

YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313
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The February meeting of the York Township Zoning Hearing Board was called to order by John Myers, Chair.

Those in attendance were:

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

MINUTES OF JANUARY 16, 2018

The Zoning Hearing Board minutes of the January 16, 2018, meeting were approved.

DECISIONS OF JANUARY 16, 2018

The Zoning Hearing Board decisions of the January 16, 2018, meeting were approved.

APPLICATION 2018-04: Springwood LLC requests a Special Exception to permit a Golf Course Facility, 9-hole executive length course on property located at 601 Chestnut Hill Road (Springwood Golf Course) in a Residential High Density (RH) District.

A motion was approved to grant a continuance.

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

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Tuesday, February 27, 2018
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SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Continued Application 2018-01: Complete Automotive Repair & Service, LLC, requests a Variance to exceed the allowable signage on property located at 470 Allegheny Drive in a Commercial Shopping (CS) District.

Present: Stacey MacNeal, Esquire
Susan Ditt
Mark Ditt

MOTION: On Application 2018-01, Complete Automotive Repair & Service, LLC, requests a Variance to exceed the allowable signage on property located at 470 Allegheny Drive in a Commercial Shopping (CS) District, to approve the request as presented.

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

Application 2018-92, John Eyster requests a Special Exception to construct a fence that exceeds 3' in height in a front yard on property located at 54 Oak Street in a Residential High Density (RH) District.

Present: John Eyster
Melody Eyster

MOTION: On Application 2018-92, John Eyster requests a Special Exception to construct a fence that exceeds 3' in height in a front yard on property located at 54 Oak Street in a Residential High Density (RH) District, to approve the application as presented.

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

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Application 2018-03, TKC LLC (Tractor Supply) requests a Variance to exceed the permitted size of permanent signs on property located at 3218 Cape Horn Road in a Commercial Shopping (CS) District.

Present: John Arzenico

MOTION: On Application 2018-03, TKC 193 LLC (Tractor Supply) requests a Variance to exceed the permitted size of permanent signs on property located at 3218 Cape Horn Road in a Commercial Shopping (CS) District, to approve the request for a Variance as presented.

MOTION MADE BY: Timothy Salvatore
SECONDED BY: John Myers.
MOTION DENIED, 3-2

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2018-01
Hearing Date: January 23, 2018
Applicant: Complete Automotive Repair and Service, LLC
Property Owner: Jems Property Management, LLC
Property: 470 Allegheny Drive
UPI #54-000-10-0001-J0-00000
Existing Zoning District: Commercial Shopping (CS)

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the “Ordinance”) and pursuant to Section 265-711.D., 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. Mark Ditt and Susan Ditt were present on behalf of both the Applicant and the Property Owner.
3. Attorney Stacey MacNeal was present on behalf of the Applicant
4. The Applicant is seeking a Variance to allow for a third business sign for the Property (the “Proposed Sign”).
5. Attorney MacNeal provided a packet of Exhibits to include the following:
 - a. Exhibit 1 – Tax map photography of the Property and land surrounding it as well as Assessment information.
 - b. Exhibit 2 – Aerial photograph of the Property and land surrounding it from Goggle Earth.
 - c. Exhibit 3 – A view of the Property from the corner of Allegheny Drive and the private unnamed road (the “Access Road”) that provides access to it.
 - d. Exhibit 4 – Photograph of the Property, facing South toward the building from Allegheny Drive and a photograph of the building on the Property, facing West.
 - e. Exhibit 5 – Closer photograph of the entrance to the building on the Property, on the Northern side.
 - f. Exhibit 6 – Photograph of the building on the Property, from the South of the Property facing North.
 - g. Exhibit 7 – Photograph of the Southern side of the building on the Property, with the placement of a Proposed Sign imposed thereon.
6. Attorney MacNeal called Mr. Ditt as a witness who provided information in support of the Application as follows:
 - a. Jems Property Management, LLC has owned the Property for over 5 years.

- b. The Property adjoins Allegheny Drive.
 - c. There is an Access Road from Allegheny Drive across the front of the Property, on its Eastern side.
 - d. Per the Land Development Plan for the Property, there was buffering installed on select portions thereof, particularly to the rear, on the Western side.
 - e. The Property consists of approximately 1.3 acres.
 - f. Exhibit 3 shows the pylon sign for the Applicant, which is approximately 5 feet by 8 feet and elevated 13 feet off the ground.
 - g. There is an existing building sign facing North.
 - h. There have been problems with clients and others locating the Property since the Applicant began conducting business thereon.
 - i. Delivery services, such as UPS and Federal Express have had such problems.
 - j. Even the police have had issues finding the Property.
 - k. Apparently, GPS will often take people to the other end of Allegheny Drive, much further to the West.
 - l. The address for the Property is on Allegheny Drive, but the entrance is on the Access Road, which adds to the confusion.
 - m. Exhibit 5 shows an existing sign on the Property, the NAPA AutoCare Center Sign.
 - n. The Applicant is a member of the NAPA network.
 - o. NAPA requires building signage.
 - p. The NAPA signage has helped people locate the Property.
 - q. The Proposed Sign would be placed on the Southern portion of the building, as shown on Exhibit 7.
 - r. Specifically, the Proposed Sign would be 8 feet by 3 feet NAPA AutoCare Center Sign.
 - s. With the Proposed Sign, the number of signs would exceed those allowed, but the square footage of all signs cumulatively would not.
 - t. The Proposed Sign would not be visible from residential areas that surround the Property, but rather from commercially used properties to the South.
 - u. The Proposed Sign would be internally illuminated, as are the existing signs on the Property.
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 because of the location of the Property behind other commercial properties on South Queen Street, the street address of Allegheny Drive, the actual access via the Access Road off of Allegheny 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 Proposed Sign 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 because the signage would be consistent with other nearby business properties.

- 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. The Township had no questions with regard to the Application.

CONCLUSIONS OF LAW

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

- 1. The Variance criteria have been met.
- 2. It is significant to the Board that the Proposed Sign would identify the building on the Property for those trying to access it from the South via the Access Road, so there is an identifiable benefit to the Proposed Sign.
- 3. The square footage of the Proposed Sign and existing signs would not exceed the square footage allowed by Ordinance.

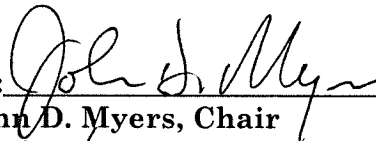
Accordingly, Timothy Salvatore moved, and Jim Barnes seconded, to grant the Variance to exceed the allowable signage on the Property located at 470 Allegheny Drive in a Commercial Shopping (CS) District. The motion passed unanimously with John D. Myers, Glenn Myers, William Descar, Jim Barnes and Timothy Salvatore voting in favor of the motion.

WITNESS/ATTEST



William Descar, Secretary

**YORK TOWNSHIP
ZONING HEARING BOARD**

By: 

John D. Myers, Chair

3/27/18
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: 2018-02
Hearing Date: February 27, 2018
Applicant: Greg Stevens of J-Mar Landscaping Inc.
Property Owner: John C. and Melodie M. Eyster
Property: 54 Oak Street
UPI: 54-000-HI-0009-H0-00000
Existing Zoning District: Residential High Density (RH)

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-513.A. 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 Eyster and Melodie Eyster were present as Property owners and on behalf of the Applicant.
3. The Eysters are seeking approval of a new fence on their Property (the "Fence").
4. Mr. Eyster provided testimony in support of the Application as follows:
 - a. The Property is irregularly shaped, as somewhat of a flag lot, with the bulk of the Property and the home distanced from Oak Street, Ivy Street and School Street.
 - b. However, a portion of the Property extends to Oak Street.
 - c. The driveway for the Property is located on that extended portion.
 - d. Previously there was a 12 foot high dilapidated hedgerow of emerald green arborvitaes, which was approximately 136 feet long, along the Western side of the driveway from Oak Street.
 - e. Because of the condition of the hedgerow, the Applicant elected to install a new, tan PVC Fence.
 - f. The Fence has 2 components. The first 4 feet is a privacy fence which cannot be seen through. The additional 2 feet is a decorative topper.
 - g. The Fence has no maintenance requirements and will last for many years.
 - h. The Fence is not located on the Property line.
 - i. A neighbor has a small child, so this Fence will serve to keep the child away from the driveway.
 - j. The Fence is located perpendicular to the garage.

- k. Because of the unique shape and orientation of the Property, the Fence is considered to be in its front yard, even though this area is the Eastern portion of the Property and the front of the home faces, generally, South.
- 5. There has been no negative feedback received from any of the neighbors with regard to the Fence.
- 6. The Applicant failed to get the necessary approvals prior to installing the Fence but is seeking to do so now.
- 7. With regard to the criteria in Section 265-513.A., the Applicant offered the following:
 - a. The Fence is not constructed within the public right-of-way or within a required clear site triangle.
 - b. Both sides of the Fence are finished.
 - c. The Fence has no barbed or other wire in it.
 - d. The Fence shall not obstruct any drainage.
- 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 appears to 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.
- 9. There were no questions of the Applicant.
- 10. There was no testimony for or against the Applicant.
- 11. The Township had no questions.

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 criteria for a Fence as set forth in Section 216-513.A. of the Ordinance.
- 2. The Applicant has met the general criteria for a Special Exception set forth in Section 265-1009.C. of the Ordinance.

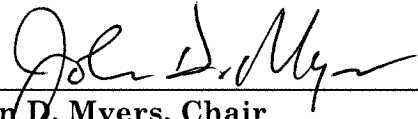
Accordingly, Jim Barnes moved, and William Descar seconded, to grant the Special Exception for the construction of a Fence in excess of height restrictions on the Property located at 54 Oak Street in a Residential High Density (RH) District. The motion passed unanimously with John D. Myers, Glenn Myers, William Descar, Jim Barnes and Timothy Salvatore voting in favor of the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD



William Descar, Secretary

By: 

John D. Myers, Chair
3/27/18

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: 2018-03
Hearing Date: February 27, 2018
Applicant: TKC CXCIII, LLC
Property Owner: TKC CXCIII, LLC
Property: 3218 Cape Horn Road
UPI: #54-000-HJ-0066-00-00000
Existing Zoning District: Commercial Shopping (CS)

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section Article 7, Table 7D 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 Arzonico and Wendy Fulton were present on behalf of the Applicant.
3. The Applicant is seeking a Variance for approval of an enlarged wall sign for the building on the Property (the "Proposed Sign").
4. Mr. Arzonico provided testimony as follows:
 - a. The Tractor Supply Company building (the "Store") being erected on the Property will be 437 feet from Cape Horn Road.
 - b. The Property itself slopes, as does the land surrounding it.
 - c. The parking lot that would serve the Store would sit approximately 4½ to 8 feet below the level of Cape Horn Road.
 - d. There will be 2 buildings constructed in front of the Store on separate parcels of land.
 - e. There is approximately 220 feet of road frontage serving the Property.
 - f. Greater visibility for the Store is desired.
 - g. Traffic improvements that will serve the Store and the development within which it is located, Cape Horn Crossing, are coming.
 - h. Cape Horn Crossing will consist of multiple, commercial buildings.
 - i. The Proposed Sign would be 147 square feet.
5. The Applicant presented Exhibit 1 which consisted of 6 photographs of the Property as of February 21, 2018 as follows:
 - a. Three of the photographs are from the Southeastern portion of the Property, at the entry drive from Cape Horn Road, facing West and showing the Store as well as one of the buildings being constructed between the Store and Cape Horn Road.

- b. Three of the other photographs are from Cape Horn Road, facing West, with the Store in the background.
6. Mr. Arzonico further testified as follows:
 - a. There will be monument signs at both entrances to Cape Horn Crossing, with one entrance on Cape Horn Road and the other on Lombard Road.
 - b. Two other sites will be developed between the Store and Cape Horn Road, a Members First Federal Credit Union and a Verizon Store.
 - c. The Property is allowed to have 2 building signs, not to exceed 75 square feet per sign.
 - d. The Store will be approximately 125 feet in width, from North to South, when measured parallel to Cape Horn Road.
 - e. To the North of the Store will be a fenced outdoor display area as well.
 - f. To the South of the Store will be a permanent trailer and equipment display area.
7. Richard Nardo spoke in support of the Applicant as follows:
 - a. He explained that he is a principal in Cape Horn Crossing, LP, the developer of Cape Horn Crossing.
 - b. He provided details on the pylon signs that would serve the development, as well as the Store.
 - c. He opined that there would be limited visibility of the Store from Lombard Road.
 - d. Tractor Supply Company is considered to be an anchor tenant for Cape Horn Crossing.
8. From the Township perspective, the following was offered:
 - a. Certain signs requested by the Applicant are being considered out-parcel signs.
 - b. The entire development is challenging.
 - c. The changes in elevation are an issue.
 - d. The access drives serving Cape Horn Crossing were difficult to design because of constraints related to the Property and the requirements of delivery vehicles and others accessing Cape Horn Crossing.
 - e. The elevations and retaining walls were affected by the challenges of the site.
9. In support of the Variance criteria, Mr. Arzonico offered the following:
 - a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, which includes the location of the Property behind other commercial parcels, its elevation relative to nearby parcels and the presence of the Property on a sloped hill and that the Property can not be developed in 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. Mr. Arzonico could not offer an argument in support of his belief 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 this Chapter and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property.
 - c. Mr. Arzonico stated that he did not believe the unnecessary hardship had 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 nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.

- e. Mr. Arzonico insisted that 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.
10. Mr. Nardo, in support of the Applicant, stated that the physical circumstances or conditions of the development, to include the Property, created challenges that were in turn passed on to the Applicant and therefore, support the need for the Variance and its necessity to enable the reasonable use of the Property.
11. The Applicant was questioned as to whether the Proposed Sign, with its larger size would truly help visibility, especially in light of the existence of pylon signs for Cape Horn Crossing at large.
12. The Applicant asserted that it wanted one larger size as opposed to two smaller signs, with the square footage of the larger sign to be less than that which would be allowed for the two smaller signs.
13. The Applicant asserted that a second sign, on the Northern portion of the building, would not be visible from Lombard Road, even though the development of the parcel between the Store and Lombard Road had not yet been undertaken.

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 Variance criteria.
2. Specifically, the Applicant has not proven that the Variance is necessary to enable the reasonable use of the Property.
3. Further, the Applicant did not prove that the Proposed Sign, even though larger, would be a more viable alternative to 2 smaller signs.

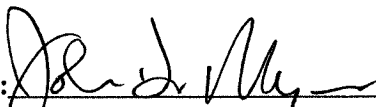
Accordingly, Timothy Salvatore moved and John D. Myers seconded to grant the request for the Variance to allow an enlarged sign on the Property located at 3218 Cape Horn Road in a Commercial Shopping (CS) District. The motion failed to pass with a vote of three to two, with John D. Myers and Timothy Salvatore voting in favor of the motion and Glenn Myers, William Descar and Jim Barnes voting against the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD



William Descar, Secretary

By: 

John D. Myers, Chair
2/27/18

Date