

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of August 28, 2014

Members Present

Greg Sirb  
David Dowling  
Sara Jane Cate  
Jeff Staub  
Alan Hansen

Also in Attendance

James Turner  
Amanda Zerbe

**Docket 1359**

Applicant: Elliot and Laurie Komaroff

Address: 6696 Springford Terrace  
Harrisburg, PA 17111

Property Owner: Elliot and Laurie Komaroff  
Property Address: 6696 Springford Terrace  
Harrisburg, PA 17111

Section 307.C.2.c – Rear yard Setback

Rear Yard Setback of 30 feet is required in the R-3, Medium Density Residential District.

The applicant proposes to remove an existing deck and build an enclosed porch that will possess a smaller footprint than the deck it replaces. This lot already possesses a nonconforming rear setback of 25 feet. An unenclosed porch or deck may extend up to 15 feet into a required rear yard setback. The enclosed porch will extend 14 feet into the required rear yard setback.

Grounds: Section 307

Fees Paid: July 24, 2014

Property Posted: August 18, 2014.

Advertisement: Appeared in The Paxton Herald on August 13, 2014 and August 20, 2014.

The hearing began at 7:03 p.m.

Mr. Sirb swore in Elliot and Laurie Komaroff, 6696 Springford Terrace, Harrisburg, PA 17111, the applicants for the hearing. Mr. Sirb also swore in Dan Gingrich, Garrety Glass, 2785 South Queen Street, Dallastown Pennsylvania.

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

Mr. Sirb questioned if the appropriate fees were paid for this application and was the property posted. Ms. Zerbe advised that the appropriate fees were paid on July 24, 2014, and the hearing was advertised in The Paxton Herald on August 13, 2014 and August 20, 2014. She noted that the hearing notices were posted on August 18, 2014.

Mr. Sirb questioned what codified ordinances pertain to this application. Ms. Zerbe noted that it is Section 307.C.2.c – Rear yard Setback- noting that it is a variance of the Rear Yard Setback of 30 feet that is required in the R-3, Medium Density Residential District. She noted that the applicant proposes to remove an existing deck and build an enclosed porch that will possess a smaller footprint that the deck it replaces. This lot already possess a nonconforming rear setback of 25 feet, and only an unenclosed porch or deck may extend up to 15 feet into a required rear yard setback. She noted that the enclosed porch will extend 14 feet into the required rear yard setback.

Mr. Sirb questioned what Mr. Gingrich's position is with Garrety Glass. Mr. Gingrich answered that he is the installation manager of Garrety Glass and he has a contract with the Komaroff's to do a three season patio porch. He noted that he offered to assist the Komaroff's in the variance process.

Mr. Sirb requested the applicant to provide testimony for why the variance should be granted.

Mr. Komaroff explained that he has an existing enclosed deck with a privacy fence and he would like to install a three season sunroom. He noted that his wife likes to sit outside but she cannot sit in the sun. He noted that the afternoon sun hits this area of the house from 10 a.m. until sunset. He noted that he would like to put in a sunroom so she could sit outside in the afternoon an evenings.

Mr. Sirb questioned if the proposed sunroom is smaller than what is there now. Mr. Komaroff answered yes.

Mr. Sirb questioned if these are pictures of what the room would look like. Mr. Gingrich answered that it would be similar to what he would build.

Mr. Sirb questioned Mr. Gingrich to describe what the room would look like. Mr. Gingrich answered that he had additional pictures noting that it is a three season patio room with a studio roof. He noted that they are created by Craft-Bilt from Souderton, Pennsylvania, having a 50 year warranty. He noted that they are built as additions and not just a sun room on top of

something. He noted that it will have footers and everything else like an addition with electric that is incorporated into it. He noted that it is a high quality room that is built.

Mr. Gingrich noted that the existing deck is 14 feet by 21 feet and the proposed room is going to be nine feet by 12 feet. He explained that he would remove the existing deck and put in a new footed deck and the room on top of it.

Mr. Sirb questioned if the roofing on top would match the roofing of the house. Mr. Gingrich answered that it is not included but it could be match with the homes' shingles.

Mr. Turner noted that he would mark the paper with two pictures on it as Applicant's Exhibit 1.

Mr. Sirb noted in the back of the application, there are notes from the neighbors. Mr. Komaroff explained that he went to the neighbors to the right and the left and they have no objections to him putting up the sunroom. He noted that he also went the Homeowners Association (HOA) and they gave him a verbal approval pending the variance approval. He noted that they would approve his installing the sun room. Mr. Sirb questioned what the name of the HOA was. Mr. Komaroff answered that it is the Heatherfield HOA. He explained that they would not give him a written approval until he had a building permit from the Township.

Mr. Dowling questioned how long Mr. Komaroff has lived in his home. Mr. Komaroff answered since December.

Mr. Dowling questioned what would be the distance from the back of the proposed room to the property line is. He noted that he was having difficulty with the drawing. Mr. Gingrich answered that according to the way that he was told to do it by the Township, there is a 34 foot road and you have 25 foot from the centerline of the road and then it was 25 feet to the back of the house, which is the setback, with the house right at the 25 foot mark. He noted that he does not know where the property line is.

Mr. Dowling questioned if the back of the house faces the street. Mr. Gingrich answered yes. Mr. Komaroff explained that there are no neighbors to the rear, only to the left and right.

Mr. Dowling noted that the reason you can't provide an accurate number is because the setback is the center of the street... Mr. Gingrich noted that he does not know what is the property line or the right-of-way.

Mr. Dowling noted that Mr. Gingrich mentioned that he could match the shingles, do you know what the roof would look like. Mr. Gingrich answered that it looks like the side of the room, white panel or sand. Mr. Dowling questioned if it is a metal or aluminum roof. Mr. Gingrich answered that it is an aluminum system.

Mr. Staub questioned if the fence would remain. Mr. Komaroff answered yes. Mr. Gingrich noted that all the neighbors have a privacy fence.

Mr. Sirb noted that it is already a non-conforming setback; the only difference is that they plan to enclose it. Ms. Zerbe answered that is correct, noting that you can encroach with an unenclosed area but not with an enclosed area.

Mr. Sirb noted that the encroachment is not to a neighbor but to a road. Ms. Zerbe answered that was correct.

Mr. Dowling questioned if the Township had a position on it. Ms. Zerbe answered that it did not.

Mr. Staub noted that he had a question about the HOA. He questioned if they had made a presentation to the HOA. Mr. Komaroff answered that he provided the HOA a packet with all the information and dimensions and they provided him a verbal based on the granting of the variance. He noted that the HOA procedure is the person must have a building permit first and then approach the HOA with the building permit from the Township.

Mr. Sirb noted that it seems a little backwards to him but it would be up to the HOA.

Mr. Staub questioned if there would be an issue if the Zoning Hearing Board granted the variance and the HOA changed their mind. Mr. Turner answered that it is a private matter that the Township has nothing to do with.

Mr. Dowling questioned if there are any other similar additions in the neighborhood. Mr. Komaroff answered yes, two blocks from their home there is an all glass enclosure. He noted that it does not approach the road, but a common area, a 40 to 50 foot common area towards the back of the other buildings which are parallel streets. He noted that it abuts the HOA property and not going to a street, buy a grassy common area.

Mr. Staub noted that he wanted to make sure he was looking at the correct property. He questioned if his home was an end unit. Mr. Komaroff answered yes. Mr. Staub questioned when you are driving on the street behind your home does the house sit down below street level. Mr. Komaroff noted that it is higher. He stated that he saw Mr. Staub walking by his home. He noted the neighbor to the left is lower, but he has a slant down to the roadway, from the fence it slants down.

Mr. Sirb questioned if the Board members had any more questions.

Mr. Sirb question Mr. Komaroff if he had any additional testimony to provide. Mr. Komaroff answered no.

Mr. Sirb noted that the Board has 45 days to render a motion. He questioned if any Board members desired to make a motion.

Mr. Dowling noted that he would make a motion but he wanted to make sure no one in the audience had any comments to make. He recognized that there was no comment, therefore he

Zoning Hearing Board

Docket 1359

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made a motion to approve the variance for Docket 1359 as presented. Mrs. Cate seconded the motion. Mr. Sirb requested Mr. Turner to conduct a roll call vote. Mr. Turner conducted a roll call vote as follows: Mr. Hansen, aye; Mr. Staub, aye; Mr. Dowling, aye; Mrs. Cate, aye; and Mr. Sirb, aye.

The hearing ended at 7:15 p.m.

Respectfully submitted,



Maureen Heberle

Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON  
APPLICATION OF : TOWNSHIP ZONING HEARING BOARD  
ELLIOT and LAURIE : DAUPHIN COUNTY, PENNSYLVANIA  
KOMAROFF :  
: DOCKET NO. 1359  
:

### **DECISION GRANTING VARIANCE**

The applicants seek a variance from rear yard setback requirements in connection with the erection of a sunroom. A hearing on the application was held on August 28, 2014.

#### **Facts**

1. The applicants and owners of the property in question are Elliot and Laurie Komaroff of 6696 Springford Terrace, Harrisburg, Pennsylvania. Also appearing on behalf of the applicants was Dan Gingrich, contractor for the proposed addition.
2. The property in question consists of a semi-detached dwelling located on the west side of Springford Terrace. It is bordered to the rear by Highland Drive. The parcel is zoned R-3.
3. The existing home is built with a 25 feet setback as required by an earlier zoning ordinance. The rear of the dwelling is improved with a 15 feet by 21 feet open deck.
4. The applicants propose to remove the existing deck and to replace it with a 9 feet by 12 feet three season room to be erected on top of a new deck. The room would be enclosed with knee walls and glass panels. The room would be setback further than the existing deck.
5. The applicants have discussed their proposal with the adjoining property owners who indicated their approval in writing submitted to the Board. The applicants

have also received tentative approval from their homeowner association, pending the granting of a variance.

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

7. No one other than the applicants appeared before the Board to testify either in favor of or against the proposed variance.

### **Conclusions**

1. Section 307(c)(2)(3) of the ordinance requires a minimum setback of thirty (30) feet. The proposed sunroom 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 is burdened by a hardship consisting of the limited lot area. This hardship is compounded by the fact that the home was developed under an earlier ordinance. Accordingly, there is no developable area remaining on the lot.

4. Granting the variance will not adversely impact surrounding property values nor alter the character of the neighborhood, as evidenced by the approval of the homeowner association and the neighbors. The Board further notes the existence of

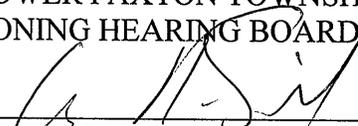
similar structures in the neighborhood and the smaller footprint of the sunroom as compared to the existing deck.

**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 a 9 feet by 12 feet enclosed sunroom on the rear of the existing dwelling. In all other respects construction shall be in strict accord with the plans and testimony submitted to the Board.

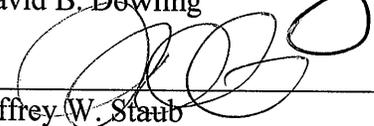
Date: 10/10/14

LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD

  
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Gregory P. Sirb

  
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Sara Jane Cate

  
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David B. Dowling

  
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Jeffrey W. Staub

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**Docket 1361, 1362 and 1363**

Applicant: PinnacleHealth Hospitals  
Address: 409 S. Second Street, P.O. Box 8700  
Harrisburg, PA 17105  
Property Owner: PinnacleHealth Medical  
Community General Osteopathic Hospital  
Property Address: 4300 Londonderry Road  
Harrisburg, PA 17109

Section 307.A Dimensional Requirements

The applicant is seeking variances from Sections 307-A; Road Frontage; 307.A- Minimum lot width; 307.A- Maximum Lot Coverage for building and impervious coverage; 307.A- Yard Regulations; 307.A- A minimum of 20% of the total lot area of lots in common ownership shall be set aside in land that is either maintained in tree cover or landscaped in trees and shrubs; 307.A- In no case shall be a building be closer to a lot line or street right of way line than the building is tall, unless the abutting lot is in common ownership; 307.B- Height; 602.E – Location of Parking; 801.A-Frontage required onto Improved Street; 803.A – No lot, structure or use shall be created or developed in such a way that it would result in another lot, building or use not being able to meet the requirements of this Ordinance. This includes, but is not limited to, setback areas, non-impervious areas and off-street parking areas; 803.D – Buffer yards.

The applicant is requesting relief for the three variances from dimensional requirements.

Grounds: Section 307, 801 and 803

Fees Paid: August 4, 2014

Property Posted: August 18, 2014

Advertisement: Appeared in The Paxton Herald on August 13, 2014 and August 20, 2014.

The hearing began at 7:51 p.m.

Mr. Sirb swore in Chris Markley, General Counsel for PinnacleHealth; David R. Getz, Wix, Wenger and Weidner, 508 North Second Street, Harrisburg, Counsel representing PinnacleHealth, and Rick Bitner, H. Edward Black and Associates, Consultant.

Mr. Sirb noted that Amanda Zerbe, Planning and Zoning Officer for Lower Paxton Township was previously sworn in.

Mr. Sirb questioned if the appropriate fees were paid for this application and was the property posted. Ms. Zerbe advised that the appropriate fees were paid on August 4, 2014, and the hearing was advertised in The Paxton Herald on August 13, 2014 and August 20, 2014. She noted that the hearing notices were posted on August 18, 2014.

Mr. Sirb questioned what codified ordinances pertain to this application. Ms. Zerbe answered that they are all dimensional requirements.

Ms. Zerbe noted for Docket No. 1361, the applicant is seeking a variance of a number of dimensional requirements for the property known as the PinnacleHealth Medical Sciences Pavilion at the Community General Osteopathic Hospital. She noted that the parcel contains an existing building and is located in the Institutional Zoning District. She noted that the applicant is seeking a variance for Docket No. 1361 of the minimal requirements, specifically to allow for the preexisting nonconformities of the Medical Sciences Building so that permission may be granted to move forward with a subdivision plan that would subdivide the Medical Sciences Building from the rest of the hospital property.

Ms. Zerbe noted for Docket No. 1362 a variance is requested for a number of dimensional requirements for the property known as the PinnacleHealth Community General Osteopathic Hospital. The parcel contains an existing building and is located in the Institutional Zoning District. The applicant is seeking a variance from dimensional requirements, specifically, to allow for the pre-existing nonconformities of the PinnacleHealth Community General Osteopathic Hospital Building so that permission may be granted to move forward with the subdivision plan that would subdivide the PinnacleHealth Community General Osteopathic Hospital Building from the rest of the hospital property.

Ms. Zerbe noted for Docket No. 1363 a variance of a number of dimensional requirements for the property known as the PinnacleHealth Bloom Building at the Community General Osteopathic Hospital. The parcel contains an existing building and is located in the Institutional Zoning District. The applicant is seeking a variance from dimensional requirements, specifically, to allow for the pre-existing nonconformities of the PinnacleHealth Bloom Building at the Community General Osteopathic Hospital so that permission may be granted to move forward with a subdivision plan that would subdivide the PinnacleHealth Bloom Building at the Community General Osteopathic Hospital from the rest of the hospital property.

Mr. Sirb questioned for each case, everything is pre-existing, non-conforming. Ms. Zerbe answered that is correct. Mr. Sirb questioned if all three variances are in the IN Zoning District. Ms. Zerbe answered that is correct.

Mr. Sirb questioned if this has to be done through sub-division. Mr. Getz answered that is correct.

Mr. David Getz noted that he intends to speak to all three applications at the same time as they are all linked together. He appreciates the Board hearing the variances this evening and explained that he is seeking a number of variances, to facilitate financing being driven by those who have the money. He noted that they are requiring sub-divided parcels in order to exercise their lien positions for new funding and there is also an issue with the existing funding. He noted that all have to be assured that they have the proper lien priorities.

Mr. Getz explained that he is going to ask Mr. Markley to explain the rationale for what they are doing and will asked Mr. Bitner to walk you around the properties to show what they are doing. He noted that essentially, the operation of the hospital, medical science building or Bloom building are not changing, he is simply trying to create lots that will facilitate financing. He explained that the hardship is an economic one and the variances are being driven by the forces that are looking to lend the money to have security. He noted that Mr. Markley will explain why this is taking place.

Mr. Christopher Markley explained that the Community General Osteopathic campus is a 36-acre campus that is located on one large lot. He noted that he is trying to generate some capital for PinnacleHealth to use for additional improvements and for strategic affiliations, noting that he wants to generate long-term leases for several of the non-hospital buildings that are used for offices through a Real Estate Investment Trust (REIT), noting that it provides capital to use, allowing them to lease the properties back while continuing to use them providing money for other investments in buildings and equipment, programs. He noted in order to do this, at the Community General Campus, there is a bond issue in place with a mortgage and the buildings need to be released from the mortgage, noting that bond counsel and trustees are willing to release them, but they can only release them if they are sub-divided parcels otherwise they can't lease them as it is all one parcel. He noted that these are the bond trustee's requirements and the fact that it is one 36-acre lot, it would prevent PinnacleHealth from doing a long-term lease real estate investment. He noted that is why he is looking to create lot lines around these two

buildings, the medical science building and the Bloom Building in order to allow them to be leased to a real estate investment trust and lease it back.

Mr. Sirb noted by sub-dividing the buildings, it would make them independent properties. Mr. Markley answered that it would make them independent units so the mortgage could be released and remain in place on the 36 acres. He noted since the buildings are close to one another, a number of variances are needed.

Mr. Getz noted that the red area shown on the plan is the medical science building and the blue area is the Bloom Building. He noted that they are Lots 2 and 3. He noted that Lot 2, the medical science building is .56 acre, and it consists of six feet beyond the building line and has a zero setback line on the back of the building. He noted that Lot 3, the Bloom building is on a .95 acre parcel and it consists of the building plus six feet beyond the building line.

Mr. Getz noted that there are numerous variances that he is requesting and he would like to go through each variance.

Mr. Dowling noted that there are thirteen variances. Mr. Getz answered yes. Mr. Sirb noted that they are all dimensional. Mr. Getz answered yes. Mr. Sirb questioned if there was any way around those variances. Mr. Getz answered no.

Mr. Markley noted that the proximity of the building does not provide for adequate setbacks in that kind of campus situation.

Mr. Dowling questioned how this is not created by the applicant. He noted that the applicant wants to refinance the mortgage and how is this issue not solely created by that desire. Mr. Getz answered that the issue is created by those who want to lend the money, noting in the current environment of healthcare, hospitals need to have cash available to do investments in whatever the next project is, be it a strategic alliances or renovations to the building. He noted that it is a way for the real estate investment trust to come in and lease the buildings from PinnacleHealth, give PinnacleHealth a sum of money and PinnacleHealth will lease them back. He noted that it is really a financial arrangement that is certainly unique and is only the creation of the need to remain flexible and to do with healthcare.

Mr. Dowling noted if it is confidential, you don't have to answer the question, but he can't image that it can't be that much of a net plus per year if you lease the buildings to a Real Estate Investment Trust (REIT) and then the REIT leases it back to PinnacleHealth. Mr. Markley answered that the real benefit is if you can invest the upset funds that you get from the REIT and the strategic projects that generate more income that what you are paying the REIT then that is the benefit. He noted that it is significant over the term of the lease.

Mr. Dowling noted that another issue that he has is trying to comprehend is how PinnacleHealth doesn't have money. He noted that you said in your application and it is well noted that the healthcare industry is changing and there are strategic alliances and some involving PinnacleHealth as well. He noted in the future, an entity acquires or merges with

someone, and they say that they don't need the Bloom Building or the Medical Science Building, let's sell them. He noted then we have two separate buildings, actually three separate buildings and they are grossly out of line with the zoning restrictions. He noted that each building is short 13 different variances and that is the issue as he sees it. He noted that it is not simply a question of moving lines around or forgetting lines, it is what happens at some point in the future. He noted that we don't know if Pinnacle Health is going to sell these buildings or what will happen. He noted if they become separate from PinnacleHealth, then you have three buildings that are not conforming now and they will be even more non-conforming if that occurs.

Mr. Getz noted that is true and that the current intent is for PinnacleHealth is not selling the title to any of these buildings. He noted that admittedly, that could happen in the future but we have no way of knowing what the future holds, but the intention at this point is to lease it to the REIT and not to convey the title and to lease the space back.

Mr. Dowling noted that could change in a year or two. He noted that you might say that you need more money and sell the buildings and then PinnacleHealth doesn't own them and the REIT leases them back to PinnacleHealth. Mr. Getz noted that many of the variances have to do with dimensions that are a side setback because the buildings are touching one another. He noted that the biggest issue from the Township's prospective is access to parking to make sure that the Bloom Building and Medical Science building, noting that the subdivision line is only six feet around the building, that they have a place to park. He noted that one of the things to negotiate as part of the entire transaction is a blanket access utility agreement that will provide the Bloom building with access for ingress and egress and also parking and the ability to continue to use the utility lines that are already there. He suggested that it is important if anything happens in the future that there is a place to put vehicles and to get them in and out.

Mr. Dowling noted that the agreement would handle those issues, noting that it would almost have to as it seems that the last variance that we granted for PinnacleHealth had to do with a lot of parking and signs and things related to that. He suggested that he did not think parking was an issue as there is plenty of parking spaces.

Mr. Bitner suggested that the gray area is the cross easement. Mr. Dowling noted that he could not think of any scenario where there would not be cross parking agreements. He suggested that the larger issue is what happens to the buildings if they are sold as each one is minus 15 variances. He noted that he appreciates PinnacleHealth's desire for creative financing noting that somehow, in the past, they found financing without this type of arrangement.

Mr. Markley answered that was correct and when they did financing in the past it was mortgaged but now they want to lease the mortgage and the REIT would be comfortable with a lease without a subdivision but the mortgage holders are not comfortable with leasing the property without some delineation of property lines. Mr. Dowling noted that it is the next step and if he was running a REIT that is what he would want to do.

Mr. Sirb questioned if the buildings were sold, they would continue to be part of the campus as it is self-contained. Mr. Dowling agreed. He noted that he did not see a situation where it would be something other than a medical facility.

Mr. Getz noted if the building was sold, you could not move it anywhere, it will be where it is going to be.

Mr. Dowling noted that PinnacleHealth through this campus has applied for numerous variances and most of them were granted noting that the last one was for a mystery floor that would not be used. Mr. Sirb noted that they wanted an additional floor. Mr. Markley noted that the floor has not been finished yet but it is there and available.

Mr. Dowling noted that he did not want Mr. Getz to go through the 13 variances as he has made clear what his concern is. He noted that it is more of a conceptual, philosophical issue that he has of the process.

Mr. Staub questioned if there would be demising walls would they bond the medical arts building, that part of the hospital that is defined. Mr. Bitner answered yes for interior walls. He noted that the medical science building was built and attached to the existing hospital using the outside wall of the existing hospital and was attached to it. Mr. Staub noted that it was an infill addition. Mr. Bitner noted that is where the subdivision line would be. He questioned what happens when PinnacleHealth decides to do additional improvements to the property, building additions, parking whatever. He noted that PinnacleHealth has been growing for 50 years at that location. He noted that it is an ongoing construction project, that will not stop and he questioned how this might effect the remaining process. Mr. Markley noting that we are carving off very small lots, we would mortgage the lot that would be available for future growth, the hospital itself.

Mr. Getz noted that the remaining land, the hospital part which is Docket 1362 ends up being over 34 acres, noting that the Bloom building is about an acre and the medical science building is about half an acre, and any future development would have to be sensitive to stormwater concerns and everything else that is required by the ordinances.

Mr. Staub questioned if the variances are granted, would the subdivision plan when it works its way through the process, provide parking calculations. He noted if you do independent parking calculation for the now three separate buildings, what happens if you can't meet that, will you be back in for another variance. Mr. Getz answered that he did not know as they don't know all the answers. He noted because there will be a cross access and utility and parking agreement that it would all have to be factored in. Mr. Staub suggested that it would address the practical matters for how people would physically use the property. He noted that he is referring to the parking ordinance. Mr. Bitner noted that there is a ghosted parking area that exists on the property. He noted that it is an area next to the detention basin that was permitted but never built for future needs.

Mr. Dowling noted that the more variances we grant the more will be necessary for future expansion. He noted that it is a growing campus and will continue to grow.

Mr. Staub noted that it is a terrific asset to the community.

Mr. Getz noted that PinnacleHealth is trying to put their facilities close to the population rather than having people drive long distances to get to a doctor or specialist.

Mr. Sirb noted that he is concerned that the campus turns into something other than what should be in an institution variance, such as a store or something that comes out of the blue, like a senior citizen center or something that is not what he considers appropriate on a medical campus. He noted that he sees a campus that every building serves a general purpose for healthcare and as long as that stays he is comfortable giving the variance but he would not be if PinnacleHealth, because of a need for cash or is looking for an investment to make money and now the Bloom building becomes something other than a healthcare type of facility which is granted in a IN Zoning District. He explained that is where he gets a little nervous.

Mr. Getz noted that the Zoning Ordinance allows certain things as permitted uses in an IN Zone, noting that he does not have a copy of it with him, he would need to comply with any uses in that ordinance. He noted if you wanted to put a use that was not permitted by the IN Zone, it would be a use variance and that is a whole different ballgame.

Mr. Staub noted that Mr. Sirb was stating that there are other uses permitted in the IN Zone that have nothing to do with healthcare; for example the Bloom building maybe, who knows what will happen to that, if it is sold. Mr. Getz noted that he does not know what uses are permitted off hand.

Mr. Dowling suggested that due to the proximity of the hospital, the Bloom building and other building, the likelihood of it being something other than that is pretty slim. He noted that is not his issue. He noted if someday a Starbucks is on the corner...Mr. Sirb noted that 20 years ago, look what a gas station was and look at what they are today, it is a grocery or beer store, not even a gas station. He noted that is where the money is and it was the economic move to make funds. He noted that he doesn't see hospitals being any different.

Mr. Getz noted that construction for medical office is different than other types of offices because you have so much more plumbing involved so it becomes economically unattractive to do anything but continue with the hospital. He noted across the parking lot, he agreed with Mr. Dowling, as that would be use for healthcare.

Mr. Turner noted that the limitation for what is permitted in an IN Zone would address those concerns. He noted if the Board was inclined to approve it, it might be appropriate to put a condition that the parking and access easements would be subject to review and approval by the Township solicitor. Mr. Getz noted that it is fine with PinnacleHealth as it would make sense.

Mr. Sirb questioned if the Board had any more comments. No comments were provided

Mr. Sirb questioned if anyone in the audience had anything to say on this application. No comment was heard.

Mr. Sirb questioned if the Township has an opinion on this variance request. Ms. Zerbe answered that it does not

Mr. Sirb noted that the Board has 45 days to render a motion for Dockets 1361, 1362 and 1363, all dealing with PinnacleHealth.

Mr. Sirb noted that there is a lot here and there will be more variances as it continues to be what it is. He noted if it continues to be an IN Campus that has that medical approach and the buildings are there for that good, then the variance becomes a little easier for him to swallow.

Mr. Dowling noted that one of the issues that he looks at is the variance only to provide for better financing. He explained that he looked at this when PinnacleHealth has come for variances in the past is how does it affect PinnacleHealth but how does it benefit the people who will use the facility, in the Township, other clients and patients who will come to the campus. He noted that he is not getting a good answer to that question for this application. He noted that he has for the parking, expansion, for at least the buildings, and he could always justify in his mind that it is a bigger hospital and a better hospital and providing a higher level of care to the people in the Township and others who use the campus. He noted that he is struggling to get an answer to that question.

Mr. Markley explained that this will enable PinnacleHealth to provide better services and facilities by providing the capital to reinvest about \$100,000,000 in the past ten years as you can see the new cancer center, additions such as the rehab hospital and it helps to drive the engine to continue investing in programs and services. Mr. Dowling noted that is true and there is nothing that prevents you from taking the money from this reinvestment and putting it in the hospital on the West Shore. Mr. Markley noted that this transaction does not just involve these two properties, another seven or eight properties but these are the only two in Lower Paxton Township.

Mr. Dowling questioned if he is making a similar request for other properties for the same REIT. Mr. Markley answered yes, but with the other properties, because they are not covered by the mortgage, we don't have to subdivide. He noted that this is the only instance where we are required to do a subdivision.

Mr. Turner noted that it dawned on him that there may be another condition that might address some of the concerns would be to put a condition on this variance that any future development of this parcel that all zoning determination be done on a campus-wide basis in terms of setbacks, parking calculations, stormwater calculations. He noted that it would continue to be looked at as single parcel in terms of determining what might happen down the road.

Mr. Dowling noted that is a little murky in how with three separate buildings and someone owns the Bloom building. He noted that it is a little vague for him to grasp.

Mr. Sirb noted if someone other than PinnacleHealth owns the Bloom building but they don't own the property, as PinnacleHealth continues to control the campus. Mr. Dowling noted if it is subdivided it can be sold. He noted that if it can be sold then someone else can buy it. He noted that the REIT could buy it and they could sell it.

Mr. Turner noted that down the road if they want to expand and are looking at impervious coverage, the impervious coverage would be based on the entire campus, you would not be excluding those two buildings, otherwise they would not count any of the impervious calculations that could allow a higher level of development than what would be allowed if it was only one. He noted if they are developed 100%, you take them out and you look at what is left and you see that you could go whatever the percentage for what is left and it would provide a higher level of impervious coverage than if it was all a single parcel. He noted if you did the calculations on a campus-wide basis, it would work for the Township benefit.

Mr. Staub noted that he had a question about the REIT. He noted in the letter included in the packet Mr. Getz stated that because condominiums laws vary from state to state the REIT will not accept the condominium form of ownership which is why PinnacleHealth is requesting the subdivision plan. He questioned if that is their preference, why the REIT is taking that position. Mr. Markley noted that there is an issue with the trustee of the buyers where they indicated that they feel that the condominium would still require the subdivision the way they read the planning codes. He noted that a condominium that creates separate lot line would comply with the subdivision ordinance unless there was a subdivision process. He noted that is the bond trust's interpretation of this. He noted that it is a less onerous alternative.

Mr. Staub noted if an engineer and attorney would prepare a condominium plot plan with common elements of the whole shooting match, he suggested at a minimum the requirement to come before this Board is moot for all these dimensional variances. Mr. Getz did not agree because as Mr. Markley stated, the bond counsel for the bank that has the current mortgage on the property won't release a mortgage before they have a subdivision plan. Mr. Markley noted that their reading of the plan does not supersede the subdivision requirements for creating new parcels. Mr. Getz noted that we have tried every which way before coming before this Board as it was a last result.

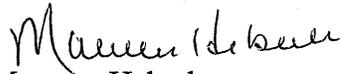
Mr. Getz noted that the conditional use that Mr. Turner suggested that any future development be considered on a campus-wide basis including all three parcels would be acceptable to PinnacleHealth.

Mr. Sirb made a motion to approve Dockets 1361, 1362, and 1363 with conditions that any zoning calculations for future development would be based on a campus-wide basis and not on individual parcels and that the parking and access easement be reviewed by the Township for approval. Mr. Staub noted that would be the approval of the Township Solicitor. Mr. Sirb amended his motion to include that. He questioned if PinnacleHealth is comfortable with the motion. Mr. Markley answered yes. Mr. Staub seconded the vote. Mr. Sirb requested Mr. Turner to conduct a roll call vote. Mr. Turner conducted a roll call vote as follows: Mr. Hansen, nay; Mr. Staub, aye; Mr. Dowling, nay; Mrs. Cate, nay; and Mr. Sirb, aye.

Mr. Sirb questioned if anyone else wanted to make any other motions; hearing none he noted that the variance was denied.

The hearing ended at 8:27 p.m.

Respectfully submitted,

  
Maureen Heberle  
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON  
: TOWNSHIP ZONING HEARING BOARD  
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA  
:  
PINNACLE HEALTH : DOCKET NOS. 1361, 1362, 1363  
HOSPITALS :

### **DECISION DENYING VARIANCES**

The applicant seeks variances from dimensional requirements in connection with a proposed subdivision. With the consent of the applicant, a consolidated hearing was held on August 28, 2014.

#### **Facts**

1. The applicant and owner of the property in question is Pinnacle Health Hospitals of 409 S. Second Street, PO Box 8700, Harrisburg, Pennsylvania 17105. The applicant was represented at the hearing by Chris Markley, General Counsel, Rick Bortner, site planner, and David Getz, Esquire.
2. The property in question consists of a 36 acre parcel on which the applicant has constructed a hospital facility and associated freestanding office buildings. The parcel is zoned Institutional and the facility is generally known as 4300 Londonderry Road.
3. For financing purposes, the applicant proposes to subdivide the parcel to separate the Bloom Building and the Medical Sciences Pavilion from the rest of the campus. Because the buildings were constructed on a single parcel without regard to internal setbacks the proposed lots would not meet minimum frontage requirements or lot width and impervious coverage regulations, setback requirements, height requirements, frontage requirements and parking requirements. The properties would continue to share

access and parking so appropriate easements would be created in addition to some building easements due to overhangs on the existing buildings.

4. No physical changes to the site are proposed as part of the subdivision and the applicant testified that they would be willing to have future development evaluated on a campus wide basis for setbacks, parking requirements, etc.

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

6. No one other than the applicants appeared before the Board to testify either in favor of or against the proposed variance.

### **Conclusions**

1. The zoning ordinance sets forth various requirements for site development which are itemized in the applicant's letter dated July 30, 2014 as variances requested. This letter was admitted into evidence at the hearing and the section entitled Variances Requested is incorporated herein by reference. The proposed subdivisions would violate all of these cited 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 no hardship exists which would justify the required variances. There are no unique topographical features which prevent the reasonable use of the property and in fact it is intensively developed.

4. Granting the variance, while not having an immediate physical impact, has the potential for undesirable consequences in the future. Once ownership is separated, the campus will no longer be a single entity. Segregating the developed parcels could result in a higher level of development on the remaining undeveloped areas. Without common ownership the potential for conflict over setbacks and easements greatly increase, to the detriment of the Township.

**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 denied.

Date:

10/10/14

LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD

Sara Jane Cate  
Sara Jane Cate

David B. Dowling  
David B. Dowling

Allen Hansen  
Allen Hansen

Board member Staub and Vice Chairman Sirb dissent from the opinion of the Board.

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of August 28, 2014

Members Present

Greg Sirb  
David Dowling  
Sara Jane Cate  
Jeff Staub  
Alan Hansen

Also in Attendance

James Turner  
Amanda Zerbe

**Docket 1364**

Applicant: Lititz Sign Co. LLC

Address: 400 N. Cedar Street  
Lititz, PA 543

Property Owner: Rite Aid  
Property Address: 4999 Jonestown Road  
Harrisburg, PA 17109

Article 7, Section 2; a variance from maximum area regulations for a freestanding sign. The applicant seeks a variance for the number of permitted wall signs and maximum area of wall signs as well as a variance for the maximum size of construction/contractor identification sign at the proposed Rite Aid known as 4999 Jonestown Road. The parcel is located in the Commercial General Zoning District.

Grounds: Article 7, Section 2

Fees Paid: August 4, 2014

Property Posted: August 18, 2014.

Advertisement: Appeared in The Paxton Herald on August 13, 2014 and August 20, 2014.

The hearing began at 9:06 p.m.

Mr. Sirb noted that Mr. Staub recused himself from hearing the variance as he has a business interest with the applicant. He noted that alternative, Watson Fisher will be taking his place.

Mr. Sirb swore in Tom Benjamin, Lititz Sign Company, LLC, working for Rite Aid Corporation.

Mr. Sirb noted that Amanda Zerbe, Planning and Zoning Officer for Lower Paxton Township was previously sworn in.

Mr. Sirb questioned if the appropriate fees were paid for this application and was the property posted. Ms. Zerbe advised that the appropriate fees were paid on August 4, 2014, and the hearing was advertised in The Paxton Herald on August 13, 2014 and August 20, 2014. She noted that the hearing notices were posted on August 18, 2014.

Mr. Sirb questioned what codified ordinances pertain to this application. Ms. Zerbe answered that it is Article 7, Section 2, a variance from maximum area regulations for a freestanding sign. The applicant seeks a variance for the number of permitted wall signs and maximum area of wall signs as well as a variance for the maximum size of construction/contractor identification sign at the proposed Rite Aid known as 4999 Jonestown Road. She noted that the parcel is located in the Commercial General Zoning District.

Mr. Sirb requested the applicant to provide testimony for why the variance should be granted.

Mr. Tom Benjamin noted that the wall signs are located on two sides of the building, two signs per side. He noted that it is a five-sided building noting that they have an off-set front entrance. He explained that the standard package for Rite Aid signage is a Rite Aid Shield on either side of the building and at the entrance way a Food Mart, Drive Thru, and GNC Live Well signs as part of their corporate requirement since they sell GNC products. He noted that the additional signs to the back of the building are Drive Thru directional signs.

Mr. Benjamin noted the way the Sign Ordinance reads, two signs would be considered advertising for businesses, the Rite Aid name and Shield. He noted that the incidental signs or directional signs to the back of the building seems to be allowed and not counted as advertising signs. He noted that it is a directional sign showing the way to the drive thru for traffic. He noted that it also includes the work Pharmacy. He explained that Pharmacy is in the middle of the 5<sup>th</sup> wall on the Front of the building. He noted, to the best of his research, Pharmacy is regulated by others. He noted when Rite Aid closes one store and opens another they can't say Pharmacy on the new building until the pharmacist moves to that building. He noted that we are taking the covers off the building in the middle of the night once the pharmacist moves his license to that building, and they must remove the old wording for pharmacy on the old building. He noted that sign is regulated by another entity, possibly the Pharmacy Board although he could not find it in any state laws. He noted that nothing has to say specifically that it has to say pharmacy but there are specifics about the wording. He explained that it is required to be on a building when they are a pharmacy. He noted that he pulled that out of the mix noting that they have one sign on the side of the building. He noted that across the front it says Food Mart, Drive Thru and GNC Live Well.

Mr. Sirb questioned how many wall signs Mr. Benjamin was proposing. Mr. Benjamin answered that it depends on how you count them. He noted that there are only two wall signs, Rite Aid, one on each side, the Drive Thru, the incidental signs, and the directional signs would not be counted as wall signs, just because they are on the wall, they are not advertising anything except providing directions to the Drive Thru so they would not be counted as wall signs.

Mr. Dowling questioned Ms. Zerbe how many signs are allowed on this building. Ms. Zerbe answered two signs on two sides of building. Mr. Dowling questioned how many signs are proposed. Ms. Zerbe answered that there are three on one side and four on a separate side.

Mr. Dowling noted that there are depictions of those signs in the packet, correct. Ms. Zerbe answered yes.

Mr. Dowling noted that there is also a pylon sign, correct. Ms. Zerbe answered yes. Mr. Dowling questioned if it is also contrary to the ordinance. Ms. Zerbe answered that they are proposing a free-standing sign of 98.69 square feet, and they are permitted 40 square feet.

Mr. Dowling noted that he is cutting to the chase now, from his own standpoint, in the year 2014, a pylon has no place along Route 22. He noted that they are a passé-type of sign, noting that Route 22 is cluttered with signs as it is now, noting that the more modern trend is to not have a pylon but go to a lighted sign. He is not suggesting that you need one. He noted that the applicant will state that he has to have a pylon sign to alert people to where the store is. He noted that no one who lives in the Township will not know where Rite Aid is within two weeks of it opening, so don't go there. He suggested that he should withdraw the pylon sign. Mr. noted that you are not the applicant and don't have the authority to do that. Mr. Benjamin answered that he is the applicant. Mr. Dowling questioned if Mr. Benjamin has the authority from Rite Aid to adjust or modify the proposal. Mr. Benjamin answered that it is possible, yes.

Mr. Benjamin noted in his profession, he does this stuff all the time and he continues to put up many pylon signs all over the place. He noted that it he just put up a huge Gander Mountain sign upstate. Mr. Dowling noted that Gander Mountain is obsessed.

Mr. Benjamin noted that the ordinance allows for a free-standing sign depending on what you are doing. He noted that an auto dealership is allowed a larger free standing sign than any other business, if you have four or more businesses in one building, noting that it does not matter the size of the building as there are no calculations for figures, you come up with this and just pull some numbers out of the air, and plucked it in there, that if you are selling cars, you can have a bigger sign by twice as much, 75 square feet as compared to 40 square feet. He noted that that same building has four businesses in it, they get 75 square feet. He noted that you don't calculate the size of the building, and don't take into consideration the property that it is on, but you can have a 75 square foot building if there are four businesses or if you are selling cars, that is okay. He noted that it also says if you are driving along a highway you get an additional 30 square feet of signage. He noted that he would be up to 70 square feet if he happened to be along Route 322 versus Route 22. He noted that the Township has a large number of signs and that is also part of the reason people need the signs, as they are a huge advertisement and huge

allowance. He noted that CVS has a 75 square foot sign on Linglestown Road that is huge in competition to Rite Aid. He noted that Rite Aid is based in this area and they are looking to make this building a new concept and design for them as they want to make it a show pharmacy. He noted that it is not just that they need a sign, noting that they need a sign; do they need that sign size, he responded that it is relative to the traffic and other things that are going on in that area. He noted that CVS is allowed 80 square feet and four tenants are allowed 75 square feet. He questioned why those numbers, why those issues.

Mr. Dowling noted that it is not the Zoning Hearing Board's job to provide a rational reason for why it is one size for one. Mr. Benjamin noted if you are allowing a car dealership to have a bigger size simply because they are selling cars then it is discriminating against his client. Mr. Dowling noted that you don't get to decide that, it is the ordinance as written. Mr. Benjamin noted that the ordinance as it is written is discriminating and it is wrong.

Mr. Turner noted that the Board of Supervisors decided upon the ordinances, not the Zoning Hearing Board. Mr. Benjamin noted that he understands that but you guys are making decision using poor quality verbiage. Ms. Cate noted that we follow the rules. Mr. Benjamin noted for the rules, you can't decide or you shouldn't decide based on discriminatory facts that were written down as poorly written ordinances. He noted that is the whole point of the variance as you guys wrote something very poor, you are discriminating against the businesses, and so we need relief from that along with the type of business and the location of the business, etc.

Mr. Sirb noted that we should discuss the relief part first. He noted that you are asking for seven signs, GNC. Mr. Benjamin explained that the GNC Live Well is a smaller sign located above the entrance. Mr. Sirb questioned Food Mart. Mr. Benjamin noted that it is a smaller sign located about the entrance. Mr. Sirb questioned Drive Thru. Mr. Benjamin noted that it is the same thing, above the entrance. Mr. Sirb noted that there are two Rite Aid signs. Mr. Benjamin explained that there are the large signs located on each side of the building. Mr. Sirb noted that we are at five already. He questioned where the other two signs are. Mr. Benjamin answered that Pharmacy and two additional on either end of the building, directional for the drive thru flow of traffic. Mr. Sirb noted that would be eight signs.

Ms. Zerbe noted, in the past, the directional signs, were not counted towards the signage. Mr. Sirb questioned if the two directional signs would not be counted. Ms. Zerbe noted that the signs that state Drive Thru would. Mr. Turner questioned what about the Drive Thru that is directly over the main door. Ms. Zerbe answered that would be counted. Mr. Sirb noted that it would leave us with six signs, noting the Drive Thru, GNC Live Well, Food Mart, two Rite Aid signs and Pharmacy.

Mr. Benjamin noted that the Pharmacy sign is regulated by others.

Ms. Zerbe noted that the problem that we are running into is that it is off-set as they have the word Pharmacy over the doors which is its own separate wall, and then on one of the long walls, there is the Rite Aid Symbol, the word Rite Aid followed by Pharmacy, GNC Live Well, Drive Thru and Food Mart. Mr. Sirb noted that is six signs. Ms. Zerbe noted on the opposite side of that wall is the Drive Thru Pharmacy. Mr. Sirb noted that on the other side the Drive Thru would be a directional sign. Ms. Zerbe answered that is correct as they have an arrow.

Mr. Benjamin noted that all those signs and the numbering on the plot plan is six: 3a, 3b, 3f, must be removed or a variance is required. He noted that 3a, 3b, and 3f are the smaller GNC signs, Drive Thru and Food Mart. He noted that number 6 is the Drive Thru pharmacy letter set with an arrow at the corner of the building, and there are two of them. He noted that the Drive Thru signs are directional. Ms. Zerbe noted that only the arrow part of that sign would be directional as the Drive Thru would be counted as advertising and as a sign.

Mr. Sirb noted that the wording, Drive Thru is a sign. He noted that GNC Live Will is a sign, Food Mart is a sign, and there are two Rite Aid signs that gives us five signs. He noted the pharmacy word is the sixth sign. He questioned how many signs are permitted. Ms. Zerbe answered two signs on whichever wall they want to narrow it down, and two on another side. She noted that they have the off-set in the front. Mr. Sirb noted that it is similar to the one on Linglestown Road. Ms. Zerbe answered that she has pictures of the store on Linglestown Road which appears to have... the Rite Aid in the Township appears to be about 80 square feet for that free standing sign. She noted that the one on Linglestown Road shows what they are proposing in their signage.

Mr. Sirb requested to see the pictures from the Linglestown store.

Mr. Benjamin noted that these are the standards signs for the newer Rite Aid stores. He noted that he is only suggesting this as a visual reference. Mr. Turner noted that he would mark this as Exhibit One.

Mr. Sirb noted that is what is found at the Linglestown store. Ms. Zerbe answered that was correct as she took the pictures today. Mr. Turner noted that the store is located at Linglestown Road and Progress Avenue.

Mr. Sirb noted that we are looking at the Rite Aid signs on both sides of the building, Pharmacy in the middle of the rounded entrance way and the smaller signs are on the side of the building. Ms. Zerbe noted that GNC Live Well, Food Mart and Drive Thru are moved to the side of the building. Mr. Benjamin noted instead of the rounded front, they are changing the design at the front entrance way. Mr. Sirb questioned if there was no room to put the wording as it is on the Linglestown Road sign. Mr. Benjamin noted that they are doubling that. He explained that they plan to have it on both sides instead of just having the three signs under the Pharmacy sign; they plan for the three signs on both sides of the entrance way. Mr. Sirb questioned if the three signs would be underneath the Rite Aid sign. Mr. Benjamin answered under the pharmacy area. Mr. Turner noted that on the drawing it's the black stripe that is not

readable underneath the word Rite Aid, is that correct. Mr. Turner noted that it is on drawing 82.1

Mr. Benjamin noted that the pharmacy forms the front. Mr. Sirb noted that instead of it being rounded... Mr. Benjamin noted that it will come out to two sides, like a flat picture. He noted if you would take it and fold it around. He noted that you would have GNC, Food Mart and Drive Thru under the Rite Aid. Mr. Sirb noted that it would be duplicated on the other side wall. Mr. Benjamin noted that it would be a smaller letter size. Mr. Sirb questioned what the purpose of the duplication is. Mr. Benjamin answered that the architect comes up with the ideas, and he does not know why. He noted that they came up with this design and he was sure that they put a great deal of money into designing this. Ms. Cate questioned why don't they tell you or come here and tell us. Mr. Benjamin noted that he would have to deal with the designers to get those answers.

Mr. Sirb noted that he can see that the three signs let you know that there is a Food Mart, GNC and Drive Thru and he doesn't mind having those even though they are additional signs, products that Rite Aid is trying to get involved with. He questioned why it has to be duplicated to the left. Mr. Benjamin answered it is due to the new architectural design of the building. He explained, when you had the rounded area you could only see it from the front. Mr. Sirb noted that he is inclined to go with the Rite Aid duplicated as the name of the store for that location.

Mr. Benjamin noted that he does not know why they changed the design or what the reason was for doing so. He noted that they do a study for why it is inviting, why it is the best idea, and he knows that they are not just pulled out of the air.

Mr. Sirb noted that we should discuss the free standing sign; he questioned what the size of the sign is. Mr. Benjamin answered that there are three components to that sign, the Electronic Message Center (EMC), Parking sign, small Drive Thru and the Rite Aid sign at the top. He noted that it totals out to 98.69 square feet for the three components. He noted that the largest part being the top sign at 3.9 feet tall and 12.9 inches long. He noted that it has a ten inch by ten feet Drive Thru ancillary sign under that one. Mr. Sirb questioned how tall the pylon sign is. Mr. Benjamin answered that it is 20 feet tall. Mr. Benjamin noted that the third part would be the EMC. He noted that the primary cabinet is 47.81 square feet and the secondary or ancillary cabinet is nine square feet with the EMC being 41 square feet. He noted that they would be for a normal sign for what you would find almost everywhere he goes. He noted that the only time they go with a smaller sign package is for side streets in a city or things like that.

Mr. Sirb questioned what is permitted. Ms. Zerbe answered that it is 40 square feet for the pylon sign. Mr. Benjamin noted that unless Rite Aid starts selling cars then he would be allowed 75 square feet. Mr. Sirb noted that you are asking for a lot as this is a huge variance. Mr. Benjamin noted that there are very few signs along that pathway that are close to meeting your zoning requirement of 40 square feet which creates clutter. He noted if you get too much, no one can tell one from another.

Ms. Cate noted that you would like to see signs. Mr. Benjamin noted that he sells signs, installs signs, but people are dumb. He noted if you tried to find a Rite Aid on Linglestown Road, you would know where it is, but if you go to Lancaster and try to find one without a sign or just a regular sign on Route 22, it is like trying to find anything on Route 30 around Dutch Wonderland in Lancaster... Mr. Dowling questioned why he would go to Lancaster to go to a pharmacy when there is one just down the road.

Mr. Benjamin noted that he might need to find a Rite Aid. Mr. Dowling told Mr. Benjamin that he would take out his phone and ask it where the nearest Rite Aid is and it will take you right to it. Mr. Benjamin noted that he was trying to find this place tonight and Google took him on a great tour of the Township and he does not know how he got here. He noted that he went out past the site, turned right and ended up in a church parking lot. He noted that he went to school up here in the 1970's and he had no idea where he was at. He explained that signs are, dollar for dollar, the best advertisement as stores rely on them to bring in customers. He noted that the impact in that area is really, it seems large, but in the scheme of when it is built it will look small. He noted how big is a traffic light, hanging off the wire when you come to a stop. He noted that they are huge, but the visual reference on a traffic light makes it look much smaller. He noted if you go to a visual reference for all that is going on there, this sign is not going to look obtrusive; it is not going to look out of place. He noted that it will be a visual aid for people to find it. He noted that is the point.

Mr. Sirb noted that we are looking at double the size for the pylon and six wall signs. Ms. Zerbe noted that they can only be a total of 10% of the vertical wall space. She noted as far as the free standing sign, the previous sign that was on that parcel was placed in the sewer easement, as there is a very large sewer easement on the Devonshire Road side that is 35 feet off the right-of-way, so we also have a sight triangle. She noted that she was hoping to see a plot plan for where the sign will be placed because the excessive amount of signage is going to place it somewhere that it is visible, noting that it will be hard to put it close to the corner because of the right-of-way for both Devonshire and Jonestown Roads.

Ms. Zerbe noted that the free standing sign works from the back and go through the other signs.

Mr. Benjamin noted that the plot plan shows that the free standing sign is well outside of the easement noting that the Township Engineer and site engineer have discussed this specifically. He noted that it is a single post sign so the post is at least eight feet back farther than the sign itself, as it would come to the line of the easement. Mr. Sirb noted that we should mark that Exhibit A. He questioned if the area on that plan is the location for the proposed plan. Mr. Benjamin answered that was the location of the sign and he pointed to the entranceway and sidewalk. He noted instead of having a full radius of parking and road, they cut it back in a little farther.

Mr. Sirb noted that the building on Linglestown Road is the rounded entrance and it will be the same here. Mr. Benjamin pointed to the sidewalk. Mr. Sirb questioned why it can't be the same sign that is on Linglestown Road to fit in this location. He noted that you are putting the sign toward the sides; duplicating the signs where people walk into the building, noting that he visits the Linglestown store a lot and walking in you can see exactly what you are getting into. He noted that you go into the pharmacy and the GNC or what have you. He noted that it is a big sticking point to him. Mr. Benjamin noted that he goes back to the people who design this and the demographic studies and he does not know why they are changing it. He noted that it was an expensive project for them to come up and redesign the front entrance. He noted that UPS eliminated left hand turns because they did a huge study, spending millions of dollars studying left hand turns. He noted that Rite Aid must have spent much money deciding why doing it this way is going to be more of a pleasurable experience for the shopper, demographics and they are using this store as their footprint to expand all their other stores as they build more. He noted that this is a big deal for Rite Aid as they are based in Camp Hill, they want to be able to come close and say, hey look, this is our store and they do like to show themselves off.

Mr. Dowling noted that the Township is grateful that Rite Aid is here, and he doesn't have a problem with the wall signs, as they are tasteful, and all necessary. He noted that the issue is with the pylon sign. Mr. Benjamin noted for as much sign work as he does in this area on Jonestown Road and Union Deposit Road, people don't know that any other part of this Township exists as that is where all the signs are. He noted that he could operate up here 24 hours a day working on all the signs, but on the side of view ability, the size of the road, the traffic patterns and stuff like that, a sign that size makes sense as they determine it based on traffic counts and studies.

Mr. Dowling noted that he is looking at Exhibit 1 the six photographs of the Rite Aid on Linglestown Road in Susquehanna Township and everything looks professional and classy until he looks at the pylon sign. He noted that it looks terrible.

Mr. Benjamin noted that the newer pylon signs are much better looking than that. Mr. Dowling noted that this is not an old store. Mr. Sirb noted that it was built three or four years ago and is a relatively new store. Mr. Dowling noted that the pylon sign is not professional looking as the rest of the signs that are located on the building.

Mr. Benjamin noted that the new pylon sign is better looking, the secondary sign is just the Drive Thru and the other sign is the EMC sign. Mr. Sirb noted that is the message sign. Mr. Benjamin noted that it is much easier for someone to type words into a EMC sign than to have to go out to change the sign. He noted that the appearance of the newer signs is a lot more pleasing visually. He noted that he has done a number of Rite Aid stores and they have been following the same footprint, same sign, noting that this one is a new more updated look for Rite Aid.

Mr. Sirb noted that he likes the sign but it has to be 40 square feet. Mr. Benjamin noted that CVS has an 80 square foot sign and that is the competition. Ms. Zerbe noted that it is not located in Lower Paxton Township. Mr. Sirb explained that it is located in Susquehanna Township. Ms. Cate noted that we would not allow that sign in this Township.

Mr. Benjamin noted that there are plenty of signs in the Township that appear to be newer and older that are still there. Mr. Dowling noted that we are dealing with them one-by-one. Mr. Benjamin noted that we are suffering with the same think in Lancaster along Route 30.

Mr. Benjamin noted that you are still going to have signs, you will never get rid of them or make a greenway going through there with a lot of nice lawn signs. He noted that it is a highway and a highway has people driving through there, thousands of cars, noting that he did not know what the traffic counts were but he was sure that it was pretty significant. He noted that a sign is a matter of impression. He noted that an ad in a magazine is a matter of impression, noting that you have so many seconds that you are viewing that. He noted with a magazine it is probably less than a second that someone reads that ad. He noted that a sign, travel, speed, highway condition, etc., how long it will take someone to see a sign under those conditions. He noted that we just don't want a big sign because we like ourselves, he wants this size sign because it matches with what we have already studied or already know from the National Highway Traffic and Safety Commission said would works in that area. He noted that is what is viewable, what makes the most sense to direct people. He noted that is the point of the sign to tell people where you are at. He noted that they are not asking for this size sign haphazardly.

Ms. Cate noted that they will be located on Route 22 in a corridor where everyone passes. Mr. Benjamin noted that you should remove yourself from living here. He noted that you know where everything is here, I don't. Ms. Cate noted that the average person will not be going to Rite Aid if they don't live here. Mr. Benjamin noted that is not true. He noted that he has a cabin upstate and he never anticipated needing an ambulance up there but he has called them twice and he had to go to a pharmacy up there so it happens. He noted that this is a transient area with many people who live out of the area; they break their glasses, they need asthma medication, diabetic, there are thousands of reasons that people from out of the area would be traveling through here to need a pharmacy and try to locate one.

Mr. Benjamin noted when he said that people are dumb; if you go somewhere you have never been you will drive by this stuff as you will have no clue. He noted that you have to remove yourself as you know the area. He noted if you go out of the area you will rely on something like this especially in that corridor to find it. He noted that they are not selling teddy bears or incidental items; it is a pharmacy with small durable goods.

Mr. Sirb questioned if the Board members had any questions.

Mr. Sirb noted that no one is in the audience. He noted that the Board has 45 days to render a decision on the application. Mr. Turner noted that we need to take a one minute recess for Mr. Hansen to return.

Mr. Dowling noted before there is a request for a motion, here is where we are base on what he heard. He noted that this application either goes up or down as submitted. He noted that there is no in between for what is suggested or proposed. Mr. Sirb answered that Mr. Dowling is correct. He noted if we permit the six wall signs which is a huge variance in itself, it is consistent with the signage at the other store. He questioned if we permit that, are you willing to

take that part of the variance but that the pylon sign would meet our ordinance at 40 square feet. Mr. Benjamin noted that he could go down to 80 square feet noting that most of these signs are packages; they are not customized down to a two by four foot sign. He noted that they have a pre-determined setting. He noted that the package that they could go down to is 80 square feet.

Mr. Sirb noted that the lowest Mr. Benjamin says that he can go down to is 80 square feet for the pylon sign. Mr. Turner noted that the Board can approve what it wants to but it is up to the applicant as to whether they want to proceed under that or not.

Mr. Dowling suggested what we can't do is say that the wall signs are permitted but the pylon sign up to 40 square feet is allowed. Mr. Turner noted that you could say that the requested variance for the pylon is denied and they could decide if they want a 40 foot pylon sign or they don't want a pylon sign.

Mr. Benjamin noted that the main ebb of the sign is 47 feet, all but 48 square feet. Mr. Turner noted if you got rid of the rest you would be pretty darn close. Mr. Benjamin noted that the second sign, the Drive Thru is nine square feet. He noted that another 40 square feet is the EMC sign. He noted that there are three components to the sign making up 98 square feet. He noted if you said that he could do 80 square foot, he could make a smaller cabinet top sign and he could find additional square feet for the Drive Thru and he could possibly make the EMC smaller. He noted that there is room to take it apart into pieces but each part equals the 98 square feet.

Mr. Benjamin noted if we were in East Lampeter Township in Lancaster County, they would include the pole cover as square footage for the sign.

Mr. Dowling made a motion to approve the variance for the wall signs and deny the variance for the pylon sign. Ms. Cate seconded the motion. Mr. Sirb requested Mr. Turner to conduct a roll call. Mr. Fisher, aye; Mr. Hansen, aye; Mr. Dowling, aye; Mrs. Cate, aye; and Mr. Sirb, aye.

The hearing ended at 9:52 p.m.

Respectfully submitted,



Maureen Heberle  
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON  
: TOWNSHIP ZONING HEARING BOARD  
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA  
:  
LITITZ SIGN CO., LLC : DOCKET NO. 1364

**DECISION REGARDING APPLICATION FOR VARIANCE**

The applicant seeks a number of sign-related variances in connection with the construction of a retail drug store. A hearing on the application was held on August 28, 2014.

**Facts**

1. The applicant and proposed contractor for the requested signs is Lititz Sign Co. of 400 N. Cedar Street, Lititz, Pennsylvania. The property in question is owned by Rite Aid of 30 Hunter Lane, Camp Hill, Pennsylvania 17011.
2. The property in question is located on the southwest corner of Jonestown Road and Devonshire Road and consists of an approximately square lot which is zoned Commercial, C-1.
3. The property owner proposes to erect a pharmacy on the property. In connection with the new building the applicant proposes to erect a freestanding sign with a total area of 98.69 square feet. The top of the sign would have the "Rite Aid" name and the word "pharmacy" while a changeable copy/message board would be erected below.
4. In addition to the freestanding sign the applicant proposes signs with the company name and logo on the north and east faces of the building. These internally illuminated wall signs would have an area of approximately 87 square feet each. A third wall sign is proposed over the front entrance which is set at an angle to the intersection. This sign would have the word "pharmacy" and would be approximately 23 square feet. Several smaller directional signs or signs promoting segments of the business are also proposed.
5. The applicant has proposed a temporary construction sign; however, no testimony was offered regarding this sign so it was not considered.

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

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

### Conclusions

1. Article 714 of the ordinance restricts freestanding signs to 40 square feet. The same article limits wall signs to two per building side up to a maximum of two sides of a building. The proposed signs 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. As to the pole sign, the Board finds that no hardship exists to justify the requested variance. There are no irregularities of shape or topography which prevent the reasonable use of the property without variance, nor did the applicant present any evidence of such hardship. The "Rite Aid" portion of the sign adequately identifies the business. The message center is nothing more than advertising space. At approximately 47 square feet the pole sign would identify the business. Accordingly, the applicant has failed to seek the minimum variance which would afford relief.

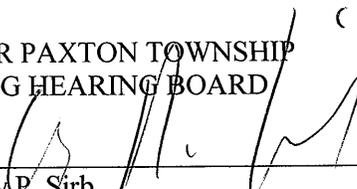
4. As to the wall sign package, the Board finds that it is proportionate to the size of the building and that the presence of the third large wall sign over the entrance does not conflict with the spirit of the ordinance. The remaining wall signs are de minimis in size and in part serve directional purposes and will have no deleterious off-site impact.

Decision

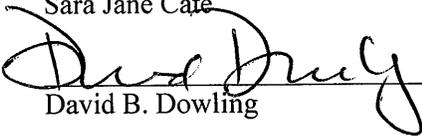
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the application for variance from maximum area for a pole sign is denied. The application for variance from the maximum number of wall signs and maximum number of building sides with wall signs should be and is hereby granted allowing the installation of wall signs in strict accord with the plans and testimony presented to the Board. As no testimony was presented regarding the requested construction sign variance, it is deemed abandoned.

Date: 10/10/14

LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD

  
\_\_\_\_\_  
Gregory P. Sirb

  
\_\_\_\_\_  
Sara Jane Cate

  
\_\_\_\_\_  
David B. Dowling

\_\_\_\_\_  
Allen Hansen

  
\_\_\_\_\_  
Watson Fisher

Board member Staub abstained from participating in this matter.