

YORK TOWNSHIP

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The April 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
Timothy Salvatore, Member
Anthony Pantano, Alternate Member
Kathleen Cronin, Alternate Member
Jeffrey Rehmeier, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF FEBRUARY 25, 2020

The Zoning Hearing Board minutes of the February 25, 2020, meeting were approved.

DECISIONS OF FEBRUARY 25, 2020

The Zoning Hearing Board decisions of the February 25, 2020, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2020-07: McDonald's Corporation requests a Variance to exceed the number of allowable signs on property located at 133 Leader Heights Road in a Commercial Shopping (CS) District.

Present: Michael Jeitner

MOTION: On Application 2020-07, McDonald's Corporation requests a Variance to exceed the

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

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number of allowable signs on property located at 133 Leader Heights Road in a Commercial Shopping (CS) District, that the application be approved.

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

Application 2020-08: 334 Hospitality LLC requests a Special Exception to establish a Convenience Store (with fuel dispensing) on property located at 2841 East Prospect Road in a Commercial Shopping (CS) District.

Present: Stacey MacNeal, Esquire
Joshua George

MOTION: On Application 2020-08, 334 Hospitality LLC requests a Special Exception to establish a Convenience Store (with fuel dispensing) on property located at 2841 East Prospect Road in a Commercial Shopping (CS) District, that the application be approved.

MOTION MADE BY: Timothy Salvatore
SECONDED BY: Kathleen Cronin
MOTION PASSED UNANIMOUSLY

Application 2020-06: Cape Horn Retail LP requests a Special Exception to establish a Vehicle Sales, Repair, Service and/or Inspection Facility on property located at 3108 Cape Horn Road in a Commercial Shopping (CS) District.

Present: Stacey MacNeal, Esquire
Eric Johnston
Deborah Catalano
Paul Giulio


MOTION: On Application 2020-06, Cape Horn Retail LP requests a Special Exception to establish a Vehicle Sales, Repair, Service and/or Inspection Facility on property located at 3108 Cape Horn Road in a Commercial Shopping (CS) District, that

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the application be approved.

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

ATTEST:



~~William Descar, Secretary~~
Lisa Frye, Zoning Officer

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2020-06
Hearing Date: April 28, 2020
Applicant: Cape Horn Retail, LP
Property Owner: Cape Horn Retail, LP
Property: 3108 Cape Horn Road
UPI: 54-000-HJ-0084-A0-00000
Existing Zoning District: Commercial Shopping (CS)

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-676 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 represented the Applicant.
3. Eric Johnson, P.E., of Johnson and Associates, Inc. was present on behalf of the Applicant.
4. Additionally, Deborah Catalano and Paul Guilio were also present on behalf of the Applicant.
5. The hearing was duly authorized in accordance with applicable law. The hearing was held by virtual means, specifically Zoom. The legal notices for the hearing provided a means to obtain access information for the Zoom hearing, which access information was utilized by the attendees.
6. After the hearing was opened, the solicitor for the Zoning Hearing Board reminded the Applicant and all participants that the hearing was being conducted virtually to aid in compliance with the Order of the Governor with regard to COVID-19. The solicitor further stated that the Applicant had elected to proceed in this format, understanding the burdens, benefits and risks to proceed that way, and that when so proceeding, the Applicant was agreeing to be responsible for any issues that arise from or related to utilization of the virtual format for the hearing.
7. The Chair of the Board administered the Oath to the above-referenced individuals participating on behalf of the Applicant.
8. The Applicant is seeking a Special Exception pursuant to Section 265-676 of the Ordinance for a Vehicle Repair Facility (the "Use" or "Facility").
9. Attorney MacNeal provided background information as follows:
 - a. The Property at issue has been before the Zoning Hearing Board for a number of prior applications.

- b. One included a Burger King fast food restaurant, which was approved and constructed.
 - c. The Burger King restaurant is functioning well.
 - d. Additionally, a vertical self-storage facility was approved by the Board.
 - e. Land Development Plans for the vertical self-storage facility are nearly approved and that should be constructed soon.
 - f. The Use is the final zoning approval expected for the Property and will complete its land development.
10. Referring to the Conceptual Layout Plan submitted with the Application, Attorney MacNeal called Mr. Johnson who testified as follows:
- a. The construction of the building for the Facility (the "Building") shall meet all applicable set-backs.
 - b. The Building will be 6,700 square feet, with dimensions of 52 x 130 feet.
 - c. The Building will have 8 bays into which vehicles can be driven and select work can be done.
 - d. The Facility will have access via Chapel Church Road (right in only) and Love Avenue.
 - e. Additionally, the Facility will have access via the internal drives along the vertical self-storage building to be constructed and the existing Burger King restaurant, which access drives also reach Cape Horn Road and the adjoining commercial property, that is a shopping center.
 - f. The lot coverage will be 78.4%, which is less than the maximum allowed of 85%.
 - g. The Building will be 22 feet 4 inches in height.
 - h. There will be sufficient parking, including 2 spaces per bay (16), plus 5 spaces for the maximum number of employees expected to be working at any given time.
11. With regard to the specific criteria for the Special Exception in Section 265-676, Mr. Johnson offered the following:
- a. All service, maintenance and/or repair facilities shall be conducted completely within the Facility Building.
 - b. All equipment shall be completely enclosed within the Facility Building.
 - c. There shall be no fuel dispensing facilities.
 - d. There shall be no outdoor vending machines.
 - e. Outdoor trash and recycling receptacles shall be provided at each public entrance and exit.
 - f. All access drives conform to the Township Subdivision and Land Development Ordinance.
 - g. All tires, parts, and similar objects shall be stored within the Facility.
 - h. The tires are stored on a rack system inside the Facility.
 - i. There shall be no vehicle sales.
 - j. The areas for customer parking shall be paved in accordance with the Township Subdivision and Land Development Ordinance.
12. Mr. Johnson offered additional testimony as follows:
- a. There shall be a dumpster area on the Northern corner of the Property, which shall be enclosed and screened.
 - b. There will be constructed, per prior approvals, an extensive buffer yard along the boundary of the Property between South and West, which buffer area has been bonded with the Township, although not installed yet.
 - c. The Use will be less intense from a traffic perspective than contemplated in the previously presented traffic study, which was accepted study by the Township.
 - d. After zoning approval, then land development planning will commence.

13. 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.
14. In response to questions from the Board, the Applicant answered as follows:
- a. There is expected to be 8 to 10 employees in total for the Facility, but only 5 working during the largest shift.
 - b. There is expected to be no more than 2 shifts per day.
 - c. The Building only has doors that open toward Chapel Church Road, thus facing away from the adjacent residential development
 - d. There will be no cars running inside of the Building.
 - e. The Applicant already has a facility in York.
15. Attorney MacNeal called Deborah Catalano who testified as follows:
- a. She is the Vice President of real estate for the Applicant.
 - b. The hours of operation for the Facility will be 8:00 am to 6:00 pm Monday, Tuesday, Wednesday and Friday, 8:00 am to 8:00 pm on Thursday, 9:00 am to 6:00 pm on Saturday and 9:00 am to 5:00 pm on Sunday.
 - c. The Applicant's business model is different from others.
 - d. Specifically, the Applicant is a tire retailer, which is its main business. Accordingly, the Applicant specializes in the sales and installation of tires.
 - e. The Applicant does provide a limited number of automotive services, which are auxiliary to tire sales, to include installation of brakes, alignments, oil changes, inspections and shocks and struts.
 - f. The Applicant does not do engine work.
 - g. There are expected to be 18 to 25 customers per day.
 - h. Most customers will have appointments.
 - i. Specifically, customers contact a call center, which then dispatches the customers appointments to various facilities.
 - j. The Facility is expected to stock approximately 2,000 tires, in its internally storage areas.
 - k. Most customers will not be at the Facility for more than 1 or 2 hours.

- l. If the Facility does not have the tires that a customer needs, then an appointment is set after the initial inquiry, usually the next day.
 - m. Cars are rarely kept at the Facility overnight, but if they are, they are pulled into a bay in the Building.
 - n. No work on vehicles is ever completed outside of the Building.
 - o. There is no exterior storage for the Use.
 - p. There shall not be cars sitting outside the Facility waiting for services days on end.
 - q. If parts are needed for any particular work, they are usually obtained promptly from a local supplier.
 - r. There shall be no outdoor vending machines.
 - s. There shall be trash and recycling receptacles.
 - t. Property maintenance is overseen by a facilities team, which contracts for both landscaping and snowplowing services.
16. With regard to disposal of material, the following was offered:
- a. Scrap tires are stored internally and then picked up by a contractor once a week.
 - b. Fresh oil is held in a double-walled cube.
 - c. Used oil is also held in a double-walled cube.
 - d. No oil is stored underground.
 - e. A company comes, pumps the cubes and provides manifests to evidence those efforts.
 - f. Services are provided for passenger vehicles and small trucks.
 - g. There is usually a daily delivery to the Facility, which is a box truck.
 - h. The only delivery that is expected to come by tractor trailer is when the Facility first opens to complete the initial stock.
 - i. No fumes are expected from the Use.
 - j. No unusual noises are expected from the Use, particularly when considered in conjunction with the nearby commercial uses.
 - k. The doors to the bays are kept open in the summertime.
 - l. She concurred with the testimony provided by Engineer Johnson.
 - m. She confirmed her understanding that there would be no outside storage or work on the Property.
 - n. She also confirmed that the Use shall comply with the applicable noise ordinance of the Township.
 - o. The tires are stored on a rack system inside the Building.
17. In response to questions from the Board, the Applicant answered as follows:
- a. The lights standards to be installed shall meet Township standards.
 - b. Access to and throughout the Property were developed previously.
 - c. No materials shall be stored so as to create a fire hazard.
18. Mr. Harold Smith, who was participating in the hearing, questioned the Applicant, who answered as follows:
- a. The Property will not have a sprinkler system, but will comply with the applicable Building code.
 - b. There will be fire sensors in the Building and vents on the roof.
19. Mrs. Jane Smith participated in the hearing and her questions were answered as follows:
- a. There shall be no sales outside.
 - b. Eight bays are justified for a Facility of this type.
 - c. Air tools will be utilized, but the noise is not expected to be extraordinary.
 - d. The back of the Building will be constructed of block and painted white.

- e. The landscaping will be attractive like that around the existing Burger King restaurant.
20. Mr. Harold Smith commented that he thought the Application and presentation looked good.
21. The Zoning Officer noted that comments were provided in advance of the hearing by Suzanne and Raymond Madden, which included reasons why they were opposed to a repair, service station as follows:
- a. Noise pollution from running cars during the repairs etc.
 - b. Air pollution from the fumes (along with the smell of Burger King).
 - c. Traffic (we have seen more traffic cutting through the development just with Burger King and the storage units aren't even built yet. What's going to happen to traffic when the town houses on Chapel Church are built?
 - d. It seems that the commissioners are only interested in the taxes and not the residents of the township.
 - e. The green space in this township is diminishing.
 - f. Fear of property being maintained (A berm was put in behind our properties, and the grass is starting to get high and the lower strip that is up against our property gets filled with leaves and when it rains, it retains water for a few days (great breeding ground for mosquitoes in the summer months). The weeds have already been about 2 feet high, that my husband had to go out this past weekend and weed wack them so they did not encroach onto our property.
 - g. It was brought to my attention that the police chased someone from the property up into a neighbors yard 2 doors down. This is concern to us about violence in the area. Also, if a garage/service station would be built there our fear is that it will look more like a junk yard. Tires laying around and parts etc. (the property at Prospect and route 24 is a good example of that).
22. No other comments were offered from any third parties for or against the Application.
23. The Township Zoning Officer indicated that there were no concerns from the Township perspective, noting that the land development process still has to be undertaken.

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 pursuant to Section 265-676.
2. The Applicant has met the general criteria pursuant to Section 1009(C).

Accordingly, Jim Barnes moved, and Kathleen A. Cronin seconded, to grant the Special Exception to establish a Vehicle Sales, Repair, Service and/or Inspection Facility on the Property located at 3108 Cape Horn Road in a Commercial Shopping (CS) District. The motion passed unanimously with John D. Myers, Jim Barnes, Timothy Salvatore, Kathleen A. Cronin and Anthony Pantano voting in favor of the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD

Deborah Grove
~~William Descar, Secretary~~
Deborah Grove

By: John D. Myers
~~John D. Myers, Chair~~
Lisa Frye, Zoning Officer
5/26/20
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: 2020-07

Hearing Date: April 28, 2020

Applicant: McDonald's Corporation

Property Owner: C.H.R. Corporation d/b/a Rutter's Farm Stores

Property: 2295 Susquehanna Trail, Suite C
UPI: 36-000-KH-0170-00-00000

Existing Zoning District: Commercial Shopping (CS)

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-711.C. – 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. Mike Jeitner, P.E. and Melissa Bean of Bohler Engineering PA, LLC were present on behalf of the Applicant.
3. Also present on behalf of the Applicant were Rich Ault and Bill Weisgerberg.
4. The hearing was duly authorized in accordance with applicable law. The hearing was held by virtual means, specifically Zoom. The legal notices for the hearing provided a means to obtain access information for the Zoom hearing, which access information was utilized by the attendees.
5. After the hearing was opened, the solicitor for the Zoning Hearing Board reminded the Applicant and all participants that the hearing was being conducted virtually to aid in compliance with the Order of the Governor with regard to COVID-19. The solicitor further stated that the Applicant had elected to proceed in this format, understanding the burdens, benefits and risks to proceed that way, and that when so proceeding that the Applicant was agreeing to be responsible for any issues that arise from or related to utilization of the virtual format for the hearing.
6. The Chair of the Board administered the Oath to the above-referenced individuals participating on behalf of the Applicant.
7. The Applicant is seeking a Variance to exceed the number of allowable signs on the Property (the "Variance"). Specifically, the Applicant is proposing to replace 2 existing business signs with 3 business signs.
8. Mr. Jeitner provided testimony as follows:
 - a. The McDonald's restaurant on the Property was being reimaged to bring it into compliance with the most recent branding initiatives of the McDonald's Corporation.

- b. Such reimaging had already been done to McDonald's restaurants in York Township, including the restaurants near Cape Horn Road (2017) and Broadway (2019).
 - c. The existing signage on the McDonald's restaurant building involves 2 signs, which spell McDonald's in stylized script (the "Existing Building Signage").
 - d. The Applicant desires to replace the Existing Building Signage with 3 signs, (the "Proposed Building Signage") specifically as follows:
 - i. A 48-inch tall Arch "M" logo fascia sign on the front of the building.
 - ii. A McDonald's word mark sign on the front of the building.
 - iii. Another 48-inch tall Arch "M" logo sign on the side of the building.
9. Mr. Jeitner presented exhibits on behalf of the Applicant to include the following:
- a. Exhibit A - Overhead, aerial photograph of the Property and lands adjacent to it.
 - b. Exhibit B - Bohler Engineering Site Plan drawing identified as C-2 and dated December 2019.
 - c. Exhibit C - Photographs of the existing McDonald's restaurant on the Property.
 - d. Exhibit D - Exterior elevation drawings of the building.
(Collectively the Applicant's Exhibits).
10. With regard to Exhibit A, Mr. Jeitner noted the following:
- a. The entire Property consists of 210,000 square feet gross.
 - b. In addition to the McDonald's restaurant on the Property, there is also a Rutter's restaurant and fuel dispensing facility.
 - c. Traffic around the McDonald's restaurant flows in a counter-clockwise direction.
 - d. There are tables outside in front of the building itself.
11. With regard to Exhibit B, Mr. Jeitner highlighted the following:
- a. Access to the restaurant comes from a right in entrance in front of it from Leader Heights Road.
 - b. Additionally, the building has access via a driveway to an adjacent roadway, namely, Pine Grove Road, as well as the portion of the Property utilized by Rutter's.
12. With regard to Exhibit C, Mr. Jeitner highlighted the following:
- a. The 2 Existing Building Signs are identical, stating the word McDonald's, and they are each 67 square feet in size.
 - b. One Existing Building Sign is on the Southern portion of the building, facing Leader Heights Road.
 - c. The second Existing Building Sign is on the Eastern portion of the building, facing the Southbound off-ramp of Interstate 83.
 - d. Both signs constitute 134 square feet, which is 34 square feet more than that currently allowed by the Zoning Ordinance.
13. With regard to Exhibit D, Mr. Jeitner explained the following with regard to the Proposed Building Signage:
- a. The Arch "M" logo sign is 14 square feet.
 - b. The McDonald's word mark sign is 33 square feet.
 - c. Each of these signs would be placed on the front of the building, facing Leader Heights Road.
 - d. Additionally, there would be a second Arch "M" logo sign placed on the Eastern side of the building, so that it could be viewed from the off-ramp of Interstate 83. That sign would also be 14 square feet.
 - e. The Proposed Building Signage would total 67 square feet.

- f. The Proposed Building Signage is less than the amount of square footage currently allowed for building signage in the Ordinance, namely, 100 square feet.
 - g. However, 3 signs are proposed instead of 2 signs, and the Ordinance limits building signage to 2.
 - h. Thus, the Variance is necessary.
14. With regard to the Proposed Building Signage, Mr. Jeitner testified as follows:
- a. The Proposed Building Signage complies with the current rebranding of McDonald's.
 - b. The Proposed Building Signage is consistent with other McDonald's restaurants in York Township.
 - c. The Proposed Building Signage represents a 55% reduction in the square footage of signage on the McDonald's restaurant.
 - d. The Proposed Building Signage, along with the rebranding, represents a positive improvement to the aesthetic appeal to the restaurant on the Property.
15. 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 multiple restaurant uses on the Property, the shared access related to the Property among those uses and the frontage of the restaurant along both Leader Heights Road and the off-ramp of Interstate 83, 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 Variance 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 as the Proposed Building Signage is of lesser size than the Existing Building Signage.
 - 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 as the Proposed Building Signage is of lesser size than the Existing Building Signage.
16. The Township Zoning Officer, indicated no concerns with regard to the Variance.
17. There were no questions from third parties participating in the hearing.
18. There was no testimony for or against the Application from third parties participating in the hearing.

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 Building Signage supports a reimagining of this McDonald's restaurant and such reimagining is consistent with the signage on other McDonald's restaurants in York Township.
2. The Applicant met the general criteria for a Variance.

Accordingly, Kathleen A. Cronin moved, and Jim Barnes seconded, to grant the Variance to exceed the number of allowable signs, on the Property located at 133 Leader Heights Road in a Commercial Shopping (CS) District. The motion passed unanimously John D. Myers, Jim Barnes, Timothy Salvatore, Kathleen A. Cronin and Anthony Pantano voting in favor of the motion.

WITNESS/ATTEST

Deborah Grove
~~William Descar, Secretary~~
Deborah Grove

YORK TOWNSHIP ZONING HEARING BOARD

By: [Signature]
~~John D. Myers, Chair~~
Lisa Frye, Zoning Officer
5/26/20
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: 2020-08
Hearing Date: April 28, 2020
Applicant: 334 Hospitality, LLC
Property Owner: 334 Hospitality, LLC
Property: 2841 East Prospect Road
UPI: 54-000-JJ-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 265-623 and 265-633 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 represented the Applicant.
3. Joshua George, P.E. was also present on behalf of the Applicant.
4. The Applicant is seeking a Special Exception approval to construct a Convenience Store with Fuel Dispensing Station pursuant to Sections 265-623 and 265-633 of the Ordinance (the "Use").
5. The hearing was duly authorized in accordance with applicable law. The hearing was held by virtual means, specifically Zoom. The legal notices for the hearing provided a means to obtain access information for the Zoom hearing, which access information was utilized by the attendees.
6. After the hearing was opened, solicitor for the Zoning Hearing Board reminded the Applicant and all participants that the hearing was being conducted virtually to aid in compliance with the Order of the Governor with regard to COVID-19. The solicitor further stated that the Applicant had elected to proceed in this format, understanding the burdens, benefits and risks to proceed that way, and that when so proceeding, the Applicant was agreeing to be responsible for any issues that arise from or related to utilization of the virtual format for the hearing.
7. The Chair of the Board administered the Oath to the above-referenced individuals participating on behalf of the Applicant.
8. Attorney Mac Neal provided some introductory information as follows:
 - a. There are now 4 properties situated at the Northwest corner of the Longstown intersection bordering East Prospect, Carol and Edgewood Roads.
 - b. The Owner intends to restructure the properties and reduce them to 3 in number.

- c. Per the plans provided, it is envisioned that one of the Properties, located at the corner of Edgewood and East Prospect Roads is proposed to be a medical office building.
 - d. Another property, to the Northwest along Carol Road is also proposed to be a medical office building.
 - e. The third property, in the Southwest portion, adjoining East Prospect Road, but to the West of the intersection with Edgewood Road, is proposed (the "Use").
9. Attorney MacNeal called Joshua George who testified as follows:
- a. He referred to the Site Plan for 2148 East Prospect Road for 334 Hospitality, LLC dated April 1, 2020.
 - b. He highlighted the 3 lots to be created as described above.
 - c. The Property is 2.3 acres in size.
 - d. The Convenience Store on the "middle lot" to the Southwest is supposed to be 4,650 square feet, with dimensions of 50 x 93 feet.
 - e. To the South of the Convenience Store will be a fuel canopy with 8 fuel pumps.
 - f. Access to the Convenience Store property will include a right turn in only when traveling Westbound East Prospect Road, as well as a right in, left in and a right out also from East Prospect Road.
 - g. Additionally, the Convenience Store Property will have access via internal roadways, which will connect it to Carol Road and Edgewood Road where crossing the adjacent property upon which there is an existing CVS store.
 - h. Accordingly, the Convenience Store Property will have good internal access as well as favorable access along adjoining streets, all of which appears to be acceptable to PennDOT.
10. With regard to the criteria for a Convenience Store in Section 265-623 of the Ordinance, Engineer George offered the following:
- a. The Convenience Store and the vehicle Fuel Dispensing Stations conform to the relevant requirements of the Zoning Ordinance, including the following:
 - i. Both the fuel canopy and the Convenience Store will be setback further than 50 feet from East Prospect Road.
 - ii. Additionally, they will be setback more than 10 feet from the side right-of-ways.
 - iii. Further, they will be setback more than 20 feet from the road right-of-way.
 - iv. The Convenience Store building will be one story in height, not exceeding 18 feet in height.
 - v. Coverage of the Property will be 60%, which is less than the 85% lot coverage limit.
 - b. The Convenience Store will not have any drive-through facilities.
 - c. Food preparation and patron seating areas in the Convenience Store shall not be more than 25% of the gross floor area of the building.
 - d. There shall be no outdoor sales.
11. With regard to the criteria for a Fuel Dispensing Station in Section 265-633, Engineer George testified as follows:
- a. The fuel pumps and any canopy structure shall exceed the 25 foot setback from the street right-of-way and property lines.
 - b. There shall be a vertical concrete curb no less than 8 inches in height along the frontage of the lot, at its South, along East Prospect Road.
 - c. Fuel canopy lighting shall be directed downward toward the fuel pumps and shielded or recessed in accordance with the Township Subdivision and Land Development Ordinance. The canopy shall be constructed of a solid, non-translucent material.

- d. Outdoor sales displays and vending machines, if ever implemented under the fueling canopy, shall not exceed 10% of the fuel canopy area.
 - e. Outdoor trash and recycling receptacles shall be provided at each fuel dispensing island.
 - f. There shall be no kiosk under the fuel canopy.
 - g. Each fuel pump shall be provided with the minimum 60 feet of vehicle stacking.
12. With regard to vehicle stacking, Engineer George provided a Vehicle Stacking Exhibit and explained the following:
- a. Under the canopy, there shall be 8 fuel pumps, each of which will have 2 dispensing stations.
 - b. Accordingly, up to 16 vehicles can obtain fuel at any given time.
 - c. The exhibit showed that, when a vehicle is centered on a fuel station, there does exist 60 feet of vehicle stacking, either to the North or South of the station and adjacent to the canopy.
 - d. If a vehicle is at a Northern fueling station, and another is behind it, there is still at least 24 feet of drive area between that stacked vehicle and the parking areas to the South of the Convenience Store.
 - e. The layout is similar to other Fuel Dispensing Stations and convenience stores in the area.
13. Engineer George referred to Applicant's Exhibit 3, which is a photograph of a nearby Royal Farms convenience store, with a similar, well-functioning configuration.
14. 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.
15. In response to questions from the Board, the Applicant answered as follows:
- a. The Convenience Store is expected to be part of a well-known chain.
 - b. Subdivision plans for the Property have already been submitted to the Township, and the Property upon which the Convenience Store with Fuel Dispensing Station will be constructed as Lot No. 84.
 - c. PennDOT has indicated that it finds the access to the Property generally to be acceptable.

- d. There will be installed a right hand turn lane, on the North side of East Prospect Road, which will function in conjunction with the recent, substantial improvements to East Prospect Road and the intersection.
16. There were no questions from any third parties participating in the hearing.
17. There was no testimony for or against the Applicant.
18. From the Township perspective, the Zoning Officer offered the following:
 - a. The Property and development thereof has been under substantial review for a long time, via several renditions of the Convenience Store and Fuel Dispensing Station, prior to the one submitted to the Zoning Hearing Board.
 - b. While there was some concern about vehicle stacking at the fuel pumps, it has been alleviated by the recent exhibit referenced above.
 - c. She is comfortable with the plan as presented at this level.
19. A couple members of the Board noted some concern with regard to the possibility of vehicles exiting Chambers Road and attempting to go directly across East Prospect Road and access the Property. However, they also recognized that the traffic improvements would not lend themselves to such action and approval of traffic improvements was not before the Zoning Hearing Board.

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 for a Convenience Store in Section 265-623 of the Ordinance.
2. The Applicant has met the specific criteria for a Special Exception for a Fuel Dispensing Station in Section 265-633 of the Ordinance.
3. The Applicant has met the general criteria for a Special Exception in Section 265-1009(c) of the Ordinance.

Accordingly, Timothy Salvatore moved, and Kathleen A. Cronin seconded, to grant the Special Exception to establish a convenience store with a Fuel Dispensing Station on the Property located at 2841 East Prospect Road in a Commercial Shopping (CS) District. The motion passed unanimously John D. Myers, Jim Barnes, Timothy Salvatore, Kathleen A. Cronin and Anthony Pantano with voting in favor of the motion.

WITNESS/ATTEST

Deborah Grove
~~William Descar, Secretary~~
Deborah Grove

YORK TOWNSHIP ZONING HEARING BOARD

By: [Signature]
~~John D. Myers, Chair~~
Lisa Frye, Zoning Officer
5/26/20
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.