

YORK TOWNSHIP

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The July meeting of the York Township Zoning Hearing Board was called to order by James Barnes, Chair.

Those in attendance were:

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

MINUTES OF JUNE 26, 2018

The Zoning Hearing Board minutes of the June 26, 2018, meeting were approved.

DECISIONS OF JUNE 26, 2018

The Zoning Hearing Board decisions of the June 26, 2018, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2018-13: Jonathan and Christine Cirillo request a Special Exception for the noncommercial keeping of livestock on property located at 299 Chestnut Hill Road in a Residential Low Density (RI) district.

Present: Jonathan Cirillo

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

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MOTION: On Application 2018-13, Jonathan and Christine Cirillo request a Special Exception for the noncommercial keeping of livestock on property located at 299 Chestnut Hill Road in a Residential Low Density (RI) District, that a request for a continuance be approved.

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

Application 2018-10: Burkentine Builders requests a Special Exception to establish Multi-Family Dwelling Use on property located at 55 Yoe Drive, Red Lion, PA in a Residential High Density (RH) District.

Present: Paul Minnich, Esquire
 Scott Barnhart

MOTION: On Application 2018-10, Burkentine Builders requests a Special Exception to establish Multi-Family Dwelling use on property located at 55 Yoe Drive, Red Lion, PA in a Residential High Density (RH) District, that the application be approved with the presented conditions.

MOTION MADE BY: Glen Myers
 SECONDED BY: Anthony Pantano
 MOTION PASSED 3-1 - Timothy Salvatore voted negatively.

Application 2018-11: Cape Horn Retail LP requests a Special Exception to establish a Vertical Self-Storage Facility use on property located at 3100 Cape Horn Road, Red Lion, PA, in a Commercial Shopping (CS) District.

Present: Stacey MacNeal, Attorney
 Paul Guilio
 Eric Johnston

MOTION: On Application 2018-11, Cape Horn Retail
 York Stenographic Services, Inc.

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

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LP requests a Special Exception to establish a Vertical Self-Storage Facility use on property located at 3100 Cape Horn Road, Red Lion, PA, in a Commercial Shopping (CS) District, that the application be approved.

MOTION MADE BY: Timothy Salvatore
 SECONDED BY: Glenn Myers
 MOTION PASSED 3-1 - Anthony Pantano voted negatively.

CONDITIONS: That the Applicant work with the property owners as part of the land development process to potentially utilize fencing of a height, style and location to be determined as part of the buffer area.

Application 2018-12: Cape Horn Retail LP requests a Variance to establish a caretaker apartment as accessory to a Vertical Self-Storage Facility use on property located at 3100 Cape Horn Road, Red Lion, PA, in a Commercial Shopping (CS) District.

MOTION: On Application 2018-12: Cape Horn Retail LP requests a Variance to establish a caretaker apartment as accessory to a Vertical Self-Storage Facility use on property located at 3100 Cape Horn Road, Red Lion, PA, in a Commercial Shopping (CS) District, that a request for a continuance until August be approved.

MOTION MADE BY: Timothy Salvatore
 SECONDED BY: Glenn Meyers
 MOTION PASSED UNANIMOUSLY

ATTEST:



 William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2018-10
Hearing Date: July 24, 2018
Applicant: Burkentine Builders
Property Owner: 6 Stars, LP
Property: 55 Yoe Drive
UPI: #54-000-HJ-0090-00-00000
Existing Zoning District: Residential High Density Zone (RH)

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-403.C.7 and 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. Paul Minnich, Esquire of Barley Snyder represented the Applicant.
3. Additionally, Scott Barnhart of Burkentine Builders was present on behalf of the Applicant.
4. Attorney Minnich confirmed that the Applicant was seeking a Special Exception for a Multi-Family Dwelling, that being townhomes on a single lot (the "Use") pursuant to Section 265-403.C.7.
5. Attorney Minnich called Mr. Barnhart who provided information on his experience and qualifications as follows:
 - a. He has been a project and development manager for Burkentine Builders for 15 years.
 - b. He has served in municipal positions, including some with West Manheim Township.
 - c. He is a Certified Building Inspector and Code Enforcement Officer.
 - d. He is involved with the York County Economic Alliance and the York County Stormwater Authority Implementation Plan.
6. Attorney Minnich questioned Mr. Barnhart about the Use and he provided information and follows:
 - a. The Applicant has an equitable interest in the Property pursuant to an Agreement of Sale.
 - b. He is familiar with the Application and the materials provided with it.
 - c. The Property is currently being utilized for farming purposes.
7. Attorney Minnich presented two Exhibits to the Zoning Hearing Board which included the following:

- a. Exhibit #1 - An updated Zoning Exhibit for Cambridge for Burkentine Builders, being a Plan that shows the potential use of the entire Property, with the Use for which the Special Exception is sought being located on the portion thereof to the South and East of proposed Cambridge Drive (except for three buildings with six units each adjacent to the intersection of Cambridge and Avon Drives), which area for the Proposed Use is outlined in light green, to represent the proposed 35 foot wide landscape buffer.
 - b. Exhibit #2 – A Google map aerial view of the Property, and areas surrounding it, with the zoning of those areas overlaid thereon.
8. Attorney Minnich asked Mr. Barnhart questions with regard to the Exhibits, and he answered as follows:
 - a. The townhomes shown on the Zoning Exhibit that are not part of the proposed Use would be allowed by right, as those townhomes would be owned in fee simple.
 - b. The Multi-Family Dwelling Use would consist of 134 Units in a total of 26 buildings, with buildings consisting of 2 to 6 Units each.
 - c. Each Unit would have 3 bedrooms and 2½ bathrooms.
 - d. Parking is proposed for each Unit in its garage and on the driveway.
 - e. All Units would be set back 50 feet from any property lines.
 - f. With regard to Exhibit #2, Mr. Barnhart noted that the zoning of land surrounding the Property, included the High Density, Industrial, Commercial/Industrial, and Commercial Shopping.
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 is in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Township's Subdivision and Land Development Ordinance.
10. With regard to the Specific Criteria in Section 265-649 of the Ordinance, the Applicant offered the following:
 - a. The Applicant calculated the Minimum Net Lot Area necessary to be 7.69 acres, and over 15 acres are proposed.
 - b. All buildings shall be set back a minimum of 50 feet from the Property lines or street rights-of-way, and a buffer planting strip consistent with Type C of

Section 610 of the York Township Subdivision and Land Development Ordinance shall be planted within said 50 feet.

- c. The lot width of the Property shall exceed 200 feet.
 - d. The Use shall have at least 2 points of access, utilizing Cambridge Drive from both Chapel Church Road and Yoe Drive.
 - e. Open Space required per the Ordinance was calculated to be 120,600 square feet (134 Units x 900 square feet = 120,600 square feet), or 2.76 acres at a minimum, and Open Space shown on the Zoning Exhibit exceeds that amount. Additionally, 10,720 square feet (134 Units x 80 square feet = 10,720 square feet) or .25 acres of play area is required and that is the amount designated on the Plan.
 - f. The maximum building height shall be 35 feet, which is less than the 55 feet allowed by the Ordinance.
11. Attorney Minnich questioned Mr. Barnhart who provided additional information as follows:
- a. No Variances are necessary for the Use.
 - b. The playground equipment in the play area shall be installed as directed by the York Township Recreation Board or other authority of York Township.
12. Attorney Minnich called Aaron Nevaro of Snyder Secary and Associates, LLC who testified as follows:
- a. He is the project manager for the engineering firm
 - b. He has a Bachelor's degree in Engineering Management and is a Professional Engineer.
 - c. He prepared the plans submitted with the Application or as Exhibits.
 - d. He was involved in the Application.
 - e. He believes that the Special Exception criteria have been met.
13. In response to questions, the Applicant answered as follows:
- a. Erosion and sedimentation planning and control will be done to protect the land and the areas around it.
 - b. The Multi-Family Dwellings will be rented and there will be active management.
 - c. The Applicant has extensive experience in managing rental units.
 - d. It is not expected that the rentals will consist of low income housing.
 - e. It is expected that each Unit will have 1 to 4 people residing therein.
 - f. Clean and Green Rollback Taxes, if applicable, will be paid when billed.
 - g. A traffic study will be done.
 - h. The traffic study would contemplate existing and potential road conditions.
 - i. Traffic improvements shall be completed in accordance with the traffic study and applicable law.
 - j. Traffic signage would be done in accordance with the traffic study and applicable law.
14. Jason Lyons testified against the Use indicating his belief that it will not develop long-term residency.
15. Earl Schoenberger testified against the Use and expressed concern with regard to the tenants.
16. Donald Blessing testified that he thinks the Plan is terrible and is concerned about the roads and adverse effects to his property.
17. The Applicant confirmed that the subdivision of the Property to create the 15.8 acre lot as shown in the Zoning Exhibit was agreeable as a Condition to the grant of a Special Exception (the "Condition").

18. The Applicant was informed that any decision on the Special Exception would only be for the Special Exception and would not impact interpretation of the Zoning Ordinance otherwise, to include, but not be limited to, the parking provisions thereof.
19. The Zoning Officer indicated that she received an email with some concerns about the Use.


CONCLUSIONS OF LAW

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

1. The grant of any zoning relief must be predicated on fulfillment of the Condition.
2. The Board asked that the Township consider potential connectivity of the development of the Property with the adjacent Heather Glen Development.
3. The Applicant has met the specific criteria for the Special Exception.
4. The Applicant has met the general criteria for the Special Exception.


Accordingly, Glenn Myers moved, and Anthony Pantano seconded, to grant the Special Exception to establish a Multi-Family Dwelling Use on the Property located at 55 Yoe Drive, Red Lion, PA in a Residential High Density (RH) District, subject to the imposition of the Condition. The motion passed with Jim Barnes, Glenn Myers and Anthony Pantano voting in favor and Timothy Salvatore voting against the motion.

WITNESS/ATTEST



William Descar, Secretary

YORK TOWNSHIP
ZONING HEARING BOARD

By: 

John D. Myers, Chair
James Barnes, V. Chair

Date

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

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2018-11
Hearing Date: July 24, 2018
Applicant: Cape Horn Retail, LP
Property Owner: Cape Horn Retail, LP
Property: 3100 Cape Horn Road
UPI: #54-000-HJ-0084-00-00000
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 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. Stacey MacNeal, Esquire was present as counsel for the Applicant.
3. Eric Johnston appeared as engineer for the Applicant.
4. Paul Julio was a representative of the Applicant.
5. Attorney MacNeal explained that the Applicant is seeking a Special Exception under the Ordinance for a single building to be used as a Vertical Self-Service Storage Facility (the "Use" or the "Facility"), pursuant to the provisions of York Township Ordinance 2017-1, which amended the Ordinance.
6. Attorney MacNeal presented 3 Exhibits on behalf of the Applicant, which included the following:
 - a. Exhibit #1 was a tax map aerial photograph of the Property, in its current condition.
 - b. Exhibit #2 was an aerial photograph of the Property, including more of the surrounding areas.
 - c. Exhibit #3 was a proposed Rental Unit Agreement.
7. Attorney MacNeal indicated an amendment to the Special Exception Application, to delete the request for accessory truck rentals.
8. Attorney MacNeal called Mr. Julio who testified as follows:
 - a. He has been an employee of Hill Management for 3 years, and Hill Management is an entity related to the Applicant.
 - b. Hill Management owns and operates hotels and self-service storage facilities.
 - c. Focusing on Exhibit #1, he noted that the Use will be on 3.17 acres of the Property.

- d. Using Exhibit #1, he highlighted the roads adjacent to the Property, to include Cape Horn and Chapel Church Roads and Love Avenue.
 - e. Using Exhibit #2, Mr. Julio noted the uses nearby the Property, many of which are commercial, particularly to the South and East.
9. Focusing on the document that was entitled Exhibit A Lot 2 Layout Plan, which was submitted with the Application, Attorney MacNeal questioned Mr. Julio who answered as follows:
- a. The Property is proposed to be subdivided.
 - b. On the front of the Property, at the intersection of Chapel Church and Cape Horn Roads, a Burger King fast food restaurant will be constructed and operated.
 - c. The Facility would be built on the rear and side portions of the Property that consists of 3.17 acres.
 - d. The Facility would be 3 stories above ground, plus a basement level.
 - e. The Facility would have 800 self-service storage units (each a "Unit").
 - f. Images of the Facility from the Northeast, South and West were also included with the Application.
 - g. Per Exhibit A Lot 2 Layout Plan, there would be a drive-through lane within the Facility, to allow for sheltered access to the building's interior.
 - h. An on-site manager is contemplated for the Facility.
 - i. The hours of operation for the Facility would be from 9:00 am to 6:00 pm, but there would be access to the Facility during other hours of the day.
 - j. There would be gates at the drive-through entrances to the Facility, which would require entry of a code on a keypad for access.
 - k. A code would also be required at the doors of the Facility.
 - l. There would be an elevator within the Facility, access to which would also be limited to key codes.
 - m. There would be video surveillance of the Property and the Facility.
 - n. An on-site office would be within the Facility at the Southeastern corner thereof.
10. Focusing on Exhibit #3, Attorney MacNeal noted that the Unit Rental Agreement had all provisions required pursuant to Section 265-668.1.H. of the Ordinance.
11. In response to the other specific regulations for a Vertical Self-Service Storage Facility, the Applicant testified as follows:
- a. The building would be 44 feet to the top of the parapet wall, which would be less than the 45 feet allowed by the Ordinance.
 - b. 16 parking spaces are needed for the 800 Units, and per Exhibit A Lot 2 Layout Plan, 21 spaces will be provided.
 - c. There shall be no trailer/truck rentals.
 - d. All lighting shall be shielded to direct light away from adjacent properties and the street, and sufficient light levels shall be provided to insure public safety during operations.
 - e. The accessory office in the Facility will be approximately 30 x 40 feet in size.
 - f. While multiple buildings are permitted, only one is requested for this Facility.
 - g. There shall be adequate area for loading and unloading in proximity to the exterior doors of the Facility.
 - h. It was confirmed that buffer plantings would be installed to the rear and Northwestern side of the Facility, in accordance with applicable ordinances of the Township and Exhibit A Lot 2 Layout Plan.
 - i. Lot coverage would be 64% and 85% is permitted.
 - j. Public water and public sewer are available.

- k. The Facility would be painted tan to better blend in with surroundings.
 - l. The elevation drawings of the Facility submitted with the Application were reviewed to show the benefit of the proposed screening landscape buffer.
12. 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.
13. In response to questions, the Applicant answered as follows:
- a. Most of the interior Units will be climate controlled, although some of the drive-up units accessed through the interior drive will not.
 - b. Mechanical equipment will be on the roof but shielded from adjoining properties by the 4 foot high parapet walls.
 - c. It is expected that there will be about 7 vehicles per day accessing the Facility.
 - d. The Applicant is willing to discuss utilization of fencing as part of the buffer area.
 - e. The buffer area will be maintained by the Applicant, as owner of the Property.
 - f. Efforts to avoid glare from lighting will be made as required by the Ordinance.
 - g. The Applicant is willing to talk to the adjacent property owners about buffering.
 - h. The Applicant is willing to do a 6 foot fence at the top of the buffer area to the rear of the Facility.
 - i. There will be two bathrooms in the Facility.
 - j. Nobody will be permitted to reside in the Facility.
14. Testimony was presented in opposition to the Facility to include the following:
- a. Harold Smith indicated that he thought the Use would be intrusive and bad for the community.
 - b. Jane Smith presented a Petition signed by approximately 100 individuals evidencing a concern with regard to the Use, which Petition was accepted by the Board without objection.
 - c. Ray Madden indicated his agreement with Mr. Smith and concerns with regard to security and fire.
15. On behalf of the Township, the Zoning Officer indicated no concerns.

16. The Applicant confirmed that an acceptable Condition would be for it to work with the Township and adjoining property owners to utilize a fence as part of the buffer area, subject to determining the appropriate height, style and location of such fence (the "Condition").

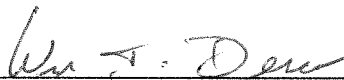
CONCLUSIONS OF LAW

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 Special Exception.
2. The Applicant has met the general criteria for a Special Exception.
3. The imposition of the Condition is appropriate.

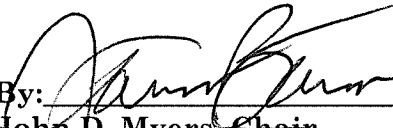
Accordingly, Timothy Salvatore moved, and Glenn Myers seconded, to grant the Special Exception to establish a Vertical Self-Service Storage Facility Use, on the Property located at 3100 Cape Horn Road, Red Lion, PA, in a Commercial Shopping (CS) District subject to the imposition of the Condition. The motion passed with Jim Barnes, Glenn Myers and Timothy Salvatore voting in favor and Anthony Pantano voting against the motion.

WITNESS/ATTEST



William Descar, Secretary

YORK TOWNSHIP ZONING HEARING BOARD

By: 

John D. Myers, Chair
James Barnes, V. 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.