

YORK TOWNSHIP

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

York Township Zoning Hearing Board
October 24, 2017
6:00 p.m.

The October 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 SEPTEMBER 26, 2017

A correction was made to the minutes to reflect that Kathleen Cronin was the alternate member and Anthony Pantano was the voting member. The minutes were approved as corrected.

DECISIONS OF SEPTEMBER 26, 2017

The Zoning Hearing Board decisions of the September 26, 2017, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Applications 2017-17 and 2017-18: Westfields Real Estate, LLC, requests a Special Exception to establish a Multi-

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

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Family Dwelling use (one building with 4 attached dwelling units) and associated Variances of Sections 265-649.A, 265-649.B, 265-649.C and 265-649.E.4, on property located at 245 Olney Road, Dallastown, PA, in a Residential High Density (RH) District.

Present: Martin Vermeulen
 Stacey MacNeal, Esquire

MOTION: On Application 2017-17, Westfields Real Estate, LLC, requests a Special Exception to establish a Multi-Family Dwelling use (one building with 4 attached dwelling units on property located at 245 Olney Road, Dallastown, PA, in a Residential High Density (RH) District, that the application be approved.

MOTION MADE BY: Glenn Myers
 SECONDED BY: William Descar
 MOTION PASSED UNANIMOUSLY

MOTION: On Application 2017-18, Westfields Real Estate, LLC, requests Variances of Sections 265-649.A, 265-649.B, 265-649.C and 265-649.E.4, on property located at 245 Olney Road, Dallastown, PA, in a Residential High Density (RH) District, that the application be approved.

MOTION MADE BY: James Barnes
 SECONDED BY: William Descar
 MOTION PASSED UNANIMOUSLY

Application 2017-19: Joseph Craven, Sign Art, Inc. requests a Variance to exceed the number of permitted signs on property located at 115 Leader Heights Road, York, PA, in a Commercial Shopping (CS) District.

Present: Joseph Craven

MOTION: On Application 2017-19, Joseph Craven, Sign Art, Inc. requests a Variance to exceed the

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number of permitted signs on property located at
115 Leader Heights Road, York, PA, in a
Commercial Shopping (CS) District, that the
application be approved.

MOTION MADE BY: Kathleen Cronin
SECONDED BY: James Barnes
MOTION PASSED 4-1

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2017-17 and 2017-18
Hearing Date: October 24, 2017
Applicant: 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 265-403.C. and Section 265-649 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. Martin Vermeilen was present on behalf of the Applicant and Owner.
3. Stacey MacNeal appeared as counsel for the Applicant and Owner.
4. A prior version of the Multi-Family Dwelling was the subject of Board Decisions 2017-9 and 2017-15.
5. Under Application 2017-17, the Applicant was seeking a Special Exception for a Multi-Family Dwelling pursuant to Section 265-649 of the Ordinance (the "Multi-Family Dwelling" or "Use"), with less units (6 as applied for in the prior Decisions and modified to 5 during the hearings) to 4 in the present Application.
6. Under Application 2017-18, the Applicant is seeking the following variances for a Multi-Family Dwelling pursuant to Section 265-649 of the Ordinance:
 - 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. for minor encroachments into the 50 feet setback and to provide a buffer planting strip consistent with Type C of Section 610 of the Subdivision and Land Development Ordinance within the required 50 foot setback along the rear of the property line only.
 - 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.E.4. so as not to have to provide a designated play area.
(Collectively the "Variances").

7. Attorney MacNeal presented Applicant's Exhibits 1 through 11 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 - a photograph of additional units across the street from the Property.
 - f. Exhibit A6 - a view from the street in front of the Property towards the East.
 - g. Exhibit A7 - a view of the Property from the road in front of it.
 - h. Exhibit A8 - a plot plan showing the proposed placement of a 4 unit townhouse style multi-family dwelling (with each unit being identified as a "Townhouse" and all of them being referred to as "Townhomes").
 - 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 and a portion of the Zoning Map from the Ordinance.
 - k. Exhibit A11 - the front and rear, right and left sections in detailed drawings of the Townhomes by MGM Design, LLC.
8. Attorney MacNeal called Mr. Vermeilen who testified as follows:
 - a. Nearby commercial uses include a beauty salon and Garrety Glass.
 - b. All of the Multi-Family Dwelling Units in the neighborhood consist of 4 or fewer units.
9. 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 all sides. Specifically, the 4 Unit Building has a minor encroachment into the 50 foot setback at the Southeastern most corner, in the Northeastern most corner, and less than one foot of the rear deck of the Western most Unit.
 - 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 two points of access, one at the Eastern portion of the Property and the other along the cul-de-sac.
 - e. There is no desire to install an equipped play area because it might be inconsistent with the balance of the community. The Applicant is proposing open space well in excess of the requirements of Section 265-649.E.4., specifically 22,165 square feet of total open space of the Property, which is in excess of 5,541 square feet per Unit (while the Ordinance requires a minimum of 900 square feet of open space per Unit).
 - f. The building height would only be 35 feet.
10. 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.
11. 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. That because of such physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the provisions of the Ordinance and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, which use would be generally consistent with other Multi-Family Dwellings in the neighborhood.
 - c. The unnecessary hardship has not been 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, especially since other buildings in the neighborhood contain 4 or fewer units.
 - e. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least modification possible of the regulation at issue.
12. The Applicant and its counsel highlighted how this Application involves less relief than that sought in the prior Decisions referenced above.
13. In response to questions, the Applicant confirmed that staggering the Buildings would not necessarily alleviate the need for the Variances.
14. There was no testimony for or against the Applicant from the audience.
15. The Zoning Officer indicated that there were no remaining concerns from a zoning perspective from the Township.
16. The Applicant agreed that a Condition of the Special Exception could be the receipt of the Variances as enumerated above (the "Condition").

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 Multi-Family Dwelling in Section 265-649, subject to those requirements for which a Variance has been sought.
2. The Applicant has met the General Criteria for a Special Exception.

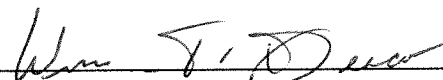
3. The Applicant has met the Criteria for the Variances.
4. It is significant to the Board that the Use will be consistent with other uses in the neighborhood, and the Applicant has tailored the Use to make it so.

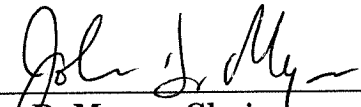
Glenn Myers moved, and William Descar seconded, to grant the Special Exception requested, subject to the Condition which is the receipt of the necessary Variances, to establish a Multi-Family Dwelling Use (Townhouses on a single lot) on the Property located at 245 Olney Road in a Residential High Density (RH) District. The motion passed unanimously, with John D. Myers, Glenn Myers, Jim Barnes, William Descar and Kathleen Cronin voting in favor of the motion.

Jim Barnes moved, and William Descar seconded, to grant 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 unanimously with John D. Myers, Glenn Myers, Jim Barnes, William Descar 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

11/28/17
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.

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: 2017-19

Hearing Date: October 24, 2017

Applicant: Joseph Craven – SignArt, Inc.

Property Owner: Rite Aid Pharmacy – Real Estate/Accounting c/o
RAP Leader Heights, LLC

Property: 115 Leader Heights Road (2570 Pine Grove Road)
UPI: 54-000-HI-0143-A0-00000

Existing Zoning District: Commercial Shopping (CS)

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the “Ordinance”) and pursuant to Section 265-7.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. The Applicant Joseph Craven was present.
3. The Applicant is seeking permission to replace an existing “1 Hour Photo” sign on the Rite Aid Building (the “Building”) on the Property (the “Former Sign”) with a GNC Live Well sign (the “Proposed Sign”).
4. The Former Sign was in place on the Building, along with signs of similar size and design for a Drive Through and Food Mart, and below a larger sign denoting the Pharmacy in the Building.
5. The Township Zoning Officer denied the permit to replace the Former Sign with the Proposed Sign because the Proposed Sign utilized a brand name.
6. The Applicant provided testimony in support of the Proposed Sign as follows:
 - a. The Building is located on a corner with increasing traffic and low visibility, especially along Pine Grove Road.
 - b. The Building has operated for years with the same quantity of signs.
 - c. Replacement of the Former Sign with the Proposed Sign would be beneficial for public awareness.
 - d. The intent of the Proposed Sign is in the spirit of the Ordinance by retaining the same quantity and size of the sign that has already been allowed.
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 increasing traffic, modification of Leader Heights Road, and the former development of the building on the Property, 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, the Proposed Sign is necessary for adequate and safe use.
- c. The unnecessary hardship has 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.
- 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 was no additional testimony for or against the Application.

CONCLUSIONS OF LAW


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

- 1. It is significant to the Board that the Proposed Sign replaces the Former Sign, being of the same style, having the exact same dimensions, and completing a trio of similar signs on the Building.
- 2. The Variance criteria have been met.

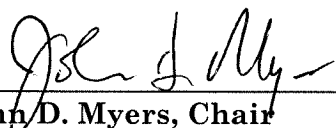
Accordingly, Kathleen A. Cronin moved, and Jim Barnes seconded, to grant the Variance to replace a sign which will exceed the number of permitted signs on the Property located at 115 Leader Heights Road in a Commercial Shopping (CS) Zone. The motion passed with John D. Myers, Jim Barnes, William Descar and Kathleen A. Cronin voting in favor of the Motion, and Glenn Myers voting against the Motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD



William Descar, Secretary

By: 

John D. Myers, Chair
11/28/17
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.