

# YORK TOWNSHIP

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York Township Zoning Hearing Board

August 22, 2017

6:00 p.m.

The August 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

Timothy Salvatore, Member

Kathleen Cronin, Member

Anthony Pantano, Alternate Member

Jeffrey Rehmeyer, Esquire, Solicitor

Lisa Frye, Zoning Officer

MINUTES OF JULY 25, 2017

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

DECISIONS OF JULY 25, 2017

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

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2017-14: Garver Development Group LLC, requests a Special Exception to establish a Vertical Self-Service Storage Facility on property located along the west side of Pauline Drive, approximately 600 south of the

York Stenographic Services, Inc.

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

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Pauline Drive/Springfield Road intersection, in a  
 Commercial Shopping (CS) District.

Present: Stacey MacNeal, Esquire  
 Peter Garver  
 Drew Kipnis

MOTION: On Application 2017-14: Garver  
 Development Group LLC, requests a Special  
 Exception to establish a Vertical Self-Service  
 Storage Facility on property located along the  
 west side of Pauline Drive, approximately 600  
 south of the Pauline Drive/Springfield Road  
 intersection, in a Commercial Shopping (CS)  
 District, be approved.

MOTION MADE BY: Timothy Salvatore  
 SECONDED BY: John Myers  
 MOTION PASSED UNANIMOUSLY

Continued Application 2017-09 & 2017-15: Martin Vermeilen,  
 West Fields Real Estate LLC requests a Special Exception to  
 establish a Multi-Family Dwelling use (townhouses on single  
 lot) and Variances related to the use on property located  
 at 245 Olney Road in a Residential High Density (RH)  
 District.

Present: Stacey MacNeal, Esquire  
 Martin Vermeilen

MOTION: On Continued Application 2017-15: Martin  
 Vermeilen, West Fields Real Estate LLC requests a  
 Variance with regard to Section 265-649,  
 subsections A, B, C, D, and E, related to the use  
 on property located at 245 Olney Road in a  
 Residential High Density (RH) District, be  
 denied.

MOTION MADE BY: Timothy Salvatore  
 SECONDED BY: William Descar  
 MOTION PASSED 5-1

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MOTION: On Continued Application 2017-09, Martin Vermeilen West Fields Real Estate LLC, requests a Special Exception to establish a Multi-Family Dwelling Use on property located at 245 Olney Road in a Residential High Density (RH) District, be denied due to the Applicant's failure to obtain a Variance with regard to Section 265-649 A, B, C, D and E.

MOTION MADE BY: Timothy Salvatore  
SECONDED BY: Kathleen Cronin  
MOTION PASSED 5-1

ATTEST:

  
\_\_\_\_\_  
William Descar, Secretary

# DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

**Application Numbers:** 2017-9 and 2017-15 (combined for Decision)

**Hearing Date:** June 27, 2017 and August 22, 2017

**Applicant:** Martin Vermeilen, West Fields Real Estate, LLC

**Property Owner:** West Fields Real Estate, LLC

**Property:** 245 Olney Road  
UPI: 54-000-HJ-0266-B0-00000

**Existing Zoning District:** Residential High Density (RH)

**Relief Requested-** Special Exception and Variances under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-649 thereof.

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## 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. Martin Vermeilen was present on behalf of the Applicant and Owner on hearing dates of July 27, 2017 and August 22, 2017.
3. Stacey MacNeal appeared as counsel for the Applicant and Owner on August 22, 2017.
4. Under Application 2017-9, the Applicant was seeking a Special Exception for a Multi-Family Dwelling consisting of townhomes pursuant to Section 265-649 of the Ordinance (the "Multi-Family Dwelling" or "Use").
5. After providing initial information at the hearing on July 27, 2017, the Applicant requested a continuance.
6. On a motion by Timothy Salvatore and seconded by William Descar, the continuance was granted, unanimously, with John D. Myers, William Descar, Timothy Salvatore, Kathleen A. Cronin and Anthony Pantano voting in favor of the motion.
7. Application 2017-15 was filed in anticipation of the August 22, 2017 hearing, seeking additional Variances for the Use.
8. Specifically, Applicant is seeking the following Variances:
  - a. A Variance of Section 265-649.A. for a property with a minimum lot area of less than one acre.
  - b. A Variance of Section 265-649.B. to not have to meet minimum setbacks of 50 feet from the property lines or street rights-of-way.
  - c. A Variance of Section 265-649.C. to allow for a lot width of less than 200 feet.
  - d. A Variance of Section 265-649.D. to allow for a Multi-Family Dwelling without two points of access from public streets.
  - e. A Variance of Section 265-649.E.4. to allow for no designated play area or open space.

- (Collectively the "Variances").
9. Attorney MacNeal presented Applicant's Exhibits A1 through A11 as follows:
    - a. Exhibit A1 is an aerial photograph showing the Property and the surrounding area.
    - b. Exhibit A2 - shows the area more closely, along with a Utility Line Easement to its East.
    - c. Exhibit A3 - a street view of the Property facing West.
    - d. Exhibit A4 - a photograph of units across the street from the Property.
    - e. Exhibit A5 - additional units across the street from the Property.
    - f. Exhibit A6 - a view from the front of the Property to the East.
    - g. Exhibit A7 - a view of the Property from its front road.
    - h. Exhibit A8 - a plot plan showing the proposed placement of a 6 unit townhouse style multi-family dwelling.
    - i. Exhibit A9 - proposed foundation plans and notes for the Townhomes.
    - j. Exhibit A10 - a portion of the York Township Subdivision and Land Development Ordinance with regard to information on Buffer Planting Strip C.
    - k. Exhibit A11 - the front and rear elevations of the Townhomes.
  10. Attorney MacNeal called Mr. Vermeilen who testified as follows:
    - a. Nearby commercial uses include a beauty salon and Garrety Glass.
    - b. Most of the Multi-Family Dwelling Units in the development consist of 4 units and a few consist of 3 units.
    - c. The Applicant believes that the Multi-Family Dwelling criteria are envisioned for much larger developments.
  11. In response to the criteria in Section 265-649, the Applicant testified as follows:
    - a. The Property has a minimum lot area of less than one acre, but it does meet the density requirements of the Zone. The Property is larger than some others in the development.
    - b. While the Property meets the setbacks generally for a Residential High Density, it does not meet the 50 foot setbacks on the front, rear or sides.
    - c. The lot width is less than 200 feet at the building setback, although it would exceed 200 feet if the road and cul-de-sac frontage were utilized.
    - d. The Use would only have one point of driveway access, to minimize points of access to the road. Such access should be sufficient and would not cause problems for emergency access.
    - e. There is no desire to install an equipped play area because it might be inconsistent with the balance of the community.
    - f. The building height would only be 35 feet.
  12. In response to the criteria for the Variances, the Applicant said the following:
    - a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, such as the Property size and shape along the cul-de-sac, 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. There is a possibility that the Property can be developed in strict conformity with the provisions of the Ordinance.
    - c. The unnecessary hardship has not been created by the Applicant but it desires 5 Units and fewer units could lessen the need for zoning relief.
    - d. The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the Property is located, although there are no other buildings in the neighborhood containing 5 Units.

- e. The Variance, if authorized, will not represent the minimum Variance that will afford relief and or the least modification possible to the regulation at issue.
13. In response to the General Standards for a Special Exception in Section 265-1009, the following was asserted by the Applicant:
  - 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.
14. The Applicant indicated, with specificity, that the following types of Multi-Family Dwelling Units were in the neighborhood:
  - a. 27 buildings with 4 units each.
  - b. 3 buildings with 3 units each.
  - c. 1 building with 2 units.
15. In response to questions, the Applicant admitted the following:
  - a. If the Multi-Family Dwelling had less than 6 Units, the setback infringement would be lessened.
  - b. If the Multi-Family Dwelling had only 4 Units, there would likely be no infringement on the setbacks.
  - c. The addition of the 5<sup>th</sup> and 6<sup>th</sup> Units were based upon economic considerations.
  - d. The lack of a second point of access is to limit street cuts to only one and is a Township preference.
16. The Applicant requested to amend its Application to remove the 6<sup>th</sup> Unit on the East side.
17. There was no testify for or against the Application.
18. The Zoning Officer indicate that one street cut was preferred over more.

## CONCLUSIONS OF LAW

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

1. The Applicant has not met the Specific Criteria for a Multi-Family Dwelling in Section 265-649, as admitted in the Application and found by the Board, to include subsections A, B, C, D and E.


2. The Applicant has not met the General Criteria for a Special Exception, to include subsections C(2) compatibility, C(3) suitability and C(6) conformity, because the Use is unlike others in the neighborhood and exceeds numerous parameters of the Ordinance.
3. The Applicant has not met the Criteria for a Variance.
4. Specifically, the Property can be developed in strict conformity with the Ordinance.
5. The unnecessary hardship has been created by the Applicant.
6. The Variance if authorized will alter the essential character of the neighborhood or district in which the Property is located.
7. The Variance, as requested, does not represent the minimize Variance that would afford relief or represent the least modification possible to the regulation at issue.

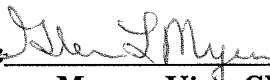
**Timothy Salvatore moved, and William Descar seconded, to deny all Variances requested for a Multi-Family Dwelling Use (townhouses on a single lot) on the Property located at 245 Olney Road in a Residential High Density (RH) District. The motion passed with a vote of 4 to 1, with John D. Myers, William Descar, Timothy Salvatore and Kathleen A. Cronin voting in favor, and Glenn Myers voting against the motion.**

**Timothy Salvatore moved, and Kathleen A. Cronin seconded, to deny the Special Exception requested to establish a Multi-Family Dwelling Use (townhouses on a single lot) on the Property located at 245 Olney Road in a Residential High Density (RH) District. The motion passed with a vote of 4 to 1, with John D. Myers, William Descar, Timothy Salvatore and Kathleen Cronin voting in favor, and Glenn Myers voting against the motion.**

**WITNESS/ATTEST**

**YORK TOWNSHIP  
ZONING HEARING BOARD**

  
\_\_\_\_\_  
**William Descar, Secretary**

By:   
\_\_\_\_\_  
**Glenn Myers, Vice-Chair**

9/26/17  
**Date**

# DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

**Application Number:** 2017-14  
**Hearing Date:** August 22, 2017  
**Applicant:** Garver Development Group, LLC  
**Property Owner:** South York Development Co.  
**Property:** Pauline Drive  
UPI #54-000-II-0024-B0-00000  
**Existing Zoning District:** Commercial Shopping (CS)

**Relief Requested-** Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-407.C.17 & 265-668.1 thereof.

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## 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. Stacey MacNeal, Esquire was present on behalf of the Applicant. Additionally, Peter Garver was present on behalf of Garver Development Group, LLC. Drew Kipness was present on behalf of South York Development Co.
3. The Applicant is seeking a Special Exception to allow for a Vertical Self-Service Storage Facility (the "Facility" or the "Use") pursuant to Sections 265-407.C.17 and 265-668.1 of the York Township Zoning Ordinance (as implemented by Ordinance No. 2017-1).
4. Attorney MacNeal presented Applicant's Exhibits 1 through 5 (A1-A5) to the Board to include the following:
  - a. Exhibit A1 - a sketch plan for the Property, with minor changes since the Application because of land development work.
  - b. Exhibit A2 - an aerial photograph of the Property and surrounding areas.
  - c. Exhibit A3 - a rendering of the Facility.
  - d. Exhibit A4 - sample Storage Contract that is envisioned to be used at the Facility.
  - e. Exhibit A5 - another aerial photograph of the Property taken more closely than Exhibit A2.
5. Attorney MacNeal called Mr. Garver who testified as follows:
  - a. The Property has no improvements on it except a sign currently in place pursuant to an Easement for the South York Plaza (the "Existing Sign").
  - b. The Property is approximately 2.4 acres in size.
  - c. The Facility would comply with all setbacks.
  - d. Lot coverage would be at 65%.



- e. The Property is served by water and sewer.
6. In response to the Specific Criteria for a Vertical Self-Service Storage Facility, Mr. Garver testified as follows:
  - a. The Facility will be a 4-story structure, no more than 43 feet in height. Despite the garage doors on the rendering, they are not expected on the Facility itself.
  - b. At least 15 parking spaces are needed per the Ordinance, and 17 are provided. There shall be no outdoor storage.
  - c. There shall be no trailer or truck rentals.
  - d. All lighting will be shielded to direct away from the adjacent properties and streets. Sufficient light level shall be provided to ensure public safety during operations.
  - e. There shall be an office within the Facility for the Manager. Two employees are anticipated.
  - f. There shall only be one building.
  - g. There shall be loading areas on both the upper and lower side of the Facility.
  - h. None of the prohibited storage uses set forth in Section 265-668.1.H(1-6) shall be allowed.
7. The Applicant provided additional information with regard to the Use as follows:

follows:

  - a. There shall be electronic access into the Facility Monday through Sunday from 6:00 am until 10:00 pm.
  - b. The office hours shall be Monday through Friday from 9:30 am until 6:00 pm, Saturday from 9:00 am until 5:30 pm, and closed on Sunday.
  - c. There shall be cameras within and on the Facility.
  - d. The building shall be temperature and humidity controlled.
  - e. Anticipated traffic is 2 to 5 cars a day, for a total of 60 to 70 trips per month.
  - f. A sign will be sought as permitted by Ordinance.
8. 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 is in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Township's Subdivision and Land Development Ordinance.

9. In response to questions from Attorney Christian Miller on behalf of South York Plaza, Inc., the Applicant confirmed the following:
  - a. It would continue to cooperate with South York Plaza relative to its sign Easement Agreement.
  - b. The building height, when measured from its lowest level would be 42.6 feet.
  - c. The Use was designed not to interfere with the Existing Sign.
10. Attorney Miller also indicated that he was not in favor of the Special Exception.
11. There was no additional testimony against or for the Applicant.
12. Lisa Frye, on behalf of the Township, indicated no objection from its perspective and noted that there was prior relief that allowed for the Existing Sign.

**CONCLUSIONS OF LAW**

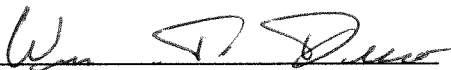
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:


1. The construction and utilization of the Facility will not cause significant impairment of the Existing Sign.
2. The rights between the Applicant and South York Plaza, Inc. with regard to the Easement are contractual.
3. The Applicant has met the Specific Criteria for a Special Exception for a Vertical Self-Service Storage Facility.
4. The Applicant has met the General Criteria for a Special Exception.

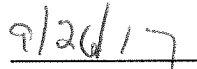
Accordingly, Timothy Salvatore moved, and Kathleen A. Cronin seconded, to grant the Special Exception to establish a Vertical Self-Service Storage Facility, on the Property located along the West side of Pauline Drive, approximately 600 feet South of the Pauline Drive/Springwood Road intersection in a Commercial Shopping (CS) District. The motion passed with John D. Myers, Glenn Myers, William Descar, Timothy Salvatore and Kathleen A. Cronin voting in favor of the motion

WITNESS/ATTEST

YORK TOWNSHIP  
ZONING HEARING BOARD

  
William Descar, Secretary

By:   
Glenn 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.