and be subject to the appropriate renewal process.
 - q. The Applicants understand that inspections are required per the Ordinance and York Township personnel shall have the right of access.
 - r. With regard to parking, the Applicant noted that parking could be accomplished on the driveway and the pre-existing parking area beside it, with the Applicants' cars being parked in the garage and on the street.
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 is consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use is 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.
8. The Applicant agreed to a condition that if there were any complaints made to the Township with regard to parking related to the Home Occupation, that pre-existing parking area beside the driveway would have to be improved in accordance with all ordinances of the Township and applicable law, or the Home Occupation would have to be discontinued (the "Condition").
 9. On behalf of the Township, the Zoning Officer indicated that the Township had no concerns and that it received only one call, but the caller was okay with the Application.

CONCLUSIONS OF LAW

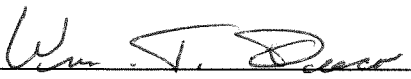
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

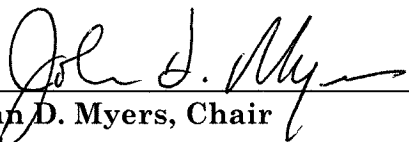
1. The Applicant has met the Specific Criteria for a Special Exception set forth in Section 265-640, subject to the Condition.
2. The Application has met the General Criteria for a Special Exception as set forth in Section 265-1009(c).

Accordingly, Kathleen A. Cronin moved, and William Descar seconded, to grant the Special Exception to establish a Home Occupation (law office) on the Property located at 371 Hillcrest Road in a Residential Low Density (RL) District, subject to the Condition. The motion passed unanimously with John D. Myers, Glenn Myers, William Descar, Jim Barnes and Kathleen A. Cronin voting in favor of the motion.

WITNESS/ATTEST

**YORK TOWNSHIP
ZONING HEARING BOARD**


William Descar, Secretary

By: 
John D. Myers, Chair
6/27/17
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: 2017-08
Hearing Date: May 23, 2017
Applicant: Heritage Hills Associates, LP
Property Owner: Heritage Hills Associates, LP
Property: 2700 Mount Rose Avenue/East Prospect Road
UPI: 54-000-IJ-0079-E0-00000
Existing Zoning District: Commercial Shopping (CS)

Relief Requested- Amendment to Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-124 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. Matthew DeRose was present on behalf of the Applicant.
3. The materials submitted with the Application are incorporated by reference herein.
4. The Applicant is seeking an Amendment to a Special Exception previously granted under a prior Application No. 2011-06 granting approval to establish a commercial recreation establishment, namely an outdoor ice skating rink (the "Ice Rink").
5. Zoning Hearing Board member James Barnes stated on the record that he is a resident of Chambers Ridge, which is an adjoining condominium development. There was no objection to him hearing the case from the Applicant or anyone else.
6. Mr. DeRose provided testimony in support of the amendment to the Special Exception as follows:
 - a. The Ice Rink approved in Application 2011-06 (the "Rink") has been successful.
 - b. The Ice Rink is permitted by the York Township Zoning Officer on a regular basis.
 - c. He would like to move it further to the East and enlarge it from 60 x 120 feet to 100 x 200 feet (the "New Rink").
 - d. The New Rink would be installed on a sand base, into which coolant lines were laid.
 - e. There would be a new chiller put on a 10 x 20 feet pad to the South of the New Rink.
 - f. The New Rink would have the same basic design as the prior Rink.
 - g. The New Rink could allow for 2 hockey games to occur at the same time for younger children (each using one half of the New Rink), or 1 game for older children (using the entire New Rink).

- h. The New Rink could also allow for 1 ice hockey game for younger children and recreational skating for others.
 - i. The New Rink would promote more visitors and increase tourism in York County during the winter, which is typically on off-season.
 - j. The use of the New Rink would be similar to the Ice Rink, just as it has been for the past 5 years.
 - k. The New Rink would be of an elevation similar to the existing Ice Rink, being benched into the hillside.
 - l. The primary access to the New Rink would be by the lift-lines for the existing Snow Tubing Hill.
 - m. Tickets to the New Rink would be sold at the same place as they currently are now, closer to the existing hotel, restaurant and convention center parking area.
 - n. There might be a concrete curb around the sand upon which the New Rink is laid.
 - o. There would be lighting around the New Rink.
 - p. The lighting would be approximately 12 feet off the ground.
7. The Zoning Officer confirmed the following on behalf of the Township:
 - a. She has no concerns with the New Rink as proposed.
 - b. As a temporary structure, the New Rink would have to be permitted by her on a regular basis.
 - c. The New Rink would not be a permanent structure, but if it were to be made permanent, a Land Development Plan would be required.
 8. In response to questions, the Applicant indicated that he did not envision that the New Rink would have adverse implications for nearby property owners.
 9. 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 is consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use is 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.
 10. There were no questions for the Applicant from the audience.
 11. There was no testimony for or against the Application from the audience.

CONCLUSIONS OF LAW


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

- 1. The Amendment to the Special Exception represents a modest adjustment to the previously granted zoning relief of Application 2011-06.
- 2. The General Criteria for a Special Exception set forth in Section 265-1009(c) continue to be met.

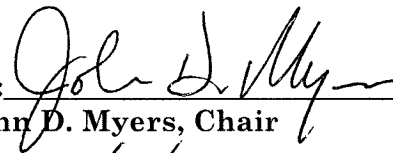
Accordingly, Kathleen A. Cronin moved, and James Barnes seconded, to grant an Amendment to the Special Exception granted under prior Application 2011-06 granting approval to establish a commercial recreational establishment (Outdoor New Skating Rink) on the Property located at 2700 Mount Rose Avenue and Property located to the East on East Prospect Road in a Commercial Shopping (CS) District. The motion passed unanimously with John D. Myers, Glenn Myers, William Descar, Jim Barnes and Kathleen A. Cronin voting in favor of the motion.

WITNESS/ATTEST

**YORK TOWNSHIP
ZONING HEARING BOARD**



William Descar, Secretary

By: 

John D. Myers, Chair
6/27/17

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.