

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of November 29, 2012

Members Present
Richard Freeburn
Sara Jane Cate
Greg Sirb
Jeffrey Staub
David Dowling

Also in Attendance
James Turner
Dianne Moran

Docket 1322

Applicant: Site Enhancement Services for Red Lobster

Address: 6001 Nimitz Parkway
South Bend, IN 46628

Property: 4300 Jonestown Road
Harrisburg, PA 17109

Interpretation: Article 714 – Regulations for Specific Sign Types
714.A Permanent Signs – Number of Wall Signs

The applicant seeks a variance from the number of wall signs.

Grounds: Article 714 of the Lower Paxton Township Zoning Ordinance
pertains to this application.

Fees Paid: September 12, 2012

Property Posted: November 20, 2012

Advertisement: Appeared in The Paxton Herald on November 14 and 21, 2012.

The hearing began at 7 p.m.

Mr. Freeburn noted that it is customary for the Board to make the applicant for variance an exhibit and he questioned if the applicant had any problems with that. Mr. Robbins answered no.

Mr. Freeburn swore in Dianne Moran, Planning and Zoning Officer for Lower Paxton Township.

Ms. Dianne Moran advised that the appropriate fees were paid on September 12, 2012. The proper advertisements appeared in The Paxton Herald on November 14 and 21, 2012. The hearing notices were posed on November 20, 2012.

Ms. Moran noted that this hearing applies to Article 714.A permanent signs: The applicant seeks a variance from the number of wall signs permitted for a building.

Mr. Freeburn swore in Ty Robbins, 6001 Nimitz Plaza, South Bend, Indiana. Mr. Robbins explained that he is the zoning specialist for Site Enhancement Services.

Mr. Robbins noted that the request is to install a critter logo on the front gable of the Red Lobster Restaurant. He noted that the original request was for 24 square foot sign, but since then the owners have determined that a 12 square foot critter would be more proportional on the gable; therefore, he has reduced the square footage for the sign. He noted that the additional sign would provide a more cohesive appearance to the store and complete the store branding and assist in the safe navigation of customers onto the property. He noted that there are limited access points to the property with a right-in, right-out located along Colonial Road. He noted if you are driving on Jonestown Road, you cannot turn left into the property if you are heading west. He noted that this request will accomplish the goals of greater visibility and overcome those hardships.

Mr. Freeburn questioned, if you are driving from I-83 and heading east along Route 22 you can't make a left turn. Mr. Robbins noted that there is a point where you can't turn left and have to continue further on Route 22 to access at the mall parking lot. Mr. Freeburn noted that you would be heading east and not west along Jonestown Road.

Mr. Sirb questioned Ms. Moran if they are currently in compliance with their signs. Ms. Moran answered yes. Mr. Sirb noted that they are requesting one additional sign at 12 square foot. Ms. Moran answered that was correct. Mr. Sirb questioned if any additional lettering would be added, only the symbol. Mr. Robbins answered that was correct.

Mr. Freeburn noted that that he was confused by the signage comparison chart that was provided by the applicant between the existing signage and proposed signage. He noted that it looks like you are relocating signs, as you are doing major renovations at the property. Mr. Robbins noted that this is part of the Red Lobster overall store renovations for exterior and interior to include some architectural changes in the building.

Mr. Freeburn noted when he looked at the top two pictures showing the existing and proposed signage, the Red Lobster sign is existing with a 24 inch letter set that will be increased to a 30 inch letter set. Mr. Robbins noted that is true for the front and rear elevations only for the building. He noted the side elevations have decreased in overall square footage from 24 to 18 inches.

Mr. Freeburn noted if he numbers the pictures from top to bottom one through four, the second and third signs are reduced from 24 inches to 18 inches. He noted that number four

would increase from 24 inches to 30 inches. He questioned Ms. Moran if it is in compliance with the zoning ordinance in terms for the amount of signage permitted. Mr. Moran answered yes. Mr. Freeburn noted that the variance is only for the number of signs, the extra sign. Ms. Moran noted that Red Lobster wants to add an extra sign and they are entitled to the four letter signs. She noted that they have paid for and applied for the ones that they already have. She explained that the variance is the step to add the critter sign that is not permitted.

Mr. Sirb questioned if there is reason why you call it a critter instead of lobster. Mr. Robbins noted that is the name that Red Lobster chose but it is in fact a red lobster.

Mr. Freeburn noted that it would be half the size of what was originally asked for. Mr. Robbins noted that they now want to go with a 12 square foot sign.

Mr. Dowling noted that the 12 square foot critter sign will have nothing to do with safe access to the property. Mr. Robbins noted that he drove by the site today, and initially he thought it would; however, they removed several trees in front of the building that helps with the visibility, so in this case more of the purpose is to complete the overall look of the building and the branding. He noted that the site looks very nice, it is clean, neat and fresh and this would complete the look. He noted that the gable is a nice feature and the critter would look nice inside it.

Mr. Sirb questioned if the lobster would be lighted. Mr. Robbins answered that it would be illuminated with LED lighting.

Mr. Sirb noted that the building would go from 96 square feet of lettering to 109 square feet of lettering with the critter being another 12 square feet. Mr. Robbins noted that the total square feet of existing signage was 96 square feet but the new one will be 245 square feet. He noted that there are two 53 square foot signs, and two 20 square foot signs plus the 12 square foot sign for the critter.

Mr. Dowling questioned how long the Red Lobster has been in that location. Mr. Robbins answered that he did not know. Mr. Robbins noted that he has replaced the pylon sign and it was reduced significantly from 30 square feet to 20 square feet.

Mr. Dowling questioned if the lobster is part of Red Lobster chain store branding. Mr. Robbins answered yes. He questioned if the critter has been installed on other stores. Mr. Robbins answered yes.

Ms. Cate questioned if all the signs have been installed except for the Red lobster critter sign. Mr. Robbins answered yes.

Mr. Freeburn questioned if members of the Board had any questions for the applicants.

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

Mr. Freeburn noted that hearing no further testimony by the applicant, board members, or the audience, the board has 45 days to render a decision relative to this application.

Mr. Dowling made a motion to approve Docket #1322 as submitted. Mr. Sirb seconded the motion. Mr. Turner conducted the following roll-call vote: Mr. Staub, aye; Mr. Dowling, aye; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Freeburn, nay. Mr. Turner noted that the motion carried.

The hearing ended at 7:15 p.m.

Submitted by:

Maureen Heberle

Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
SITE ENHANCEMENT SERVICES: DOCKET NO. 1322

DECISION GRANTING VARIANCE

The applicant seeks a variance from the maximum number of wall signs. A hearing on the application was held on November 29, 2012.

Facts

1. The applicant is Site Enhancement Services of 6001 Nimitz Pkwy., South Bend, Indiana 46628. The application was submitted on behalf of the property lessee, Red Lobster, of 4300 Jonestown Road, Harrisburg, Pennsylvania 17109. The property is owned by Glimcher Properties.

2. The property in question consists of an out parcel located for all practical purposes within a large shopping mall known as Colonial Park Mall. The parcel is improved with a free-standing restaurant operated as a Red Lobster Restaurant.

3. The applicant proposes to add a Red Lobster "critter" logo above the main entrance on the façade of the building facing Route 22 (Jonestown Road). The "critter" would be 12 square feet and would have no lettering. As part of the sign changes to the property, the applicant is increasing the size of the existing front and rear signs and decreasing the area of the signs on the sides of the building. In addition the pylon sign has been reduced by 20 square feet.

4. The proposed new sign would be the fifth wall sixth on the building. It would be internally illuminated. The size is intended to make identification of the facility easier for motorists approaching from both Colonial Road and Jonestown Road.

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

6. No one other than the applicant appeared to testify either of favor of or against the proposed variance.

Conclusions

1. Section 714.A of the ordinance limits wall signs to a maximum of four. The proposed sign package 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 its corner location which requires identification of the site from multiple locations. This requires increased visibility of the site.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The area is intensively developed with many non-conforming signs. The proposed signs are appropriate in size and number for the applicant's facility and they will have no offsite impact.

Decision

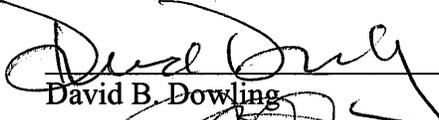
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the installation of a "critter" logo in strict conformity with the plans and testimony submitted to the Board.

Date: 1/10/13

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



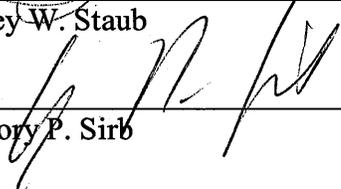
Sara Jane Cate



David B. Dowling



Jeffrey W. Staub



Gregory P. Sirb

Board member Freeburn dissents from the decision of the Board.

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of November 29, 2012

Members Present

Richard Freeburn
Sara Jane Cate
Greg Sirb
Jeffrey Staub
David Dowling

Also in Attendance

James Turner
Dianne Moran

Docket 1323

Applicant: Visionary Properties, Inc.

Address: 175 E. Houston Street
San Antonio, Texas 78205

Property: 5086 Jonestown Road
Harrisburg, PA 17109

Interpretation: Article 714 – Regulations for Specific Sign Types
714.A Permanent Signs – Number of Wall Signs

The applicant seeks a variance from the number of wall signs.

Grounds: Article 714 of the Lower Paxton Township Zoning Ordinance
pertains to this application.

Fees Paid: September 27, 2012

Property Posted: November 20, 2012

Advertisement: Appeared in The Paxton Herald on November 14 and 21, 2012.

The hearing began at 7:15 p.m.

Mr. Freeburn noted that it is customary for the Board to make the applicant for variance an exhibit and he questioned if the applicant had any problems with that. Attorney Erich Schock answered no.

Mr. Freeburn noted that Ms. Moran, Planning and Zoning Officer for Lower Paxton Township had been previously sworn in.

Ms. Dianne Moran advised that the appropriate fees were paid on September 27, 2012. The proper advertisements appeared in The Paxton Herald on November 14 and 21, 2012. The hearing notices were posed on November 20, 2012.

Mr. Freeburn swore in Lisa Fulk, 5086 Jonestown Road, Harrisburg, Pennsylvania. Ms. Fulk explained that she is the general manager for the store. Mr. Freeburn swore in Ivan Gertsen, Allied Sign Company, 2177 Bennett Road, Philadelphia, Pennsylvania. Mr. Freeburn requested the attorney to state his full name. Attorney Erich J. Schock explained that his firm is Fitzpatrick Lentz and Bubba, P.C., 4001 Schoolhouse Lane, Center Valley, Pennsylvania.

Mr. Staub questioned what is its status of the old Blockbuster sign and does the applicant have any rights to that sign. Ms. Moran answered that the current ordinance allows one sign per tenant of up to 32 square feet for the size of the suite that they are using. Mr. Staub questioned if this dovetails into the master variance that was granted to the Colonial Commons many years ago regarding letter height and square footage per building face. Ms. Moran answered no.

Mr. Freeburn instructed Attorney Schock to explain to the Board why the variance should be granted.

Attorney Schock entered the relevant portion of the lease as Exhibit A1 and the authorization to make the variance as Exhibit A2. He noted that he distributed Exhibit A3 which is a similar plan to what was originally submitted, however he has reduced the area of the sign that he is requesting to be under the limit for a sign. He noted that he continues to need two signs; however, the signs would be 28.91 square feet each which is under the 32 square foot limit. Ms. Cate questioned if it was the sign on the front wall. Attorney Schock answered yes, that it was similar to the sign on the front but he has reduced the area of the sign that he is asking relief from for the second sign.

Attorney Schock requested Ms. Fulk to state her name. Ms. Fulk stated that her name is Lisa Fulk. Attorney Schock questioned Ms. Fulk if she is the General Manager (GM) who will be responsible for this store. Ms. Fulk answered yes.

Attorney Schock questioned Ms. Fulk if she currently works at another Visions Works now. Ms. Fulk answered that she currently works at the Mechanicsburg location off the Carlisle Pike. Attorney Schock questioned if Ms. Fulk is opening a new Vision Works Store. Ms. Fulk answered yes, located at the shopping center next to the Giant.

Attorney Schock distributed Exhibit 4, a map showing the location of the proposed store within the Colonial Commons Mall. Mr. Freeburn noted that everyone on the Board knows the location of the former Blockbuster Video.

Attorney Schock questioned Ms. Fulk if the store has frontage on Route 22. Ms. Fulk answered yes. He questioned if the store had a unique corner in that it has a corner that has a sign on it. Ms. Fulk answered yes. He questioned if the store has a façade that faces the interior large parking lot for the shopping center. Ms. Fulk answered yes.

Attorney Schock questioned if the facade presents a difficulty in how Ms. Fulk should sign the store. Ms. Fulk answered yes, depending on where the signage is located. She noted that she is not from the area so when she drove into the shopping center from Route 22 she could not find as she had to drive around. She noted that it would be convenient for the patients who are

looking for the Giant to see Vision Works beside it. She noted that it would be much easier for the patients to locate her store.

Attorney Schock questioned Ms. Fulk if there was a reason why that type of facility calls out for adequate signage or more than what is allowed as compared to retail. He questioned if many patients come from greater distances. Ms. Fulk answered yes. She noted that she has a big clientele and many patients who come to visit the doctor who is staffed in the office. She noted that she has patients from the Lebanon area which is where she is from and they may follow her to this location. She noted that it would be easier for the patients to locate the office when they come into the first shopping center driveway at the traffic signal.

Attorney Schock questioned if the patients would have appointments. Ms. Fulk answered that most patients make appointments; however, we also accept walk-ins as well. She noted that the doctor is present 7 days a week so it is more of a destination location.

Mr. Freeburn questioned what Vision Works is. Ms. Fulk answered that Vision Works is an optical retailer, having an optometrist on site seven days a week. She noted that patients will schedule an eye examination and they meet the needs for all eyewear and can also fabricate eyewear at that location.

Attorney Schock questioned when you come in the main entrance of the shopping center would it be possible to see the facility if you only had one sign that faced Route 22. Ms. Fulk answered that she could not find it, but she knew that it was located next to the Giant so she drove in that direction until she found the end cap. She noted that she had an idea of where she was going, however, for someone coming to the location for the first time, when you turn left from Route 22 into the parking lot they would have to drive around until they could find the store. She noted if you look to the left you see the Giant store and a blank building. She noted without the signage, it would be difficult to find the office.

Attorney Schock questioned if many of Vision Works customers have a problem with their vision. Ms. Fulk answered yes.

Attorney Schock noted that the request is for one extra 29 square foot sign, even though there are a lot of signs and even larger signs. Ms. Fulk answered yes. Attorney Schock questioned if the extra sign would have an adverse impact on anything to place one additional sign on the building front so that people in the parking area could find the location. Ms. Fulk answered no, not at all, as it would be convenient for the patients to locate the office to make their appointments on time.

Mr. Freeburn questioned Ms. Fulk if they plan to put a sign on the Route 22 side of the building. Ms. Fulk explained that she and Attorney Schock stopped at that location prior to coming to this hearing and they decided that it would make more sense to have a sign on the Giant side as well as facing Route 22. She noted that the original intention was to have it on the corner of the building as she was only allowed one sign; however the change would provide visibility from both directions. Mr. Freeburn questioned Ms. Fulk if the corner sign would be facing Route 22. Ms. Fulk answered yes, that was the original thought process, however she

thinks it would make more sense to locate one sign facing Route 22 and one facing the parking lot next to the Giant store as opposed to the one located on the corner. She suggested that the sign adjacent to the Giant store will be the most important sign. Mr. Freeburn noted that he agrees with Ms. Fulk. He noted if you are driving east on Route 22, you will be past it by the time you see the sign on the corner. Ms. Fulk noted that she texted her regional manager to discuss this with her prior to the meeting this evening. She noted that it would be better to locate one sign facing Route 22 and one other facing the parking lot. She noted that her regional manager was fine with that change.

Attorney Schock noted that you would slide the 28.9 square foot to face Route 22, and if the Board would grant a second sign that would be visible from the parking lot of the shopping center. Ms. Fulk answered yes.

Attorney Schock noted that we have the one permitted sign located on the corner, but he presumed that it will be moved to the Route 22 façade. Ms. Fulk answered yes.

Mr. Freeburn questioned if the signs would be identical for both sides. He noted that one sign is 15 feet. Mr. Staub noted that both signs are identical. Attorney Schock noted that both signs will be 28.91 square feet.

Attorney Schock noted that some stores in the mall have two signs. Ms. Fulk answered yes. Attorney Schock noted that Ross, Olive Garden and others have two signs, and that it would not be out of character or slapped someone in the face to do this for your store, correct. Ms. Fulk answered yes.

Attorney Schock questioned Ms. Fulk, for the Mechanicsburg facility, did you have to ask for the same type of relief. Ms. Fulk answered yes, as she has many patients who were getting lost in the Silver Springs Shopping Center. She explained that she had a difficult time locating the store as well. She noted that many patients would come from a different location in the shopping center and they could not see the sign for their doctor's office. She noted that they received permission to put a sign on the Target Store side of their building. Attorney Schock questioned if it was an identical situation, and for that instance, do you now have two signs. Ms. Fulk answered that was correct.

Attorney Schock questioned if there was a marketed improvement and less complaints from people who could not locate the store. Mr. Fulk answered.

Attorney Shock noted in decreasing the signage to the 28.91 square foot sign and asking for one extra sign; are you asking for the minimum that you need to allow your patients be able to locate your office. Ms. Fulk answered absolutely.

Ms. Cate noted, for this hearing, you are asking to retain the sign on the corner and the additional sign. Ms. Fulk answered yes. She noted that she wants to move one sign and have one on each side of the building. Attorney Schock explained that we have one permitted sign that could put on the corner or the front; therefore we are asking to switch that one sign from the corner to the front of the building facing Route 22, and the other sign that we are requesting be

located on the shopping center side. He noted if the Board would say that you can only have the one sign on the shopping center side, it would probably move the corner sign to face Route 22.

Mr. Sirb noted that you are only looking to put up two signs. Attorney Schock answered that we are not looking for three signs.

Attorney Schock noted that he provided Exhibit A4 showing what Blockbuster Video had as their two signs. He noted that that Vision Works sign is a much smaller deviation. He questioned Ms. Fulk if she will be reducing the prior use in overage signage area. Ms. Fulk answered yes.

Attorney Schock questioned Mr. Gertsen what kinds of signs would be installed. Mr. Gertsen answered that it would be a vinyl collar with LED inside to illuminate the sign mounted on a raceway which will be installed over the sidewalk. Mr. Schock questioned if these signs are customary for Vision Works and are they typical for what you do in most shopping centers. Mr. Gertsen answered very much so. Attorney Schock questioned Mr. Gertsen, based upon his experience, is it typical to have a sign on each side for end caps. He noted that some customers also have it to the back of the business as well facing the highway.

Mr. Freeburn questioned if members of the Board had any questions for the applicants.

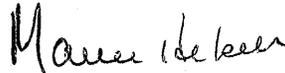
Mr. Freeburn questioned if anyone in the audience had anything to say on this application. No response was heard.

Mr. Freeburn noted that hearing no further testimony by the applicant, board members, or the audience, the board has 45 days to render a decision relative to this application.

Mr. Sirb made a motion to approve Docket #1323 as submitted. Mrs. Cate seconded the motion. Mr. Turner conducted the following roll-call vote: Mr. Staub, aye; Mr. Dowling, aye; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Freeburn, aye. Mr. Turner noted that the motion carried.

The hearing ended at 7:33 p.m.

Submitted by:


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
VISIONARY PROPERTIES, INC. : DOCKET NO. 1323

DECISION GRANTING VARIANCE

The applicant seeks a variance from the minimum number of wall signs and maximum area of wall signs. A hearing on the application was held on November 29, 2012.

Facts

1. The applicant and proposed lessee of the property in question is Visionary Properties, Inc. of 175 E. Houston Street, San Antonio, Texas 78205. The applicant was represented at the hearing by Lisa Fulk, General Manager, Ivan Gertsen, sign installer, and Erich Schock, Esquire. The property in question is owned by CSC Colonial Commons Partnership, L.P.

2. The property in question consists of a 4,000 square feet commercial suite located within the Colonial Commons Shopping Center. The suite is located on a corner of the strip with one front parallel to Route 22 (Jonestown Road) and one perpendicular to the street.

3. The applicant proposes to operate a retail business for eyeglasses and vision examinations on the property.

4. In order to identify the business, the applicant proposes to erect two wall signs on the suite. One would be 28.91 square feet and would face Route 22 while the other sign would be 54.27 square feet and would face the parking lot. The signs would be internally illuminated and would consist of the business name and logo.

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

6. No one other than the applicant appeared to testify either of favor of or against the proposed variance.

Conclusions

1. Section 714.A of the ordinance limits the number of wall signs in a multi-tenant building to one per tenant, and the total sign area to 32 square feet. The proposed sign package 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 corner location within the shopping center. This factor reasonably requires its identification both from the south side and from the east side of the suite. A single sign, even if erected over the entrance, would not allow the convenient identification of the location of the business.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The neighborhood's commercial status is well established. The proposed sign package is in keeping with the scale of the

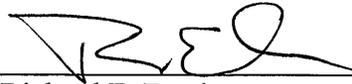
leased space and with the overall signage in the center. There will be no offsite impact from the signs and the proposed signs are less in area than the previous tenant.

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 two signs on the premises with sign areas of 28.91 square feet and 54.27 square feet. In all other respects the signs shall be installed in conformity with the plans and testimony submitted to the Board.

Date: 1/10/13

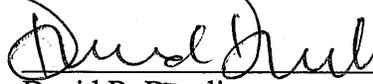
LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



Richard E. Freeburn



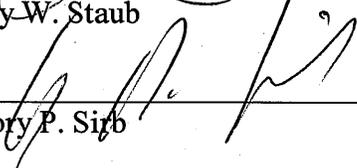
Sara Jane Cate



David B. Dowling



Jeffrey W. Staub



Gregory P. Sirb

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of November 29, 2012

Members Present

Richard Freeburn
Sara Jane Cate
Greg Sirb
Jeffrey Staub
David Dowling

Also in Attendance

James Turner
Dianne Moran

Docket 1326

Applicant: Steven M. Graehling

Address: 5317 Devonshire Road
Harrisburg, PA 17112

Property: 901 B Crosby Street
Harrisburg, PA 17112

Interpretation: Article 306.B.1 – Allowed uses in Primarily Residential Districts
A tattoo establishment is not a permitted use in the R-2 Medium
Density Residential District

The applicant seeks a variance to allow a tattoo establishment in
his current storage/warehouse unit

Grounds: Article 3 of the Lower Paxton Township Zoning Ordinance
pertains to this application.

Fees Paid: October 16, 2012

Property Posted: November 20, 2012

Advertisement: Appeared in The Paxton Herald on November 14 and 21, 2012.

The hearing began at 7:34 p.m.

Mr. Freeburn noted that it is customary for the Board to make the applicant for variance
an exhibit and he questioned if the applicant had any problems with that. Mr. Graehling
answered no.

Mr. Freeburn noted that Ms. Moran, Planning and Zoning Officer for Lower Paxton
Township had been previously sworn in.

Ms. Dianne Moran advised that the appropriate fees were paid on October 16, 2012. The proper advertisements appeared in The Paxton Herald on November 14 and 21, 2012. The hearing notices were posed on November 20, 2012.

Ms. Moran noted that this variance concerns Article 306.B.1 – Allowed uses in Primarily Residential Districts. A tattoo establishment is not a permitted use in the R-2 Medium Density Residential District. The applicant seeks a variance to allow a tattoo establishment in his current storage/warehouse unit.

Mr. Freeburn swore in Steven Graehling, owner of the warehouse located at 901 B Crosby Street, who stated that he would like to use the building for a highly qualified use. He noted that the facility has been empty for over a year, and he has owned this office space for the past 18 years and has found it very difficult to find a tenant for this location since the last one moved out. He noted that he has a gentleman who would like to use the proposed space for a tattoo parlor. He explained that he is highly qualified and it seems to be a low density type of use, noting that it would be by appointment only having one customer at a time. He noted that it would not be an office but would only be used for this type of clientele.

Mr. Freeburn questioned if anyone else would be providing testimony. Mr. Graehling answered no; however, he explained that he asked the neighbors if they had any problems with this use and they signed off by way of signatures stating that they have no problems with it being used for that purpose. Mr. Freeburn requested Mr. Graehling to present the exhibit to the Board. Mr. Graehling also presented pictures of the building. Mr. Freeburn noted that he had a hard time finding that location.

Mr. Sirb questioned if he was the owner of the property. Mr. Graehling answered yes. Mr. Sirb questioned if he leased the property. Mr. Graehling answered that he uses half of the building for his business, Graehling's Lawn Service, where he has employees coming and going and his equipment is stored. He noted that the other half of the building is empty. Mr. Sirb questioned how long the building has been empty. Mr. Graehling explained that he stores some of his equipment in it but it has been empty for over a year.

Mr. Freeburn noted that Mr. Rhoads at 890 Crosby Street signed the paper. He questioned where his home is located in respect to his warehouse. Mr. Graehling answered that it is directly across the street from the warehouse. Mr. Freeburn questioned if he was related to Mr. Graehling. Mr. Graehling answered no. Mr. Freeburn questioned where Walter Milligan at 6003 Catherine Street is located in regards to the warehouse. Mr. Graehling answered that he is directly across from the driveway that services the entire neighborhood. Mr. Freeburn questioned where Norman Cooper lives. Mr. Graehling answered that he would be Mr. Rhoads neighbor living beside him.

Mr. Freeburn questioned Mr. Graehling what he knows about a tattoo parlor. Mr. Graehling answered very little. Mr. Freeburn questioned if there would be any employees at the parlor. Mr. Graehling noted that Mr. Broggin is present and he could answer these questions. He stated that he would be running the facility.

Mr. Freeburn swore in Earl Broggin who resides at 301 North Progress Avenue, Apartment B, Harrisburg, Pennsylvania. Mr. Freeburn questioned if his business address would be for this location. Mr. Broggin answered yes.

Mr. Freeburn questioned Mr. Broggin if he would be the person signing the lease for this property to be used as a tattoo parlor. Mr. Broggin answered yes.

Mr. Freeburn questioned what the name of the tattoo parlor would be. Mr. Broggin answered, The Ink Gallery. Mr. Freeburn questioned how he would sign the business. Mr. Broggin answered that it would be advertised through Goggle. Mr. Freeburn questioned if there would be any signs on the property. Mr. Broggin noted that he would use a 2 by 4 sign on the front of the building. Mr. Freeburn questioned if that would be two feet by four feet. Mr. Broggin answered yes. Mr. Freeburn questioned if it would be two feet high by four feet wide. Mr. Broggin answered yes.

Mr. Freeburn questioned if there was a sign in that location previously. Mr. Graehling answered yes. He noted that it would be exactly the same size as the sign that was located there before. Mr. Freeburn questioned if the sign would be illuminated. Mr. Broggin answered no.

Mr. Freeburn questioned if Mr. Broggin would have any employees working at that location. Mr. Broggin answered not at all, only him.

Mr. Freeburn questioned what would the hours be for the business. Mr. Broggin answered that it would be noon to 8 p.m.

Mr. Freeburn questioned if he would have a receptionist or anyone else to assist him. Mr. Broggin answered no.

Mr. Freeburn questioned what is the size of the premises that you intent to lease. Mr. Broggin answered that it is roughly 1,000 square feet.

Mr. Freeburn questioned if it would fill up the entire building. Mr. Graehling answered that it would make it entirely occupied.

Mr. Freeburn questioned how large the total building is. Mr. Graehling answered that it is 3,500 square feet. Mr. Freeburn questioned if the other 2,500 square feet would be occupied by Mr. Graehling's lawn service. Mr. Graehling answered yes.

Mr. Freeburn questioned how long Mr. Graehling has been at that location. Mr. Graehling answered 18 years.

Mr. Freeburn requested Mr. Broggin to take the Board through what the experience would be for a person who would come into the tattoo parlor. Mr. Broggin noted that he would explain what they had in mind and he would walk the client through the procedures. He

explained that he would draw the tattoo according to what the client might bring in and then the client would have to sign a waiver to state if anything does not go right that he is not fully responsible since the client signed the waiver. He noted that there are certain questions that they must answer, pertaining to allergies to latex, any medical histories or stuff like that.

Mr. Freeburn questioned if you plan to do this by appointment. Mr. Broggin answered that he wants to do everything by appointment as he works for a company in New Jersey and they do everything as a walk-in and it is crazy and he does not want to do that.

Mr. Freeburn questioned if you have to have a license to do tattoos. Mr. Broggin answered yes in New Jersey and New York, but not in Pennsylvania. He suggested that people should have to be licensed to do this in Pennsylvania. He noted that he has his training in CPR and Blood Borne Pathogens and First Aid. He noted that it is a requirement to have a license in the State that he is currently working in. Mr. Turner checked with the Department of State website to find out that a license is not a requirement for the State of Pennsylvania.

Ms. Cate questioned how long it takes to do a tattoo. Mr. Broggin answered that a small one might only take ten minutes but a back piece might take four hours. Ms. Cate questioned Mr. Broggin how many customers he plans to see a day. Mr. Broggin answered that he would like to schedule two customers daily.

Ms. Cate questioned Mr. Graehling if the parking would interfere with his business. Mr. Graehling answered no as there is a large parking lot along the side of the building that could accommodate 20 to 25 vehicles.

Ms. Cate questioned if the people who signed the petition, do they live in residences. Mr. Graehling answered yes, as there is a road in between the houses, but they are immediately on the other side of the road and face his facility.

Mr. Sirb questioned if any type of business is permitted in R-2 zoning. Ms. Moran answered that most are by special exception. She noted that his property was zoned General Commercial; however in the recent rezoning of 2006, it was change to R-2. She noted that it is all commercial businesses in his location. Mr. Sirb noted that one side is residential and the other side is commercial. Ms. Moran noted that he does the plowing for all his neighbors in that location. Mr. Graehling noted that he has always taken care of the road maintenance for the neighbors.

Mr. Staub questioned Mr. Graehling if he owned the building at Balthaser and Blue Ridge Avenue. Mr. Graehling answered yes; he built it. Mr. Staub questioned if it was zoned Commercial General when it was built. Mr. Graehling answered yes and explained that he has four properties that were zoned C-1 and changed to R-2. Mr. Moran noted that she has the maps if the Board members wished to see them. Mr. Staub questioned if it was an oversight for the rezoning of this property. Ms. Moran answered that she would have to think so, noting that Mr. Graehling questioned if he should go through the rezoning process or apply for a variance.

Mr. Staub questioned what the new building at the corner of Catherine and North Mountain is zoned. Ms. Moran presented a map showing that it is zoned Commercial Neighborhood. Mr. Staub noted that everything else is zoned R-2.

Mr. Staub questioned Mr. Graehling if he knew his property was down-zoned in 2006. Mr. Graehling answered that he did not find out until Mr. Broggin brought it to his attention and he was not very happy with it.

Ms. Cate questioned Mr. Broggin why he selected that location. Mr. Broggin answered that it is off the beaten path and he does not want to be exposed to a bunch of people, in a high density area that could produce walk-in work. He noted that he lives here but works in New Jersey, having a four hour drive to work and all that work is walk-in and he does not like it.

Mr. Freeburn questioned if members of the Board had any questions for the applicants.

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

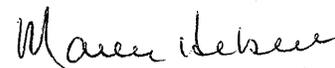
Mr. Freeburn noted that hearing no further testimony by the applicant, board members, or the audience, the board has 45 days to render a decision relative to this application.

Mr. Freeburn made a motion to approve Docket #1326 as submitted. Mr. Sirb seconded the motion. He noted that he would not be inclined to do so but it is in a unique situation and there are limited neighbors to be affected by this. He noted that it should be a C-1 zoned district. Mr. Freeburn noted that it would be impossible to use it for anything other than commercial purposes. Mr. Graehling noted that there are no bathroom or bedroom facilities as it is strictly a warehouse. Ms. Cate questioned if there is a bathroom. Mr. Graehling noted that there is a toilet but it is not a residential type use.

Mr. Turner conducted the following roll-call vote: Mr. Staub, aye - he suggested that this was an oversight when the property was rezoned; Mr. Dowling, aye; Mr. Sirb, aye; Mrs. Cate, nay; and Mr. Freeburn, aye. Mr. Turner noted that the motion carried.

The hearing ended at 7:53 p.m.

Submitted by:



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
STEVEN M. GRAEHLING : DOCKET NO. 1326

DECISION GRANTING VARIANCE

The applicant seeks a variance to operate a tattoo parlor in an R-2 Medium Density Residential Zoning District. A hearing on the application was held on November 29, 2012.

Facts

1. The applicant and owner of the property in question is Steven M. Graehling of 5317 Devonshire Road, Harrisburg, Pennsylvania 17112.
2. The property in question is located at 901-B Crosby Street and consists of a warehouse/storage facility which is part of a larger commercial building. The bulk of the building is occupied by the applicant's lawn maintenance business. The property was developed for commercial uses while it was zoned C-1. Subsequent changes to the Township zoning map have resulted in its non-conforming status.
3. The applicant proposes to lease the property to Earl Broggin who appeared before the Board. Mr. Broggin intends to operate a tattoo parlor in the unit. There would be no employees and services would be provided on an appointment only basis. A single 2' by 4' non-illuminated sign would be placed on the building.
4. Notice of the hearing was posted and advertisement made as required by the ordinance.
5. In addition to the applicant several adjoining property owners appeared before the Board. None had objections to the proposed business.

Conclusions

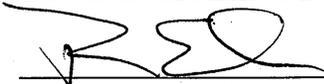
1. Article 306.B.1 of the ordinance sets forth the permitted uses in the R-2 Medium Density Residential District. A tattoo parlor is not a permitted use.
2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance 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 property is burdened by a hardship not created by the owner in that it was developed as a commercial property under the previous zoning classification. The act of rezoning has resulted in a building which is inappropriate for the uses allowed under the new zoning classification.
4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The property is already developed commercially. The proposed business will have very little impact on the neighborhood because of the modest traffic being generated. The general public will hardly be aware of the existence of the business.

Decision

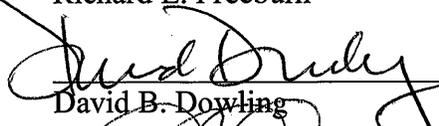
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the operation of a tattoo parlor in the subject premises. In all respects the business shall be conducted in strict accord with the plans and testimony submitted to the Board.

Date: 1/10/13

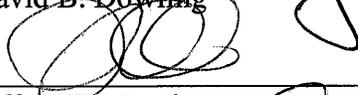
LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



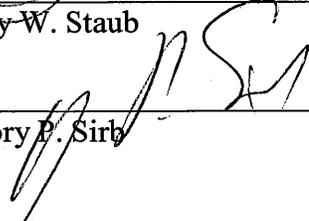
Richard E. Freeburn



David B. Dowling



Jeffrey W. Staub



Gregory P. Sirb

Board member Cate dissents from the decision of the Board.