

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of December 3, 2015

Members Present

Jeff Staub
Watson Fisher
Greg Sirb

Also in Attendance

James Turner
Amanda Zerbe

Docket 1376

Applicant: Robert Little
Address: 4621 Tarryton Road
Harrisburg, Pennsylvania 17109
Property: 4621 Tarryton Road
Harrisburg, Pennsylvania 17109

Section 307.A. Required setbacks of the R-1 District. The required side yard setback of a minimum side yard is 10 feet in an R-1 District.

The Applicant will encroach into the required side yard six feet.

Fees Paid: October 29, 2015
Property Posted: November 23, 2015
Advertisement: Appeared in the Paxton Herald on November 11, 2015 and November 25, 2015

The hearing began at 7:03 p.m.

Ms. Cate noted that she must recuse herself from the hearing as she lives in Devon Manor and the Little's are friends of hers.

Mr. Hansen noted that he should also recuse himself as he lives in Devon Manor.

Mr. Staub noted that with the two recusals the Board continues to have a quorum.

Mr. Staub questioned Mr. Neeley if he had any objections to entering the application and site plan as Township exhibits. Mr. Neeley answered no.

Mr. Staub swore in Amanda Zerbe, Zoning and Planning Officer for Lower Paxton Township.

Mr. Staub questioned if the appropriate fees have been paid for this docket. Ms. Zerbe answered that the applicant paid the fee on October 29, 2015. Mr. Staub questioned if the application has been properly advertised and hearing notices posted. Ms. Zerbe answered that it was advertised in the Paxton Herald on November 18, 2015 and November 25, 2015, and it was posted on November 23, 2015. She noted that 14 neighbors received a mailing on November 23, 2015.

Mr. Staub requested Ms. Zerbe to explain what ordinances pertain to this request. Ms. Zerbe noted that it has to do with Section 307.A; required setbacks of the R-1 District. The required side yard setback of a minimum side yard is 10 feet in an R-1 District.

Mr. Staub swore in Jeff Neeley, 8221 Mountain Road, Harrisburg, 17112.

Mr. Staub asked Mr. Neeley to explain why the variance should be granted.

Mr. Neeley explained that Mr. Little has been storing his boat at the side of his property and he wants to make it look a little more appropriate so he does not have to cover it with a tarp all winter long. He explained that he wants to add to the side four feet with the proposed building that is 12 feet wide, allowing four feet on the side yard. He noted that it would be made to look like the rest of the house. He noted that he had two color pictures and the section above the garage will be reroofed and not patched in. He noted that there is double fork aluminum siding on it now which will be very difficult to match but the side that is taken off the existing garage will be used on the front to make the front match. He noted that is what we would like to do. He noted that the garage door would match the same cut corners that are on the existing garage.

Mr. Sirb questioned if there would be any windows on the garage. Mr. Neeley answered that there will be two windows on the side. Mr. Sirb noted that they would be facing the neighbors. He questioned what about the second story above the garage. He questioned if the new garage would have those windows as well. Mr. Neeley answered no, he noted on the last page there is a side view that is not drawn to scale that would follow the existing roof line partway up but because it is only 27 feet deep it would come back down so it wouldn't go up the whole way. He noted that it would not have that front for the room that is above the garage and it would not be that high. He suggested that it would be a total height of 12 feet.

Mr. Sirb questioned if the chimney would stay in the same spot. Mr. Neeley answered yes as it is 29 feet back from the front of the garage that is why the garage is 27 feet.

Mr. Sirb noted on the picture that is covered with the tarp, he questioned if that is a boat. Mr. Neeley answered yes. Mr. Sirb noted that the application says it is a car. Mr. Neeley answered that it is a boat. Mr. Sirb questioned if it is for a boat and a car or just a boat. Mr. Neeley answered that it is just for a boat.

Mr. Staub questioned what happens to the boat now that he is putting the extra car in the garage. Mr. Neeley answered that he is putting the boat in the garage. He noted the reason for building the garage is to store the boat.

Mr. Sirb noted that the neighbor that is closest to the garage, is it Donna Vozenilek and Ralph Rich. Mr. Neeley answered yes. He noted that there is a letter provided that they have no objection to it.

Mr. Staub questioned if you are the neighbor to the back. Mr. Hansen answered yes.

Mr. Staub questioned what the normal average lot width are in Devon Manor, is it 90 or 100 feet. Mr. Neeley answered that he did not know. Mr. Hansen answered that his is 114 feet, but they vary quite a bit. Mr. Neeley answered that he is not sure where his property line is on the right side but it looks like there is a fair amount of property on the right side as they have a large tree there. He noted if they needed access to the rear they could still get something back there.

Mr. Turner questioned how far is the neighboring house on the side that you intend to construct. He questioned how far from the property line is that house. Mr. Neeley suggested that it may be 15 to 18 feet.

Mr. Staub noted that the elevation provided looks like the garage doors are different sizes, will they be the same. Mr. Neeley answered that the new door will be wider since the existing garage door is only an eight foot wide door. He explained that the boat trailer is 8 feet six inches wide; therefore he is using a ten foot garage door. He noted that Mr. Little originally wanted an eight foot door until he found out that the boat trailer would not fit. He noted that he would be doing the work for Mr. Little.

Mr. Sirb noted as long as it matches and that is Mr. Neeley's testimony that it will match the existing garage that is there. Mr. Neeley stated as close as possible. He noted that he is very particular with what he does as he has been doing work in the Township for almost 30 years and had not had any issues. He explained that he has done work for the Township with the abandoned properties. He noted that he mows those properties and he is very particular. He noted that you see many additions and they patch in the shingles. He noted even from a year or two the color will vary and the Little's decided to shingle the entire lower section so it doesn't look like it was added on. He noted that he wanted to make it as close as possible to what is there to make it look like it was always there.

Mr. Staub questioned Mr. Neeley if he had anything else to add. Mr. Neeley answered no.

Mr. Staub questioned if the Board had any other questions. No response was provided.

Mr. Staub questioned if anyone in the audience wished to be heard regarding the application. No response was given.

Mr. Staub noted that the Board has 45 days to render a decision; he questioned if the board wished to take action on Docket 1376.

Mr. Sirb made a motion to approved Docket 1376 as submitted. Mr. Fisher seconded the motion.

Mr. Staub requested Mr. Turner to conduct a roll call vote: Mr. Fisher, aye; Mr. Sirb, aye; and Mr. Staub, aye. Mr. Sirb noted that the application was approved.

The hearing ended at 7:17 p.m.

Respectfully submitted,


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
ROBERT LITTLE : DOCKET NO. 1376

DECISION GRANTING VARIANCE

The applicant seeks a variance from minimum side yard setback requirements. A hearing on the application was held on December 3, 2015.

Facts

1. The applicant and owner of the property in question is Robert Little of 4621 Tarryton Road, Harrisburg, Pennsylvania 17109.
2. The property in question is located on the south side of Tarryton Road and consists of a roughly rectangular lot with 75 feet of frontage. The parcel is zoned Residential, R-1.
3. The parcel is improved with a dwelling known as 4621 Tarryton Road. The existing home has an attached one car garage on the east side of the dwelling which is set back 16 feet from the side yard property line.
4. The applicant proposes to widen the exiting garage by 12 feet to allow for the storage of a boat which is presently stored alongside the existing garage. The addition would be constructed of materials and in a style to match the existing dwelling. Two windows would be installed on the side facing the neighboring property.
5. The applicant has discussed his project with the neighboring property owner who indicated his approval of the variance request in a statement presented to the Board.
6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicant appeared to testify either in favor of or against the proposed request for variance.

Conclusions

1. Section 307(a) of the ordinance requires a minimum side yard setback of 10 feet. The proposed construction would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property in question is burdened by a hardship consisting of its narrow width. This hardship makes improvement to the property virtually impossible without the grant of variance.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The addition is complimentary to the existing structure. Additionally, the variance will have no effect upon the public safety or the general welfare.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of an addition to the existing garage with a

minimum setback of four feet. In all other respects construction shall be in strict conformity with the plans and testimony submitted to the Board.

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

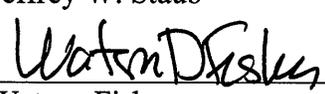
Date: 1-11-16



Gregory P. Sirb



Jeffrey W. Staub



Watson Fisher

Board members Cate and Hansen abstained from participation in this matter.

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of December 3, 2015

Members Present

Jeff Staub
Sara Jane Cate
Greg Sirb
Alan Hansen
Watson Fisher

Also in Attendance

James Turner
Amanda Zerbe

Docket 1377

Applicant: Hotcakes Harrisburg Venture, LLC
Address: 6400 Powers Ferry Road. NW, Suite 100
Atlanta, GA 30339
Property Owner: Lowe's Home Centers, LLC
P.O. Box 1111, 1605 Curtis Bridge Road
N. Wilkesboro, NC 28656-0001
Property: 4000 Union Deposit Road
Harrisburg, Pennsylvania 17111

Section 601: Off-street Parking and Loading. The required number of parking spaces for the use would be 111. The proposed number of spaces is 77 for a deficit of 34 spaces. The applicant is asking for relief of 34 off-street parking spaces.

Section 603.1: Parking Setbacks for Buildings. The required setback requires a minimum of ten feet from the building to parking. The applicant is requesting to reduce the required setback to eight feet from the building to parking.

Section 307.A – Rear Building Setbacks. The required setback in the C-G, Commercial General is a minimum of thirty feet. The applicant is requesting to reduce the required 30 foot rear yard setback.

Section 804.C; Street Trees. The applicant is requesting a variance from the requirement to plant street trees between the lot lines, building and /or parking area, and any public street.

Fees Paid: November 3, 2015

Property Posted: November 23, 2015

Advertisement: Appeared in the Paxton Herald on November 18, 2015 and November 25, 2015

The hearing began at 7:17 p.m.

Mr. Staub questioned if the appropriate fees has been paid for this docket. Ms. Zerbe answered that the applicant paid the fee on November 3, 2015. Mr. Staub questioned if the application has been properly advertised and hearing notices posted. Ms. Zerbe answered that it was advertised in The Paxton Herald on November 18, 2015 and November 25, 2015, and it was posted on November 23, 2015. She noted that 11 surrounding properties received a mailing on November 23, 2015.

Mr. Staub requested Ms. Zerbe to explain what ordinances pertain to this request. Ms. Zerbe noted that it has to do with Section 601: Off-street Parking and Loading. The required number of parking spaces for the use would be 111. The proposed number of spaces is 77 for a deficit of 34 spaces. The applicant is asking for relief of 34 off-street parking spaces. Section 603.1: Parking Setbacks for Buildings. The required setback requires a minimum of ten feet from the building to parking. The applicant is requesting to reduce the required setback to eight feet from the building to parking. Section 307.A – Rear Building Setbacks. The required setback in the C-G, Commercial General is a minimum of thirty feet. The applicant is requesting to reduce the required 30 foot rear yard setback. Section 804.C; Street Trees. The applicant is requesting a variance from the requirement to plant street trees between the lot lines, building and /or parking area, and any public street.

Mr. Staub noted that he previously swore in Amanda Zerbe, Zoning and Planning Officer for Lower Paxton Township.

Mr. Staub swore in David R. Shanahan, Hotcakes Harrisburg Ventures, 200 River Vesta Drive, Atlanta Georgia. Mr. Turner questioned what his relationship was to the applicant. Mr. Shanahan answered that he is the applicant. Mr. Turner questioned what his title is. Mr. Shanahan answered that he is the Development Partner. Mr. Staub also swore in Bob Sandmeyer, Site Design Concepts, Consultant Engineer, 127 West Market Street, York Pennsylvania.

Mr. Staub noted that the applicant can proceed with his testimony.

Mr. Shanahan explained that he is a developer from Atlanta and has had a relationship with IHOP for 15 years and has developed over 100 stores focused in the South East area but also from the Boston Market in New England west to Missouri south to Florida and Texas. He noted that it is not his first relationship with Lowe's and he will touch on that later.

Mr. Shanahan noted that it is located at the Lowe's Home Improvement Center at the intersection of Union Deposit Road and I-83. He noted that it is at the off ramp from I-83 south and the overall parcel is made up of 16.45 acres to include the store, parking and storm water detention. He noted that the access is through a signalized intersection. He noted that they

proposed to purchase the outparcel. He noted this would be the sixth or seventh purchase from Lowe's to do something along these lines, and they proposed a 7,400 square foot building with 3,400 square feet of restaurant space and two retail tenants, one of whom they have a client for at present.

Mr. Shanahan noted that the first variance is a reduction in the required parking. He explained that he provided a parking study for how much parking is needed.

Mr. Sirb noted that you will have an IHOP restaurant and a... Mr. Shanahan noted that there would be 3,400 square feet of retail. Mr. Sirb questioned if that would be leased. Mr. Shanahan answered yes but he is not the IHOP operator, his partner is a IHOP franchisee and they are based in Phoenix, but they have stores in Pennsylvania.

Mr. Shanahan explained that the reason to request a reduction in parking is two-fold. He noted that the site is unusual in terms of its construction. He noted that it is an acre and a quarter and under the code, 40% of building coverage would be allowed, producing 20,000 square feet of space. He noted that we are talking about 7,400 square feet. He noted that it is not an efficient site as the configuration pens the property in with a thirty foot setback from property line at the top of the hill. He explained that the fence is the PennDOT right-of-way. He noted that he is requesting a variance from the building but there is an eight foot differential from the main grade on the site. He noted that there is also a seven foot grade differential where the billboard signs is placed to the west. He explained that he is left with a site that is 165 feet deep. He noted that a row of parking is 18 feet deep with a 25 foot drive aisle, only allowing two rows of parking since the circulation consumes 61 feet of depth. He noted that the building is 56 feet wide and it will be turned sideways so it has less depth allowing the main horizontal access and egress drive which is a requirement for the site. He noted that it is hemmed in by the geometry.

Mr. Shanahan provided a parking study that is a function of a number of projects. He noted that he selected five projects that he has done which are very similar to this using out parcels in a shopping center or a large single tenant like Home Depot, Lowe's or Walmart. He noted that had has a cross working agreement with Lowe's, and in addition to the parking on site, he is not prohibited from parking across the access drive on the Lowe's side. He noted that the actual needed parking as shown on the parking study includes the retail space and parking as required by code. He noted that five spaces per thousand produces 17 required parking spaces, and out of the 77 spaces proposed he would subtract those 17 spaces. He noted that the balance would have to serve the IHOP. He stated when you look at a 5,000 square foot full size IHOP, seating 210 to 230, they only required 75 parking spaces. He noted that this restaurant will have 168 seats and if you do the math the required parking for the restaurant would be 84 spaces, one for every two seats, plus employee parking, needing 94 spaces for the restaurant only. He noted 75 spaces for a full size IHOP is based upon experience and is found to be more than sufficient.

Mr. Shanahan noted that the customer counts in the study are based upon tickets, using one and a half customer per car. He noted that most tables have two to four people; therefore he upped the requirement to 57 spaces based on 225 seats in a restaurant requiring 75 seats, you will come down to this number as well. He noted that he built this on actual customers during the

peak period noting that there would be some overlay on Saturday with Lowe's at certain times of the year, but on Sunday it would not be an issue. He pointed out that Lowe's front door and the contractor parking is spaced so their main parking field is closer to their front doors. He noted that there are 300 parking spaces across that area and Lowe's will not use it.

Mr. Sirb noted that you are using the letter dated October 23, 2015 from Lowe's, Gary Wyatt as an authorization to use spaces. Mr. Shanahan noted that it is a blanket authorization letter which provides evidence for him to apply for the variance. Mr. Sirb questioned if you are using the Lowe's employee parking for overflow. Mr. Shanahan noted that the Lowe's employee parking is the lot we are looking to buy. He noted that Lowe's has agreed to utilize the area beside the garden center which is striped where they store dead merchandise. He noted that they will use that area for employee parking and can also park behind the building. Mr. Sirb questioned where they park now. Mr. Shanahan answered that the employees park at the edge of the access drive or in the location where the IHOP will be built. He noted that is what they are selling to us.

Mr. Shanahan explained that he spent ten years as a consultant for Home Depot. He noted that he built 50 Home Depot's throughout the northeast and did some deals in Pennsylvania. He noted that all three, to include Lowe's and Walmart have the same criteria to calculate parking. He noted that they would not sell the land if we could not meet the code and they are allowing us by that letter to reduce the number to meet the code. He noted that it would never be less than ten parking spaces per 1,000 on a restaurant and five parking space for a retail. He noted if you calculate that we are substantially exceeding their minimum requirement for parking. He noted that they would not sell us the site if it would create a parking issue for them.

Mr. Shanahan noted that we are paying a lot of money and from their standpoint they don't care. He noted that they like the idea of having the IHOP as they see it as a benefit for the store. He noted that he is happy to answer questioned related to all these calculations but he did not want to go through the entire study. He noted that these are all project that he did and was personally involved in having the same criteria from the seller with the numbers being very close in terms of the parking provided.

Mr. Turner noted that the letter that has been referred to which is part of the Township's exhibits is the October 23, 2015 letter. He noted that it is a letter of authorization for the applicant to apply for a variance on the property that Lowe's owns. He noted that it does not constitute any kind an agreement for cross parking in connection with this. Mr. Shanahan noted that is correct and he will tell you if he handed the Board the contract and the reciprocal easement agreements associated with the contract, nowhere will you find language that specifically says that there is a cross parking easement. He noted that there is cross access, a utility easement, but there is no prohibition against parking offsite. He noted that Lowe's, Walmart and Home Depot all handle it the same way. Mr. Turner noted that Mr. Shanahan's testimony is that Lowe's feel that what they will be left with is sufficient for them and both Lowe's and you feel that what you are providing on your lot is sufficient for your purposes. Mr. Shanahan answered that is correct. He noted that he would not be sitting here tonight if they were not very happy with the parking that they would be left with and the agreement to relocate the employee parking area.

Mr. Sirb noted that he would like to see an agreement for overflow parking but he also understands that Lowe's is not dumb enough to give them the space if they think they will have trouble with their parking. Mr. Shanahan noted that we have had this discussion many times as he sat on the other side of the table as a Home Depot representative, selling off parcels that they didn't need. He explained that he was asked if they could do it and he was told yes, but they will not provide the right for perpetuity. He noted that cross parking will happen and in both directions. He noted that there is plenty of parking out there as there are 628 parking spaces for a store that probably had its maximum use at 350 spaces, not to include the employee parking. He noted that their Christmas is Memorial Day. He noted that their traditional peak parking does not match up with other retail sales.

Mr. Staub noted that it is just as relevant if Lowe's meeting the parking requirements after the outparcel is subtracted from their property. Mr. Shanahan agreed. Mr. Staub questioned if you have calculations for that. Mr. Shanahan noted that what we agreed to prior to the application was that Lowe's was approved under an older code. He noted that he is dealing with the newer code and whatever variance is required to meet to get to that level, he would agree to. He noted that Lowe's remaining parking would be the calculation that was based upon the original code so he could not reduce their parking below that criteria. He noted that they are substantially over parked under the old code and they would also be under the new code. He noted that the answer is yes and if you would like us to provide numbers; we did an on-site count to confirm the site plans that are here in this office for the Lowe's that the numbers match up. He noted that it meets code under the original code that it was built for.

Mr. Staub questioned Ms. Zerbe if the store would be governed by the current parking ordinance. Ms. Zerbe answered only the new parcel. She noted that the old parcel is under the old zoning ordinance. Mr. Staub questioned if the parking field that remains for the existing Lowe's subtracting out this outparcel, is there sufficient parking spaces to meet the old code. Ms. Zerbe answered yes.

Mr. Turner questioned if it meets the current code. Mr. Shanahan noted that the old code broke the building down into its component pieces such as retail, warehouse and seasonal and each one had a different parking code requirement.

Mr. Hansen noted that you planned on having 168 seats in the IHOP with ten employees. He noted under the current regulation you should have 94 parking spaces. Mr. Shanahan answered that was correct. Mr. Hansen noted that there will be another building next to it, 3,400 square feet of some type for retail. Mr. Shanahan noted that we do know who one of the tenants will be but it is up to them to reveal that. He noted that the obligation for the code of 3,400 square feet would be no more than 17 spaces needed. Mr. Hansen noted that it would be 111 parking spaces so you want a variance of 34 less parking spaces for a total of 77 parking spaces.

Mr. Shanahan noted that he has been doing this for 35 years and he has done business from the Rockies to the Atlantic and the Canadian border to south Texas. He noted that there are a lot of municipalities, counties etc. that have parking codes that require far more than actually needed. He noted it is not unusual that there is a question do we want to have more or less parking.

Mr. Hansen questioned why you are asking for the reduction in parking. Mr. Shanahan noted that we have a dimensional narrow site that is not deep. He noted that 165 feet from front to back including substantial setbacks make it unusable and creates a site that is very inefficient where we can't meet the parking requirements. He noted if you look at a site of this size, within your code, 40% building coverage is allowed and that would constitute about 22,000 square feet but we are parking everywhere we can for a building that is a fraction of that size. He noted that it is the configuration of the site that is driving the need for the variance.

Mr. Hansen questioned how the size of the IHOP restaurant compares to other restaurants that you have. Mr. Shanahan answered that 4,000 square feet is the lower end, having done some that are a little smaller, but IHOP noted that just above the minimum. He noted that a full size prototype is 5,000 square feet plus you have to add in the freezer cooler area and storage so it is really more like 5,500 square feet. He noted if we increased the size of the building we would need 75 to 80 parking spaces and it would fit but is it financially feasible, no. He noted not at this price.

Ms. Cate questioned how much you want to reduce the rear yard setback. Mr. Shanahan noted that he has only addressed the first variance and is waiting to move onto variance two. Mr. Sirb requested him to move forward.

Mr. Shanahan noted that variance two is the ten foot setback from building to parking. He noted that it would be applicable to the front and all around the building. He noted that the depth of the site, penned in between the PennDOT right-of-way and the access road for Lowe's, that area that is eight feet higher and made up of rock. He noted that he is requesting a two-foot variance so the distance from the front of the building to the edge of the parking would be down to eight feet. He noted that five feet is the code for a sidewalk and we tried to make it a little bigger to provide a waiting area but we don't have room to do the building turned sideways as well as the retail and get the ten feet.

Ms. Cate noted that you plan to reduce the rear yard setback. Mr. Shanahan noted that the third variance is for the rear yard setback noting that we need a 30 foot setback but the only one who is affected is Lowe's. He noted that they have agreed to this site plan and it is attached to the contract. He noted without the reduction there is no way to accomplish the parking that is necessary to support this, noting that you have a landscape setback, parking dimensions, noting that they are 18 feet deep, and the travel lane is 25 feet for two-way access, and under the code a ten foot setback which he is requesting a reduction for and a thirty foot setback to the rear from the internal private driveway where the proposed lot line would be. He noted that the driveway is covered by an easement that was provided by Lowe's to the Township. He noted that it is a public drive.

Mr. Turner questioned what the total impervious coverage is for the lot. Mr. Sandmeyer questioned if you wanted to know the existing or the proposed. Mr. Turner answered proposed. Mr. Sandmeyer answered that we have not gotten to that point yet but he has designed it to meet the code. Mr. Turner noted that the impervious coverage for the entire lot was factored in for the entire tract. Ms. Zerbe noted that 75% is the allowable amount. Mr. Turner noted that he was thinking that it was 60% and he could not figure how you could get it out of what you are

showing. Mr. Shanahan noted that it is actually 40% building coverage, but it is not 60% holding space. Ms. Zerbe noted that it is 40% building coverage and 75% impervious.

Mr. Staub noted what Mr. Turner was saying is that it may adversely impact the residual tract which is going to be Lowe's. He noted what happens if they drop that green space that they need to meet the 75% impervious. He questioned if, with the new calculations will they be in violation of section of the ordinance. Mr. Shanahan answered that they will not as it will be upon us to calculate it. He noted that we cannot under our contract; they won't sell it to us if we violate their loss. Mr. Staub noted that their letter clearly says that but he questioned if you have research this enough to be confident to make that statement in this hearing that you are not going to place the residual lot in violation of the coverage requirement. Mr. Shanahan noted that we have not done the design to confirm this, but he feels comfortable making the representation for it as we cannot proceed with Lowe's if we don't. He noted if we had to reduce the retail area or something along that area to meet the criteria so that Lowe's lot is not impacted, we would have to do that otherwise we can't go forward.

Mr. Turner noted that it is an issue that will be addressed at the subdivision land development stage. He noted that he wanted to throw that out as a warning that even if we would grant the variances, we don't have before us a request for variance from impervious coverage, so if it turns out ultimately that you need it, you will either need to readjust your plan or need to come back to the Zoning Hearing Board. Mr. Shanahan noted that he fully understands that.

Mr. Shanahan noted that the final variance is for street trees which would be in the front of the lot, along the right-of-way and property line. He noted that it is only eight feet above this site, with the fence being another four feet above that and from the top of the hill it is 500 feet, with it dropping very steeply to the road. He noted that he is seeking relief from planting the street trees along the frontage because there is lack of room to effectively do it and it is a steep slope. He noted that you won't see the trees, noting that the top of the berm is eight feet and that is another four feet from the parking lot. He noted that the berm will be 12 feet above grade. He noted until you get above 12 feet you will not see anything. Mr. Turner noted you will see them if you are driving down Union Deposit Road.

Mr. Turner questioned how many trees are required. Mr. Staub suggested that it is one tree for every 50 feet. Mr. Shanahan suggested that we need five trees. Ms. Cate questioned if you don't want to plant five trees. Mr. Shanahan noted that it is more about the location than the number of trees. He noted that it is a variance request but if we came around the corner or elsewhere that would be a site plan issue and not a variance. He noted that he is asking for relief to not have to do something. Mr. Turner questioned what the hardship is for putting them in, other than it would cost a couple hundred dollars a tree. Mr. Shanahan noted that it is not the money; in the end it will create a visual blockage from the street which is one of the inducements for the visibility from Union Deposit Road on the building. He noted when the trees mature and grow up they will block the sign on the building. He noted that is his big concern. He noted it is not an existing hardship but we are talking about developing a site for retail use where visibility is very important and he does not want to block the building.

Mr. Turner questioned where else on the site could you plant trees to make up for the ones you don't want to put in the front. Mr. Sirb noted that you have to put those trees somewhere so it doesn't look as bad it might look. Mr. Shanahan anticipated that and if you were requiring him to relocate the street trees on site, he can handle that. Mr. Sirb noted that you can handle it. Mr. Sandmeyer noted that that site has a lot of overhead utility easements and there is a gas line and other easements running to this property. He noted that the way the easements are laid out in the grass areas and islands that we are proposing we cannot place any trees in those areas. He suggested that maybe Lowe's would allow us to put trees around the site on their property. He noted that we have some small islands that we may be able to use; however, the extra trees that need to be put in would be in utility easements that are existing from the original Lowe's subdivision and land development plan. Mr. Sirb suggested that you can find five places for five trees. Mr. Sandmeyer noted not necessarily on our lot. Mr. Sirb noted on the site. Mr. Sandmeyer answered that is correct.

Mr. Sirb noted that most of the Board members visit this site a lot and this is the third or fourth hearing where we are developing a parking lot. He noted that we discussed Gander Mountain a couple of weeks ago, we are developing parking lots. He noted that he never thought we would be developing a parking lot because the store has too big of a parking lot. He noted that he doesn't mind the IHOP but the retail space he does not see it. He noted that you may not be here if you didn't have the retail space. He noted that you would meet the parking if you didn't have the retail space. He questioned why we have to have the IHOP and the retail space, is it strictly financial. Mr. Shanahan answered yes. He noted that the inducement to do the IHOP since it is a smaller IHOP with 168 seats versus 230, you will do less volume. He noted that the upside for the operator is that the operating costs are reduced for a smaller building and for the rent that we can offer them by virtue of having the retail. He noted that it is far lower than the rent they would be charging themselves to do a free standing store. He noted that it is a discussion that we can have but does it qualify as a hardship, no, but the reality is he cannot located in Harrisburg if we don't have the retail space. He noted that we can't do just the IHOP. He noted that one parking space for every two seats is excessive and it does not line up with the generally accepted requirements. He noted when operators sell an outparcel they put restaurants in three categories, fast food which has a quick recovery, sit down restaurant like the IHOP with no alcohol, and then there is a social comfort restaurant. He noted for this it is ten spaces per 1,000 square feet and for the other it is 15. He noted if you do the calculations, you still are not getting anywhere close to one space for every two seats. He noted that you are literally building a cathedral for one day a year. He noted that you will never use all those parking spaces and that is why you are seeing those applications as an effective use of the property, noting that they only use that parking for the convenience of their employees.

Mr. Sirb noted that he buys the argument. He noted that Lowe's would not sell you the property is they thought they needed it for parking. Mr. Shanahan noted that the parking study that he provided, if you go and look at the other developments, it is very similar circumstances, same relationship in terms of seller and buyer. He noted that you will see a very close relationship in terms of the number of spaces and all of those with the exception of the one in Pooler, Georgia, which has been operating for eight months, and there has never been any kind of parking problem.

Mr. Staub noted that he agreed with Mr. Sirb noting that the retail space is exacerbating the problems that you are having and causing you to ask for more relief from the ordinance than what you otherwise would have to. Mr. Shanahan noted that it only consumes 17 parking spaces. Mr. Staub noted that you are reducing the parking for the outparcel by over 30% for what the ordinance requires and he is not going to discount your testimony about what pad site would require as a practical matter nor do I discount the requirement of the ordinance either. He noted that there is a reason the ordinance is written that way. He noted that it seems like we are putting too much building in too small a lot. Mr. Shanahan noted that the building area is 13% and 40% is allowed under your code. He noted that we are not cramming too much square footage on the lot, but your code requires far more parking than is needed and that is a fact. Mr. Staub noted for the 7,400 square feet of retail, you wouldn't need parking set back and you would be able to adjust your need for a setback variance too. He noted that the parking requirements would be so minimal. Mr. Shanahan noted just for the store the economics do not work without the retail and if you put just that restaurant on that site you would site need 94 parking spaces. He noted that there is not enough room for 94 parking spaces. Mr. Staub noted that you would pick up more than the 77 you have now if you eliminated the retail space, maybe ten more spaces. Mr. Shanahan noted that it imposes a financial hardship on us that is unacceptable and we would walk away from that. Mr. Staub noted that he is not deaf to that but this is what his thoughts are.

Mr. Sirb noted if this was just a parcel and not a parking lot his vote would be no. He noted that it is a parking lot but the first thing he looks at when we are decreasing the parking spaces and squeezing everything in is the safety issue. He noted you have to cross the street to get to the restaurant, are we having cars parked out in an alley or in the street. He noted that he looks at where the overflow parking is. He noted that they are all things you look at when you sit on this side of the fence. He noted that we are dealing with a parking lot with the south drive that is a street, just a private drive so he does not see any safety issues for that location. He noted that he gets a little concerned that Lowe's has big tractor trailers and they do have equipment being move around quite often, maybe closer to the actual store than the restaurant. He noted if it wasn't in a parking lot his vote would be no, but it is situated in a parking lot that has parking spaces abundantly around it. Mr. Shanahan questioned if it helps to know that there are 108 parking spaces designated for that area. Mr. Sirb noted that we have all been there and it is empty most of the time; it is 20% to 25% full most of the time towards the store. He noted that is his concern. He noted that he does not like the idea of the retail and that we don't know what it is. He noted that bothers him a little bit. Mr. Shanahan noted that more than half of the retail is a phone store.

Mr. Sirb noted that this is another Gander Mountain that we looked at a couple of weeks ago. He noted that we had a huge parking spot with a retail that is not making it and they have this huge space with no one parking in it and they are selling it out because it is the economical right thing to do. Mr. Shanahan noted, one of the reasons that Lowe's like these deals is that it is an IHOP. He noted if we proposed a different use, a different restaurant, the likelihood is that they would tell him to take a hike. He noted that they like this use. Mr. Sirb noted that an IHOP is busy time between 6 a.m. to 11 a.m. and that is not Lowe's busy time. He suggested that Lowe's busy time is when people get off of work and the weekends. He noted that they don't serve alcohol. Mr. Shanahan noted that you are absolutely correct noting that the reason that it

fits is that the peak for IHOP works very well with the peak for Lowe's, Home Depot and Walmart. He noted when those guys are rocking and rolling on a Saturday from noon to four in the spring, IHOP is doing some lunch business. He noted that IHOP's peak is Sunday morning from 8 a.m. to 1 p.m. and by 1 p.m. on Sunday that is when Lowe's peak starts. He noted that it is a good fit in terms of use.

Mr. Hansen noted that we all agree that it is time that we have an IHOP in the area but with these other questions, it is very tough to make decisions for the variances.

Mr. Sirb noted that it is a lot of variances and you are sticking too much into one spot but he keeps going back to that fact that it is a parking lot. He noted that he does not view it as he would a parcel of land. He noted that it has been developed and it is sitting there and it is empty and he doesn't think it poses any safety issues as you are already in a parking lot and cars are parked there as there is not much driving going on around this, other than the south drive.

Mr. Shanahan noted that the truck traffic goes around the back of Lowe's and they don't use the front drive.

Mr. Hansen questioned what signage would be proposed. Mr. Shanahan answered that he proposed a monument sign in the south east corner of the site and what we propose will not be a second bite of the apple as it relates to a variance. Mr. Turner noted that it would not be looked upon warmly.

Mr. Staub questioned Mr. Shanahan if he had any further testimony. Mr. Shanahan answered no.

Mr. Staub questioned if the Board has any further questions. No response was heard.

Mr. Staub questioned if anyone in the audience wished to be heard on this variance. No response was heard.

Mr. Staub questioned if the Township has an opinion on this variance. Ms. Zerbe answered no.

Mr. Staub noted that the Board has 45 days to render a decision; he questioned if the board wished to take action on Docket 1377.

Mr. Sirb made a motion to approved Docket 1377 with the condition that six trees be planted on the parcel or the Lowe's parcel. Mr. Hansen seconded the motion.

Mr. Staub requested Mr. Turner to conduct a roll call vote: Mr. Fisher, aye; Mr. Hansen, aye; Mr. Sirb, aye; Mrs. Cate, aye, and Mr. Staub, aye.

The hearing ended at 8:20 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
HOTCAKES HARRISBURG : DOCKET NO. 1377
VENTURE LLC :

DECISION GRANTING VARIANCE

The applicant seeks variances from various parking regulations in connection with a proposed subdivision and restaurant. A hearing on the application was held on December 3, 2015.

Facts

1. The applicant and equitable owner of the property in question is Hotcakes Harrisburg Venture LLC of 6400 Power Ferry's Road NW, Suite 100, Atlanta, Georgia 30339. The applicant was represented at the hearing by David Shanahan, Development Partner, and Bob Sandmire, project engineer.

2. The property in question consists of a 16.5 acre parcel located at the northwest corner of Union Deposit Road and Interstate 83. The parcel is improved with a building supply retail store in the rear of the lot and associated parking areas.

3. The applicant proposes to subdivide a 1.25 acre parcel in the southeastern corner of the lot. This parcel is bounded on the north and west by private access drives and is used for employee parking by the retail store.

4. The proposed new lot would be developed as a sit-down restaurant with 4,000 square feet and 3,400 square feet of retail space.

5. The applicant proposes to create 77 parking spaces on the newly created lot. The restaurant would have 168 seats. The applicant's standards for parking for the

proposed size restaurant is 57 spaces. Spaces will be located within eight feet of the building.

6. The existing parking lot for the home improvement center is underutilized. Even after the elimination of the spaces on the proposed new lot, the parking remaining on the Lowe's site exceeds its demand.

7. The property configuration and the existing driveways prevent expansion of the new lot, although overflow spaces in the Lower's lot will be available.

8. The proposed building will be set back ten feet from the rear property line adjacent to the access drive.

9. Notice of the hearing was posted and advertisement made as required by the ordinance.

10. No one other than the applicant appeared to testify either in favor of or against the proposed request for variance.

Conclusions

1. Section 601 of the ordinance requires 94 parking spaces for the proposed restaurant and retail space. Section 603.1 requires that a 10 foot setback be created between any building and parking areas. Section 307.A requires a rear yard setback of 30 feet and Section 804.C requires the installation of street trees along lot lines. The proposed project would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall

be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the applicant faces a hardship in that the proposed lot cannot be expanded due to the various streets and access drives which surround it on all sides. This prevents the expansion of the lot to accommodate additional parking and setbacks.

4. Granting the variance will not alter the character of the neighborhood nor impair surrounding property values. The lot is already developed for parking. Allowing the new project encourages the infill of areas where public services are readily available. The proposed parking is more than adequate for the needs of the Lowe's store and of the new restaurant.

5. The variance from rear yard setback requirements will similarly have no adverse impact. The encroachment is only an access drive internal to the site. The parking setback variance is not imposing a significant risk to either motorists or patrons. The intrusion upon a circulation drive will have no impact upon the general public.

6. The applicant's request for landscape variance is necessitated by site contours and limited area. The required trees can be better accommodated elsewhere on the Lowe's lot.

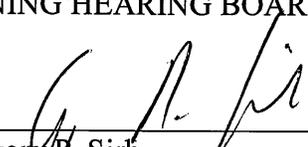
Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variances requested should be and are hereby granted as requested on the condition that the six trees required on the new lot be planted elsewhere on the Lowe's site as an addition to any other required landscaping and

in accordance with a plan to be approved by the Zoning Officer. In all other respects the applicant shall abide by the requirements of the subdivision process.

Date: 1-11-16

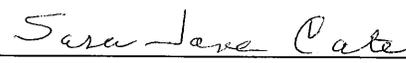
LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



Gregory P. Sirb



Jeffrey W. Staub



Sara Jane Cate



Allan Hansen



Watson Fisher

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of December 3, 2015

Members Present

Jeff Staub
Sara Jane Cate
Greg Sirb
Alan Hansen
Watson Fisher

Also in Attendance

James Turner
Amanda Zerbe

Docket 1378

Applicant: Franklin and Judith Beskid
Address: 2192 Parkway East
Harrisburg, Pennsylvania 17112
Property: 2192 Parkway East
Harrisburg, Pennsylvania 17112

Section 307.A. Frontage requirements in the AR- Agricultural Residential District. The requirement for a minimum of 140 feet of frontage along an improved street for a newly created lot.

Fees Paid: November 3, 2015
Property Posted: November 23, 2015
Advertisement: Appeared in the Paxton Herald on November 11, 2015 and November 25, 2015

The hearing began at 8:21 p.m.

Mr. Staub noted that it is customary for the Board to enter a copy of the application and any site plans as Township exhibits, he questioned Mr. Akens if he had any objections to that. Mr. Akens answered no.

Mr. Staub noted that he previously swore in Amanda Zerbe, Zoning and Planning Officer for Lower Paxton Township.

Mr. Staub questioned if the appropriate fees has been paid for this docket. Ms. Zerbe answered that the applicant paid the fee on October 28, 2015. Mr. Staub questioned if the application has been properly advertised and hearing notices posted. Ms. Zerbe answered that it was advertised in The Paxton Herald on November 18, 2015 and November 25, 2015, and it was posted on November 23, 2015. She noted that 3 neighbors received a mailing on November 23, 2015.

Mr. Staub requested Ms. Zerbe to explain what ordinances pertain to this request. Ms. Zerbe answered that it has to do with Section 307.A., Frontage requirements in the AR-Agricultural Residential District. The requirement for a minimum of 140 feet of frontage along an improved street for a newly created lot.

Mr. Staub swore in Scott Akens, Akens Engineering Associates, Inc. 219 East Main Street, Shiremanstown, PA, 17011.

Mr. Staub asked Mr. Akens to explain why the variance should be granted.

Mr. Akens noted that it is the wishes of Franklin and Judith to be granted a variance in order to subdivide a 1.60 acre lot, Lot 2A from the existing 8.31 acre Lot 2. He noted that the variance is from the requirement for a minimum of 140 feet of frontage along an improved street. He noted that the variance is needed because although the existing parcel has more than enough area for two lots, it only has enough frontage for a single lot, otherwise it will conform in setback and sides when the home is put in. The coverage requirements will be conforming to the lot other than the frontage because of where it is situated.

Mr. Sirb questioned for the AR District, is that the minimum front, 140 feet. Ms. Zerbe answered yes. Mr. Sirb thought it was a lot less than that. He questioned what it is for a residential use. Ms. Zerbe answered it is the same.

Mr. Akens noted that we could bring our property line down and bring it out and bisect the frontage that we do have but it still wouldn't get to the 140 feet. He noted that it did not make sense to detract from the frontage of the other lot. Ms. Zerbe noted for an R-1 District, it is 150 and with Township water and sewage it reduces to 90 feet. Ms. Cate questioned if it is connected to Township sewage. Mr. Akens answered that it is on-lot septic and wells.

Mr. Sirb noted that the ordinance is there for location purpose to have frontage on the street. Mr. Turner noted that it is mainly designed to limit the number of shared driveways and private easement agreements because often times they lead to gunplay.

Mr. Sirb questioned where the driveway would be for this proposed lot and are you sharing the existing drive that is coming in. Mr. Akens noted that would be the case as at this time, the existing home on this lot and Lot 2 share the driveway that goes back to the home on Lot 2 by way of an existing driveway easement. He noted that we would continue that driveway easement up to the frontage of Lot 2A and Lot 2A's driveway would come in somewhere in this vicinity (He pointed to a map).

Mr. Sirb noted that you will have three lots for one driveway. Mr. Akens answered yes.

Mr. Staub questioned if the limit for the number of shared driveways is three. Mr. Akens answered that he did not know. He thought that it was more than three and the only thing he came across was the frontage requirement. Ms. Zerbe answered that it is five. Mr. Sirb questioned if it matters if it is R-1 or AR. Ms. Zerbe answered no.

Ms. Cate questioned how wide the driveway was. Mr. Akens answered that the existing driveway is 12 feet wide. Ms. Cate questioned if you plan to widen it. Mr. Akens answered no. He noted that it works now for the two homes that are there. He noted that the driveway is 12 feet wide and there is ample space on either side for two cars to pass.

Mr. Hansen questioned if there is a maintenance agreement for existing road. Mr. Akens answered not at this time as there is only the easement agreement but no specific maintenance agreement was drawn up. He noted that a relative of the Beskid's lives in the other home but he can create a maintenance agreement if needed. Mr. Turner suggested that the Board should make that a recommendation as part of the motion. He noted that you will find that no one will provide financing to build on the new lot unless there is a written maintenance agreement for the road. He noted that it is good to take care of that while everyone is on good terms.

Ms. Zerbe noted that six houses are allowed for a joint driveway in a residential zone. Mr. Sirb questioned if it specified a width for the driveway. Ms. Zerbe answered that it is restricted to 24 feet. Mr. Akens noted that it cannot be wider than 24 feet. He noted that there is an existing recorded access easement but no maintenance agreement. He noted that it is 12 feet now. Mr. Sirb noted that 12 feet is wide enough for two cars to pass. He noted that a third home would add more vehicles but you can only go two ways.

Mr. Staub questioned if the existing access agreement will be amended to allow for the third lot. Mr. Akens answered that the existing access agreement only goes from the road to the driveway going up to the other lot. He noted that he will continue that easement up to Lot 2A frontage and rewrite the easement agreement and include maintenance stipulations within the easement. Mr. Staub questioned if it would be shown on the new subdivision plan. Mr. Akens answered yes. He noted that it is shown on this plan in the blue outline.

Mr. Staub questioned if the lot perked and probed. Mr. Akens answered that is the next step, but he wanted to see if this would be amenable and once we knew that he would be able to move forward with the lot configuration, with his intent to use the existing approved backup perk and probe for the primary of the new lot and then do a new backup for the existing property and a second backup for the new lot so that we know we have at least a primary for both lots right off the start. He stated that he would ensure the two backup areas before coming in with the subdivision plan.

Mr. Turner noted that the property labeled as William and Judith Kool, it is much larger. Mr. Akens noted that it used to be much larger as all the land in the back had no road frontage. He noted that the subdivision made it smaller. He noted that the plan that he provided shows the history of what it was. Mr. Turner noted that it is not what it is now. Mr. Akens answered no. Mr. Turner noted that is what was throwing him off. Mr. Akens noted that the second page is what it is now, the subdivision plan that made it what it is today for the new lot. Mr. Turner noted for the sake of the record it is Plan Book N, Volume 8, Page 36 and 37.

Mr. Staub questioned if Mr. Akens had any additional testimony. Mr. Akens answered no.

Mr. Staub questioned if the Board had any other questions. No response was heard.

Mr. Staub questioned if anyone in the audience wished to be heard regarding the application. No response was given.

Mr. Staub noted that the Board has 45 days to render a decision; he questioned if the board wished to take action on Docket 1378.

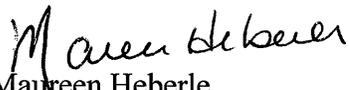
Mr. Sirb made a motion to approved Docket 1378 as submitted with the condition that they have a maintenance agreement for the new proposed driveway. Ms. Cate seconded the motion.

Mr. Sirb questioned Mr. Turner who has to accept the new maintenance agreement. Ms. Zerbe answered that it is part of the requirement for the subdivision plan. Mr. Staub questioned if it would be recorded. Ms. Zerbe answered yes. Mr. Turner noted that sometimes they are recorded when the first deed goes out with the subdivision.

Mr. Staub requested Mr. Turner to conduct a roll call vote: Mr. Fisher, aye; Mr. Hansen, aye; Mr. Sirb, aye; Mrs. Cate, aye, and Mr. Staub, aye. Mr. Sirb noted that the application was approved.

The hearing ended at 8:40 p.m.

Respectfully submitted,


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
FRANKLIN D and JUDITH R. : DOCKET NO. 1378
BESKID :

DECISION GRANTING VARIANCE

The applicants seek a variance from lot frontage requirements in connection with a proposed subdivision in the Agricultural Residential Zoning District. A hearing on the application was held on December 3, 2015.

Facts

1. The applicants and owners of the property in question are Franklin D. and Judith R. Beskid of 2192 Parkway West, Harrisburg, Pennsylvania 17112. Appearing on behalf of the applicants was Scott W. Akens, project engineer and surveyor.

2. The property in question is located on the west side of Parkway West and consists of an irregularly shaped 8.31 acre parcel with approximately 75 feet of frontage on Parkway West. The parcel is improved with a dwelling located in the rear of the panhandle lot.

3. The applicants propose to subdivide a 1.60 acre parcel in the rear of the lot to create a new building lot. This parcel would be accessed by the existing driveway. The proposed lot would have no road frontage.

4. Notice of the hearing was posted and advertisement made as required by the ordinance.

5. No one other than the applicant appeared to testify either in favor of or against the proposed request for variance.

Conclusions

1. Section 307(a) of the ordinance requires a minimum lot frontage of 140 feet along an improved street. The proposed new lot would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property in question is burdened by a hardship consisting of its irregular shape and extremely limited frontage. Despite its large area the parcel lacks sufficient road frontage for any further subdivision.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The new proposed lot is isolated and adequate setbacks for the proposed structure can be maintained. Both resulting lots exceed minimum lot area for the district.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the creation of a new lot with zero road frontage. In all other respects the subdivision shall be in accord with the plans and testimony submitted to the

Board and is subject to the Township's normal subdivision process except as modified herein. This grant of variance is further contingent upon the applicants developing a written agreement to provide for access and maintenance of the shared driveway to be approved by the Planning Commission. In all other respects the applicants shall proceed in strict accord with the plans and testimony presented to the Board.

Date: 1-11-16

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



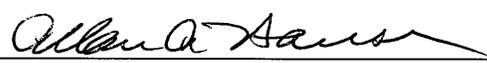
Gregory P. Sirb



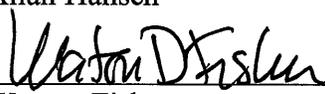
Jeffrey W. Staub



Sara Jane Cate



Allan Hansen



Watson Fisher

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of December 3, 2015

Members Present

Jeff Staub
Sara Jane Cate
Greg Sirb
Alan Hansen
Watson Fisher

Also in Attendance

James Turner
Amanda Zerbe

Docket 1379

Applicant: Express Trucking and Courier Inc

Address: 144-30 157th Street
Jamaica, New York 11434

Property Owner: Paxton Investment Group
11165 Sandmeyer Lane, Unit 406
Philadelphia, PA 19116

Property: 733 Firehouse Lane
Harrisburg, Pennsylvania 17111

Section 306.B.1, Permitted uses in primarily residential zoning Districts.

The Applicant is requesting to lease the building for a commercial use which is not a permitted use under het institutional classification

Fees Paid: November 4, 2015

Property Posted: November 23, 2015

Advertisement: Appeared in the Paxton Herald on November 11, 2015 and November 25, 2015

The hearing began at 8:40 p.m.

Mr. Staub questioned if the appropriate fees has been paid for this docket. Ms. Zerbe answered that the applicant paid the fee on November 4, 2015. Mr. Staub questioned if the application has been properly advertised and hearing notices posted. Ms. Zerbe answered that it was advertised in The Paxton Herald on November 18, 2015 and November 25, 2015, and it was posted on November 23, 2015. She noted that 9 neighbors received a mailing on November 23, 2015.

Mr. Staub requested Ms. Zerbe to explain what ordinances pertain to this request. Ms. Zerbe noted that it has to do with Section 306.B.1, Permitted uses in primarily residential zoning districts. She noted that the Applicant is requesting to lease the building for a commercial use which is not a permitted use under the institutional classification.

Mr. Staub noted that he previously swore in Amanda Zerbe, Zoning and Planning Officer for Lower Paxton Township.

Mr. Staub swore in the following persons: Attorney Kevin L. Hall, Tucker Arensberg Associates, 2 Lemoyne Drive, Lemoyne, Pennsylvania; Ken Veocharran, 157711 Rockaway Boulevard, Jamaica, New York, 11434; Tameshwar Ramroop, 10465 126 Street, Richmond New York, 11419; and Annette Means, High Associates, 5000 Ritter Road, Mechanicsburg, Pennsylvania, 17055.

Mr. Staub noted that the applicants can proceed with their testimony.

Attorney Kevin Hall noted that he is present on behalf of the owner of the facility, Paxton Investment Group as well as the applicant, Express Trucking and Courier. He noted that the reason for the variance is because the building is currently located in a residential zoning district and operates with a variance that permitted an ambulance company to operate out of this facility as it was formerly a firehouse and also a martial arts facility. He noted the fact that it was a firehouse makes it very difficult to find a proper use for the facility as the current owner has had difficulty selling it for the past couple years. He noted that we finally have a potential tenant who is going to put a small distribution company in there and that is the reason for seeking the variance. He noted that it is very difficult to find a tenant for the facility for the current use requirement.

Mr. Hall noted that Mr. Veocharran and Mr. Ramroop from Express Trucking and Courier would like to speak to what they plan to do.

Mr. Veocharran noted that he is the owner of the Express Trucking and Courier Company. He noted that the use of the building would be to assist with his operations in Pennsylvania. He explained that we are a New York based operation; specialize in air freight coming out of JFK Airport coming to the Harrisburg area. He noted that we have ten trucks per day that come to Harrisburg specifically 100 Quality Circle, Ingram Micro. He noted that they are a large distribution center for high-end electronics and when the shippers send their shipment from overseas by air, his trucks pick the shipment up from the airport and line haul it directly to these locations. He noted the main reason we want this building is to assist in the event there is a breakdown with a truck which we experience a lot. He noted that they have breakdowns in New York and coming through Pennsylvania, but he is trying to minimize that situation by finding a place we can repair the trucks and get them back on the road as they haul high value freight. He noted that it could be an entire truckload of iPods or computers like HP, Samsung, etc. He noted that he wants to use the building mainly for light maintenance, checking out the trucks once they have delivered their loads, checking fluids, changing oil and getting the rig back on the road. He noted that he wants to bring in-house staff such as dispatchers, sales representative as he wants to create a presence in Harrisburg. He noted that it is one of the most dominate areas that we come

into and it is a great opportunity for our company to grow because of the location being near I-81 and I-78 going from east to west and north to south. He noted that it is much easier to get more freight here to go back to New York or elsewhere. He noted that being located in Harrisburg will be a great make for us.

Mr. Sirb questioned if you will be picking up freight at the Harrisburg airport. Mr. Veocharran answered no. He noted that they only come out of JFK Airport and bring the freight to Harrisburg. He noted that we get reloaded in the area and go back. Mr. Sirb questioned where you get reload at. Mr. Veocharran answered in a 25 to 50 mile radius in the Harrisburg area. He noted that we have relationships with brokers who book shipments to be taken back to New York, so we can reload and go back up. He noted that the main access point of our work is out of JFK Airport. He noted that is our focal point.

Mr. Sirb questioned how many trucks per day. Mr. Veocharran answered about ten trucks in Pennsylvania area but we also run into many other states such as Virginia, Maryland, and Delaware, being a regional carrier and one of the biggest customers that we move freight for is DHL.

Mr. Turner questioned how many trucks would be coming to this facility. Mr. Veocharran answered three to five at the most. He noted that they would be inspected and then get the rigs back on the road. He noted that it would also act as a relief area where a driver could get some rest, get back on his truck, and go back out. Mr. Turner questioned if you would be doing any loading or unloading at this facility. Mr. Veocharran answered no and explained when freight is put in our trucks it is sealed and it cannot be broken until it gets to its final destination because of the value of what is on board.

Mr. Turner questioned what kind of trucks would be coming to this location. Mr. Veocharran answered that it would be a tractor trailer. Mr. Hansen questioned what size trailer. Mr. Veocharran answered 54 feet. He noted that they are the standard full size. Mr. Hansen noted that the former firehouse may have had places for people to sleep and stay. He questioned if drivers would stay overnight. Mr. Veocharran answered that they usually go down for ten hours as they need a ten hour break. He noted that they could take it in their truck as their trucks have sleepers but with having a fire house, it has showers and a kitchen and they could come in and take a shower and grab something to eat, get some rest and sleep in their truck or in the fire house and then get in their trucks ready to go back. He noted that it is a relief center for drivers.

Ms. Means noted that they are highly screened drivers as they have more screening than teachers who are in the school building next door. She noted in addition to every drug test they are also screened by Homeland Security, and it is a very high security organization, not a normal truck operation. Mr. Veocharran noted that they are part of the Transportation Security Administration process that must go through Homeland Security. He noted that each driver has to have to have a TSA Number that they must have on board with them at all times. He noted as air freight carriers having a driver go to the airport to pick up freight; they must be part of that association. He noted to get the clearance there is a huge intensive background check on each driver and there are specific requirements that they must have to be hired to haul this freight.

Mr. Ramroop noted that all the drivers have a background check, a credit check, random drug testing, as part of the compliance and every truck and shipment is tracked and the products in the truck are tracked so it is a very high visible platform to be operating. He noted that we operate in the top tier of trucking, not an ordinary trucking company so we need drivers that have plenty of experience, at least five years' experience and we monitor their driving records.

Mr. Veocharran noted that their pre-employment history is verifiable up to ten years back.

Mr. Ramroop noted that we also do criminal background and do not hire anyone who has been involved in criminal activities verifying the information back ten years, and it is kept at his office as we are audited every year by the FMSCA and DOT.

Mr. Hansen questioned how many permanent employees will be working at the facility beside the drivers coming in. Mr. Veocharran answered that it would be two to three to start off.

Ms. Cate questioned what would the top number be. Mr. Veocharran answered five for that site. He noted that it is not a facility that can take on his entire operation as it is a relief center for the drivers. He noted that we have a huge terminal in Brooklyn New York and we have one at the JFK Airport so this one would be the third location.

Mr. Hall noted that the maintenance is not significantly different from what was performed there previously on the ambulances. Ms. Means noted from a marketing perspective, she has been marketing it since February of this year and it has been very difficult because the building structure makes it impossible for an institutional use for the listed permitted uses. She noted that she believes that a vacant building is dangerous for a neighborhood. She noted that it is a magnet for vandalism and she has already witnessed that on the site. She noted that there is no natural watchdog system and if you have a vacant building so as long as it has such limited uses it will remain a vacant building and it is not a good neighbor for the school.

Mr. Sirb questioned what the hours of the operation are. Mr. Veocharran answered that we operate 24 hours a day, seven days a week. Mr. Sirb questioned what lighting is at the facility. Mr. Veocharran answered that we will be doing everything indoors. Mr. Ramroop noted that we will not be doing anything outdoors. Mr. Veocharran noted that the building actually has two huge garages where we can put the trucks in if we have to do maintenance work and the doors close on both sides as it is a drive in drive out.

Mr. Hall noted that the ambulance company that was in the facility also operated on a 24 hour basis. Mr. Veocharran noted that this facility will not be operating 24 hours but his company is a 24 hour operation. He noted that we may operate eight or ten hours shift but we will not be operating 24 hours. Mr. Ramroop noted unless there is a need for it. Mr. Veocharran noted that we expedite so we are always on call.

Mr. Sirb questioned if the ambulance association came before the Board for a variance. Mr. Turner answered that the ambulance was a variance, and before that it was a martial arts

studio and that was a variance. He noted that the property has been before us several times because of the reasons indicated.

Mr. Staub questioned if the property is zoned residential. Ms. Means answered that it is zoned institutional but it is in a residential neighborhood. She noted that there are houses that are situated between this property and Union Deposit Road.

Ms. Zerbe noted that Institutional falls within the residential section of permitted uses.

Mr. Staub noted at one point it was part of the Central Dauphin East High School campus and when they zoned the school institutional, they included the firehouse.

Mr. Staub questioned if the facility has enough space for five tractor trailers. Mr. Veocharran answered that there is room for more than five. Mr. Ramroop noted that 15 trailers could fit in the back yard and there is enough access in the front as well. He noted that the street is wide enough for the trucks to turn into noting that is one of his concerns when he looks for a place to determine if the drivers can maneuver the trucks. He noted coming up Firehouse Lane the streets opens up very wide.

Mr. Hansen questioned if you will have enough storage space for repair equipment for the tractors or the trailers inside the building, not having to store items outside. Mr. Veocharran answered that everything will inside the building. Mr. Ramroop noted that there is enough storage for parts and small tools. He noted that it is perfect set up for what we are trying to do.

Mr. Hall noted that they would not regularly be storing trailers at this facility.

Mr. Veocharran noted that a tractor trailer would only come in for two reasons, a driver may come to get relief or to get his truck inspected and perform light maintenance.

Mr. Staub noted that there will be no repair work. Mr. Veocharran answered that maintenance falls into repair work. Mr. Staub noted that he is thinking more if something is broken on the truck and you have a mechanic who has to call out for a part and they take the old one out and put a new one in. He noted that you are talking more about fluids and things like that. Mr. Veocharran noted if the starter or alternator goes, we will repair it on the premises. He noted that we will change a tire if it is flat, we can bring it to the shop, take off the old one, and put a new one on to get them back on the road.

Mr. Staub questioned if you would be fixing transmissions. Mr. Veocharran answered no, no engine work. He noted that we leave that to the dealership to handle if it get really serious. He noted that the minor stuff we can get our hands around, we take care of it. He noted that it is important for us to monitor equipment for safety reasons, they are large trucks and they have to be maintained noting that we want a perfect truck running down the road every time. He noted that we have to insure that we monitor our situation continuously so we want to be able to look at our equipment while it is in Pennsylvania and New York to ensure that it meets the DOT standards.

Mr. Sirb noted that is his concern as the last thing he would want to see in the Township is more trucks that come flying into our neighborhoods. He noted that there is a reason why it is a residential neighborhood. He noted that is the only concern that he has.

Ms. Means noted that is a valid concern but this particular user is a low volume truck operation; they are not distributing on a regular basis. She noted that is why she brought them into the Township because the building is suited for vehicular, noting that it was a fire house, what else is it going to be. She noted that it would be hard to sell it as an artist's studio, so we do believe that it would be low volume.

Mr. Sirb noted that he has heard low volume sitting on this Board now for 27 years and these guys want to grow and be successful and there is never such a thing as low volume. Mr. Veocharran noted that the property can only take so much as it is not exactly five acres of property that you can dump a lot of equipment on. He noted that the most equipment that can be in the bay is two at a time. He noted that that the maximum that we can have is five at a time, so maybe two trucks come in and two trucks will leave in one day. He noted that is the capacity of the facility. Mr. Ramroop noted that our equipment does not sit as that would cost us money. He noted that it is not our only facility as we have two other places where our major work is done. He noted that we need a facility here so we can monitor the equipment, be sure it is up to standards, and expand our presence in Pennsylvania. He noted that we want to recruit drivers from Pennsylvania which we have tried in the past but because we don't have a direct link like an office or base in Pennsylvania they are not very comfortable working for a New York based company that doesn't have a base in Pennsylvania. He noted, in our last attempt, we recruited five drivers and it fell apart because when it came time for them to step into the truck, everyone dropped out because they realized we didn't have any presence in Pennsylvania as we are basically a New York company. He noted that there was no one in Pennsylvania that they could relate to.

Mr. Veocharran noted that we would not be buying the building, only leasing it so if we see potential in Pennsylvania, we will look to purchase a more suitable area or lot that could take on expansion and growth. He noted that it is something we are testing. Mr. Ramroop noted that we want to get our foot in the door as it is the Keystone State for trucking.

Mr. Hall noted that we are only talking about having a couple trucks for this facility coming through a couple times a day. He noted that the facility would limit the amount of truck traffic. He noted that the ambulances in terms of size compared to the tractor itself are not significantly different as they performed different maintenance on the ambulances versus the tractors for this case. Someone suggested that they were building ambulances in the facility.

Mr. Staub questioned if the applicant had any additional testimony at this time. Mr. Veocharran answered no.

Mr. Staub questioned if anyone in the audience wished to be heard regarding the application. Mr. Staub swore in Mr. Paul Valcis, 5506 Union Deposit Road.

Mr. Valcis noted that their facility is at his backyard. Mr. Staub questioned if he lived on the corner. Mr. Valcis answered that he lived three houses down, east on Union Deposit Road on the same side of the street. He noted that it is the eastern most access area for the Central Dauphin East Junior High School and a lot of school buses go in there. He noted that his concern is the access of the 53 foot tractor trailer going back in there and parking and with the school being right there, whether it will create more traffic problems as Union Deposit Road is pretty well stacked up during those times. He noted if this is 24/7 operation this needs to be taken into consideration too. He noted that he does not want a tractor trailer behind his house in the middle of the night or they will be working on their trucks. He noted that some of his fellow neighbors feel the same way. He suggested that you mailed out eight letters to the neighbors. He noted that he realizes that this building has a difficult time being rented as it is a single use purpose building but he does not know if this is the best use for that building at this time until there is some other type of facility that would not be working the 24/7 hours, 365 days a year. He noted that the traffic coming in and out at that turn, it may be a little wide a turn but if you are trying to pull a tractor trailer back through there and along the sides of the fire house building, it will be real narrow to turn around back there. He noted that is all he had to say.

Mr. Sirb questioned if we put that in there, will it change the characteristics of the neighborhood. Mr. Valcis answered that it would. He noted that you would have tractor trailers pulling into one of the busiest entrance ways to the Junior High School. He noted that all the school buses enter that way and exit out to a traffic light. He questioned if any traffic control devices would be put in or has that been taken into consideration. He noted those are some of his concerns. He noted that S&A Homes owns the field behind it, about 60 acres and this abuts one part of their field. He noted that they wanted to build single-family homes and at one time they wanted to put townhouses in. He noted that Yingst is building homes by Fairmont Drive and that is bringing a whole lot of traffic to the area. He noted as the Township keeps getting built up Union Deposit Road is becoming a mini I-83. He noted between the East Mall and the Colonial Park exit and it is pretty busy on our road. He noted that sometimes he can't get out of his driveway, sitting there five or ten minutes because traffic is always coming. He noted if you are going to put tractor trailers on that road, coming and leaving, it will affect the nature of the neighborhood.

Mr. Turner questioned if there would be any reason why vehicles would be idling over night there. Mr. Ramroop answered no, he does not idle his trucks. He noted in some states we cannot idle our trucks more than three minutes and some are configured in such a way that if you try to idle the truck for more than three minutes the engine will shut off.

Mr. Turner questioned if any of the drivers would be coming in at 8 o'clock at night and let the vehicle idle all night while they are sleeping. Mr. Ramroop noted that it costs us fuel as a truck burns about five gallons of fuel every hour and we are looking to save costs so we don't let our trucks idle at any point in time when it is not necessary. Mr. Veocharran noted that there is no reason for them to idle as they don't have to stay in the truck; they don't need air-condition or heat, they can go in the building to get that. He noted that they would turn the ignition off. Mr. Ramroop noted that we are not looking to operate the building 24 hours, we are looking for maybe ten hour shifts. He noted that we are a 24 hour operation in New York but we would not be looking to operate 24 hours a day at that facility. He noted that our trucks are monitored by

GPS for speed so we are able to keep records if a truck was speeding in an area, it would advise us by the speed zones, automatically as we get updates on our phones so his phone will go off if a truck goes five miles per hour over the speed limit. He noted that the trucks also have governors for maximum speed limits for insurance reasons.

Mr. Valcis noted by the nature of this business they will have truck drivers staying there, coming and going every hour of the day or night. He noted that they will be running out of that facility in the evening as most truck drivers drive at night and they will be pulling out at midnight. He noted that is the reality of it.

Ms. Cate questioned if he was concerned about the noise. Mr. Valcis answered that he is concerned about all that is involved in a trucking facility. He noted that we will have a trucking terminal at the end of the Central Dauphin Junior High School entrance and they will be bringing their trucks in and out and this will be going on 24/7. He noted that he did not know if that would be the proper purpose for this building.

Mr. Sirb noted that the location by the school is dicey. Ms. Cate noted that she agreed.

Ms. Means noted that she appreciates that but she has seen windshields in the back broken into and you have a vacant building which is the worst situation. She noted that it is a vandals paradise and until we get the building occupied you have a very dangerous situation and it attracts very unsavory activity.

Mr. Hall noted that he appreciates the concern about traffic but if there is already a significant amount of traffic going along this area he did not know if it would significantly add to it especially since it was previously an ambulance facility before this.

Mr. Staub questioned if there is a response to the concern about the mixing of tractor trailer traffic with the school traffic for mornings and afternoons. Ms. Means questioned what the school hours are. Mr. Sirb noted that this school district is so big so you are looking at anywhere from 5:30 a.m. to 6 a.m. when they are leaving, coming back about 7:45 a.m. for the junior high so they are pulling in within that hour. He noted that the buses go pretty much all through the school day until 6 p.m. at night. Ms. Means noted that she has been there quite a few times and she has only seen them there at very beginning of the day and at 2:30 in the afternoon. She noted that the buses roll in and out and they are done. She noted that there is a very narrow window for when they are there. Mr. Staub noted if you are near the bus garage at 6 a.m. in the morning, it's amazing as they all leave at the same time. He noted that it is a zoo.

Mr. Hall noted that there is a bus maintenance facility less than a quarter mile away from this facility that does similar type of work.

Mr. Valcis noted that he wanted to address the vandalism. He stated that right now there are five vehicles that are unregistered that are abandoned on the back lot left from the last facility. He noted that there is a forklift sitting there and five vehicles and there are two shipping containers that are used as storage facility on the north east corner of the parking lot that are sitting on the ground. He noted that he does not know if it attracts any kind of vandalism or not.

He noted that the vandalism was there because the facility probably was not watched. He did not believe that the building had been vandalized as it is a brick one.

Mr. Sirb questioned who owns the property. Mr. Hall answered that it is Paxton Investment Group.

Mr. Veocharran noted that the vehicles will be removed and the containers will also be removed. Ms. Means noted that we want the site cleaned up. She noted that she wants a clean operation.

Mr. Staub questioned if the applicant had any further testimony. Mr. Veocharran answered no.

Mr. Staub questioned if the audience had any further testimony to add.

Mr. Staub questioned if the Township has a position on the application. Ms. Zerbe answered no.

Mr. Turner questioned if the school district received a letter notifying them of the hearing. Ms. Zerbe answered yes, the residents at 5500, 5504, 5506, 5510 Union Deposit Road, S&A Homes, 5480 and 5470 Union Deposit Road.

Mr. Hall questioned Ms. Zerbe if she received any response from the school district. Ms. Zerbe answered no.

Ms. Means noted that she has marketed the building to the school district and they have no interest in it.

Mr. Staub swore in Vickie Valcis of 5506 Union Deposit Road. She questioned when Ms. Zerbe sent to notice to S&A Homes, what address it went to. Ms. Zerbe answered 2121 Old Gatesburg Road, State College, Pennsylvania; that is what is listed with the Dauphin County Tax Assessment listing. Mr. Staub noted that is their corporate address. Ms. Valcis noted when the tow truck company on Route 22 tried to move into that building, it was S&A Home' local office that stopped that transaction because of the eyesore around the development area that they were planning to build.

Mr. Valcis noted that he was not sure what the name of the tow truck company was. Ms. Valcis noted that S&A Homes contacted you people and that tow truck guy dropped his application immediately. She wanted to make sure S&A Homes was informed about this. Mr. Valcis noted if they develop the property and put single family homes in and it is a residential neighborhood what is their likelihood of selling single family homes with a truck distribution plant in the center of it. He noted that he has nothing against trucking companies but most of the time they are bigger facilities, hooked up closer to the major highways, where they can get on and get off easily, and not positioned in residential areas or near a major school. He noted that he sees Paxton Realty's problem with this facility as it is next to impossible to do anything with it, but where the mistake was made was we the taxpayers probably brought in a permanent

solution to a temporary problem. He noted now that the fire company is right over here by the middle school and has a big facility this has become an abandoned albatross around the Township's and the Paxton Investment Group. He questioned what you can do with it. He noted that it has a hose tower so you can drive your fire hoses out and bunk facilities. He noted are we opening a motel behind my house. He noted that guys will be crashing there for ten hours while they can't drive a rig and then they will jump in the rig and take off. He noted this is the reality of what will happen back there.

Ms. Means noted that it will be quieter than the firehouse. Mr. Valcis answered that he is sure it will be. Ms. Means noted that it is a very difficult property to occupy because every use wants to be vehicular in origin. Mr. Valcis noted that you have to gauge the vehicles that are going to be there, the size and length, and the frequency and the timing of when those vehicles will be coming to the facility and leaving it.

Mr. Sirb noted that he is ready to take a vote.

Mr. Staub noted that the Board has 45 days to render a decision; he questioned if the board wished to take action on Docket 1379.

Ms. Cate made a motion to decline the request for a variance. Mr. Sirb seconded the motion because it is in a bad spot. He noted that the trucks and buses don't mix.

Mr. Staub requested Mr. Turner to conduct a roll call vote: Mr. Fisher, nay; Mr. Hansen, nay; Mr. Sirb, aye; Mrs. Cate, aye, and Mr. Staub, aye. Mr. Sirb noted that the application was denied by a three to two vote.

The hearing ended at 9:23 p.m.

Respectfully submitted,



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
EXPRESS TRUCKING & : DOCKET NO. 1379
COURIER, INC. :

DECISION DENYING VARIANCE

The applicant seeks a variance to locate a trucking service facility in the Institution zoning district. A hearing on the application was held on December 3, 2015.

Facts

1. The applicant and equitable owner of the property in question Express Trucking & Courier, Inc. of 144-30 157th Street, Jamaica, New York 11434. The applicant was represented at the hearing by Ken Doecharron and Tameshwar Ramroot, principals, and Kevin Hall, Esquire. The property is owned by Paxton Investment Group of 10065 Sandmeyer Lane, Unit 406, Philadelphia, Pennsylvania 19116. Appearing on behalf of the property owner was Annette Cassell Means, real estate agent.

2. The property in question consists of a parcel originally developed as a firehouse. It is located at 733 Firehouse Lane adjoining a middle school for the Central Dauphin School District. The primary means of access for both the school and the subject property is Firehouse Lane which provides access to Union Deposit Road. The parcel is zoned Institutional.

3. The applicant proposes to use the property as a vehicle maintenance facility in connection with its trucking business which is primarily based in New York. The facility would allow drivers coming into the central Pennsylvania area to receive light maintenance for the vehicles and to rest before returning to the road. Up to three-

five tractor trailers would be serviced at the facility daily, with up to five on site employees. The tractor trailers would enter and exit the facility by Firehouse Lane.

4. Paul and Vicky Valcis, the owners of an adjoining residential property, appeared before the Board to express their opposition to the proposed use. Concerns were expressed about noise and the safety hazards of tractor trailer traffic on Firehouse Lane.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

Conclusions

1. Section 306.B.1 of the ordinance sets forth the permitted uses in the Institutional zoning district. The proposed use is not a permitted use.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the proposed use would alter the essential character of the neighborhood and would be detrimental to the general public welfare. The presence of a facility servicing tractor trailers would be disruptive to the surrounding residential properties and the presence of such vehicles sharing the primary access with a large school poses an undue safety risk. While the Board recognizes that there are

limited uses for the subject property, variances have been previously granted for uses which would not pose a threat to the public welfare. Similar uses would be looked upon with favor by the Board.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby denied.

Date: 1/11/16

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



Gregory P. Sibb



Jeffrey W. Staub



Sara Jane Cate

aBoard members Hansen and Fisher dissent from the decision of the Board.